

**UNIT 09 AGREEMENT**  
**July 1, 2007 – June 30, 2009**

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## **UNIT 09 AGREEMENT**

This Agreement is made by and between the Hawai`i Government Employees Association, AFSCME Local 152, AFL-CIO, hereinafter called the Union, and the State of Hawai`i, the City and County of Honolulu, the County of Hawai`i, the County of Maui, the County of Kaua`i, the Judiciary, and the Hawai`i Health Systems Corporation, hereinafter called the Employer.

### **ARTICLE 1 - RECOGNITION**

A. The Employer recognizes the Union as the exclusive bargaining agent of the unit certified by the Hawai`i Labor Relations Board consisting of Registered Professional Nurses employed by the State of Hawai`i, the City and County of Honolulu, the County of Hawai`i, the County of Maui, the County of Kaua`i, the Judiciary, and the Hawai`i Health Systems Corporation, hereinafter called the Employer.

B. The term "Employee" as used in this Agreement refers to Employees in the bargaining unit.

C. Whenever in this Agreement the feminine gender is used, it shall be deemed to include the masculine gender.

### **ARTICLE 2 - CONFLICT**

If there is any conflict between the provisions of this Agreement and any of the rules and regulations of any civil service or other personnel regulations applicable to Employees, or any contracts between the Employer and Employees, the terms of this Agreement shall prevail, provided that this Article shall not apply to personal services (individual) contracts.

### **ARTICLE 3 - MAINTENANCE OF RIGHTS AND BENEFITS**

Except as modified herein, Employees shall retain all rights and benefits pertaining to their conditions of employment as contained in the departmental and civil service rules and regulations and statutes at the time of execution of this Agreement, but excluding matters which are not negotiable under Chapter 89, HRS.

### **ARTICLE 4 - PERSONNEL POLICY CHANGES**

A. All matters affecting Employee relations, including those that are, or may be, the subject of a regulation promulgated by the Employer or any Personnel Director, are

subject to consultation with the Union. The Employer shall consult with the Union prior to effecting changes in any major policy affecting Employee relations.

B. No changes in wages, hours or other conditions of work contained herein may be made except by mutual consent.

## **ARTICLE 5 - RIGHTS OF THE EMPLOYER**

The Employer reserves and retains, solely and exclusively, all management rights, powers, and authority, including the right of management to manage, control, and direct its work forces and operations except those as may be modified under this Agreement.

## **ARTICLE 6 - UNION SECURITY**

A. The Employer shall maintain a list of Union members in this bargaining unit who have payroll assignment forms on file with the Employer. This list will be made available to the Union by request and contain information listing the names of Union members, unit Employees, and total Union deductions made without cost to the Union on a form supplied by the Employer.

B. The Employer shall also maintain a list of Employees from whom service fees are deducted from wages to defray the cost of services rendered by the Union in the negotiation and administration of this Agreement; such list will be made available to the Union without cost and on a form supplied by the Employer.

C. The Employer shall maintain and update the above listings and notify the Union of any changes.

D. Union dues, initiation fees, service fees, and other Employer authorized deductions shall be collected twice a month and transmitted to the Union not later than the 15th day of the following month by check drawn to the order of the Union. Upon the issue of such check and transmission of same to the Union, all responsibility on the part of the Employer shall cease with respect to any amount so deducted. The Employer shall not be bound in any manner to see to the application of the proceeds of any such check, nor to investigate the authority of any designated officer of said Union to sign any request, to accept any such check, or to collect the same. The Union hereby undertakes to indemnify and hold blameless the Employer from any claim that may be made upon it for or on account of any such deduction from the wages of any Employee.

E. Scattergrams reflecting Employee distribution on the salary schedule as of July 15 of each year shall be provided to the Union by each jurisdiction.

F. Pursuant to HRS §89-3.5, employees claiming and qualifying for religious exemption shall select one of the following non-religious, non-labor organization charitable

funds, that are exempt from taxation under section 501(c)(3) of Title 26 of the Internal Revenue Code:

1. John A. Burns Foundation
2. American Cancer Society – Hawai`i Pacific Division
3. Hawai`i Heart Association

The Union shall be responsible for:

1. Establishing guidelines for determining bona fide religious, bodies or sects which have historically held conscientious objections to joining or financially supporting employees organizations;
2. Establishing guidelines for determining whether an Employee is a member of such bona fide religious, bodies or sects;
3. Verifying that an Employee's request for religious exemption meets the requirements of HRS §89-3.5; and,
4. Establishing and carrying out procedures for implementing the requirement that the Employee pay sums equal to the dues and initiation fees to a nonreligious, nonlabor organization charitable fund as listed above in lieu of periodic dues and initiation fees.

## **ARTICLE 7 - UNION REPRESENTATION RIGHTS**

A. The Union may call four (4) meetings per year of all Employees in each department during working hours for informational and educational purposes, including the interpretation, application, and administration of this Agreement. The year for this purpose shall begin with the effective date of this Agreement. The Employees may be divided into groups of convenient size. When more than one session is held for an informational and educational meeting all Employees will have an opportunity to attend one session per meeting. Each session shall last no longer than two (2) hours. The Union may use the Employer's conference rooms and similar building facilities for these informational and educational meetings. The Union will notify the Employer in writing of the date(s), time(s), and location(s) of the meetings at least ten (10) days before they are held. If the hours during which the meetings are held are mutually acceptable, the Union shall be responsible for informing its members of the date(s), time(s), and location(s) of the meetings as well as arranging for any accommodations needed. However, those agencies that are currently assisting the Union in notifying employees of the meeting arrangements shall continue the practice. In addition to the foregoing meetings, additional meetings may be held by agreement of the Employer and the Union.

B. The Union shall be provided adequate space on bulletin boards for posting of usual and customary Union notices.

C. Full-time Union representatives shall be permitted to visit and confer with Employees at their work sites regarding complaints and grievances and to assure that the Agreement is being properly administered. The Union representative will notify the appropriate supervisor when she arrives at the work site. While on the Employer's premises or work site, the representative will not interfere with normal operations.

D. The Union shall appoint a sufficient number of stewards from among the Employees whose function shall be to investigate complaints, handle grievances, and assure that the Agreement is being properly administered in their work areas, during working hours without loss of pay or benefits. The Employer assures privacy to the steward and the Employee while discussing the Employee's grievance.

E. The Union shall provide the Employer with a list of duly certified officers, representatives, and stewards and maintain its currency.

F. The Executive Director or his designee shall be entitled to participate during the biennial review of the Compensation Plan by the Conference of Personnel Directors, but may not vote. He shall receive copies of the policies and standards, rules and regulations, identification and pricing of bench mark classes, including proposed amendments therefore and notices of meetings, agenda, and requests for repricing.

G. Employees may be permitted to use the Employer's conference rooms or other similar facilities for meetings during non-working hours.

## **ARTICLE 8 - UNION COMMUNICATIONS**

A. Any educational bulletins, Union news and notices may be placed by an off-duty Employee in individual Employee boxes, if available.

B. Such privileges granted to the Union shall be exercised reasonably and shall not interfere with the Employer's operations.

## **ARTICLE 9 - ORIENTATION**

A. Where an island-wide and/or department orientation program for new Employees is held on a regularly scheduled basis, the Union will be afforded a reasonable amount of time not to exceed thirty (30) minutes, to explain its services and programs available to covered Employees at the conclusion of said program. The Employer or its representative shall inform the Union as to the date, time and place of such orientation sessions.

B. In the event that island-wide and/or departmental orientation program for new Employees is not held on a regularly scheduled basis, the Union will be afforded a reasonable amount of time not to exceed thirty (30) minutes to explain its services and programs available to covered Employees. The Employer or its representative shall inform the Union representatives as to the date, time, and place to explain its services and programs.

C. Orientation programs shall be planned and structured. The programs shall be provided:

1. To new Employees prior to the assignment of patient care.
2. To regular Employees prior to acceptance of assignments in another patient care unit.
3. Prior to placement in a charge nurse position.

Orientation programs shall include the necessary criteria to provide minimal safe care such as emergency procedures, physical layout, charting, the broad function of the unit, hospital policies and procedures, and expectations of the charge nurse function.

## **ARTICLE 10 - DISCRIMINATION**

The Employer and the Union agree that neither party will discriminate against any Employee because of membership or non-membership or lawful activity in the Union or on the basis of race, national origin, color, creed, age, sex, or lawful political activity.

## **ARTICLE 11 - DISCIPLINE**

A. Employees shall be subject to discipline by the Employer for just and proper cause.

B. When the Employer takes action under this Article which either the Employee or the Union believes is improper or unjustified, the Employee or the Union shall have the right to process a grievance through the grievance procedure as provided under Article 14, Grievance Procedure, hereunder.

C. Disciplinary action against any Employee shall be considered confidential.

D. Written Reprimands.

1. A written reprimand issued to an Employee shall contain the specific reasons for the action and a statement that the Employee may consult the Union on the matter.

2. The written reprimand shall be issued to the Employee in person or, if impracticable, mailed to the Employee's last known address.

E. Suspensions.

1. Whenever an Employee is suspended for four (4) or less working days, the Employee shall be given written notice of the suspension within forty-eight (48) hours after the suspension; provided that, for suspensions of five (5) or more working days, the Employee shall be given written notice of the suspension prior to the commencement of the suspension. The notice shall contain the following:

- a. The specific reason(s) for the suspension;
- b. The effective date(s) of the suspension; and
- c. A statement that the Employee may consult with the Union on the matter.

2. The notice of suspension shall be provided to the Employee in person or, if impracticable, mailed to the Employee's last known address.

F. Discharges and Disciplinary Demotions.

1. Whenever a discharge or disciplinary demotion action is to be taken against an Employee, the Employee shall be given a written notice of such action. The notice shall contain the following:

- a. The specific reason(s) for the action;
- b. The effective date(s) of the discharge or disciplinary demotion;
- c. An opportunity to respond prior to the effective date of the discharge or disciplinary demotion action; and
- d. A statement that the Employee may consult with the Union on the matter.

2. A written notice of a discharge or disciplinary demotion action shall be issued to the Employee in person, or if impracticable, mailed to the Employee's last known address at least ten (10) days prior to the discharge or disciplinary demotion action.

3. A disciplinary demotion shall be for a specified period of time.



## ARTICLE 12 - LAYOFF AND REEMPLOYMENT

### A. Layoff

1. When there is an impending layoff because of lack of work, need, or funds, the appointing authority shall inform the Central Personnel Agency and the affected Employee of this in writing as soon as possible but in any case at least ninety (90) calendar days before the impending layoff will take place. The provisions of this Article concerning placement rights are applicable to regular civil service Employees whose positions are to be abolished and regular civil service Employees who will be displaced by another Employee. The Employer shall consult with the Union on his plans for the layoff.

2. Retention Points. To determine the displacement of another Employee, retention points shall be computed on the basis of one (1) point for each full month of State civil service employment in the applicable jurisdiction except that the service time of classes of Employees whose functions are transferred from one jurisdiction to another jurisdiction through action of the Legislature shall be credited with retention points. Prior service which may have been interrupted by resignation or separation from service shall be creditable. A fraction of a month of service shall be used to break "ties." Service rendered up to the end of the month prior to the month in which the layoff notice is given will be included in the computation. The following periods of leave without pay are creditable for computing retention points: (1) educational; (2) employment with the legislature; (3) loan to other governments; (4) research; (5) industrial injury; (6) United States military service; and (7) temporary service in a duly recognized government Employee organization.

3. Waiver of Displacement Rights. The Employee affected by layoff may waive any displacement rights, thereby limiting that Employee's placement to vacant positions.

#### 4. Conditions for Placement:

a. The Employee must meet the minimum qualification requirements of the class of the position in which that Employee is to be placed.

b. The Employee is a regular or permanent civil service Employee of the jurisdiction.

c. The Employee shall have priority for placement in the vacant position to which that Employee is referred under the provisions of this Article.

d. The Employee shall be referred for placement in a position on the basis of that Employee's indication of the geographic location(s) (island and district) where that Employee is willing to be placed and the minimum pay range, not higher than that of said Employee's present position, that such Employee will accept. The appointing authority shall provide the Union with a listing of all vacant positions

which meet the conditions under which the Employee has indicated she would be willing to accept. Positions occupied by emergency appointees shall be considered vacant.

e. The Employee shall be entitled to only one referral for placement in a position which is in accordance with the terms that Employee specified as provided for in d above.

5. Bumping Procedures for Regular Employees within the Employing Department. If the Employee cannot be placed in a vacant position, a layoff will be effectuated. In the order of utilization outlined below, the appointing authority shall provide the Union with a list of all positions and their classification, the incumbents' names, and the incumbents' retention points. Subject to the conditions set forth in A.4. above, the following order shall be observed in bumping and layoff of Employees:

a. Non-regular Employee in the same class. Where there is more than one (1) such Employee, layoff will be first, of an Employee serving a temporary appointment outside the list; second, provisional appointment Employee; third, a limited-term appointment Employee; and fourth, a probational appointment Employee.

b. Non-regular Employee who occupies a position in a related class within the same pay range.

c. Regular Employee occupying a position in the same class and has less retention points.

d. Regular Employee occupying a position in a related class with the same pay range and has less retention points.

e. Non-regular Employee who occupies the position in a class of a lower pay range in the same series.

f. Non-regular Employee who occupies a position in a class at a lower pay range in a related series.

g. Regular Employee who occupies a position in a class assigned to a lower pay range in the same series and has less retention points.

h. Regular Employee who occupies a position in a class assigned to a lower pay range in a related series and has less retention points.

6. In the event that the Employee cannot be placed within that Employee's department, the appointing authority shall also notify the Employee and the Director in writing of this and the impending layoff at least sixty (60) days prior to the layoff. The appointing authority shall also notify the Director in that a jurisdiction-wide layoff needs to

be effectuated if the Employee has at least twenty-four (24) retention points and is a regular civil service Employee.

