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2007-2010

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AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of July 2007, between the San Bernardino County Superintendent of Schools (hereinafter referred to as “Superintendent”) and the San Bernardino Public Employees’ Association (hereinafter referred to as “Association”). The parties to this agreement affirm their commitment to the goals of effective public service, employee morale, amicable employer-employee relations, and an attitude by all regarding the rights and responsibilities of parties herein. The parties acknowledge that increased productivity can only be achieved as a by-product to valuing people and should not be dependent upon labor contract language.

Article 1: RECOGNITION

1.1 The Superintendent confirms its recognition of the Association as the exclusive representative for that unit of employees recognized by the Superintendent per its Resolution dated May 12, 1976.

Article 2: SUPERINTENDENT RIGHTS

2.1 It is understood and agreed that the Superintendent retains all of its powers and authority to direct, manage and control to the full extent of the law including, but not limited to, the exclusive right to: determine its organization; direct the work of its employees; determine the times and hours of operation; determine the kinds and levels of services to be provided, and the methods and means of providing them; establish its educational policies, goals and objectives; ensure the rights and educational opportunities of students; determine staffing patterns, determine the number and kinds of personnel required; maintain the efficiency of Superintendent operations; determine the curriculum; build, move or modify facilities; establish budget procedures and determine budgetary allocation; determine the methods of raising revenue; contract out work; and take action on any matter in the event of an emergency. In addition, the Superintendent retains the right to hire, classify, assign, transfer, evaluate, promote, terminate and discipline employees.

2.2 The exercise of the foregoing powers, rights, authority, duties and responsibilities by the Superintendent, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this Agreement, and then only to the extent such specific and express terms are in conformance therewith.

2.3 The Superintendent retains its right to temporarily suspend any provisions referred to in this Agreement which are affected by an emergency. An emergency is defined as an act of God or unforeseen circumstance or combination of circumstances requiring immediate attention. In such instances of an emergency, the Superintendent will give the Association notice of the emergency and will consult on the temporary changes in the Agreement, which are attendant to the emergency.

Article 3: ASSOCIATION RIGHTS

3.1 The Association shall have right of access to areas in which employees work during non-working time for the purpose of conducting lawful Association business provided the authorized Association representative seeking access obtains advance permission from the Superintendent or designee regarding the specific time, place and type of activity to be conducted, and provided further, such access does not interfere with Superintendent programs and/or the duties of employees.

3.2 The Association shall have the right to use designated Superintendent bulletin boards, mailboxes and the Superintendent's internal mail system for posting or transmission of information or notices concerning lawful Association matters, provided such information or notices contain the date of posting or distribution and the name of the Association representative responsible for its issuance; and provided further, a copy of such posting or distribution be delivered to the Superintendent or designee at the time of such posting or distribution. The Association shall not post or distribute information which is knowingly false or defamatory of the Superintendent or its personnel, or any material urging the support or defeat of any ballot measure or candidate.

3.3 The Association shall have the right to be supplied with a complete "hire date" seniority roster of all employees no later than October 1 of each year. The roster shall indicate the employee's present classification and primary work site.

3.4 Association representatives shall receive reasonable release time for the processing of grievances past the informal level of the grievance procedure provided that no later than thirty (30) days following the signing of this Agreement, the Association shall designate in writing to the Superintendent the names of four (4) employees (two representing the San Bernardino area, one representing the West End area, and one representing the Desert/Mountain area) who shall receive release time for the processing of grievances, that such release time be for the purpose of representing a grievant in conference with a management person and that under no circumstances shall release time unduly interfere with Superintendent operations or the instructional program.

3.5 An employee shall receive leave up to a total of forty (40) hours each for legitimate Association business in each contract year, excluding Superintendent formed committees. Such leave must be requested by the Association prior to its being taken identifying the time away from work and the employees on leave.

3.6 The Superintendent agrees to meet with association representatives at least twice per year to discuss personnel and related issues. The time and place for such meetings shall be subject to mutual agreement.

3.7 **Concerted Activities.** It is agreed and understood that the Association, its agents, members, representatives and employees shall not engage in a strike, work stoppage, slowdown, picketing or refusal or failure to fully and faithfully perform job functions and responsibilities, or other interference with the operations of the Superintendent during the term of this Agreement including compliance with the request of other labor organizations to engage in such activity.

3.8 Employee Rights. The Association recognizes the duty and obligation of its representatives to comply with the provisions of this Agreement and to make every effort toward inducing all employees to do so. In the event of a strike, work stoppage, slowdown, or other interference with the operations of the Superintendent by employees who are represented by the Association, the Association agrees in good faith to take all necessary steps to cause those employees to cease such action.

3.9 The Superintendent shall not lock-out employees during the term of this Agreement.

3.10 Association Dues. It is the mutual intention of the parties that the provisions of this Article protect the rights of individual employees without restricting the Association's rights to require every employee in the bargaining unit to pay a share of the cost of collective bargaining activities.

3.10.1 All employees in the bargaining unit who do not maintain membership in good standing in the Association are required to pay service fees to the Association, in amounts that do not exceed the periodic dues of the Association, for the duration of this agreement.

3.10.2 It is the express intention of the parties that the service fee obligation outlined herein constitutes a condition of continued employment with the County.

3.10.3 No employee shall be obligated to pay dues or service fees to the Association until the first of the month following 30 calendar days after the employee first comes into the bargaining unit.

3.11 Dues and Service Fee Deductions

3.11.1 The association has the sole and exclusive right to have employee organization membership dues and service fees deducted by the County for employees.

3.11.2 The County shall deduct, in accordance with the Association dues and service fee schedule, dues, service fees or, with the Association's approval, payments to charity in lieu of service fees from the wages of all employees. Nothing contained herein shall prohibit an employee from paying either dues or service fees directly to the Association.

3.11.3 The County shall, without charge, pay to the Association within 15 days of the deduction all sums so deducted, except that the County shall pay to the designated charity sums deducted in lieu of service fees from the wages of employees who request for religious exemption have been approved by the Association pursuant to this agreement.

3.11.4 Along with each monthly payment to the Association, the County shall without charge, furnish the Association with an alphabetical list of all employees, identifying them by name, social security number, months per year in paid status and annual salary, and indicating the amount deducted, if any, and whether such deduction is for dues, service fees or charitable contributions.

3.11.5 The County shall immediately notify the Association or designee if any member of the bargaining unit revokes a dues, service fee, or payment in lieu of service fee deduction authorization.

3.11.6 The County shall deduct and pay to the Association service fees for each bargaining employee who is not an Association member in good standing and who is obligated to pay such fees, pursuant to

this agreement, unless the Association notifies the County the employee is paying such fees directly to the Association. A payroll deduction authorization form shall not be required for such deduction.

3.12 Religious Exemption

3.12.1 Any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or paying service fees to employee organizations shall not be required to join, maintain membership in, or pay service fees to the Association as a condition of employment. However, such employee shall be required, in lieu of a service fee required by this agreement, to pay sums equal to such service fee to one of the following non-religious, non-labor organizations, charitable funds exempt from taxation under Section 5501©(3) or Title 26 of the Internal Revenue Code:

American Cancer Society
American Heart Association
Child Assistance Fund

3.12.2 Any employee claiming this religious exemption must file a written request for exemption with the Association (SBPEA, PO Box 432, San Bernardino, CA 92402). If the request is granted, the employee shall, as a condition of continued exemption from this requirement of paying service fees to the Association, furnish the Association with copies of receipts from the charity selected, as proof that such payments have been made, or shall authorize payroll deduction of such payments.

3.12.3 Upon request of the employee, on the appropriate County form, the County will make deductions from the regular salary for tax sheltered annuities, credit unions, U.S. Savings Bonds, Association for In-Group Donors, insurance premiums for eligible dependents, and other programs approved by the County.

3.12.4 The Association shall indemnify and hold the County harmless from any and all claims, demands, suits, damages, or any other action arising out of and in connection with this Article.