7. A jurisdiction-wide layoff action will be effectuated only for an Employee who has not been referred for placement or cannot be placed in an appropriate position within the employing department, and if the Employee has regular or permanent civil service status with the jurisdiction with at least twenty-four (24) retention points. A regular Employee with less than the twenty-four (24) retention points will have retention rights only within the department in which the Employee is employed. The Employer shall furnish the Union with information similar to the information requirements of A.4. and A.5. above. In a jurisdiction-wide layoff action, the following order shall be followed in the placement of an Employee:

a. Non-regular Employee in the same class. Where there is more than one (1) such Employee, layoff will be first, of an Employee serving a temporary appointment outside the list; second, provisional appointment Employee; third, a limited-term appointment Employee; and fourth, a probational appointment Employee.

b. Non-regular Employee who occupies a position in a related class within the same pay range.

c. Regular Employee who occupy a position in the same class and has less retention points.

d. Regular Employee who occupy a position in a related class within the same pay range and has less retention points.

e. Non-regular Employee who occupies a position in a class of a lower pay range in the same series.

f. Non-regular Employee who occupies a position in a class at a lower pay range in a related class.

g. Regular Employee who occupies a position in a class assigned to a lower pay range in the same series and has less retention points.

h. Regular Employee who occupies a position in a class assigned to a lower pay range in a related series and has less retention points.

8. When the Employee cannot be placed in another position, that Employee's services will be terminated, and such Employee's name will be placed on the recall list.

B. Placement of Laid Off Employees on the Recall List

1. Rank on the Recall Lists. Employees shall be ranked on the appropriate recall list on the basis of retention points. Employee with the highest retention points shall be ranked number 1, the next highest, number 2, etc. The computation of retention points shall be made in accordance with the procedures as specified in A.2.

2. Removal from Recall List. The Director of the Central Personnel Agency may remove the name of a person on any recall list for the following reasons:

a. The eligible is no longer able to perform the necessary duties satisfactorily.

b. The eligible was appointed to a permanent position from the appropriate recall list.

c. Failure to respond within a period of ten (10) days to a written inquiry sent to the address provided by the eligible.

d. Withdrawal by the eligible.

e. Refusal of two (2) offers of employment under conditions that the eligible had previously indicated would be acceptable.

f. Failure to report to duty after appointment within the time prescribed by the appointing authority unless good cause is shown.

A laid off Employee's eligibility may be terminated for other valid reasons provided that if such an Employee's eligibility is so terminated, the Employee shall have the right to challenge the validity in accordance with the provisions of Article 14, Grievance Procedure.

C. The time limits for notices contained in A herein shall not apply to the elimination of a Federally funded position where the Employer has insufficient notice by the Federal Government to meet the time requirements.

### **ARTICLE 13 - TECHNOLOGICAL CHANGES**

A. The Employer and the Union recognize that changes in operations resulting from technological innovations may occur. When such changes occur, the Employer shall give first consideration to the utilization of affected Employees in the changed operations. In the event the affected Employees do not possess the requisite skills or knowledge to perform the required work in the new operation and such skills and knowledge can be acquired within a reasonable length of time, the Employer shall provide the necessary training to Employees during working hours and at the Employer's expense.

B. If the job of any Employee is eliminated because of the implementation of new technological innovations, the Employer shall, in the following order of priority: 1) place the

Employee in a position comparable in level to her original position; 2) place the Employee in a lower level position, provided that she shall retain her existing rate of compensation so long as she remains in the position; or 3) follow the procedure under Article 12, Layoff and Reemployment.

C. Any Employee affected by this Article shall be required to meet the minimum qualification requirements for the class in which she may be placed.

## **ARTICLE 14 - GRIEVANCE PROCEDURE**

A. Any complaint by an Employee or the Union concerning the application and interpretation of this Agreement shall be subject to the grievance procedure. Any relevant information specifically identified by the grievant or the Union in the possession of the Employer needed by the grievant or the Union to investigate and process a grievance, shall be provided to them upon request within seven (7) working days. The grievance shall be presented to the appropriate supervisor within twenty (20) working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be filed within twenty (20) working days after the alleged violation first became known or should have become known to the Employee involved, except that in the case of an alleged payroll computational error, such allegation shall be presented to the department head or her designee in writing within twenty (20) working days after the alleged error is discovered by the Employee, or the grievance may not be considered.

B. An individual Employee may present a grievance to her immediate supervisor and have her grievance heard without intervention of the Union, provided the Union has been afforded an opportunity to be present at the conference(s) on the grievance. Any adjustment made shall not be inconsistent with the terms of this Agreement. By mutual consent of the Union and the Employer, any time limits within each step may be extended.

C. Informal Step. A grievance shall, whenever possible, be discussed informally between the Employee and her immediate supervisor within the twenty (20) working day limitation provided for in paragraph "A" above. The grievant may be assisted by her Union representative. If the immediate supervisor does not reply by seven (7) working days, the Employee or the Union may pursue the grievance to the next step.

D. Step 1. If the grievant is not satisfied with the result of the informal conference, she or the Union may submit a written statement of the grievance within seven (7) working days after receiving the answers to the informal complaint to the division head or her designee; or if the immediate supervisor does not reply to the informal complaint within seven (7) working days, the Employee or the Union may submit a written statement of the grievance to the division head or her designee within fourteen (14) working days from the initial submission of the informal complaint; or if the grievance was not discussed

informally between the Employee and her immediate supervisor, the Employee or the Union may submit a written statement of the grievance to the division head or her designee within the twenty (20) working day limitation provided for in paragraph "A" above.

A meeting shall be held between the grievant and a Union representative with the division head or her designee within seven (7) working days after the written grievance is received. Either side may present witnesses. The division head or her designee shall submit a written answer to the grievant or the Union within seven (7) working days after the meeting.

E. Step 2. If the grievance is not satisfactorily resolved at Step 1, the grievant or the Union may appeal the grievance in writing to the department head or her designee within seven (7) working days after receiving the written answer. The department head or her designee need not consider any grievance in Step 2 which encompasses different alleged violations or charges than those presented in Step 1. A meeting to discuss the grievance shall be held within seven (7) working days after receipt of the appeal. The department head or her designee shall reply in writing to the grievant or the Union within seven (7) working days after the meeting.

F. If the Union has a class grievance involving Employees within a department, it may submit the grievance in writing to the department head or her designee. Time limits shall be the same as in individual grievances and the procedures for appeal from unsatisfactory answers shall be the same as in Step 3.

If the Union has a class grievance involving Employees from more than one (1) department, it may submit the grievance in writing to the Governor and/or the respective Mayors, or their designees, as the case may be. Time limits shall be the same as in individual grievances and the procedures for appeal from unsatisfactory answers shall be the same as in Step 3.

G. Step 3. If the grievance is not satisfactorily resolved at Step 2, the grievant or the Union may appeal the grievance in writing to the Employer or her designee within seven (7) working days after receipt of the answer at Step 2. Within seven (7) working days after the receipt of the appeal, the Employer and the Union shall meet in an attempt to resolve the grievance. The Employer or her designee need not consider any grievance in Step 3 which encompasses a different alleged violation or charge than those presented in Step 2. The Employer or her designee shall reply in writing to the Union within seven (7) working days after the meeting.

H. Step 4. Arbitration. If the grievance is not resolved at Step 3 and the Union desires to proceed with arbitration, it shall serve written notice on the Employer or her representative of its desire to arbitrate within ten (10) working days after receipt of the Employer's decision at Step 3. Representatives of the parties shall attempt to select an Arbitrator immediately thereafter. If agreement on an Arbitrator is not reached within ten (10) working days after the notice for arbitration is submitted, either party may request the Hawai'i Labor Relations Board to submit a list of five (5) Arbitrators. Selection of an

Arbitrator shall be made by each party alternately deleting one (1) name at a time from the list. The first party to delete a name shall be determined by lot. The person whose name remains on the list shall be designated the Arbitrator. No grievance may be arbitrated unless it involves an alleged violation of a specific term or provision of the Agreement.

If the Employer disputes the arbitrability of any grievance, the Arbitrator shall first determine whether she has jurisdiction to act; and if she finds that she has no such power, the grievance shall be referred back to the parties without decision or recommendation on its merits.

The Arbitrator shall render her award in writing, no later than thirty (30) calendar days after the conclusion of the hearings or if oral hearings are waived then thirty (30) calendar days from the date statements and proofs were submitted to the Arbitrator. The decision of the Arbitrator shall be final and binding upon the Union, its members, the Employees involved in the grievance and the Employer. There shall be no appeal from the Arbitrator's decision by either party, if such decision is within the scope of the Arbitrator's authority as described below:

1. The Arbitrator shall not have the power to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement.
2. His power shall be limited to deciding whether the Employer has violated any of the terms of this Agreement.
3. The Arbitrator shall not consider any alleged violations or charges other than those presented in Step 3.
4. In any case of suspension or discharge where the Arbitrator finds such suspension or discharge was improper, the Arbitrator may set aside, reduce or modify the action taken by the Employer. If the penalty is set aside, reduced or otherwise changed, the Arbitrator may award back pay to compensate the Employee, wholly or partially, for any wages lost because of the penalty.

The fees of the Arbitrator, the cost of transcription, and other necessary general costs, shall be shared equally by the Employer and the Union. Each party will pay the cost of presenting its own case and the cost of any transcript that it requests.

## **ARTICLE 15 - TEMPORARY ASSIGNMENT**

A. A temporary assignment shall mean the assignment by a competent authority and the assumption, without a formal change in position assignment, of the significant duties and responsibilities of another position due to:

1. The incumbent of the position not being able to perform the duties of her position,

2. The incumbent of the position also serving on a temporary assignment and the department head certifies that the need for the services is immediate, essential, and in the best interest of the public, or

3. A vacancy cannot be filled temporarily or permanently by a non-competitive promotion, a provisional appointment from within or outside the service, a transfer or a movement of another Employee and that the department head certifies that the immediate rendition of services is essential and in the best interest of the public and that such temporary assignment shall not exceed 120 working days.

B. When Employees are being considered for a temporary assignment to a position in a higher class, priority shall be given to Employees within the work place who are in the class immediately below the class of the temporary assignment, provided such Employees are capable of satisfactorily performing such assignment. If there is no such Employee in the next lower class in the same series, the above procedure will be continued among the lower classes in the same series, then to related series in descending order. In the event there is no capable Employee available in the work place, the above order of priority shall be accorded to Employees within the division. For purpose of this Article, work place shall be defined as that organizational segment which contains the position to which a temporary assignment is to be made, including its subordinate organizational segment. Whenever possible, temporary assignments shall be based on a rotational system whereby each Employee within the organizational units mentioned above shall have an equal opportunity for a temporary assignment.

C. The Employer shall compensate Employees for temporary assignments within thirty (30) days (approximately two (2) pay periods) from the end of each payroll period in which the temporary assignments are performed.

D. Whenever an Employee performs a temporary assignment, the Employer shall provide her with a record of the temporary assignment as evidence of such service for the Employee's personal use and file. Applicable temporary assignment experience may be claimed by an Employee when applying for promotions.

## **ARTICLE 16 - PROMOTIONS**

A. Seniority shall mean an Employee's continuous length of creditable service as a registered professional nurse or nurse anesthetist within the applicable governmental jurisdiction but not excluding the combined service time of classes of Employees whose functions are transferred from one jurisdiction to another through action of the legislature. An Employee shall not be credited with seniority until she has completed her initial probationary period. Upon satisfactory completion of her initial probationary period, an Employee shall be credited with seniority from her date of initial probationary hire.



B. All authorized leaves without pay shall not constitute a break in service and shall be creditable for computing continuous length of service. If an Employee's service is involuntarily terminated in good standing or resigns in good standing and the Employee returns to the governmental jurisdiction which she left within one (1) year, the break in service shall be disregarded, but shall not be considered as creditable service.

C. When making promotions, the civil service statutes, rules and regulations, and procedures governing promotions which exist on the effective date of this Agreement shall be applied, except as modified below:

1. For competitive promotions, the existing policies on announcements shall remain in effect. For non-competitive promotions, all notices to fill authorized vacancies shall be posted on appropriate bulletin boards and circulated to Employees within the division where the vacancy occurs for at least ten (10) calendar days prior to the closing date for receipt of applications. If the Employer does not post or circulate the notices for the specified number of days as provided in this section or in the personnel rules and regulations, the Employee shall be entitled to submit a late application.

2. If tests and/or examinations are used in selecting Employees for promotions, the Employer assures the Union that continuing efforts will be made to use tests and/or examinations that directly relate to the skills, abilities, and qualifications required for the class.

3. An Employee selected for promotion must meet the minimum qualifications.

4. Other factors being relatively equal, seniority shall prevail.

5. When making promotions, the Employer shall consider the following order of priority:

a. In the case of the respective County jurisdictions:

- 1) Employees within the division where the vacancy occurs;
- 2) Employees within the department where the vacancy occurs;
- 3) Employees within the respective jurisdiction.

b. In the case of the State jurisdiction:

- 1) Employees within a division on the island where the vacancy occurs;
- 2) Employees within the division (statewide) where the vacancy occurs;

- 3) Employees within the department on the island where the vacancy occurs;
- 4) Employees within the department (statewide) where the vacancy occurs;
- 5) Employees within the jurisdiction on the island where the vacancy occurs;
- 6) Employees within the jurisdiction (statewide).

(Note: The island of Maui includes the islands of Moloka`i, including Kalaupapa and Lana`i.)

6. In the event an Employee with the greatest seniority applies and qualifies for a promotion and is denied the promotion, if she so requests, she shall be given a written statement of the reasons for denial.
7. Notice of selection shall be posted on the appropriate bulletin board where the vacancy existed.
8. An Employee shall be eligible to receive two non-competitive promotions within a twelve (12) month period, not including temporary non-competitive promotions.

## **ARTICLE 17 - COMPENSATION ADJUSTMENTS**

### **A. General Provisions.**

1. For purpose of clarification, the provisions of this Article shall not be applicable where an Employee moves from one (1) governmental jurisdiction to another, except as specifically provided herein.
2. For purposes of this Article, "basic rate of pay" means the rate of pay assigned to the salary range and step an Employee is receiving as compensation. For an Employee whose position is not assigned to the salary range, "basic rate of pay" shall mean the actual rate of compensation the Employee is receiving as remuneration for services performed in a particular position, not including any differentials.
3. When the effective dates of more than one (1) personnel action coincide, pay adjustments shall be made in the following order:
  - a. Step movement;
  - b. Negotiated wage increase;

- c. Changeover to a new pay schedule;
- d. Repricing;
- e. Promotion;
- f. Reallocation;
- g. Other personnel actions.

4. A leave of absence without pay shall end upon the day before the first working day an Employee properly reports for duty, and an Employee shall be entitled to receive compensation as of the first working day the Employee properly reports for duty. Each calendar day from the beginning to the end of an Employee's leave of absence without pay shall be charged as leave without pay provided that an Employee who is granted a leave of absence without pay and who returns to duty after being absent from work for only one (1) working day or less, shall be charged for one (1) day of leave of absence without pay or less, as applicable, even though one (1) or more scheduled or normal non-working days or a holiday may have preceded the Employee's return to duty.