3.14 Organization Security - The parties to this Agreement acknowledge the Association has notified the employer to implement the provisions of Government Code section 3546(a), requiring as a condition of employment, the deduction of Association dues or fair share fee from the wages or salary of every bargaining employee. This agreement requires an employee as a condition of continued employment to either join the Association or pay the Association a service fee for their fair share of the cost of collective bargaining in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

3.15 Each fiscal year, the Association will be entitled to conduct two (2) one hour site visits at the County Superintendent of Schools Office. The visits will be scheduled by the Personnel Office. Classified employees interested in attending a site visit will be granted release time to do so, upon approval of the supervisor.

3.16 Employees shall have access to their personnel files in accordance with Education Code and shall be given an opportunity of attaching a written response to derogatory materials within ten (10) days of receipt

prior to the placement of these materials in their personnel file. Five (5) additional days may be added upon written request of the employee.

3.17 Within thirty (30) days of adoption of this Agreement, the Superintendent will post on the SBCSS electronic mail bulletin board a copy of this Agreement. Hard copies of this agreement will be made available only upon request.

Article 4: COMPENSATION AND BENEFITS

4.1 **Compensation.** During the late summer and fall 2007, the Parties agree to meet and negotiate compensation and benefits for the 2007-2008 fiscal year.

4.2 **Compensation.** The Parties will reopen this agreement to renegotiate 2008-2009 fiscal year compensation.

4.3 **Compensation.** The Parties will reopen this agreement to renegotiate 2009-2010 fiscal year compensation.

4.4 **Compensation.** The Parties will reopen this agreement to renegotiate 2009-2010 fiscal year compensation.

4.5 A promotion is the appointment of an employee from one classification to a classification having a higher base salary range. A promoted employee shall receive at least the entrance rate of the new range or a five percent (5%) salary increase, whichever is greater; provided that no employee is thereby advanced above the "E" (or final) step of the higher base salary range.

4.6 Employees who receive a "demotion" in job classification as a result of an industrial injury will be maintained at their salary range existing at the time of the injury. Such employees will remain at that rate until the salary amount paid to employees within the range to which the employee now belongs is equivalent to his/her salary amount. If these employees are on the "E" step, these employees will continue to accrue credit years towards longevity.

4.7 **Longevity.** Effective July 1, 1993, employees who have served five (5) years of satisfactory work performance at the "E" step in the same position classification or same salary range will receive a longevity stipend award of five percent (5%) added to their base salary in that year and continuing in subsequent years if they maintain satisfactory work performance evaluations. This adjustment will be made on the employees' anniversary date following completion of five (5) years on the "E" step for employees qualifying in that and subsequent years. An employee having previously attained longevity status will continue to receive the five percent (5%) longevity stipend as long as they maintain satisfactory work performance evaluations (as defined above) and remain in the bargaining unit regardless of the position held.

4.8 **Bilingual/Biliterate Positions.** The County agrees to establish bilingual/biliterate positions as needed and determined by Personnel Services. Positions will be created at existing position levels determined by the department (i.e., Office Specialist II, Children's Services Specialist, etc.) and approved by the Personnel

Office. The number of positions established will be determined by Personnel based on departmental or organizational needs. Current positions which will be determined to be designated as bilingual/biliterate will initially be posted internally. If no internal candidates apply or successfully pass the test, the position will be posted externally if and when the designated position is vacated or funds are received to establish a new position. Once a designated bilingual/biliterate position has been filled initially, subsequent vacancies in that position will follow the established process for filling (internal/external posting to be determined by department).

Positions designated "Bilingual" will receive a \$60 per month stipend. Positions designated "Bilingual/Biliterate" will receive a \$90 per month stipend. It is understood that creating these positions will not eliminate the need for employees not in these classifications to continue to use their bilingual skills on an as-needed basis to serve the community and clients of the organization.

4.9 Pay Periods. Classified employees are paid monthly on the last working day of the month.

4.10 Insurance. For the purposes of this section, an eligible employee is defined as a full time employee who works eight (8) hours per day, forty (40) hours per week and serves at least one hundred and eighty-two (182) days per fiscal year.

The Superintendent shall contribute 75% premium towards elected coverage by employees working four (4) hours per day but less than eight (8) and who work more than twenty (20) hours per week but less than forty (40). The affected employees' share of 25% shall be automatically paid through payroll deduction. Those employees hired prior to July 1, 1987 who have served as part-time employees in the classified service for more than five (5) years will maintain full benefits.

Employees who work less than four (4) hours per day and less than twenty (20) hours per week shall not be entitled to any fringe benefit coverage.

4.11 Medical

4.11.1 Medical Insurance. The Superintendent shall contribute the full premium cost for medical insurance coverage for eligible full-time employees and dependents.

4.11.2 Dental Insurance. The Superintendent shall contribute the full premium costs for existing Delta Dental Plan for eligible full-time employees and dependents.

4.11.3 Vision Insurance. The Superintendent shall contribute the full premium costs for the Vision Medical Eye Services Plan for eligible full-time employees and dependents.

4.11.4 Life Insurance. During the life of this agreement the Superintendent will pay the cost of premiums for a \$50,000 life insurance policy on the life of each full time employee who works forty (40) hours per week and pro rated for part time employees.

4.12 Retiree Medical. Employees who retire from the Superintendent after reaching age 55 and who have completed ten (10) consecutive years of full-time service with the Superintendent, immediately prior to such retirement, may continue to receive existing available medical insurance coverage for the employee only until he/she reaches age 65 or qualifies for Medicare, whichever comes first, provided, however, that the employee first reimburse the Superintendent for fifty percent (50%) of the cost of such coverage. The spouse may be added to

such coverage at the employee's expense who shall pay one-hundred percent (100%) of the current charge for such coverage. Should such reimbursement not be received by the Superintendent by the first of the month following a covered insurance month (30 day grace period), the Superintendent may terminate such coverage immediately.

4.13 State Disability Insurance. Unit employees participate in the State Disability Insurance (SDI) program. Claims for disability coverage must be filed in accordance with the guidelines established by SDI.

4.14 Retirement Benefits. County Schools offers employees retirement benefits through CalPERS. Employees are normally eligible for "Service Retirement" once they reach age 50 and have five (5) years of PERS-credited service. Currently, CalPERS provides a 2% at 55 years of age retirement benefit. Employees may contact the County Schools Personnel office for the nearest CalPERS office.

Article 5: HOURS

5.1 The regular workweek of a full-time employee shall be forty (40) hours and the regular work day shall be eight (8) hours. The scheduling of the hours and the workdays shall be at the sole discretion of the Superintendent. This article shall not restrict the extension of the regular workday or workweek on an overtime basis when necessary to carry on the business of the Superintendent.

5.2 Overtime. Overtime is any time required to be worked in excess of eight (8) hours in any one workday and in excess of forty (40) hours in any calendar week as assigned by the supervisor. This provision does not apply to employees whose regular work day is less than eight (8) hours or whose work week is less than forty (40) hours. For the purpose of computing the number of hours worked, time during which the employee is excused from work because of holidays, sick leave, vacation, compensated time off, or other paid leave of absence shall be considered as time worked by the employee. The Superintendent shall provide compensation at a rate equal to one and one-half (1 1/2) times the regular rate of pay for employees designated by the Superintendent and authorized to perform overtime work. In lieu of cash payment, upon request for the employee and approval of the Superintendent, an employee may accrue compensatory time off at time and one-half.

Upon termination, the employee may be paid for properly documented unused compensatory time at a rate not less than (a) the average regular rate received by the employee during the last three (3) years of the employee's employment, or (b) the final regular rate received by the employee, whichever is higher.

5.3 Notwithstanding paragraphs 5.1 and 5.2 above, the work week for any employee having an average work day of four (4) hours or more during the work week shall consist of not more than five (5) consecutive working days. Such an employee shall be compensated for any work required to be performed on the sixth (6th) and seventh (7th) day following the commencement of the work week at a rate equal to one and one-half (1 1/2) times the regular rate of pay of the employee designated by the Superintendent and authorized to perform the work.

5.4 Employees on duty for a minimum of six (6) hours shall be entitled to a duty-free lunch period of at least thirty (30) minutes to be determined by the Superintendent with consideration given to individual employee's needs.

5.5 The normal work year for classified positions shall consist of a ten (10), eleven (11) or twelve (12) month period. The determination of the length of the work year for each position is at the sole discretion of the Superintendent and may be changed as new positions are created or as is necessary to carry out the business of the Superintendent.

5.6 **Work Hours.** The basic workday shall be 8:00 a.m. to 4:30 p.m. Departments may elect to stay open until 5:00 p.m. In that circumstance supervisors may staff this period of time in a manner that meets their needs according to the following:

- 1) ask for a volunteer(s) to adjust their work day to conclude at 5:00 p.m. or;
- 2) in the absence of a volunteer(s), assignment will be based upon reverse seniority.

5.7 **Flex Time.** At the request of an employee, and upon written approval of the immediate supervisor, flex time may be implemented in accordance with the following policy:

The San Bernardino County Superintendent of Schools maintains offices that are opened to serve members of the public on an 8:00 a.m. to 4:30 p.m. daily schedule except as noted above. While the County accommodates members of the public in maintaining these hours, its intent is to allow flexibility for employees where possible without decreasing client services. Requests to use flex time shall be evaluated in regard to the ability of the Superintendent to maintain an appropriate level of service to our clients and school districts. Parameters within which employees may request flextime are as follows:

- A. Employees may arrive no earlier than 7:00 a.m. and leave no earlier than 4:00 p.m.
- B. Telephone coverage must be provided for all lines between 8:00 a.m. and 4:30 p.m.
- C. Employees may take no less than a thirty (30) minute lunch. All lunches must be thirty (30) minutes or sixty (60) minutes in duration.
- D. Flextime may be used in no less than thirty (30) minute blocks.
- E. Employee requests for flextime should be for no less than four (4) months.
- F. Any employee using flextime must follow a consistent weekly schedule five (5) days a week.
- G. Designated offices may be treated differently than herein identified due to service hours maintained at their location.
- H. If a request for flex hours creates an office coverage issue, flex time will be granted based upon seniority on a four (4) month basis when necessary.

Employee's requests for flex time must be directed to their immediate supervisor and forwarded to the appropriate Assistant Superintendent or SELPA Administrator. Flex time requests may be denied by the County if the employee's immediate supervisor determines that such request would interfere with the operations and/or educational service to clients, members of the public or school districts.

5.8 Call Back. The parties herein agree to designate “call-back” pay for employees who may be asked to return to active duty and the work site at the request of their supervisor or designee after said employee has been released from active duty and has left the work site.

Call-back compensation shall be paid in the following manner: the employee shall be paid for a minimum of two (2) hours at their current base hourly rate of pay for each call-back occurrence. Said compensation shall be in lieu of any travel time and expense to and from home and the first or last work contact point. All time actually worked shall be considered as time worked for the purpose of overtime.

Employees shall not be eligible for call-back pay in the following situations: 1) special on-duty assignments scheduled in advance; 2) the employee is called back within two (2) hours of the beginning of a scheduled work period; or 3) the employee is not required to leave home. In all cases the employee shall report all time actually worked with a pay period.

Article 6: TRANSFER AND FILLING OF VACANCIES

6.1 Transfers of employees may be initiated by the Superintendent at any time whenever such transfer is determined by the Superintendent to be in its best interests. An employee affected by such transfer shall be given notice as soon as administratively practicable and when possible a conference will be held between the appropriate management person and the employee in order to discuss the reasons for the transfer.

6.2 The Superintendent shall post on the Superintendent Personnel Office Bulletin Board and in each employee’s work location a list of all known vacancies.

6.3 For purposes of this provision a vacancy is a position which is new or which remains unfilled after any transfers are made pursuant to Article 6.1 above.

6.4 Consideration will be given to all eligible applications, which meet the established qualification for the vacancy, and are properly submitted; however, the final selection is within the sole discretion of the Superintendent.

6.5 An eligibility list will be established by the Personnel Office for the positions of Office Specialist II or Office Specialist III. If an opening occurs within those classifications, all employees that meet the established criteria for the vacancy will be contacted for an interview. If the employee declines the interview, their name will remain on the eligibility list. If the number of employees interested and eligible for the position is more than ten (10), the Personnel Office can screen down the number to be interviewed to ten (10). If the department does not select any of the eligible employees, they may elect to interview the remaining number on the eligibility list or advertise externally for the position.

6.6 No posted vacancy shall be closed for application until five (5) workdays after notice of the vacancy has been posted.

Article 7: LEAVES OF ABSENCE, VACATIONS AND HOLIDAYS

Employees must report their absences to their Supervisor or Supervisor's designee by telephone on the day they are absent if they have not previously reported and/or requested time off from their Supervisor. Employees are required to submit their "Report of Absence" form to their Supervisor no later than five (5) days upon their return to work.

7.1 Personal Illness and Injury Leave. Full-time employees shall be entitled to twelve (12) days leave with full pay for each fiscal year for purposes of personal illness or injury, or illness or injury of their child, parent or spouse. Employees who work less than full-time shall be entitled to a prorated share of the twelve (12) days leave. This leave is not an earned right to time off work, but is intended to be used in times of adversity to promote the health and welfare of the employee, or their child, parent, or spouse.

7.1.1 If an employee is separated from service and has been granted sick leave which was not yet earned at the time of separation from service, the Superintendent shall deduct from the employee's final pay warrant the full amount of salary which was paid for such unearned days of sick leave.

7.1.2 If an employee does not utilize the full amount of leave as authorized in paragraph 7.1 above in any fiscal year, the amount not utilized shall be accumulated from year to year.

7.1.3 Upon request by the Superintendent, an employee shall be required to present a medical doctor's certificate verifying the personal illness or injury and/or a medical authorization to return to work. In the case of illness or injury, the Superintendent may require an employee to visit a certified medical specialist selected by the Superintendent at its expense for the purpose of an independent assessment to determine the nature and severity of the illness or injury. A report may be made back to the Superintendent. It is agreed that such report will at no time contain a diagnosis or prognosis unless such information is released in writing by the employee.

7.2 Extended Leave for Illness. A period not to exceed one hundred (100) days extended (non-accumulated) illness leave shall be made available to employees on July 1 of each year. Employees on extended illness leave shall be paid not less than fifty percent (50%) of their daily rate while using this extended illness leave. Extended illness leave shall only be available after the exhaustion of all accumulated sick leave. All accumulated sick leave from prior years shall be paid at the full rate of pay. All current year sick leave shall be used concurrently with the one hundred (100) days extended illness leave. At the exhaustion of all current year's sick leave, the remainder of the one hundred (100) day period shall be paid at fifty percent (50%) rate. Other leaves, such as vacation, compensatory time and holiday leave shall be outside of this one-hundred (100) day period and may be used by the employee either preceding or following the one-hundred (100) days.

Employees who are advanced sick leave days at the outset of each school year, and in turn use those days and the days included in extended illness leave, and/or other leaves, shall not be required to reimburse the Superintendent for used but not earned sick leave if placed in lay-off status prior to June 30 in any school year due to an inability to return to work.

7.3 Personal Necessity Leave. Leave which is credited under Article 7.1 of personal illness and injury leave may be used for purposes of personal necessity, provided that use of such personal necessity leave does not exceed seven (7) days in any fiscal year.

7.3.1 For purposes of this provision, personal necessity shall be limited to: (a) Death or serious illness of a member of the employee's immediate family as defined in 7.5.1 below; (b) An accident which is unforeseen involving the employee's person or property, or the person or property of an employee's immediate family; (c) Appearance as a witness in court, other than as a litigant, for reasons not brought about by the convenience or misconduct of the employee; (d) Other personal necessities which are allowed at the discretion of the Superintendent or designee provided that under no circumstances shall such leave be available for purposes of personal convenience, for matters which can be taken care of outside the work hours, for the extension of a holiday or a vacation period or for recreational activities.