5. An Employee who leaves the service without having worked on all scheduled working days for that month shall be compensated pursuant to the following formula: Employee's monthly basic rate of pay plus TD, CD, SD, or RD as applicable x (number of days worked/number of working days in a month, including holidays).

6. An Employee who suffers a disabling personal injury arising out of and in the course of employment, except for an injury caused by the Employee's negligence, willful intention to injure the Employee or others, or by the Employee's intoxication or because of the influence of a non-prescribed controlled substance, shall be credited for a full day's work on the day of the injury regardless of the time the Employee is injured.

7. An Employee who initially was properly compensated following a promotion, the adoption of a new pay schedule, a temporary assignment, pricing or repricing, or any other personnel action affecting pay, shall not be required to make reimbursement when it is found subsequently that an overpayment in salary occurred due to the retroactive feature of a position classification action. However, the proper pay adjustment shall be made as of the first pay period following the date of notice of action by the director.

8. Employees who are receiving a shortage differential shall have their compensation adjusted by provisions contained in a separate supplemental agreement.

#### B. Compensation Adjustment Upon Promotion.

1. As used in this paragraph, "promotion" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position assigned to a class with a higher pay range in the salary

schedule.

2. A regular Employee who is promoted shall be compensated at the step in the higher pay range which corresponds to his existing step (i.e., the movement shall be from Step A to Step A, or Step B to Step B).

3. Regular Employees who return to their permanent positions after a promotion on a temporary appointment basis or are released from a new probationary appointment following a promotion shall be compensated as though they had remained in their permanent positions continuously.

C. Compensation Adjustment Upon Demotion.

1. The following definitions shall be applicable to this paragraph:

a. "Demotion" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position assigned to a class with a lower pay range in the salary schedule.

b. "Demotion due to a reorganization" means a demotion of an Employee as a result of a reorganization action.

c. "Demotion to avoid layoff" means a demotion accepted by an Employee to avoid being laid off.

d. "Disciplinary demotion" means a demotion action taken by the appointing authority for disciplinary reasons.

e. "Involuntary demotion" means a demotion action taken by the appointing authority due to the Employee's inability to perform the duties and responsibilities of the Employee's position, or due to the Employee's failure to meet qualification requirements for the position.

f. "Non-service connected disability demotion" means the movement of an Employee to a vacant civil service position assigned to a class with a lower pay range in the salary schedule, due to a disability sustained by the Employee other than while performing the duties and responsibilities of the Employee's position.

g. "Service connected disability demotion" means the movement of a regular Employee or an Employee serving an initial probationary period to a vacant civil service position assigned to a class with a lower pay range in the salary schedule, due to a disability sustained by the Employee while performing the duties and responsibilities of the Employee's position.

h. "Voluntary demotion" means a demotion requested by an Employee and granted by the appointing authority.

2. Disciplinary or Involuntary Demotion.

a. A regular Employee who is involuntarily demoted or who is demoted for disciplinary reasons shall be compensated at the corresponding step in the lower salary range or any lower step in the lower salary range.

b. Upon release from a disciplinary demotion given on a temporary basis, a regular Employee shall be compensated as though the Employee had remained in the former position continuously.

3. Demotion to Avoid Layoff; Demotion Due to Reorganization; Service Connected Disability Demotion.

An Employee who accepts a demotion to avoid layoff; or is demoted due to a reorganization; or who receives a service connected disability demotion, shall retain the Employee's basic rate of pay; provided:

a. If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

b. If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

4. Non-Service Connected Disability Demotion.

An Employee who receives a non-service connected disability demotion shall be compensated as provided below:

a. A regular Employee who has fifteen (15) or more years of continuous service in the civil service of the Employee's governmental jurisdiction shall retain the Employee's basic rate of pay; provided that:

1) If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

2) If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

b. A regular Employee with at least five (5) years but less than fifteen (15)

years of continuous service in the civil service of the Employee's governmental jurisdiction shall retain the Employee's basic rate of pay for a period beyond the effective date of the demotion as follows:

Years of Service	Months of Compensation Retention
5	12
6	14
7	16
8	18
9	20
10	22
11	24
12	26
13	28
14	30

1) If the Employee's basic rate of pay falls between two (2) steps in the lower pay range, the Employee shall be compensated at the step in the lower pay range whose rate is immediately below the Employee's basic rate of pay and shall be entitled to a temporary differential.

2) If the Employee's basic rate of pay falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step and shall be entitled to a temporary differential.

c. The basic rate of pay of a regular Employee with less than five (5) years of continuous service in the civil service of the Employee's governmental jurisdiction, or a regular Employee whose retention period as prescribed in clause b., has expired, shall be adjusted in the manner of adjustments for service connected disability demotion, provided the Employee shall not be entitled to temporary differential.

#### 5. Voluntary Demotion.

a. For voluntary demotions involving a movement of three (3) or less pay ranges, the Employee shall be compensated at the corresponding step in the lower pay range.

b. Notwithstanding the years of service requirements for Steps E, L1 and L2, voluntary demotions involving a movement of more than three (3) pay ranges shall be handled as follows:

1) the Employee shall be compensated at the step in the lower pay range which is equal to the rate for voluntary demotions involving three (3) pay ranges;

2) if such rate falls above the maximum step in the lower pay range, the Employee shall be compensated at the maximum step of the lower pay range;

c. Upon return to the position in which an Employee last held a permanent appointment, a regular Employee who is demoted on a temporary or provisional appointment basis or who is released from a new probationary appointment following a demotion shall be compensated as though the Employee had remained in the former position continuously.

D. Compensation Adjustment Upon Transfer.

1. "Transfer" means the movement of a regular Employee from the position in which the Employee last held a permanent appointment to a vacant civil service position which is in the same class or in a different class assigned to the same pay range in the salary schedule.

2. A regular Employee who is transferred shall continue at the same basic rate of pay.

E. Compensation Adjustment Upon Reallocation.

1. The following definitions shall be applicable to this paragraph:

a. "Reallocation downward" means the reallocation of a position to a class assigned to a lower pay range in the salary schedule.

b. "Reallocation upward" means the reallocation of a position to a class assigned to a higher pay range in the salary schedule.

2. Compensation following reallocation upwards shall be adjusted in the manner as adjustments for promotion.

3. Compensation adjustment for a reallocation downwards shall be in the manner prescribed in paragraph C.3. However, when downward reallocations are due to disciplinary, involuntary, or voluntary reasons, the Employee's basic rate of pay shall be adjusted in the manner as adjustments for disciplinary, involuntary, or voluntary demotions, as applicable.

4. Compensation following reallocation of a position in a class to the same pay range shall be adjusted in the manner of adjustments for transfer.

5. Upon return to the original classification of the Employee's position after a temporary reallocation upward, the Employee shall be compensated at the rate the Employee would have received were it not for the temporary reallocation.

F. Compensation Adjustment Upon Repricing.

1. The basic rate of pay of an Employee whose position is in a class which is repriced to a higher pay range shall be adjusted in the manner as adjustments for promotion.

2. The basic rate of pay of an Employee whose position is in a class which is repriced to a lower pay range shall be adjusted in the manner as adjustments are prescribed in paragraph C.3.

G. Compensation of Employees Selected from an Open Competitive List Resulting from a Recruitment Above the Minimum.

Notwithstanding any paragraph in this Article, Employees selected through an open competitive recruitment which permits hiring above the first step may be compensated at a rate determined by the Employer upon their appointment from the open competitive list; provided that the amount the Employee will receive is not less than the amount the Employee would have received if the Employees were compensated in accordance with the applicable paragraph.

H. Compensation for Temporary Assignment Performed.

Compensation for temporary assignment shall be as follows:

1. Except as provided in subparagraph 6, the basic rate of an Employee who performs temporary assignment involving a position assigned to a class in a higher pay range in the salary schedule shall be adjusted in the manner as adjustments for promotion except that any temporary differential which the Employee was receiving shall not be added to the basic rate of pay but shall be retained by the Employee while performing the temporary assignment.

2. An Employee who performs a temporary assignment involving a position assigned to the same or lower pay range in the salary schedule shall continue to be compensated at the Employee's basic rate of pay prior to the temporary assignment.

3. Whenever a temporary assignment involves the assumption of duties and responsibilities of an exempt position not assigned to a salary range, Employees will be compensated at the prescribed statutory rate of pay if such rate is higher than the Employee's existing basic rate of pay. If there is no prescribed statutory rate, the appointing authority may exercise discretion in setting compensation for temporary assignment.

4. Whenever a temporary assignment is made for an exempt Employee whose position is not assigned to the salary schedule, and whose temporary assignment involves the assumption of the significant duties and responsibilities of a position assigned to a



different salary schedule outside of the bargaining unit, the following will be used to determine whether the assignment is to a higher pay range:

The maximum rate for the class to which temporary assignment is made is higher than the Employee's existing rate; provided, the dollar difference between the two (2) is more than five percent (5%) of the Employee's existing basic rate of pay.

If the temporary assignment is to a position in a higher pay range, as determined above, the Employee will be compensated at that step in the higher pay range which exceeds the Employee's existing rate by five percent (5%). If there is no step in the higher pay range which rate exceeds the Employee's basic rate of pay by at least five percent (5%), the Employee shall be compensated at the maximum step in the higher pay range or at the Employee's basic rate of pay, whichever is greater.

If the temporary assignment does not involve a higher pay range as determined above, the Employee shall be compensated pursuant to subparagraph 2.

5. Whenever a temporary assignment involves the assumption of the duties and responsibilities of a position in the Excluded Managerial Compensation Plan (EMCP), such assignment shall be compensated in accordance with the provisions that are applicable to Excluded Managerial (EM) Employees.

6. Compensation adjustments shall not be provided for the following:

a. An Employee whose position includes assuming the duties and responsibilities of the Employee's superior in the absence of the superior and which assignment is recognized in the Employee's position classification and pricing.

b. An Employee who performs duties in accordance with the terms of a formal training agreement entered into with the Employee's department head and approved by the director.

I. Temporary Differential Pay.

1. An Employee shall be eligible for temporary differential pay as may be provided in this Article. The amount of TD pay shall be the difference between the Employee's basic rate of pay prior to the action taken and the Employee's new basic rate of pay.

2. The TD pay shall not be considered part of an Employee's basic rate of pay.

3. The TD pay shall be reduced by an amount equal to any adjustment in the Employee's basic rate of pay due to promotion, upward reallocation, or repricing upward actions. When the adjustment due to these actions is greater than or equal to the TD pay, the TD pay shall be terminated.

4. When an Employee with TD pay is demoted or transferred, or whose position is reallocated to a class in the same or lower pay range, the TD shall be continued in the new pay range.

J. Compensation Adjustment for Non-Regular Employees.

1. Movements of non-regular Employees to other civil service positions shall not be classified as promotions, transfers, or demotions, but shall be considered as new appointments and compensation adjustments upon these new appointments shall be as prescribed in this paragraph.

2. A non-regular Employee who is moved from the position in which the Employee was serving a probational appointment to another position assigned to the same salary range shall continue at the same basic rate of pay.

3. A non-regular Employee who is moved from the position in which the Employee was serving a temporary appointment to another position in the same class and in the same department shall continue at the same basic rate of pay.

4. Non-regular Employees serving temporary appointments who are converted to initial probational or permanent appointments in the same positions that the Employees were serving temporary appointments will continue to receive the same basic rate of pay they were receiving while serving temporary appointment.

5. The compensation of a non-regular Employee after a personnel transaction other than as described in subparagraphs 2, 3, and 4, shall be at the initial step of the salary range.

K. Compensation Adjustment for Exempt Employees Accepting Civil Service Appointments, or Whose Exempt Positions are Converted to Civil Service Positions.

1. Exempt Employees who move to civil service positions or who are granted civil service status pursuant to legislation shall not have the transaction considered as promotions, transfers, or demotions. Such transactions shall be considered new appointments and pay adjustments upon these new appointments shall be as prescribed in this paragraph.

2. An exempt Employee who is granted civil service status pursuant to legislation shall retain the basic rate of pay the Employee was receiving immediately prior to being granted civil service status; provided:

a. If the Employee's rate of pay falls between two (2) steps in the salary schedule, the Employee shall be compensated at the lower step.

b. If the Employee's rate of pay falls below the minimum step of the salary schedule, the Employee shall be compensated at the minimum step.

c. If the Employee's rate of pay falls above the maximum step of the salary schedule, the Employee shall be compensated at the maximum step.

3. Exempt Employees selected from an open competitive list to civil service positions other than as described in subparagraph 1, shall be compensated at the initial step of the salary range.

L. Compensation Adjustment for Employees Moving to Exempt Appointments.

Movements of Employees to exempt positions shall not be classified as promotions, transfers, or demotions, but shall be considered as new appointments and compensation adjustments upon these new appointments shall be as follows:

1. The Employee shall be compensated at the prescribed statutory rate for the exempt position; or

2. If there is no prescribed statutory rate, then the rate determined by the appointing authority.

M. Compensation Adjustments for Regular Employees Serving Limited Term Appointments, Temporary Appointments, or New Probational Appointments, in Another Position.

1. Regular Employees serving limited term appointments, temporary appointments, or new probational appointments, who are promoted, transferred, or demoted, or whose permanent position is reallocated or repriced shall have their compensation adjusted from their permanent positions pursuant to paragraphs B, C, D, E, or F, as applicable, except as follows:

a. An Employee who is moved from the position in which the Employee was serving a probational appointment to another position assigned to the same salary range shall continue at the same basic rate of pay.

b. An Employee who is moved from the position in which the Employee was serving a temporary appointment to another position in the same class and in the same department shall continue at the same basic rate of pay.

2. Regular Employees serving limited term or other temporary appointments who are converted to probational or permanent appointments in the same positions that they were serving on a limited term or other temporary appointment basis shall continue to receive the same basic rate of pay they were receiving while serving the limited term or temporary appointment.

N. Compensation Adjustments Following an Intergovernmental Movement Made Pursuant to Law.

When an intergovernmental movement has been made pursuant to law, the compensation of the regular Employee involved shall be adjusted as follows:

1. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with a higher pay range in the salary schedule than the previous pay range, the Employee's compensation shall be adjusted in the manner as adjustments for promotion.

2. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with the same pay range in the salary schedule as the previous pay range, the Employee's compensation shall be adjusted in the manner of adjustments for transfer.

3. If the result of the intergovernmental movement is that the Employee moves to a position assigned to a class with a lower pay range in the salary schedule than the previous pay range, the Employee's compensation shall be adjusted in the manner as adjustments for voluntary demotion.

O. Other Compensation Adjustments.

Compensation adjustments not expressly provided for by this Agreement but necessitated by authorized personnel movements or situations shall be made by the director of personnel services, director of civil service, or the administrative director of the courts, as applicable; provided that consultation shall take place with the Union prior to effecting any adjustments under this paragraph.

## **ARTICLE 17A – WORKERS’ COMPENSATION LEAVE BENEFITS**

A. An Employee who is absent from work because of injuries and/or illnesses incurred while working and is receiving workers’ compensation wage loss replacement benefits or temporary total disability or temporary partial disability payments shall continue to earn vacation and sick leave credits as though the Employee was not absent from work.

B. An Employee who is absent from work and is receiving workers’ compensation wage loss replacement benefits may use accumulated sick leave credits to receive an additional amount that would bring the Employee’s total compensation to a sum equal to the Employee’s regular compensation. In the event the Employee does not have any accrued sick leave credits, the Employee may elect to use accrued vacation credits to bring the Employee’s total payment to a sum equal to the Employee’s regular salary. Accumulated credits may be used to continue the Employee’s regular compensation during the waiting period.

C. An Employee shall not forfeit any excess accumulated vacation leave credit when the Employee is receiving workers' compensation wage loss replacement benefits. The taking of excess vacation leave under Article 41 shall apply.

D. An Employee is entitled to use the sick and vacation leave credits earned during the period of absence from work.

## **ARTICLE 18 - EDUCATIONAL AND PROFESSIONAL IMPROVEMENT**

A. The parties agree that Employees should be encouraged to participate in Continuing Education and Employee Development Programs. The term "education" or "educational" as used in this Article shall include and shall not be limited to training classes, courses of instructions, seminars, and workshops.

### **B. In-Service Education**

1. The Employer agrees to provide in-service education programs for all nurses covered by this Agreement. Whenever practicable, required in-service education shall be conducted during an Employee's working hours. When such education falls outside of the Employee's working hours, the Employer may adjust the Employee's working hours for the time spent in education. The adjustment in working hours shall not be construed to be working a split shift or a change in shift.

2. The Employer shall seek CEARP approval for all applicable in-service education programs.

C. **Out-Service Education.** The Employer may require an Employee to participate in an out-service education program which shall be considered required education and shall be conducted whenever practicable, during an Employee's working hours. When such education falls outside of the Employee's working hours, the Employer may adjust the Employee's working hours for the time spent in education. The adjustment in working hours shall not be construed to be working a split shift or a change in shift. Participation in required out-service education shall be considered time worked.

Administrative matters such as frequency of education and number of participants shall be determined by the Employer.

D. **Employee-Initiated Education Leave.** A regular Employee may request attendance in an educational program or course of instruction and the Employer shall approve such a request if the following conditions are met:

1. The educational program or a course of instruction is related to the Employee's job, and will improve the Employee's skills to meet the needs of the Employer. Clinics, workshops and seminars organized by the Union relating to the improvement of professional nursing skill will be considered as education or course of instruction.

2. Attendance in the educational program or course of instruction will not unreasonably disrupt the normal operations of the Employer.

3. Funds are available, provided however, this shall not be a condition where the Employee notifies the Employer at the time of the request for educational leave that the Employee will assume all costs associated with the educational program or course of instruction.

Subject to the provisions of 1, 2, and 3 above, the Employer shall provide three (3) education day sessions per year to any regular Employee who has applied for Employee Initiated Leave. All courses as determined by the Employer to meet minimal standards (CPR, ACLS, PALS, NALS, Trauma Nursing) shall not be considered part of the three education day sessions.

In the event the Employer is unable, in good faith, to grant the request, the Employer shall set forth in writing the reasons for denial when so requested.

Upon satisfactory completion of the educational program or course of instruction, the Employer shall reimburse the Employee for the cost of tuition, books, and supplies as applicable, and any textbook paid for by the Employer shall remain its property; however, this provision shall not apply where the Employee had previously informed the Employer that the Employee would assume all costs associated with the educational program or course of instruction as provided for in "3" above.

An Employee attending an educational program or course of instruction initiated at the Employee's request and approved pursuant to this section shall be deemed to be on administrative leave with pay.

#### E. Educational Leave Without Pay

1. Upon approval by the department head, an Employee may participate in education for personal development at the Employee's own expense and on leave without pay to:

- a. pursue a course of instruction which is related to the Employee's field of work;
- b. engage in research which has a direct beneficial effect on the skills or knowledge required in the Employee's field of work; or
- c. improve the Employee's ability and increase the Employee's qualifications for public employment.

The Employees may for good cause, in the opinion of the department head, be granted an additional period of leave not to exceed twelve (12) months.

2. Return Rights. The following rights of an Employee upon return from an approved leave shall be conditional upon showing to the satisfaction of the appointing authority that the Employee fulfilled the purpose of the leave.

a. A regular Employee returning from a leave shall be reinstated in the Employee's former position; provided, that if such position has been abolished, the Employee shall be considered for placement in other positions in accordance with the provisions of Article 12.

b. Failure of an Employee to return to duty at the expiration of the leave shall be deemed a resignation; provided, that if the Employee furnishes satisfactory reasons to the Appointing Authority within fifteen (15) days after such expiration for the Employee's failure to report to duty, the Employee shall be entitled to such rights as the Employee had at the expiration of the Employee's leave.

c. In case of a disagreement between the Employee and the Appointing Authority concerning the fulfillment of the purpose of the leave, the Employee may appeal the decision.

d. A regular Employee on an approved leave of absence shall be eligible during the period of such leave for promotional examination and status on promotional eligible lists under the same conditions as though in active service.

e. An Employee who accepts employment either in another position in the classified service or in conflict with the purpose of the Employee's leave, during a leave of absence, shall be deemed to have terminated the Employee's employment in the position from which the leave was granted, effective as of the date of the appointment to the new position.

## **ARTICLE 19 - PERSONNEL FILE**

A. An Employee shall, upon request and by appointment, be permitted to examine the Employee's entire personnel file. An Employee shall be given a copy of any material in the Employee's personnel file if it is to be used in connection with a grievance, personnel hearing, or other relevant situation.

B. No derogatory material shall be placed in the Employee's personnel file unless she has had an opportunity to read the material and an opportunity to sign it indicating she has read the material. The Employee shall also be given an opportunity to attach explanatory remarks.

C. Upon request of the Employee or the Union with consent of the Employee, derogatory material in an Employee's file shall be destroyed after two (2) years, unless the department head makes a determination of the current relevancy of such material. If the

Employee or the Union upon consent of the Employee disputes the relevancy of such material, the department head shall attach her reasons for relevancy to such material in writing. The Employee or the Union may again request destruction of such derogatory material after one (1) year.

D. All derogatory material shall be destroyed after five (5) years.

E. The employment history record shall not be destroyed.

F. The Employer may maintain more than one personnel file; however, one of these files shall include, but not be limited to, an Employee's personnel transaction records, derogatory materials, commendatory materials and performance evaluation. The Employer shall designate and inform the Union of the location of the file.

## **ARTICLE 20 - PERSONAL RIGHTS AND REPRESENTATION**

A. The Employer shall not require Employees to transport government equipment in their private vehicles, if such Employees do not receive mileage allowance.

B. Upon the request of the Union, existing dress and personal appearance codes shall be reviewed by the Employer or the Employer's designee and Union. The Employer or the Employer's designee shall consult with the Union before establishing new dress and personal appearance codes.

C. Both parties agree that Employees shall not use their business addresses (place of employment) to receive personal mail; provided, however, if personal mail is sent to Employee's business addresses without their knowledge or consent, the Employer shall endeavor to forward such personal mail unopened.

D. The Employer shall provide Employees with supplies and equipment which are required in the performance of the Employee's official duties. Except in the case of negligence on the part of the Employee, when such equipment is stolen, lost, damaged and/or worn out it shall be repaired or replaced by the Employer.

E. The Employer shall provide legal counsel for an Employee upon request when:

1. The Employee is sued for actions taken by the Employee in the course of employment and within the scope of the Employee's duties and responsibilities.

2. The Employee must appear as a defendant or is subpoenaed to appear in court when sued for actions taken in the course of employment and within the scope of the Employee's duties and responsibilities.



3. The Employee must appear as a witness or is subpoenaed to appear in court on a matter arising in the course of employment and within the scope of her duties and responsibilities.

4. The Employee is required to give deposition or answer interrogatories on a matter arising in the course of employment and within the scope of the Employee's duties and responsibilities.

The Employer shall provide a definitive response to the Employee who has submitted a request for legal counsel within a reasonable time of the receipt of the request.

In addition, the Employee's required presence in any of the foregoing situations shall be considered work time.

F. When grievances are filed against Employees of this unit for actions taken by them in the course of their employment and within the scope of their supervisory and/or managerial duties and responsibilities, the Employer shall provide them with necessary staff support and representation. When such assistance is requested by the Employee and the Employer, fails to furnish such assistance, the Employee will not be penalized for any improper action taken.

G. The Employer shall provide Employees with advice and assistance in the interpretation and administration of collective bargaining contracts or agreements covering their subordinates. Whenever Employees perform or carry out their assigned supervisory and/or managerial duties and responsibilities, based on such advice and assistance, the Employer agrees to provide full support to the Employees should conflict or grievances arise.

H. The Employee shall have the right to refuse for good cause as determined by the Employer to work overtime, to accept a temporary assignment, and to perform any work not representative of her class.

I. If a judgment or court approved settlement is made against an Employee in a civil suit for actions taken by her in the course of her employment and within the scope of her duties and responsibilities, the Employer agrees to do no more than submit to the Legislature or the County Council any judgment (or court approved settlement) against the Employee, with the Employer retaining the discretion of recommending or not recommending legislative approval.

#### J. Bill of Rights

As used herein, the term "complaint" refers to an allegation against an Employee which is made by an individual who is not employed within the same division. Whenever such a complaint is filed, the following shall be applicable:

1. No Employee shall be required to sign a statement of complaint filed against her.

2. If the Employer pursues an investigation based on such complaint, the Employee shall be advised of the seriousness of the complaint. The Employee will be informed of the complaint, and will be afforded an opportunity to respond to the complaint, and to furnish evidence in support of her case. The Employee shall have the right to be represented by the Union in presenting her case.

3. Before making a final decision, the Employer shall review and consider all available evidence and data, including factors supporting the Employee's position, whether or not she offers such factors in her own defense.

## **ARTICLE 21 - SAFETY AND HEALTH**

A. Safety and Health Requirements. The Employer shall conform to and comply with applicable regulations requiring safe, healthy, and sanitary working conditions prescribed by the Department of Health, Department of Labor, or any other governmental body. In addition, the Employer shall insure compliance with the applicable provisions of the Federal Occupational Health and Safety Act of 1970. The Employer shall provide, among other things:

1. When feasible in the renovation or construction of government buildings, the Employer shall endeavor to include in his specifications, provisions to provide, but not limited to the following: air conditioning; cold water fountains; restrooms for Employees separate from public restrooms; areas for meals.

2. When adequate lighting is essential to the performance of a specific function, the Employer shall provide necessary lighting equipment.

### **B. Protective Clothing and Protective Equipment and Tools**

1. Whenever the Employer requires that Employees wear protective clothing or use protective equipment and tools, the Employer shall provide and replace such items.

2. When an Employee performs work requiring the use of protective clothing and the Employee's garment is damaged because the protective clothing is inadequate, the Employer shall be responsible for reimbursing the reasonable value of the garment. The reasonable value shall be mutually agreed upon by the department head or his designee and the affected Employee. Whenever such damage occurs, it shall be reported immediately to her supervisor.

3. When Employees are required to work outdoors, where adequate protection against inclement weather is not readily available, the Employer shall provide raincoats for protection against such inclement weather.

C. Working Conditions

1. Sanitary toilet facilities will be provided.
2. Clean, cool, potable drinking water shall be made accessible.
3. All office and work areas shall be provided with natural or mechanical systems of ventilation.

D. The Employer shall endeavor to provide security and protection for public Employees in offices where there have been experiences of frequent threats or violence.

E. All Employees shall promptly report any unsafe conditions to their supervisors.

F. The Employer shall reimburse an Employee for the reasonable value or pay for the repair cost of clothing, prescription eye glasses, or watches required in the performance of the Employee's duties which are damaged or destroyed by animals, patients, residents, or inmates; provided that the Employee was performing within the scope of the Employee's duties and responsibilities and without negligence. The replacement value or the repair cost for watches shall not exceed fifty dollars (\$50). The Employee shall submit such claim in a manner and form prescribed by the Employer.

G. Employees required to perform home visits and have their shoes damaged by animals, patients, residents, or inmates within the scope of their normal duties shall be reimbursed by the Employer a replacement value or repair cost not to exceed twenty-five dollars (\$25.00).

H. The Employer shall pay reasonable costs for medical, surgical or hospital services, but only to the extent not covered by Kaiser, Hawai'i Medical Services Association or Worker's Compensation benefits in the event an Employee is injured as a result of an assault while performing duties within the scope of the Employee's authority and while following rules and regulations established by the Employer. The Employer shall not pay any cost for medical, surgical or hospital services not covered by Kaiser, Hawai'i Medical Services Association or Worker's Compensation for actions involving Union activity, misconduct, any unauthorized activity or if the assault was provoked by the Employee; provided however, the Employer shall pay reasonable costs as provided above when there is an injury as a result of an assault upon an Employee appointed as a steward engaged in an authorized investigation or processing of a grievance. It is further provided that only the steward duly recognized as the person responsible for the handling of grievances within a specific unit shall be entitled to such coverage.

I. Safety Committee. There shall be a safety committee in each institution and registered professional nurses shall be represented on the committee. The functions of the safety committee shall be to advise the appropriate authority concerning occupational safety, health and security matters. In the discharge of its functions, the safety committee

shall review existing practice and rules relating to occupational safety and health; recommend actions to provide adequate security to protect Employees working in isolated areas or working alone on evenings and night shifts; suggest changes in existing practices and rules; review accidents and recommend corrective actions and preventive measures.