7.3.2 Before the utilization of personal necessity leave, an employee must obtain prior written approval from the appropriate management person, except for cases of (a) and (b) in paragraph 7.3.1 above.

7.3.3 Under all circumstances, an employee shall verify in writing that the personal necessity leave was used only for purposes as set forth in paragraph 7.3.1 above. An employee shall be subject to appropriate discipline if the leave was used for purposes other than stipulated.

7.4 Catastrophic Leave.

1) The definition of Catastrophic Leave is a long-term illness or injury, either physical or mental impairment verified by a medical physician's off work order. Job and/or personal stress, which are not the result of a diagnosed mental disorder, are specifically excluded for receipt of leave donations by the employee requesting Catastrophic Leave.

2) Employees participating in the Catastrophic Leave program must have permanent status with the County Schools. Probationary employees are not eligible to donate or receive sick leave under this provision.

3) The employee must meet all of the following criteria before he/she becomes eligible for Catastrophic Leave donations: (a) be on an approved medical leave of absence for at least thirty (30) calendar days (160 working hours) exclusive of any absence due to a work related injury/illness; (b) submit a medical physician's off work order verifying the medical requirement to be off work for a minimum of thirty (30) calendar days (160 working hours); and (c) have exhausted all available leave balances (including extended illness leave and accrued vacation).

4) An employee may donate from prior year sick leave accrual on a voluntary and confidential basis, in increments of eight (8) hours, not to exceed a total of fifty percent (50%) of the donor's sick leave balance per employee. Donations may be made for a specific employee based on the time frames established by the Classified Bargaining Unit of SBPEA. The recipient receiving the Catastrophic Leave will be taxed accordingly. An employee is not eligible to donate hours if their resulting sick leave balance would fall below 160 hours. (Examples: If a donating employee has prior year accrual of 200 hours, 40 hours may be donated. If a donating

employee has 120 hours of accrued sick leave, no donation may be made.) Current year sick leave allocation may not be used towards a donation or counted in sick leave balance.

5) Donations will be for the specified employee's Catastrophic Leave only. The total donation available to any one employee will be limited to a total of one thousand forty (1040) hours per fiscal year.

6) The employee on an approved medical leave of absence who is receiving Catastrophic Leave can continue to receive benefits as defined in Article 4.9. An employee receiving leave under this program is not eligible for receipt of any accruals such as vacation or personal illness leave.

7) Donated hours shall be given and received on an hour(s) for hour(s) basis regardless of salary placement.

8) Any donated time unused by the employee for the medical emergency shall remain in the recipient's accruals to be utilized as follows:

a) An employee on Catastrophic Leave who has received the approval of his/her medical physician to return to full-time work shall have all unused Catastrophic Leave converted to an equal amount of sick leave which will be available to the employee according to the applicable Article 7.1, Personal Illness and Injury Leave of the Bargaining Agreement. Leave granted to a returning employee under this provision may not be used for Personal Necessity Leave.

b) An employee on Catastrophic Leave who has received the approval of his/her medical physician to return to work on a part-time basis (less than the employee's normally scheduled hours of work per pay period) may record a combined total of work time and Catastrophic Leave not to exceed the employee's normally scheduled hours of work.

9) Solicitation of donors shall be the responsibility of the Classified Bargaining Unit of SBPEA. Names of donors and recipients are to be confidential and provided to Payroll by THE ASSOCIATION for determining eligibility. Payroll will make the appropriate leave adjustments.

10) All donors and recipients shall sign release forms designed, retained, and affected by the Classified Bargaining Unit of THE ASSOCIATION with copies provided to SBCSS Payroll.

11) Hold Harmless – The Association agrees that it will not file, on its own behalf or on behalf of any employee, any grievance, claim or lawsuit of any kind related to any attempt by an employee to retrieve donated sick leave used by another employee pursuant to this provision. The Association also agrees that it will not file, on its own behalf or on behalf of any employee, any grievance, claim or lawsuit of any kind which attempts to challenge in any way the legality of enforcement of this provision.

The Association agrees to defend, indemnify, and hold harmless the Superintendent of Schools from any loss or damages arising from the implementation of this provision. In the event of any grievance, claim or lawsuit challenging the legality or enforcement of this provision, the Superintendent of Schools may terminate this provision upon written notice to the Association.

12) The parties agree to meet and confer regarding issues arising from the implementation of this program.

7.5 Bereavement Leave. An employee shall be entitled to a maximum of three (3) days leave of absence, or five (5) days leave of absence if travel over 300 miles one way is required, without loss of salary on account of the death of any member of his/her immediate family.

7.5.1 For purposes of this provision an “immediate family member” shall be limited to mother, father, grandmother, grandfather, aunt, uncle, grandchild of the employee or the spouse of the employee, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee and any other persons (i.e., domestic partner) as approved by the Personnel Office. Other leave may be requested under Article 7.5 which must be submitted to the County Superintendent of Schools Personnel Office for approval.

7.6 Pregnancy Disability Leave. Employees are entitled to use accumulated sick leave as set forth in paragraph 7.1 of personal illness and injury leave for disabilities caused, or contributed to, by pregnancy, miscarriage, child birth and recovery therefrom. Such leave shall not be used for childcare, child rearing, or preparation for child bearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and the employee’s physician; however, the Superintendent may, at its expense, require verification of the extent of disability through a physical examination of the employee by a physician appointed by the Superintendent.

7.6.1 Employees may receive leave without pay or other benefits for disabilities because of pregnancy, miscarriage, childbirth or recovery therefrom when sick leave as set forth in paragraph 7.1 of personal illness and injury leave, has been exhausted. The date on which the employee shall resume duties shall be determined by the employee on leave and the employee’s physician, with the approval of the Superintendent.

7.7 Child Bearing Preparation and Child Rearing Leave. Leave without pay or other benefits may be granted to an employee for preparation for child bearing and for child rearing.

7.7.1 The employee shall request such leave as soon as practicable, but when possible not less than thirty (30) work days prior to the date on which the leave is to begin. Such request shall be in writing and shall include a statement as to the dates of the employee wishes to begin and end the leave without pay.

7.7.2 The determination as to the date on which the leave shall begin and the duration of such leave shall be made at the discretion of the Superintendent when considering the scheduling and replacement problems of the Superintendent.

7.7.3 The duration of such leave shall automatically terminate on June 30 in the fiscal year in which such leave is granted. If requested an extension of leave may be granted by the Superintendent not to exceed one work year.

7.7.4 The employee is not entitled to the use of any accrued sick leave or other paid leave while such employee is on childbearing preparation leave or leave for child rearing.

7.7.5 There shall not be a loss of employment status for child bearing or child rearing except that no person shall be entitled to compensation, increment or the accrual of seniority for layoff or reduction in

force purposes, nor shall the time taken on parental leave count toward credit for probationary employees in earning permanency status.

7.7.6 In the event of a miscarriage or death of a child subsequent to childbirth while an employee is on leave for child bearing or child rearing purposes, the employee may request an immediate assignment to a vacant position. If there is a vacancy for which an employee is qualified, the Superintendent may assign the employee to a position as soon as practicable.

7.8 Industrial Accident Leave. Employees shall be entitled to industrial accident leave as provided by the Education Code for personal injury, which has qualified for worker's compensation under the provisions of the Joint Powers Self Insurance Program.

7.8.1 Such leave shall not exceed sixty (60) days during which the schools of the Superintendent are required to be in session, or when the employee would otherwise have been performing work for the Superintendent, in any one fiscal year for the same industrial accident.

7.8.2 The Superintendent has the right to have the employee examined by a physician designated by the Superintendent to assist in determining the length of time during which the employee will be temporarily unable to perform assigned duties and the degree to which a disability is attributable to the injuries involved.

7.8.3 For any days of absence from duty as a result of the same industrial accident, the employee shall endorse to the Superintendent any wage loss disability indemnity check from the Joint Powers Self Insurance Program which would make the total compensation from both sources exceed one hundred percent (100%) of the amount the employee would have received as salary had there been no industrial accident or illness. If the employee fails to endorse to the Superintendent any wage loss disability indemnity check received on account of the industrial accident or illness as provided above, the Superintendent shall deduct from the employee's salary warrant the amount of such disability indemnity actually paid to and retained by the employee.

7.8.4 Employees on industrial accident leave shall notify the Superintendent prior to any anticipated travel outside of the State of California pursuant to Education Code Section 45192(f).

7.9 Judicial Leave. Employees shall be provided leave for regularly called jury duty.

7.9.1 The employee, while serving jury duty, shall receive pay less any amount received for jury service.

7.9.2 Employees shall not be required to report to work at the beginning of their shift while serving on jury duty, unless they are able to work a full one (1) hour (excluding reasonable travel time) before reporting to jury duty.

7.9.3 Employees on judicial leave who are dismissed from jury duty with less than two hours of work time remaining need not return to their workstation. All other employees on judicial leave whose presence is no longer required shall immediately return to their workstations to continue their assigned duties.

7.10 Military Leave. Leaves of absence for active military service shall be granted under the provisions of Military and Veterans Code Section 395.

7.11 Parent Conference Leave. Employees with school age children will be granted a reasonable time off with pay to attend a regularly scheduled parent conference. This leave may be taken up to four (4) hours per child per school year.

7.12 Other Leaves Without Pay. Upon approval of the Superintendent or designee, leave without compensation, increment, seniority or any other benefit may be granted for a period not to exceed one (1) fiscal year for the following purposes: voluntary government service, care for a member of the immediate family who is ill, long-term illness of the employee, education or service to an elected public office.

7.12.1 The applications for and granting of such leaves of absence shall be in writing. In addition, an employee on such leave shall notify the Superintendent no later than thirty (30) calendar days prior to the expiration of the leave as to their intent to return to employment for the Superintendent. Failure to so notify will be considered an abandonment of position, except in cases of extenuating circumstances, approved by the Superintendent.

7.12.2 Permanent employees who have completed one (1) year of continuous service may request a leave of absence without pay to continue their education. Educational leave shall be used only when all accrued vacation and compensatory time leaves have been exhausted. With the exception of student teaching, upon approval, education leave will be granted for no less than six (6) months, and no more than one (1) year. Education leave shall not be granted more than once per fiscal year, unless additional leave is deemed appropriate by the Superintendent or designee. Leave for student teaching may be granted for a specific length of time, not to exceed one (1) year. Verification of current enrollment status from the school of attendance will be required prior to granting the leave. Completion of courses must be verified prior to return to work. Upon completion of education leave the employee will be returned to a vacant position in the same classification. If there are no vacant positions available in the employee's classification, the employee will be placed on a 24-month reemployment list. Employees have no bumping rights when returning from education leave. If an employee fails to complete the class (es) and does not inform the Superintendent within five (5) days of the last day he/she attended class (es), the employee will relinquish rights to return under education leave.

7.13 Family Care Leave. Employees may be entitled to a leave or leaves of absence with or without pay, with the right to return to a comparable position. Reasons may include, but are not limited to, a serious health condition of the employee, including pregnancy disability; care of a parent, spouse or child with a serious health condition; birth, bonding or placement for adoption or foster care of a new child. There may be an entitlement through the provisions under the Family Medical Leave Act, the California Family Rights Act, the California Pregnancy Disability Leave or the Paid Family Leave.

7.14 Vacation Benefits.

7.14.1 Each regular classified employee shall be credited with an annual vacation leave at the regular rate of pay to be earned at the beginning of each fiscal year.

7.14.2 Earned vacation shall not become a vested right until completion of the initial six (6) months of employment except for employees working less than twelve (12) months and who have their vacation scheduled during school recess period at Christmas or Spring break. Such employees shall be allowed to use vacation leave without salary reduction during Christmas and Spring break before completion of the initial six (6) months of employment subject to paragraph 7.14.9 below.

7.14.3 The Superintendent shall provide vacation credit, not including overtime, to regular classified employees who work a full workweek of forty (40) hours as follows:

<u>Length of Service from Hire Date</u>	<u>Annual Vacation Allowance</u>
First day of 7 th month through last day of 4 th year	10 days
First day of 5 th year through last day of 9 th year	15 days
1 st day of 10 th year	20 days

7.14.4 Vacations may be taken with the approval of the Superintendent at such time that will not impair the work schedule and efficiency of the department. If the employee is not permitted to take his/her full annual vacation, the amount not taken shall accumulate for use in the next year up to a maximum of 184 hours.

7.14.5 The minimum charges against accumulated vacation leave shall be one-quarter (1/4) hour or multiples thereof.

7.14.6 When a fixed holiday falls within a vacation period, the holiday time shall not be charged against the employee's earned vacation allowance.

7.14.7 The employee may be granted vacation during the school year even though not earned at the time the vacation is taken.

7.14.8 If an employee is separated from service and has been granted vacation which was not yet earned at the time of separation from service, the Superintendent shall deduct from the employee's final pay warrant the full amount of salary which was paid for such unearned days of vacation taken.

7.14.9 Upon separation from service, the employee shall be entitled to lump sum compensation for all earned and unused vacation, except employees who have not completed six (6) months of employment in regular status shall not be entitled to such compensation.

7.14.10 Classified employees working in regular positions at less than eight (8) hours per day for five (5) days per week, or at less than twelve (12) months per year, shall receive vacation leave accumulation on a pro-rata basis.

7.15 Holidays.

7.15.1 Employees shall be entitled to the following paid holidays provided the employee is in paid status during the working day immediately preceding or the working day succeeding the holiday:

- Independence Day
- Labor Day
- Admissions Day (Identified as day before Christmas)
- Veteran's Day
- Thanksgiving
- Day after Thanksgiving
- Christmas
- Day before New Year's
- New Year's Day
- Martin Luther King Day
- Lincoln's Birthday
- Washington's Birthday
- Memorial Day

7.15.2 Regular employees who are normally not assigned to duty during the holidays of December 25 and January 1 shall be paid for those two (2) holidays provided they were in paid status during the work day of their normal assignment immediately preceding or succeeding the holiday period.

7.15.3 When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When an employee is required to work on any said holiday(s), (s) he shall be paid compensation, or, at the Superintendent's discretion, given compensatory time off for such work, in addition to regular pay received for the holiday, at the rate of time and one-half his regular rate of pay.

7.15.4 Employees stationed at, or primarily serving, school sites shall work a yearly schedule to coincide, to the extent possible, with the vacation and holiday schedule of the district in which the school is located, provided each employee is guaranteed that he/she shall receive the number of holidays and vacation days as specified in this Agreement.

7.16 **General Provisions.** Leave benefits, such as vacation and absence due to illness, shall be accrued in the ratio that the number of hours per workday bears to eight.

7.16.1 Leaves of absence shall be deducted on a one-quarter (1/4) hour basis except pregnancy disability leave, child bearing preparation and child rearing leave, industrial accident leave, military leave and other leaves without pay which shall be deducted on a one (1) hour basis.

7.16.2 Nothing in this article shall be constructed to limit the Superintendent's right to require verification of leaves of absence.

Article 8: EVALUATION PROCEDURES

8.1 The Superintendent shall perform a written evaluation of all new employees no less than once during their first nine (9) months of employment and all permanent employees no less than once each fiscal year.

8.2 Employees will have a nine (9) month probationary period. Probationary periods shall be extended for any extended illness leave, pregnancy disability, child bearing preparation or other leaves in unpaid status. A salary increase shall be given after six (6) months of service if the employee has performed at a satisfactory level of service according to the evaluation.