J. Claims for Legislative Relief. The Employer shall make known to all Employees of their right to seek legislative relief under Act 185, Session Laws of Hawai`i 1970, Section 16, for damages caused by patients, clients, or inmates to personal automobiles, when such automobiles are in designated Employee parking areas or being utilized on official business for the Employer.

## **ARTICLE 22 - TEMPORARY HAZARD PAY**

A. Award and Approval. Upon recommendation of a department head or the Union, the Personnel Director, in consultation with the Union, shall grant hazard pay to Employees who are temporarily exposed to unusually hazardous working conditions and where the following conditions are met (where the Union initiates a request, the request shall be addressed to the affected department head with a copy to the Personnel Director):

1. The exposure to unusually hazardous working conditions is temporary.
2. The degree of hazard is "Most Severe" or "Severe"; and
3. The unusually hazardous working conditions have not been considered in the assignment of the class to a salary range.

B. Hazard Pay Differentials. Hazard pay differentials shall be based on the minimum step of the Employee's salary range and shall be awarded as follows:

1. Most Severe twenty-five percent (25%).
  - a. Exposure likely to result in serious incapacitation, long period of time lost, or possible loss of life.
  - b. Accidents occur frequently in spite of reasonable safety precautions.
  - c. Frequent exposure to hazard where failure to exercise extreme care and judgment might cause an accident which would result in total disability or fatality.
2. Severe fifteen percent (15%).
  - a. Frequent injuries likely but serious accidents rare.

- b. Exposure leads to possible eye injuries, loss of fingers, or serious burns.
- c. Might cause incapacitation.
- d. Moderate periods of compensable lost time result.

3. Any disagreement on the granting of Temporary Hazard Pay or the differential granted shall be subject to the grievance procedure and in accordance with Step 3 of Article 14, Grievance Procedure.

C. Computing Hazard Pay. The basic unit for computing such payments shall be the hour provided that:

- 1. A fraction of an hour shall be considered an hour;
- 2. A half day's pay at hazard rates shall be allowed for one (1) or more but less than four (4) hours of hazard work per day;
- 3. A full day's pay at hazard rates shall be allowed for four (4) or more hours of hazard work per day; and
- 4. This pay is in addition to any other rate that may apply to the job.

D. Duration of Hazard Pay Award. Such hazard pay award shall remain in effect for a period not to exceed six (6) months but may be renewed by the Personnel Director or her representative upon showing by the department head that the working conditions and duties remain the same.

E. Forms and Other Requirements. Recommendations for hazard pay differentials shall be submitted on such forms, and such manner as the Employer may require.

## **ARTICLE 23 - HOURS OF WORK**

A. Work Schedules

1. Work schedules for each work unit shall be prepared for a period of four (4) weeks in consultation with the Employees or their representative and posted at least two (2) weeks in advance. Such schedules shall not be considered changed by the department except for reasonable cause and unless the affected Employees are given forty-eight (48) hours prior notice. Employees in each work unit may be allowed priority preference for shifts based on seniority, provided that the shift preference shall not be considered permanent and that seniority shall be defined as provided in Article 16 - Promotions.

2. An Employee shall not be scheduled to work more than two (2) different shifts or three (3) shift changes within any seven (7) consecutive calendar days. When the Employee is required to work in excess of the limitations stated herein, such Employee shall be paid overtime pay for each hour of work performed on the first workday of the third (3rd) different shift or on the first workday of the fourth (4th) shift change within seven (7) consecutive calendar days.

3. For the purpose of administering section 2 above, shifts are defined as:

The first shift of any day (hereinafter "day shift") shall begin no earlier than 6:00 a.m. and end no later than 6:00 p.m. The second shift of the workday (hereinafter "evening shift") shall begin no earlier than 2:00 p.m. and shall end no later than 1:00 a.m. The third shift of the workday (hereinafter "night shift") shall begin no earlier than 10:00 p.m. and end no later than 9:00 a.m. The limitation as stated herein may be modified by mutual agreement between the Employees and the Employer. The Employer may not implement any new permanent shift patterns without thirty (30) day prior notice to the Union to provide an opportunity for negotiations. If the parties are unable to agree to the proposed shift patterns, the Employer may implement the change and the Union may process its objections through the grievance procedure contained herein.

4. When operations permit, it is the Employer's intent to grant as many weekends off as possible. However, an Employee shall not be scheduled to work more than three (3) consecutive weekends without getting a weekend off. Only in the event of an emergency, as determined by the Employer, may an Employee be required to work in excess of the limitations stated herein, and such Employee shall be paid overtime pay for each hour of work performed on the fourth (4th) consecutive weekend and shall be scheduled off on the following weekend. This may be modified by mutual written agreement between the Employee and the Employer.

5. The normal workweek for head nurses shall be Monday through Friday.

B. Work Plan. A mutual agreement in writing may be entered into between the Union and the Employer. Through such an agreement, the limitations of Hours of Work and Overtime may be modified for the convenience of the Employees of a work unit.

C. Subject to the Employer's approval, Employees may exchange days off and shifts during the same four (4) week schedule provided, however, that such changes shall not qualify the Employees involved for overtime. Such Employee-initiated changes shall be requested on an appropriate form, a copy of which shall remain with the Employee.

D. Floating Between Work Units (HHSC)

1. If patient census does not require the coverage as posted on the work schedule of a work unit, the Employer may shift coverage among the work units within the same facility in order to distribute the staff based on a daily patient census and acuity.

2. When the Employer elects to change the staffing coverage among the work units as described in 1. above, such changes in work assignments shall take into consideration the qualifications and competencies of the Employees involved. The Employee that is moved to another work unit within the same facility shall be qualified to perform the nursing assignments of that unit.

3. Whenever possible, all such changes in coverage shall be based on an equitable rotational system beginning with the Employee with the least seniority on that work unit, whereby each Employee within the work unit shall have an equal chance to move to another unit. However, if an Employee is not qualified/competent to perform assignments in the affected work unit, a qualified/competent Employee will be selected following the rotational order.

4. The Employee shall provide continuing in-service education programs as covered in Article 18 – Educational and Professional Improvement. This training and education will help to improve and maintain the skills of all Employees and will strengthen the effectiveness of the float program.

5. Prior to the assignment of patient care on a float basis, the Employer shall provide an orientation to that specific unit as specified in Article 9 –Orientation.

6. Employees who are floated to another unit as provided for in this article shall receive a premium of \$2.00/hour for each hour worked in such unit.

## **ARTICLE 24 - REST PERIODS AND MEAL HOURS**

A. Insofar as operations permit, the Employer shall endeavor to provide rest periods of ten (10) minutes during each half (1/2) of the workday/work shift.

B. A duty free meal period of at least thirty (30) minutes and not exceeding forty-five (45) minutes during each work shift shall be provided Employees. Whenever an Employee is not allowed a duty-free, non-paid meal period which starts no later than five (5) hours after the start of the workday, (1) such meal period shall be considered as time worked and (2) such Employee shall be credited with overtime from the end of the fifth hour of work until the time a thirty (30) minute paid meal period is granted or the end of the workday whichever comes first. It is provided that this provision shall not be applicable when such a duty-free, non-paid meal period is delayed at the request of and/or due to the desires of the affected Employees.

C. If an Employee is not allowed a duty-free meal period of at least thirty (30) minutes, the entire meal period shall be considered as time worked.

D. Item B above does not apply to present practices which permit an Employee to work an eight (8) hour shift without a scheduled meal period. This practice shall be continued except as modified by mutual agreement between the Employee and Employer.

## **ARTICLE 25 - PROFESSIONAL BENEFIT ARRANGEMENTS**

The Union, on behalf of the Employee(s) and the Employer may enter into a memorandum of understanding in writing to provide flexible working hours for the purpose of meeting deadlines, attending and/or conducting meetings, or performing any other work activity which would be mutually beneficial; provided, however, the affected Employee(s) must ratify the memorandum of understanding before it becomes effective. Through such a memorandum of understanding, the limitations of the Articles on Overtime, Split Shift Pay, and Night Shift Differential may be waived or modified. The memorandum of understanding may be terminated by the Union, on behalf of the Employee(s) or by the Employer at any time upon written notice given thirty (30) days prior to such termination.

## **ARTICLE 26 - OVERTIME**

A. Coverage: Credit for Overtime Work. Employees are entitled to receive cash payment or compensatory time credit because of overtime work.

B. Occurrence of Overtime Work. Overtime work occurs when an Employee renders service at the direction of proper authority and if the performance of such service is:

1. In excess of a scheduled eight (8) hour workday.
2. In excess of forty (40) straight time hours per work week.
3. On any day which is observed as a legal holiday; whenever the major portion of a shift falls on a day observed as a legal holiday, work performed during the entire eight (8) hour shift shall constitute overtime work provided that no further credit because of the overtime work shall be granted notwithstanding any other provision of this Article.
4. On an Employee's scheduled day off and there has been no change, by mutual consent (or by due prior notice), in the work schedule.
5. In operating units rendering public service twenty-four (24) hours per day and seven (7) days per week, whenever an Employee whose work is subject to shifts is required to render full-time service for more than six (6) consecutive days, the Employee shall be entitled to overtime for each hour of work performed on the seventh day and each succeeding day until she is granted a period of rest of twenty-four (24) non-work hours.
6. In accordance with specific conditions stipulated by this Agreement.



7. If work schedules are not posted two (2) weeks in advance, Employees affected shall be credited for overtime work for each hour of work performed on the first day of such new schedule.

8. In operating units subject to shift work when an Employee is required to report to a new shift with less than a lapse of twelve (12) hours of rest, she shall continue to earn overtime until such a rest period is granted. However, when such a shift Employee (1) has worked either her scheduled shift and continues to work additional hours without interruption on an overtime basis or an established full shift on her scheduled day off and (2) works on her next scheduled shift with less than a lapse of ten (10) hours rest, she shall be entitled to overtime for those hours actually worked during her next scheduled shift which falls within the ten (10) hour period. The ten (10) hour period shall begin from the time the Employee completes her overtime work.

C. Additions and Exceptions to the above Provisions:

1. Occurrence of overtime work with respect to official leave with pay or compensatory time - any official leave with pay or compensatory time credits which have been actually taken by an Employee shall be included in computing whether an Employee has worked in excess of eight (8) hours a day or forty (40) hours in a week.

2. Whenever an Employee is required, with less than forty-eight (48) hours advance notice, to report for work on a workday or a shift for which she was not officially scheduled, she shall be credited for overtime work for each hour of work performed on the first workday of such new scheduled day or shift.

3. Exchange for Perquisites. An Employee who by agreement receives perquisites or accommodations in exchange for rendering standby or emergency duty in excess of the Employee's normal hours of work:

a. will not earn overtime for rendering scheduled standby duty;

b. will not earn overtime when called to perform emergency service during the Employee's scheduled hours of standby duty;

c. will earn overtime for each hour of work when called to emergency duty on the Employee's scheduled day off.

4. Priority consideration for overtime work shall be given to regular Employees.

D. Conversion of Compensatory Time Credit. The number of actual hours of overtime work shall be converted to compensatory time credit at the rate of one and one-half (1 1/2) hours of compensatory time credit for each hour of overtime work or fraction thereof computed to the nearest fifteen (15) minutes, except as provided in Article 29, Call Back Pay.

#### E. Compensatory Time Off

1. An Employee may elect to take compensatory time off in lieu of cash payment for overtime work performed.

2. Except as provided in subparagraph 3, Employees may accumulate a maximum of one hundred (100) hours of compensatory time credit. Compensatory time credit accrued in excess of one hundred (100) hours shall be taken within ninety (90) days after the end of the pay period in which it is earned at a time mutually agreed to by the Employer and the Employee. In the event there is no mutual agreement as to the time when the compensatory time is to be taken, the Employer may unilaterally schedule the hours off (in excess of one hundred (100) hours) or pay the Employee in cash.

3. Compensatory time credit which an Employee had accrued on or before June 30, 1987 shall not be subject to the limitation of subparagraph 2.

4. An Employee on compensatory time off shall be deemed to be on official leave with pay status.

5. An Employee who notifies the department head in advance or substantiates to the satisfaction of the department head that the Employee was sick on a scheduled day of compensatory time off, shall be charged only for sick leave, and the Employee shall be permitted to take the compensatory time off at a later date mutually agreed to by the Employee and the appointing authority. If no mutual agreement is attained within five (5) working days of the Employee's return to duty, the compensatory time credit shall be converted to cash payment for the Employee.

#### F. Compensation for Overtime Work

1. The basic compensation for an Employee who performs overtime work shall include all differentials an Employee is receiving when performing overtime work, except for hazard pay differentials. To convert an Employee's basic compensation to an hourly rate, the following formula shall be used: (monthly salary plus the amount of monthly differentials) multiplied by 12 months then divided by 2,080 hours; plus any hourly differentials the Employee is earning.

2. Cash payment for overtime work shall be calculated as follows: (basic rate of pay plus differentials as determined in F.1.) multiplied by the number of hours worked or fraction thereof computed to the nearest fifteen (15) minutes multiplied again by one and one-half. (E.g.  $(\$15.00 + .31) \times 8$  hours of overtime work  $\times 1 \frac{1}{2} = \$183.72$ )

3. Cash payment for overtime work shall be made within thirty (30) days (approximately two (2) pay periods) from the date the Employee submits the appropriate Employer form for overtime payment.

4. At the time of termination or resignation from State service, the Employee shall be paid in cash for all compensatory time credit earned but not yet taken as compensatory time off.

G. Mutual Agreement. A Mutual Agreement in writing may be entered into between the Union and the Employer or its designee. Through such agreement, the limitations of Article 26, Overtime, may be modified for the convenience of the Employees or an Employee of a work unit.

H. Definitions. The following definitions are specifically intended to clarify the intent of this Article:

1. Workday or shift. The term "workday" or "shift" is defined as a period of eight (8) hours during which a full-time Employee is scheduled to perform his normal day's work. For scheduling purposes, a workday or shift may begin on one day and end on the next day.

2. Work subject to shifts or shift work. The term "work subject to shifts" or "shift work" is defined as a work operation in which there is more than one workday or shift in a calendar day. Flexible or staggered working hours shall not be considered in determining whether more than one such workday occurs in a calendar day.