8.3 Classified employees are typically hired on the “A” or first step of the appropriate salary range. Evaluations for new classified employees occur approximately two (2), five (5) and eight (8) months from time of hire, during their probationary period. A rating of “C” or above on the evaluation prior to six (6) months of service will result in a pay increase after six (6) months of service. Additional pay advances (“step increases”) will occur annually thereafter contingent on satisfactory annual performance evaluations.

8.4 Each time an evaluation is given, the evaluator shall discuss the written summary of the evaluation with the employee. The employee must sign the evaluation form signifying only that the employee has read the document and has been provided the opportunity of attaching a written response which shall become part of the permanent record. A “C” rating in the Summary Evaluation constitutes a satisfactory rating and is necessary for a salary rate increase. In the event that the employee refuses to sign the evaluation, a note so stating will be attached by the immediate supervisor. Permanent employees shall be given at least two workdays advance notice of the time, date, and place of the evaluation conference, unless a shorter timeline is mutually agreed upon by the employee and the supervisor. If the employee feels the evaluation will be unsatisfactory, the employee may request that a representative of the Association be present at the evaluation. All evaluations shall comply with this section before being entered into the employee’s permanent record.

8.5 Promoted employees who are returned to their former classification during their probationary period shall receive the rate of pay they received immediately prior to their promotion. Permanent employees who are promoted and returned to their former classification during their probationary period will not be required to serve a new probationary period.

Article 9: COMPENSATION FOR WORKING OUT OF CLASSIFICATION

9.1 Employees may be required to perform any duties that reasonably relate to duties fixed and prescribed by the Superintendent for their position. Employees also may be required to perform duties which are not reasonably related to their duties provided that, in such cases, employees who work five (5) work days within a fifteen (15) calendar day period shall have their salary adjusted upward by no less than 5% for the entire period they are required to work out of classification in a higher classification.

Article 10: SAFETY CONDITIONS

10.1 The County Superintendent of Schools will reimburse employees up to \$250.00 per year for the repair cost or replacement of glasses, contact lenses, dentures and hearing aids not covered by insurance. Reimbursement up to \$50.00 per item will be made for personal clothing damaged on the job and in the line of duty. Also included is uninsured vandalism to personal automobiles parked on school grounds during an employee's working hours or while in use during the course of their employment. Payments will be made according to procedures established by the Personnel Office. Reimbursement in excess of \$250.00 per year may be permitted at the discretion of the Personnel Office, but in no event shall exceed \$500.00 per year.

10.2 Employees shall immediately report cases of assault suffered by them in connection with their employment to their immediate supervisor. The employee shall, in addition, make sure that each incident of assault is reported to the police.

Article 11: GRIEVANCE PROCEDURE

11.1 A "grievance" is a formal written allegation by an employee who has been adversely affected by a violation of a specific provision of this Agreement. Nothing in this section shall be applicable to Article 11: Classified Discipline.

11.2 A "day" is a day in which the central administrative office of the Superintendent is open for business.

11.2.1 The "immediate supervisor" is the lowest level administrator having immediate jurisdiction over the grievant who has been designated by the Superintendent to adjust grievances.

11.2.2 "Grievant" - An employee filing a grievance.

11.2.3 Employees shall be entitled to Association representation at all levels of the grievance procedure.

11.2.4 Should the employee or the Association fail to respond in any time limits contained herein, the grievance shall be deemed resolved.

11.2.5 If the appropriate management person or designee does not respond within the time limits, the grievant may appeal to the next level.

11.3 **Informal Level**. Before filing a formal written grievance the grievant shall attempt to resolve it by an informal conference with the grievant's immediate supervisor.

11.4 **Level I**. Within fifteen (15) days after the employee knew, or should have known, of the occurrence of the act or omission giving rise to a grievance, the employee must present the grievance in writing to the immediate supervisor.

11.4.1 This statement shall be a clear, concise statement of the grievance, the circumstances involved, the decision rendered at the informal conference and the specific remedy sought.

11.4.2 The supervisor shall communicate a decision to the employee in writing within fifteen (15) days after receiving the grievance. If the supervisor does not respond within the time limits, the grievant may appeal to the next level.

11.4.3 Within the above time limits, either party may request a personal conference with the other party.

11.5 Level II. In the event the grievant is not satisfied with the decision at Level I, the grievant may appeal the decision on the appropriate form to the appropriate SELPA Administrator, Assistant Superintendent or Deputy Superintendent. This appeal must be made within ten (10) days following receipt of the Level I decision.

11.5.1 This statement should include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal.

11.5.2 The appropriate SELPA Administrator, Assistant Superintendent or Deputy Superintendent shall communicate a decision within twelve (12) days after receiving the appeal.

11.5.3 Either the grievant or the appropriate management person may request a personal conference within the above time limits.

11.6 Level III. If not satisfied with the decision at Level II, the Association, on behalf of the grievant, may within ten (10) days submit a request in writing to the Superintendent or designee for advisory arbitration of the dispute. In the alternative, the employee may elect to go to Level IV and not utilize the provisions contained in Level III and shall so request in writing.

11.6.1 The Association and the Superintendent shall attempt to agree upon an arbitrator who will render an advisory award. If no agreement can be reached, they shall request the American Arbitration Association to supply a panel of five (5) names of persons experienced in hearing grievances in public schools. Each party shall alternately strike a name until only one name remains. The remaining panel member shall be the arbitrator who will render an advisory decision. The order of the striking shall be determined by lot.

11.6.2 The fees and expenses of the arbitrator shall be borne by the Superintendent if the grievance is sustained and the Association if the grievance is denied. In the event the grievance is sustained in part and denied in part, the arbitrator shall determine the appropriate share of fees and expenses to be assessed each party. All other expenses shall be borne by the party incurring them.

11.6.3 The arbitrator shall, as soon as possible, hear evidence and render a decision on the issue or issues submitted to him/her. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. All arbitral issues shall be ruled upon prior to hearing on the merits.

11.6.4 The arbitrator will have no power to add to, subtract from or modify the terms of this Agreement or the written policies, rules, regulations and procedures of the Superintendent. The arbitrator shall be limited to a maximum award of \$1,000 on any single or group of grievances involving the same issue(s). Notwithstanding the above maximum award limitation of \$1,000, the County Superintendent of Schools, or if the

matter is reviewed by a Superior Court of appropriate jurisdiction, either the Superior Court or the County Superintendent of Schools may award in excess of \$1,000, on any single or group grievances involving such an issue.

11.6.5 After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit in writing to all parties his findings and recommendations which shall be advisory to the parties.

11.7 Level IV. If Level III is waived or in the event that either party is not satisfied with the recommendation(s) of the arbitrator, that party may appeal the decision in writing within ten (10) days to the Superintendent.

11.7.1 This written appeal shall include a copy of the original grievance, the Article of the Agreement alleged to have been violated, the decisions rendered at Levels I, II and III, and a clear, concise statement of the reasons for the appeal and names of witnesses and all documents admitted at the arbitration in Level III.

11.7.2 The Superintendent alone has the power to render a final and binding determination of a grievance. The recommendation of the arbitrator shall only be advisory and if, upon review of the written decision, the Superintendent determines that he/she is unable to render a final determination on the record, he/she may reopen the record for the taking of additional evidence.

Article 12: CLASSIFIED DISCIPLINE

12.1 Permanent classified employees shall be subject to disciplinary action only for causes as prescribed in paragraph 12.11 herein below. The Superintendent's determination of the sufficiency of such causes for disciplinary action, and the degree of discipline, if any, to be applied, shall be conclusive and shall be final. Disciplinary action as applied herein shall be limited to dismissal, suspension without pay and demotion (involuntary placement in a lower classification). Other Superintendent personnel actions involving employees shall not be covered by this Agreement.

12.2 No permanent employee shall be subject to disciplinary action until written charges are filed and the Superintendent has taken action as herein provided except where the Superintendent or designee determines that immediate suspension without pay is appropriate because of the seriousness of the charges or potential harm to the health, welfare or safety of persons or property.

12.3 A Notice of Proposed Disciplinary Action shall contain a statement in ordinary and concise language of the specific acts or omissions upon which the disciplinary action is based, a statement of the cause for the action taken and the penalty proposed. The Notice of Proposed Disciplinary Action shall be in writing and served in person, or by certified mail, upon the employee at the employee's last known address.

12.4 A Notice of Proposed Action shall also contain a statement advising employees of their right to a "Skelly" meeting on such charges and accompanied by a Superintendent form for employees to sign and file with

the Personnel Office demanding a meeting. Failure of the employee to submit a demand for a “Skelly” meeting within the time period prescribed in the Notice of Proposed Disciplinary Action shall constitute a waiver of such meeting. In such event the recommendation of the appropriate manager in the Notice shall be acted upon by the Superintendent.

12.5 Upon receipt of a timely filed demand for “Skelly” meeting, the Superintendent or designee shall schedule a “Skelly” meeting. At the “Skelly” meeting, the employee shall be given an opportunity to present verbal and/or written information to mitigate or countervail the charges included in the Notice.

12.6 After consideration of the information presented at the “Skelly” meeting, the Superintendent or designee shall make a determination on the proposed disciplinary action.

12.7 In the event disciplinary action is taken, the employee shall receive an Order of Disciplinary Action describing the cause of action and the penalty.

12.8 The Order of Disciplinary Action shall also contain a statement advising employees of their right to a hearing on such charges and accompanied by a Superintendent form for employees to sign and file with the personnel office demanding a hearing. Failure of the employee to submit a demand for a hearing within the time period prescribed in the Order of Disciplinary Action shall constitute a waiver of such hearing. In such event, the action taken under the order shall be final.

12.9 Where the action taken is other than termination, and upon receipt of a timely filed demand for hearing, the Superintendent or designee shall schedule a hearing that shall not be less than five (5) days after receipt of the demand. At the hearing, the employee and the appropriate manager shall be afforded equal opportunity to present and examine evidence. At the close of the hearing, the Superintendent shall render his/her decision on the charges which shall be final.

12.10 Where the disciplinary action taken by the Superintendent is termination, the employee, through the Association, may request that the matter be submitted to arbitration hearing before the designated appointed hearing officer to be selected by mutual agreement.

12.10.1 The Hearing Officer shall, as soon as possible, hear evidence and render a decision on the issue or issues submitted. The hearing officer shall have no power to add to, subtract from or modify the terms of this Agreement or the written policies, rules, regulations and procedures of the Superintendent.

12.10.2 After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit in writing to all parties his findings and recommendations which shall be advisory to the parties and subject to appeal to the Superintendent within ten (10) days from the issuance of the award.

12.10.3 The Superintendent shall have the power to render a final and binding determination on the recommendation of disciplinary action based on a review of the record or, at his/her discretion, upon reopening the record to receive additional evidence.

12.11 One or more of the following causes shall be grounds for suspension, demotion or dismissal of any permanent classified employee:

12.11.1 Incompetence or inefficiency in the performance of the duties of his/her position.

12.11.2 Inability to perform assigned duties due to failure to meet or retain job qualifications (including, but not limited to, failure to possess required licenses or failure to pass required tests).

12.11.3 Insubordination (including, but not limited to, refusal to do assigned work).

12.11.4 Carelessness or negligence in the performance of duty or in the care or use of Superintendent's property.

12.11.5 Discourteous, offensive or abusive conduct or language toward other employees, pupils or the public.

12.11.6 Dishonesty.

12.11.7 Drinking alcoholic beverages on the job or reporting for work while intoxicated.

12.11.8 Addiction to the use of narcotics or a restricted substance, use of narcotics or restricted substances while on the job or reporting to work while under the influence of a narcotic or restricted substance.

12.11.9 Personal conduct unbecoming an employee of the Superintendent.

12.11.10 Engaging in political activity during assigned hours of employment.

12.11.11 Conviction of any crime involving moral turpitude.

12.11.12 Conviction for a sex offense as defined in Education Code Section 44010.

12.11.13 Conviction of a narcotics offense as defined in Education Code Section 44011.

12.11.14 Absence without leave or repeated tardiness.

12.11.15 Abuse of leave privileges.

12.11.16 Falsifying any information supplied to the Superintendent including but not limited to, information supplied on application forms, employment records or any other district records.

12.11.17 Persistent violation, or refusal to obey safety rules and regulations or directions of the Superintendent, or laws of the state or federal government.

12.11.18 Offering anything of value or offering any service in exchange for special treatment in connection with the employee's job or employment, or accepting anything of value or any service in exchange for granting any special treatment to another employee or to any member of the public.

12.11.19 Willful or persistent violation of the Education Code or rules and regulations of the Superintendent.

12.11.20 Any willful conduct tending to injure the public service.

12.11.21 Abandonment of position or excessive absenteeism.

12.11.22 Advocacy of overthrow of federal, state or local government by force, violence or other unlawful means.

12.11.23 Physical or mental incapacity.

12.12 This section shall not be construed to prevent layoffs for lack of work or lack of funds.

Article 13: LAYOFF AND RE-EMPLOYMENT PROCEDURES

13.1 **Reason for Layoff.** A layoff is the involuntary separation or reduction of a regular employee to a lower classification caused by the deletion of positions. Layoffs shall occur only for justifiable lack of work or demonstrable lack of funds. The Superintendent shall have no duty to negotiate the decision to layoff. When requested by the Association, the Superintendent shall negotiate the impact of the decision to layoff.

13.2 **Notice of Layoff.** Upon decision of the Superintendent to reduce the number of employees in the classified service, written notice of layoff shall be sent by registered mail or delivered in person to the affected employees by the Personnel Office. Notice shall also be sent to the Association. The Association shall have ten (10) working days from date of notification to submit a written request to meet and confer regarding the impact of the layoffs.

13.2.1 The Superintendent shall send written notice of layoff to the affected employees not less than forty-five (45) days prior to the effective date of layoff, informing the employees of their displacement rights, if any, and re-employment rights. The notice of layoff shall specify the reason for layoff and identify by name and classification the employee designated for layoff.

13.3 **Order of Layoff.** Within a given class, probationary, short-term and substitute employees shall be laid off before any permanent classified employee is separated from his/her position.

13.3.1 The order of layoff of employees shall be determined by length of service.

13.3.2 In case of two or more employees having the same length of service, the order of layoff of such employees shall be determined by lot.

13.4 **Seniority – Date of Hire.** For purposes of this section, length of service shall mean date of hire. Seniority within a class shall be calculated by length of service within classifications of equal or higher ranking in which the employee is serving or has served.

13.4.1 “Hire date” shall not be interpreted to mean any service performed prior to entering into probationary or permanent status in the classified service to the Superintendent.

13.5 **Displacement Rights.** Employees who are subject to layoff shall exercise bumping rights into any classification within a current or previously held position, providing they meet minimum qualifications and providing that the classification in which they are bumping is equal to or lower than the classification in which the employee has served.

13.6 **Demotion or Retirement in Lieu of Layoff.** An employee subject to layoff may, in lieu of such layoff, if qualified and subject to the provisions of this Article, elect to be demoted to a lower job class or retire under the provisions of the Public Employees Retirement System (PERS).

13.6.1 An employee who elects demotion in lieu of layoff shall be placed on the thirty-nine (39) month re-employment list and shall be eligible, when a classified vacancy occurs, to return to his/her former job class in the order of his/her service as any other employee on such list.

13.6.2 Eligibility for re-employment for employees who elect demotion shall be extended for an additional twenty-four (24) months provided that the same tests of fitness under which they qualified for appointment to the class shall still apply (Education Code Section 45298).

13.7 Re-Employment Procedure. An employee who is laid off shall be placed on a thirty-nine (39) month re-employment list.