3. Pre-shift. The term "pre-shift" is defined as that period of time immediately preceding a workday.

4. Post-shift. The term "post-shift" is defined as that period of time immediately following a workday.

## **ARTICLE 27 – MEALS**

A. When Employees are required to work overtime, the Employer shall either furnish them with meals or compensate them for meals at the rate of six dollars (\$6.00) for breakfast, eight dollars (\$8.00) for lunch and ten dollars (\$10.00) for dinner under the following situations:

1. Post-Shift Overtime. Employees who perform overtime work after their normal workday, shall be furnished or compensated for a meal after the first two (2) hours of actual overtime work performed and after intervals of five (5) hours following the first overtime meal.

2. Two or More Hours of Pre-Shift Overtime. When Employees are called to perform two (2) or more hours of pre-shift overtime work and are required to work continuously into their normal workday, they shall be entitled to meals for the period of the

overtime work as well as their normal workday. Employees shall be furnished or compensated for a meal upon completion of two (2) hours of overtime work and at intervals of five (5) hours of continuous work performed following the first meal.

3. Less than Two Hours of Pre-Shift Overtime. When Employees are required to work less than two (2) hours of pre-shift overtime with less than twenty-four (24) hours prior notice and work continuously into their normal workday, they shall be furnished or compensated for a meal at the start of their normal workday and at their normal meal period during the workday.

4. Overtime During Off-Duty Hours, Scheduled Day Off or Holiday

a. Less Than 24 Hours Prior Notice. When Employees are required to work overtime during their off-duty hours (not post-shift or pre-shift), on a scheduled day off or a holiday, with less than twenty-four (24) hours prior notice, they shall be furnished or compensated for a meal upon completion of two (2) hours of overtime work and at intervals of five (5) hours of continuous overtime work performed following the first overtime meal.

b. 24 Hours or More Prior Notice. When Employees are required to work overtime during their off-duty hours (not post-shift or pre-shift), on a scheduled day off or a holiday with at least twenty-four (24) hours prior notice, they shall be furnished or compensated for a meal upon completion of ten (10) hours of such overtime work and at intervals of five (5) hours of overtime work performed following the first overtime meal.

5. Overtime While on Standby. When Employees render service in response to a call to work as provided under Article 28, Standby Pay, they shall be furnished or compensated for a meal upon completion of two (2) hours of work and at intervals of five (5) hours of continuous work performed following the first meal.

B. Notwithstanding paragraph A, an Employee who is required to travel inter-state or intra-state on official business and who receives a travel allowance pursuant to Article 36, Travel, shall be furnished or compensated at the rate of ten dollars (\$10.00) for a dinner meal after performing seven (7) hours of overtime work.

C. For purposes of meal compensation, the following shall apply:

1. Breakfast shall mean any meal allowed an Employee from 3:00 a.m. to 9:00 a.m.

2. Lunch shall mean any meal allowed an Employee from 9:00 a.m. to 3:00 p.m.

3. Dinner shall mean any meal allowed an Employee from 3:00 p.m. to 3:00 a.m.

D. The Employer shall compensate Employees for meals within thirty (30) days (approximately two pay periods) from the date on which the claim for compensation is filed with the respective disbursing officer.

E. The term "pre-shift" is defined as that period of time immediately preceding a workday.

The term "post-shift" is defined as that period of time immediately following a workday.

## **ARTICLE 28 - STANDBY PAY**

*Effective 7/1/07 – 9/30/07, the following language will apply:*

A. An Employee is deemed to be on standby duty when the Employee is assigned in writing by the appointing authority for the purpose of responding to calls for immediate service after the Employee's normal hours of work, on the Employee's scheduled day off or on holidays. The assignment of standby duty should be based upon reasonable criteria which includes the likelihood of an occurrence of an after hours emergency, the nature of the potential emergency, and the consequences of a delayed response to the emergency until normal working hours.

B. An employee who is assigned standby duty must remain available to be contacted by the employing unit in the event of an emergency, and must be able to respond within a timeframe established by the appointing authority.

C. For each twenty-four hour period or portion thereof of assigned standby duty the Employee shall be paid an additional amount equal to thirty percent (30%) of the Employee's daily rate of pay.

D. The Employer recognizes that it is in the best interest of Employee and patient care that the scheduling of standby on a calendar day when an Employee is not scheduled to work be minimized except in cases where the Employer's mission cannot be administered otherwise.

E. The Union and the Employer agree that the Employer may provide pagers and/or cellular telephones for the Employee's convenience in responding to work. The carrying and/or activation of a pager or cellular telephone (personal or employer issued) during non-work hours does not constitute standby duty. There must be a written directive for an immediate response or an immediate requirement to perform work.

F. Whenever it is necessary for an Employee on standby duty to render immediate service in response to a call to work, the Employee shall be entitled to further compensation as provided in Article 29, Call Back Pay.

*Effective 10/1/07, the following language will apply:*

A. An Employee shall be deemed to be on standby duty when the Employee is assigned by the head of the department or other superior to remain at home or at any other designated place for a specific period for the purpose of responding to calls for immediate service after the Employee's normal hours of work, scheduled day off or on holidays.

B. For each calendar day or portion thereof that an Employee is assigned to standby duty on the calendar day that the Employee is scheduled to work, the Employee shall be paid for standby duty an amount equal to twenty-five percent (25%) of the Employee's daily rate of pay.

C. The Employer recognizes that it is in the best interest of Employee and patient care that the scheduling of standby on a calendar day when an Employee is not scheduled to work be minimized except in cases where the Employer's mission cannot be economically administered otherwise.

D. For each calendar day or portion thereof that an Employee is assigned to standby duty on the calendar day that the Employee is not scheduled to work, the Employee shall be paid an amount equal to thirty percent (30%) of the Employee's daily rate of pay.

E. Whenever it is necessary for an Employee on standby duty to render immediate service in response to a call to work, the Employee shall be entitled to further compensation as provided in Article 29, Call Back Pay.

## **ARTICLE 29 - CALL BACK PAY**

A. Whenever an Employee is called back to work after the completion of the workday and is released from the call back work before the start of the next regular consecutive workday, the Employee shall be credited with either:

1. A minimum of three (3) hours regular pay, calculated from the time the Employee leaves home and until the Employee returns home from work, or

2. Overtime work calculated from the time the Employee leaves home and until the Employee returns home, whichever is greater in value; provided, that overtime pay for work on holidays, days off and pre-shift overtime shall be in accordance with the respective Articles.

B. An Employee may be permitted rest periods of ten (10) minutes for each two (2) hours of call back work performed.

C. An Employee interrupted by Employer-initiated consultative call(s) while the Employee is on off-duty status shall not qualify for callback pay unless the Employee

actually returns to the workplace. However, the Employee who is off duty (not on standby pay duty status) shall be paid a minimum of one (1) hour straight-time pay for one or more work related calls within the same one-hour period, calculated from the onset of the first call and ending one hour later. The penalty for consultative calls shall be in lieu of any other compensation and shall not be subject to overtime provisions. For the purposes of this section, a consultative call shall mean an exchange of technical and/or procedural information to resolve a problem requiring immediate attention.

### **ARTICLE 30 - SHOW-UP TIME AND REPORTING PAY**

A. Show-up time and reporting pay on normal scheduled workday. An Employee who reports to work but who is unable to perform her normal work because of inclement weather, breakdown or unavailability of equipment, or other conditions beyond her control, shall be credited with her normal day of work; provided, however, the Employee may be assigned to perform other work as determined by the Employer or her designee.

B. Show-up time and reporting pay on scheduled day off.

1. An Employee who is required and reports to work on her scheduled day off but is unable to perform because of inclement weather, breakdown, or unavailability of equipment, or other conditions beyond her control, shall be guaranteed a minimum of three (3) hours straight-time pay.

2. An Employee who is required and reports to work on her scheduled day off and performs less than two (2) hours of work shall be guaranteed a minimum of three (3) hours of straight-time pay.

### **ARTICLE 31 - SPLIT SHIFT**

A. The Employer recognizes that it is to the best interest of the Employees and patient care that split shifts be minimized except in cases where the Employer's mission cannot be economically administered by standard scheduling methods.

B. When, however, an Employee is required to work on a split shift basis, the Employee shall be paid a differential of twenty-five cents (\$.25) per hour for each hour worked or fraction over thirty (30) minutes of that workday and thirteen cents (\$.13) for each period of less than thirty (30) minutes of work.

C. A split shift is defined as a regular work shift, which may be less than eight (8) hours, in a day which is divided into two (2) portions by off-duty periods other than meal time, provided the Employee works a schedule of at least forty (40) hours per week.

D. An Employee who works a split shift will earn overtime for each hour of work which exceeds ten (10) hours, exclusive of time for meals calculated from the time the

Employee starts that workday. The Employee's basic compensation plus the split shift differential will be used in determining the cash payment for overtime work pursuant to Article 26, Overtime.

### **ARTICLE 32 - DIFFERENTIAL**

A. Whenever an Employee's scheduled straight-time hours fall between the hours of 6:00 p.m. and 6:00 a.m., the Employee shall be paid, in addition to the Employee's basic compensation, the amount of two dollars (\$2.00) per hour for each hour of actual work performed during such 6:00 p.m. to 6:00 a.m. hours. If one-half (1/2) or more of the Employee's scheduled straight-time hours fall between 6:00 p.m. and 6:00 a.m. and the Employee works all scheduled straight-time hours, the Employee shall be paid, in addition to the Employee's basic compensation, the amount of two dollars (\$2.00) per hour for all straight-time hours for the workday. Notwithstanding the foregoing, when an Employee is scheduled to work a twelve (12) hour day shift (straight-time hours, based on the 12-8 MOA) and the Employee works all of the scheduled hours, the two dollars (\$2.00) differential shall be paid for all hours worked between the hours of 3:00 p.m. and 6:00 a.m. Effective July 1, 2008, the differential will be increased from two dollars (\$2.00) per hour to two dollars and fifty cents (\$2.50) per hour.

B. Whenever an Employee's overtime hours, including work on an established shift, fall between the hours of 6:00 p.m. and 6:00 a.m., the Employee shall be paid the night differential for each hour of actual overtime work performed during such hours. Whenever an Employee on a twelve (12) hour day shift works overtime, including work on an established shift, and such overtime falls between the hours of 3:00 p.m. and 6:00 a.m., the Employee shall be paid the night differential for each hour of actual overtime work performed during such hours. If an Employee is required to work an established shift on an overtime basis and the Employee works all scheduled hours and one-half (1/2) or more of the overtime shift hours fall between 6:00 p.m. and 6:00 a.m. (3:00 p.m. to 6:00 a.m. for 12-hour shift Employees), the Employee shall be paid the differential for all hours of such shift worked on an overtime basis. It is further provided that the Employee's basic compensation plus the night differential earned will be used in determining the cash payment for overtime work pursuant to the provision on Overtime contained in this Agreement.

C. For the purpose of granting night differential for a portion of an hour, the Employee will be paid one dollar (\$1.00) for one-half (1/2) hour or less of work and two dollars (\$2.00) for more than one-half (1/2) hour of work. Effective July 1, 2008, for the purposed of granting night differential for a portion of an hour, the Employee will be paid one dollar and twenty-five cents (\$1.25) for one-half (1/2) hour or less of work and two dollars and fifty cents (\$2.50) for more than one-half (1/2) hour of work.



## **ARTICLE 33 - CHARGE NURSE**

A. For purposes of this article, a charge nurse is defined as an Employee who is assigned by the Employer to supervise or oversee the operations of a facility, building, floor, ward, unit or section of a hospital or institution operating on a seven (7) day, twenty-four (24) hour basis.

B. An Employee designated as a charge nurse shall receive a premium for each hour worked. The premium shall be as follows:

Effective July 1, 2003 - \$1.00/hour.

Effective July 1, 2006 - \$2.00/hour.

C. Where there is more than one (1) Employee assigned to a facility, building, floor, ward, unit or section the following shall apply:

1. The Employee with the highest classification shall be designated the Charge Nurse.

2. Where the classification is the same, a regular Employee shall be designated the Charge Nurse over any non-regular Employee.

## **ARTICLE 34 - WORKING CONDITION DIFFERENTIAL**

A. All Employees at Hawai`i State Hospital and Employees at the Hawai`i Health Systems Corporation who work with patients identified in B. below will be entitled to a differential because of unusual or unique working conditions. Such Employees shall be paid, in addition to their basic compensation, a differential of fifty cents (\$.50) per hour for each hour of work performed at such locations.

B. Whenever a patient is sent to a HHSC facility because of an order by the courts pursuant to Chapters 704 and 706, HRS, to be in the custody of the Director of Health; or when an adult inmate is transferred from a correctional institution under Chapter 334, HRS, to a HHSC facility; or when a patient that has been recommended for placement into the Hawai`i State Hospital is placed temporarily in the HHSC facility, all Employees assigned to such patient care unit shall be entitled to a differential of fifty cents (\$.50) per hour for each hour of work performed while on such assignment. The differential will remain until such time as the patient is removed from the location or is released from said custody into regular patient status.

C. In administering paragraphs A and B above, and for purposes of granting differential pay for a portion of an hour, the Employee will be paid twenty-five cents (\$.25) for one-half (1/2) hour or less of work and fifty cents (\$.50) for more than one-half (1/2) hour of work.

D. Employees assigned to correctional facilities shall be entitled to a differential because of unusual or unique working conditions. Such Employees shall be paid, in addition to their basic compensation, a differential of fifty cents (\$.50) per hour for each hour of work performed at such location.

E. In administering paragraph D above, and for purposes of granting differential pay for a portion of an hour, the Employee will be paid twenty-five cents (\$.25) for one-half (1/2) hour or less of work and fifty cents (\$.50) for more than one-half (1/2) hour of work.

F. The Employer, in consultation with the Union, may terminate the differential provided for under paragraphs A, B, C, D, and E above, upon reclassification of an affected Employee's position to a higher classification because of the unusual or unique working conditions which qualified the Employee for the differential or because such condition ceases to exist.

## **ARTICLE 35 - TRANSPORTATION**

### **A. Use of Government Automobile**

1. The Employer shall insofar as is practicable, provide an automobile or other suitable transportation to those Employees whose full-time work requires the use of an automobile, unless by mutual agreement the Employee is authorized to use the Employee's personal car.

2. The Employee will not be held liable for damages to the Government vehicle unless damages are attributed to the Employee's willful or intentional disregard of the Employer's interest. Examples of willful or intentional disregard:

- a. Driving without a valid operator's license.
- b. Driving while under the influence of liquor.
- c. Heedless or reckless driving.
- d. Willful or intentional destruction of property.

3. No Employee shall be required to operate a motor vehicle which is deemed unsafe. If there is a dispute as to whether a motor vehicle is unsafe, the Employee or the Employee representative and the Employer shall mutually agree upon the appointment of a third party qualified to evaluate the safety of the motor vehicle to determine the safety of said motor vehicle. The decision of the third party shall be final and binding upon both parties.

4. All Employees operating Government vehicles shall promptly report any unsafe conditions to their supervisors.

5. The time an Employee spends driving the Government vehicle from the site of pickup to the Employee's first call or to the Employee's official work station and the time

spent driving the Government vehicle back to the site of return shall be considered time worked.

6. The Employee who by mutual agreement is permitted to take a Government vehicle home shall begin the workday with the first call or at the Employee's official work station and shall end the workday at the official work station or at the Employee's last call of the day.

B. Use of Personal Automobile

Mileage shall be computed from the Employee's first call or from the official work station to the Employee's return to the official work station.

### **ARTICLE 36 - TRAVEL**

A. Applicable rules, ordinances, and policies. Except as modified by this Article, Chapter 3-10, Hawai'i Administrative Rules, in the case of the State, and applicable rules, regulations, ordinances, or policies, in the case of the county jurisdictions, shall remain applicable for the duration of this Agreement.

B. Travel occurring on same island. When Employees are required to work in locations which make it impracticable and undesirable to return home at the end of a workday, with prior approval one (1) of the following shall apply:

1. If commercial lodging is utilized, the Employee shall be paid a travel allowance pursuant to Paragraph D.

2. If commercial lodging is not available, such as in mountainous or other remote areas, the Employer shall provide cabins or tentage and needed camping supplies and equipment. At the Employee's option, the Employer shall also provide adequate stores of food or pay each Employee twenty dollars (\$20) per day in lieu thereof.

C. Off-island travel to mountainous or other remote areas.

1. Whenever Employees are required to travel on official business to mountainous or other remote areas where no commercial lodging is available, the Employer shall provide cabins, tentage, or shall arrange for lodging within available facilities, and shall provide adequate stores of food or pay each Employee twenty dollars (\$20) per day in lieu thereof.

2. Notwithstanding the provisions of this paragraph, a mutual agreement may be arranged among Employees with the Employer to provide for per diem expenses pursuant to Paragraph D in lieu of this paragraph.

D. Intra-state travel.

1. When an Employee is required to travel on official business to another island the Employee shall be provided with a per diem of ninety dollars (\$90) per 24-hour day.

2. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter day periods measured from midnight. In computing the amount of per diem, the official travel time shall begin one (1) hour before the scheduled flight departure time and shall end upon the Employee's return to his or her home airport. This computation shall be applicable to all trips, except one-day trips (leaving and returning on the same day). In the case of one-day trips, commencing May 1, 1998, the Employee shall be entitled to a meal allowance of twenty dollars (\$20) in lieu of per diem.

3. When an authorized leave is added before or after the official travel, the per diem amount shall be the same as that which would have been allowed if the authorized leave had not been taken.

E. Out-of-state travel.

1. When Employees are required to travel on official business to areas outside the State of Hawai'i, they shall be provided a per diem of one hundred forty-five dollars (\$145) per 24-hour day.

2. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight. In computing the amount of per diem, the official travel time shall begin no later than twenty-four (24) hours prior to the time the Employee is to be at work at the out-of-state destination. The Employee shall be scheduled to arrive at the out-of-state destination (applicable airport) at least ten (10) hours before reporting for duty. The official travel time shall end upon the Employee's return to his or her home airport. All calculations will be based on Hawai'ian Standard Time.

3. When an authorized leave is added before or after the official travel, the per diem amount shall be the same as that which would have been allowed if the authorized leave had not been taken.

F. Reimbursement for commercial lodging expenses in excess of the lodging allowance.

Included in the per diem rate designated in paragraphs D and E shall be a daily allowance for commercial lodging. For intra-state travel, this lodging allowance shall be fifty dollars (\$50) per 24-hour day. For out-of-state travel, this allowance shall be eighty-five dollars (\$85) per 24-hour day.

Whenever an Employee's commercial lodging cost exceeds the applicable lodging allowance, the Employee shall be entitled to an additional amount added to her per diem. This amount shall equal to the difference of the actual daily cost of commercial lodging and the applicable allowance provided herein, multiplied by the number of days spent on commercial lodging. Unless otherwise waived by the Employer, request for commercial lodging expenses in excess of the lodging allowance shall be made in advance of the Employee's trip.

G. Advanced per diem and reimbursements.

Whenever possible, an Employee shall receive advanced per diem for official travel. The Employer shall reimburse Employees who request reimbursement for excess lodging expenses as soon as possible.

H. Furnished meals and lodging.

When lodging or meals are provided at no cost to the Employees, the Employer shall continue its existing practices in adjusting the per diem amounts. However, the per diem allowance provided herein shall not be adjusted when meals are included in conference programs.

I. Mileage reimbursement.

1. The term "vehicles" as used in this paragraph only applies to automobiles, trucks, vans, or buses.

2. Employees who are authorized to use their private vehicles to carry out their duties and responsibilities shall be reimbursed at the standard mileage rate prescribed by the Internal Revenue Service for each mile traveled for business purposes.

3. Employees who are presently being provided automobile allowance for the required use of their private vehicles in the performance of their official duties shall continue receiving such allowances, provided that the amount of the allowance may be modified through a separate memorandum of agreement mutually agreed to by the Union and the Employer concerned. However, allowances shall be terminated when the Employer no longer requires the Employees to use their private vehicles in the performance of their official duties.

4. Mileage reimbursement to and from home to work site shall be allowed for all call back work and for overtime work on scheduled days off and holidays, except for Employees whose normal work hours include the holiday.

## **ARTICLE 37 - KALAUPAPA TRAIL**

A. Employees of Kalaupapa Settlement whose permanent residence is on the topside of Moloka`i and who are provided quarters in Kalaupapa as a matter of convenience will be granted one (1) of the following choices:

1. Three (3) round trips by air to topside (Moloka`i Airport) per month, or
2. One (1) hour travel pay for traveling down the trail once a week and one (1) hour travel pay for traveling up the trail once a week. Travel time will not be included as hours worked for the determination of total hours worked or for overtime determination.

B. Employees covered under Paragraph A must declare their monthly choice to the Employer before the start of each month. In any month, if an Employee elects to travel by trail she will not be able to enjoy the benefits of travel by air until the next month, or vice versa.

C. Employees of Kalaupapa Settlement whose permanent residence is in Kalaupapa will be granted one (1) round trip by air to topside (Moloka`i Airport) per month. Effective 1/1/94, in lieu of three monthly round trips topside, Employees who are permanent residents of the Settlement shall be granted one (1) intrastate round trip by air each quarter of the calendar year. Accumulated intrastate round trips must be taken within the calendar year in which the trips were earned.

D. Travel pay will be computed at the Employee's straight time pay.

## **ARTICLE 38 - SABBATICAL LEAVE**

A. For purposes of improving professional nursing services, the Employer may grant sabbatical leaves of absence under conditions set forth in this Article.

B. Any Employee who has served seven (7) continuous years within the applicable governmental jurisdiction as a Registered Professional Nurse may qualify for a sabbatical leave of absence. Such leave shall be for a period not to exceed one (1) year and may not be granted again to the same Employee until the Employee has served an additional period of seven (7) continuous years within the applicable governmental jurisdiction. For purposes of this section, leaves and absences without pay shall not constitute a break in service but such leaves and absences shall not be creditable for computing continuous length of service.

C. A request for sabbatical leave must be submitted, in writing, to the department head through appropriate channels at least six (6) months prior to the commencement of the sabbatical leave. This notice requirement may be reduced by the Employer because of extenuating circumstances. Such request must include the following information.

1. The number of continuous years of service as a Registered Professional Nurse.
2. The purpose of the leave.
3. The beginning and ending dates of the leave.
4. The nature and length of the professional educational course work, research, or other professional activity which the Employee plans to undertake during the leave.
5. The name and address of the learning institution or facility at which the professional education course work, research, or other professional activity will be undertaken.

D. The department head shall consider the following matters in reviewing a request for sabbatical leave:

1. The purpose of the leave is mutually beneficial to the Employee and the Employer in improving professional nursing services;
2. The nature, length and pertinence of the professional educational course work, research, or other professional activity which the Employee plans to undertake during the sabbatical leave; and
3. Whether the Employee's absence during the leave will adversely affect the providing of essential public services.

E. Provided the conditions of sections B, C, D, I and the availability of funds are met, the Employer (State jurisdiction) shall grant no less than three (3) sabbatical leaves per fiscal year.

F. The department head shall notify the Employee with respect to approval or disapproval of the request for sabbatical leave within forty-five (45) days from the date of the request. The department head shall approve the request for sabbatical leave, provided that the requirements and conditions set forth in sections "B" through "E" above are met and/or satisfied.

G. Employees on sabbatical leave shall be paid in an amount equal to one-half (2) of the basic compensation which the Employee was receiving at the commencement of the leave including any effective negotiated increases. The payments shall be made in accordance with regular pay periods.

H. An Employee granted sabbatical leave may engage in other employment provided the primary purpose for which the leave was granted is met.

I. Before granting a sabbatical leave to an Employee, the Employee shall enter into a contract with the Employer which shall provide for the following:

1. The Employee shall agree to return to work upon termination of the sabbatical leave or any other leave which may be granted by the Employer subsequent to the sabbatical leave. If the Employee fails to report for work upon termination of the sabbatical and/or any other leave granted under this Agreement, the Employee shall be considered to have resigned and shall refund all monies received while on sabbatical leave.

2. Upon return from sabbatical and/or any other leave granted under this Agreement, the Employee shall agree to work in the appropriate department for a period of two (2) continuous years. All leaves and absences without pay shall not constitute a break in the two (2) continuous years, but such leaves and absences shall not be creditable in computing the two (2) continuous years. It is provided; however, upon approval of the appropriate department heads, an Employee may be transferred or promoted to another position within the same governmental jurisdiction. In such event, service within the Employee's new department shall be creditable in computing the two (2) years of continuous service. If the Employee fails to do so, the Employee shall refund all monies received from the Employer while on sabbatical.

3. The Employee shall be guaranteed a return to the same or an equivalent position at the expiration of the sabbatical leave and/or any other leave granted under this Agreement. Upon the Employee's return, the Employee shall have the same salary range and step that the Employee had at the time of taking the leave and the Employee's increment date shall be advanced equivalent to the duration of the leave, provided it is not inconsistent with the terms of this Agreement.

4. The Employee shall not be deprived of any accumulated vacation allowance or sick leave credits, but shall not accrue any vacation allowance or sick leave credits during the period of leave.

5. Any other provisions deemed necessary by the Department which have been discussed and mutually agreed to by the Employee and the Employer.

### **ARTICLE 39 - LEAVE OF ABSENCE FOR UNION BUSINESS**

A. Any Employee elected or appointed to an office in the Union will, if such office requires the Employee's full time in the exercise and discharge of its duties, be given a leave of absence without pay not to exceed one (1) year. Extension may be granted by the Employer for a period not to exceed twelve (12) months.

B. Unless otherwise provided by law, no Employee on leave of absence without pay shall be entitled to accrue or accumulate vacation allowance, sick leave, service credit for pay purposes or other rights and benefits for the term of the Employee's leave, but the Employee shall not lose seniority for the purpose of determining length of service, and shall



be returned to the same position or an equivalent position as determined by the Director of Personnel Services or Director of Civil Service.

C. Any Employee elected or appointed to attend the Biennial State and/or National Union convention shall be given a leave of absence without pay or vacation leave for the duration of the convention including reasonable travel time. The Union shall notify the Employer in writing, not less than thirty (30) days prior to the commencement of the leaves, of the dates of the scheduled convention, the names and departments of the elected or appointed Employees and alternates. In the event an alternate is substituted for another Employee to attend the convention, the Union shall notify the Employer immediately of the substitution. It is agreed that any adjustments in the work schedules necessitated to accommodate the substitution shall not result in overtime for all Employees.

D. Any Employee elected or appointed to attend a Statewide Leadership Conference of the Union may be given a leave of absence without pay or vacation leave for the duration of the conference including reasonable travel time.

#### **ARTICLE 40 - HOLIDAYS**

A. The following days of each year are established as holidays:

New Year's Day  
Dr. Martin Luther King, Jr. Day  
Presidents' Day  
Prince Jonah Kuhio Kalaniana'ole Day  
Good Friday  
Memorial Day  
King Kamehameha I Day  
Independence Day  
Statehood Day  
Labor Day  
Veterans' Day  
Thanksgiving Day  
Christmas Day

All election days, except primary and special election days, in the county wherein the election is held;

Any day designated by proclamation by the President of the United States or by the Governor as a holiday.

B. Observance of Holidays

1. Employees whose workdays fall on Monday through Friday during the work week in which a holiday occurs shall observe such holiday as provided below:

Day Holiday Falls	Day Holiday Observed
Saturday	Friday preceding holiday
Sunday	Monday following holiday
Workday	Workday

2. Employees whose workdays fall on other than Monday through Friday during the work week in which a holiday occurs shall observe such holiday as provided below:

Day Holiday Falls	Day Holiday Observed
Day Off	First workday after the day off
Workday	Workday

3. Employees shall be compensated for the holiday based on their normal scheduled working hours provided they have no leave without pay on the day before or the day after the holiday.

C. Two Holidays Observed on the Same Calendar Day. Whenever two holidays are to be observed on the same calendar day in accordance with paragraph B. above:

1. The first holiday shall be observed in the normal manner; and

2. The second holiday shall be observed on a date mutually agreed to between the Employee and the Employee's supervisor provided that such mutual agreement shall be reached at least sixty (60) calendar days prior to the date the two holidays were to be observed. If an agreement is not reached, the matter shall be referred to the Employee's appointing authority or designee other than the Employee's supervisor for a final and binding decision. The decision shall be made at least thirty (30) calendar days prior to the date the two holidays were to be observed.

3. The mutually agreed upon date shall occur within the same calendar year.

### ARTICLE 41 - VACATION LEAVE

A. Earning of Vacation Leave. All Employees shall earn vacation leave at the rate of fourteen (14) hours for each month of service. For the purpose of this Article, a workday is defined as an eight (8) hour workday.