13.7.1 An employee who receives a notice of re-employment and fails to accept in writing the offer of re-employment within ten (10) working days shall be deemed to have rejected the offer of employment.

13.7.2 If the employee in layoff status accepts the position being offered, the employee shall have up to ten (10) calendar days from the postmark date of the notice to report to work. This does not preclude a unit employee from returning to work in fewer than ten (10) calendar days.

Article 14: TUITION REIMBURSEMENT

14.1 The Superintendent shall establish a fund in the amount of \$15,000.00, which is available for the purposes of reimbursing the cost of tuition and fees for enrollment in approved courses and seminars leading to a timely degree or certificate or individual courses enhancing an employee's job performance that have received prior approval of Personnel Services. Only employees who have successfully passed their initial probationary period by the payout deadlines are eligible for this fund. According to the purpose of this fund, fees are defined as costs having a direct relationship to the particular course and include only the cost of books and non-expendable course materials. No other fees are reimbursable under this fund. The rules and procedures of the fund are as follows:

1) The fund is for use by permanent classified employees who are employed for 3 1/2 hours per day or more and have an approved plan on file in the Personnel Office, which will lead to a timely degree or certificate or individual courses that enhance an employee's job performance. Participants who voluntarily leave the organization prior to the claim period deadline are not eligible for reimbursement. Participants who are promoted within the organization but to a position outside of the bargaining unit will only be eligible for reimbursement if they were still employed in their qualifying position two (2) calendar months prior to the claim period deadline.

2) Request for reimbursement of tuition costs must be approved in advance of the coursework by the supervisor and the Personnel Office.

3) Reimbursement shall not exceed 50% of tuition costs for approved coursework and 100% for appropriate fees. Payment will be made upon successful completion as demonstrated by a grade card, official transcript or other acceptable method of verification.

4) Maximum reimbursement per employee for any six-month period shall not be more than \$2,000.00 for that period unless all other participants are paid at 100% of their approved reimbursement amount. In the

event that all other participants receive 100% of their approved reimbursement amount, the employee receiving the maximum of \$2,000.00 will be eligible to receive the balance in the fund for that period so long as total reimbursement does not exceed 100% of their approved reimbursement amount. No employee shall receive more than 100% of their approved reimbursement amount.

5) To ensure an equitable distribution, claims submitted between August 1 and January 31 will be paid by April 1. Funds will be distributed proportionally among those participating for that time period. Claims submitted between February 1 and July 31 will be paid by October 1. Funds will be distributed proportionally among those participating for that time period. If any participant receives the maximum amount allowed, the remaining funds will be distributed proportionally among those remaining participants for that time period.

6) Reimbursement for the first half of the fiscal year shall not exceed 1/2 of the fund balance, and the total year shall not exceed the entire fund balance. Any funds not expended for the October payout period shall be added to the available amount for the April payout period. Under no circumstances shall any unexpended funds be carried over to a subsequent year.

7) No one person can receive more than 1/2 of the total fund balance during the course of the one fiscal year.

8) No requests can be carried over until the next period or the next fiscal year. All requests for payments must be made in the time period for which they occur.

Article 15: RECLASSIFICATION

15.1 Employees may request that their position classification be reviewed by the Superintendent. Such requests may be submitted between January 1 and February 28 of each year on the prescribed forms. The Personnel Office shall keep the Association informed of employees requesting reclassification and their current classification. An employee who has requested reclassification may request that an Association representative be present as an observer during the focus group portion; however, the Association representative shall not be an active participant. Supervisors may submit requests for reclassification in accordance with SBCSS Policy 4213.41.

Office Specialist I, II and III positions are not eligible for reclassification within the Office Specialist series due to a gradual accretion of duties and responsibilities. This does not prevent these positions from changing due to reorganization within a department. Employees are eligible to apply and interview for Office Specialist positions by meeting the minimum requirements of the Office Specialist position and having their name placed on the eligibility list for future openings. Employees seeking reclassification outside the Office Specialist series may utilize the annual reclassification process.

THE ASSOCIATION shall be notified of proposed reclassifications and given the opportunity to respond within fifteen (15) working days of the notification. Reclassification shall become effective on July 1, following the recommendation of the Personnel Office and approval of the Superintendent. Employee anniversary dates and future movement on the salary schedule will be in accordance with the terms of this Agreement.

15.2 In the event that an employee is not satisfied with the results of a reclassification study initiated according to Article 15.1 above, the employee may appeal the decision to the Reclassification Appeal Committee (which will consist of one individual selected by THE ASSOCIATION and one individual selected by the Superintendent's office) the appeal must be made in writing within the fifteen (15) working day notification period as stated above. If the appeal is not made within the prescribed period the decision of the reclassification study shall be final. The Reclassification Appeal Committee will review the reclassification study and make an advisory recommendation to the Superintendent within ten (10) days of receiving the appeal. The Superintendent alone has the power to render a final decision.

An incumbent with a record of two (2) years of continuous employment in the position will be automatically reclassified into the position if the reclassification is based on a gradual accretion of duties. An incumbent with less than two (2) years in the position may be required to successfully complete the examination for the classification in order to be considered for reclassification into the position. Permanent employees reclassified with their position will not be required to serve a probationary term in the new position for purposes of gaining permanency. A position that has been reclassified as a result of a study pursuant to this article shall be ineligible for reclassification for a period at least two (2) years from the date the position was reclassified.

Employees reclassified upward shall be placed at the first step of the salary range for the new classification which will provide for a minimum of a 5% increase, but in no instance will the salary increase go beyond the "E" or final step of the range for the new classification.

Article 16: SAVINGS PROVISION

If any provisions of this Agreement are held to be invalid by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

Article 17: RETURN TO WORK PROGRAM

The San Bernardino County Superintendent of Schools is actively participating in a Workers' Compensation Cost Containment Program.

The Superintendent does permit its employees to return to modified or light duty work assignments when prescribed by a physician. The Superintendent encourages and supports this program.

Article 18: EFFECT OF AGREEMENT

It is understood and agreed that the specific provisions contained in this Agreement shall prevail over Superintendent practices and procedures and over state laws to the extent permitted by the state law.

Article 19: COMPLETION OF MEET AND NEGOTIATION

The parties acknowledge that during the negotiations that resulted in this Agreement, each had the right and opportunity to make demands and proposals with respect to matters within the scope of representation. Therefore, the parties voluntarily waive their right to meet and confer with respect to subject matter referred to or covered in this Agreement or identified by PERB as negotiable on or before October 1, 1992, or addressed in negotiations and not agreed upon.

Article 20: TERM

This Agreement shall commence on July 1, 2007, and shall expire and otherwise be fully terminated at 12:00 a.m. midnight on June 30, 2010. If a successor Collective Bargaining Agreement has not been reached by 12:00 a.m. midnight on June 30, 2010, the terms and conditions of this Agreement shall be extended one (1) year or until a successor Agreement is executed, whichever is sooner.

Each party shall notify the other in writing no later than February 1 of its request to modify, amend or terminate the Agreement.

SBPEA and SBCSS – Agreement

July 1, 2007 – June 30, 2010

Dated: _____

Dated: _____

FOR THE COUNTY

Herbert R. Fischer, Ph.D.
County Superintendent

Karen Gardy, Office Manager
Curriculum & Instruction

Lori Isom, Director
Internal Business Services

LaTonya Johnson, Classified Personnel Spec.
Human Resources

Jenny Teresi, Senior Manager
Human Resources

Lynn Ford, Administrative Secretary
Human Resources

FOR THE ASSOCIATION

Bonnie Escobar-Clarke, SBPEA
Labor Relations Representative

Marsha Prochnau, Negotiating Team Member

Barbara Popham, Negotiating Team Member

John Gamboa, Negotiating Team Member

Angel Jones, Negotiating Team Member

Darla Pittman, Negotiating Team Member

Stephanie Delgado, Negotiating Team Member