B. If such Employee renders less than a month of service, their vacation allowance for such month shall be computed as follows:

Actual Straight Time Hours of Service For 0 to 31	Working Hours of Leave 0
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For 32 to 55	4
For 56 to 79	6
For 80 to 103	8
For 104 to 127	10
For 128 to 151	12
For 152 or more	14

The term "actual straight time hours of service" shall include paid holidays.

C. Individuals who are employed on a temporary, contractual, or substitute basis while on vacation from another position in the State government or any political subdivision of the State shall not earn vacation allowance for such employment.

D. Vacation allowance shall accrue to an Employee while the Employee is on leave with pay unless specifically prohibited.

E. No vacation allowance shall accrue:

1. During the period of any vacation leave or sick leave granted when the employment terminates or is to terminate at the end of such leave.

2. During the period the Employee is on leave without pay, except for the period the Employee is on leave for disability and is being paid workers' compensation therefore.

3. During any period of valid suspension which is sustained in the event an appeal is made by the Employee.

4. During any period of unauthorized leave.

5. During any period the Employee is on educational/sabbatical leave.

6. During any period of leave with pay pending investigation if the Employee:

- a. is subsequently discharged/dismissed;
- b. resigns or retires prior to the discharge/dismissal; or
- c. resigns or retires during the investigation.

F. Vacation for an Employee Serving a Provisional Appointment or Temporary Appointment Outside the List.

1. Any Employee serving a provisional appointment shall not be entitled to a vacation with pay. However, a provisional appointee shall be entitled to earn and accrue vacation allowance during the term of the appointee's provisional appointment and if upon the termination of the provisional appointment the Employee receives probationary or limited term or permanent appointment in the same position, the Employee shall be credited with the allowances earned and accrued during the provisional appointment and if

the Employee does not become such limited term, probationary, or regular Employee, the vacation allowance shall be automatically forfeited. It is provided, however, that a regular Employee who receives a promotion through a provisional appointment shall be considered to be a regular Employee and shall continue to earn vacation allowance.

2. Vacation for a Non-Regular Employee Serving a Temporary Appointment Outside the List (TAOL). A non-regular Employee serving on a TAOL basis shall not be entitled to a vacation leave with pay. However, whenever the duration of the TAOL is for longer than one (1) year, including any extensions granted for a specific appointment, the non-regular Employee shall be entitled to (a) earn vacation leave beginning with the first month of the second year in accordance with A.1. and A.2., and (b) use the vacation leave accrued in accordance with the provisions of this Article. Whenever a non-regular Employee's TAOL is ended, any vacation leave accrued shall be automatically forfeited.

G. Accumulation of Vacation. An Employee may accumulate not more than fifteen (15) days of vacation leave per calendar year. However, vacation leave in excess of fifteen (15) days per year may be accumulated for good cause when a request for such accumulation is approved by the department head provided such request shall be accompanied by a stipulation that the Employee shall take such excess vacation days at a specified time. If the Employee fails to take this vacation at the time stipulated, the Employee shall forfeit the excess accumulation of vacation leave unless for good reason an extension of time is granted by the department head.

H. Vacation leave shall be administered on a calendar year basis and recorded at the end of each calendar year.

1. After the end of each year, the appointing authority will furnish each Employee with a statement of the vacation leave credits remaining as of December 31.

2. Nothing contained in this Article shall be construed to require the forfeiture of vacation credits when an Employee terminates on or before the last working day of the calendar year, notwithstanding the fact that the recording of current accrued vacation for the year on the last day may result in an accumulation of more than ninety (90) working days.

I. Any Employee who is entitled to an annual vacation may accumulate for the succeeding year or years such unused portion of the Employee's vacation allowance as is permitted above, provided that the total accumulation shall not exceed ninety (90) working days at the end of the calendar year. If any recorded accumulation of vacation allowance at the end of any calendar year shall exceed ninety (90) working days, the Employee shall automatically forfeit the unused vacation allowance which is in excess of the allowable ninety (90) working days.

J. Nothing in this Article contained shall be construed to prohibit the taking or to require the forfeiture of any vacation which is validly granted and the taking of which is commenced on or before the last working day of any calendar year, notwithstanding that

the recording of the current accrued vacation allowance for such year on the last day thereof might result in an accumulation of more than ninety (90) working days including the working days of the vacation so granted and then being taken, but the period of such vacation shall be regarded for all purposes as if the same had been entirely taken on or before the last day of such calendar year.

K. Nothing in this Article contained shall be construed to prohibit the lawful payment of pay in lieu of vacation.

L. Whenever an Employee is unable to take her scheduled vacation because of illness, she shall be permitted to reschedule her vacation; however, if the duration of illness is such that the vacation cannot be rescheduled within the calendar year and to protect against the forfeiture of excess vacation, the Employee shall be permitted to substitute vacation for sick leave or take such excess vacation immediately upon the conclusion of such sick leave.

M. **Employee's Duty to Give Notice of Vacation.** It shall be the duty of an Employee desiring to take vacation to submit to the appropriate department head on a form prescribed by the Employer or the Employer's representative, an application therefore a sufficient time in advance of the proposed commencement date of such vacation to enable such department head to make arrangements for the necessary readjustment of work in the department. However, the requirement for advance notice may be waived when emergency situations arise.

N. **Taking Vacation Leave Granted.** When a vacation is requested on a proper application by an Employee, it shall be granted and taken at such time or times as the department head may designate; provided, that it shall be as close to the requested period as conditions in the department will permit, and so as to prevent any forfeiture of vacation allowance.

Whenever an Employee's vacation leave which has been approved on the appropriate leave application form is rescinded, non-refundable travel and lodging expenses incurred by the Employee shall be reimbursed by the Employer.

O. In the event that a vacation request is denied by the department head, the department shall furnish in writing, the reasons for the denial upon the Employee's request.

P. When a vacation is granted, it may include, at the request of the Employee, all vacation allowance accrued up to the end of the Employee's last full month of service immediately preceding the commencement of the vacation. For non-regular Employees who earn vacation allowance pursuant to F.2., the vacation granted may include, at the request of the Employee, all vacation allowance accrued up to the commencement of the vacation.

Q. No vacation leave of less than one (1) hour may be granted. However, when payment in lieu of vacation is legally permissible, or when the Employee's service will not

continue at the expiration of the vacation, such payment may include a prorated amount for any fraction of a working day of vacation allowance to which the Employee is entitled as provided in this Article.

R. Vacation--How Charged. Employees shall have charged against their vacation allowances only those days or hours, as applicable, they were scheduled to work or would have worked had they not taken vacation.

S. Recall from Vacation.

1. An Employee may be recalled to duty before the expiration of any granted vacation, when, in the opinion of the department head the Employee's services are required. In such event the Employee shall be paid for all work performed at the rate of one and one-half (1/2) times the Employee's regular rate of pay during such period the Employee's services are required and shall be granted the unused vacation days at a time mutually agreed upon.

2. An Employee who is summoned during her vacation to serve as a witness in any judicial proceeding in connection with the duties and responsibilities of her position on work related matters shall be compensated at one and one-half (1/2) times her regular rate of pay during the scheduled vacation period she is required to serve and her unused vacation leave shall be rescheduled at a time mutually agreed upon.

3. An Employee who is summoned during her vacation to serve as a witness or juror in any judicial proceedings, except those which may involve or arise out of the Employee's outside employment or her personal business or private affairs shall, if she serves, be permitted to reschedule her vacation for another mutually agreed upon time.

T. Advance Vacation. Advance vacation shall be granted only where an Employee has exhausted all earned vacation allowance and is detained out of the State of Hawai'i for a cause which the Employee establishes to the satisfaction of the department head to be out of the Employee's control. An Employee so detained shall immediately communicate with the department head and request such advance vacation and, if the same is granted, it shall be considered as taken with the express understanding that if such leave is not later earned during the term of employment, the unearned portion of the vacation pay so advanced will be repaid, on demand of the department head to the Employer by the Employee or the Employee's executors and administrators out of the Employee's estate. If the Employee is deceased, or deductions may be made for such unearned portion from any salary due the Employee or from any monies in the annuity savings fund of the Employee's retirement system of the Employer to the credit of the Employee.

U. Effect of Transfer to Position in Which Vacation Allowance is Not Earnable. When an Employee is transferred from or otherwise relinquishes one position in which vacation allowance may be earned, and accepts employment in another position in the service of the Employer in which vacation allowance may not be earned, the Employee

may be deemed, for purposes of receiving pay in lieu of vacation, including any lapsed vacation in excess of the maximum allowed, to have terminated employment. But in the event that the Employee is not eligible under the circumstances to receive pay in lieu of vacation, the acceptance of such new employment shall not of itself have the effect of forfeiting any vacation allowance to which the Employee is then entitled.

V. Pay for Vacation Allowance Upon Separation and When Moving Between Jurisdictions of the State. Whenever a separation from service takes place, the Employee is to be paid, in accordance with section 78-23, Hawai'i Revised Statutes, for the Employee's vacation allowance either in a lump sum or in the normal manner as provided in subsection W.

W. When payment in a lump sum is made to an Employee hired on or before June 30, 1997, the sum payable for vacation allowance shall be equal to the amount of compensation to which the Employee would be entitled or which the Employee would be allowed during the vacation period if the Employee were permitted to take vacation in the normal manner. Whenever an Employee is discharged for cause or when payment in a lump sum is made to an Employee hired after June 30, 1997, the lump sum vacation allowance payable shall be computed on the basis of the Employee's accumulated vacation hours multiplied by the Employee's hourly rate of pay as of the effective date of discharge or termination.

X. However, if the Employee is rehired within seven (7) calendar days by the Employer and will continue to earn vacation allowance, such a payment shall not be made.

Y. When an Employee moves from one Employer jurisdiction to another to accept employment in a position in which vacation allowance is earned, the Employee shall be given credit for the vacation earned or accumulated in the jurisdiction from which the Employee transferred, and the director of finance of the State or the equivalent officers of the counties, Judiciary, and the Hawai'i Health Systems Corporation, as the case may be, shall make the appropriate transfer of funds to implement the transfer. However, the Employee may request and receive payment of a portion of or all of the Employee's vacation credits accumulated up to the effective date of the movement.

Z. An Employee who pursuant to the U.S. Universal Military Service and Training Act or other Federal Statute is called or ordered and reports either voluntarily or involuntarily for active military duty with a branch of the U.S. Armed Forces shall be deemed to have terminated employment for the purpose of this Article. The Employee's choice of lump sum payment for the vacation allowance will not of itself cause the forfeiture of the Employee's unused sick leave credits.

AA. Provisions of this Article shall be applied uniformly and without discrimination.

## ARTICLE 42 - SICK LEAVE

### A. Earning of Sick Leave.

1. All Employees covered by this Agreement shall be credited for sick leave at the rate of fourteen (14) hours for each month of service. For the purpose of this Article, a workday is defined as an eight (8) hour workday.

2. If an Employee renders less than a month of service, the Employee's sick leave allowance for such month shall be computed as follows:

Actual Straight Time Hours of Service	Working Hours of Leave
For 0 to 31	0
For 32 to 55	4
For 56 to 79	6
For 80 to 103	8
For 104 to 127	10
For 128 to 151	12
For 152 or more	14

The term "actual straight time hours of service" shall include paid holidays.

B. Except as hereinafter otherwise provided, sick leave allowance shall accrue to an Employee while the Employee is on leave with pay. No sick leave allowance shall accrue:

1. During the period of any vacation leave or sick leave granted when the employment terminates or is to terminate at the end of such leave.

2. During the period the Employee is on leave without pay, except for the period the Employee is on leave for disability and is being paid workers' compensation therefore.

3. During any period of valid suspension which is sustained in the event an appeal is made by the Employee.

4. During any period of unauthorized leave.

5. During any period the Employee is on educational/sabbatical leave.

6. During any period of leave with pay pending investigation if the Employee:

- a. is subsequently discharged/dismissed;
- b. resigns or retires prior to the discharge/dismissal; or
- c. resigns or retires during the investigation.



C. Accumulation of Sick Leave. An Employee may accumulate the sick leave earned. The unused sick leave accumulated shall be credited to the Employee's account for subsequent use in the event of a sickness. Such unused sick leave may be accumulated without limitation.

D. Sick leave shall be administered on a calendar year basis and recorded at the end of each calendar year. After the end of each year, the appointing authority will furnish each Employee with a statement of the sick leave credit remaining as of December 31.

E. Notification of Sickness.

1. Notification of absence on account of sickness shall be given at least thirty (30) minutes prior to the start of the Employee's scheduled workday or if impracticable as soon thereafter as circumstances permit. However, in operations where Employees on a shift normally relieve Employees on the previous shift, notification of absence shall be given at least two (2) hours prior to the start of the Employee's scheduled shift, except in extenuating circumstances whereby an Employee is unable to provide such notice.

2. If, in the opinion of the department head, such notification has not been given in accordance with this section, such absence may, in the discretion of the department head, be charged to vacation allowance or leave without pay.

F. Application for Sick Leave. Application for sick leave shall be filed on a form prescribed by the Employer or the Employer's designee within five (5) working days after return to duty; provided, that in the event such Employee dies before that time or before returning to duty, the Employee's executor or administrator or the appropriate department head if the department head deems it proper may file such application within six (6) months after the Employee's death. Sick leave shall not be granted unless it is proved to the satisfaction of the department head that the Employee's absence from work was necessary because of sickness.

G. The department head shall require the Employee to submit a licensed physician's certificate for absence of five (5) or more consecutive working days to substantiate the fact that the period of absence was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of the Employee's position. The department head may require the Employee to be examined by a physician of said department head's choice provided the department assumes the cost of the physician's services.

H. Absence due to sickness lasting less than one (1) hour shall not be charged to sick leave when such sickness occurs during the final hour of work and the Employee is released from work.

I. Upon application by the Employee, sick leave, when granted may include all sick leave allowance as of the last full month of service immediately preceding the return to

duty from sick leave, or as much thereof as is needed, to permit the Employee to recover from the sickness.

J. Sick leave shall be allowed for medical, dental, optical and optometrical appointments which the Employee cannot schedule for non-work time.

K. Sick Leave--How Charged. Employees shall be charged with sick leave only for absence on account of sickness on days upon which, but for such sickness, they would normally have worked and received pay.

L. Physical examinations required by the Employer shall not be charged against an Employee's sick leave.

M. Additional Sick Leave With Pay. Additional sick leave with pay, in excess of that to which the Employee is entitled, may be granted with the written approval of the Employer under such conditions that it may prescribe, provided, that due consideration shall be given to the length of service of the particular Employee.

N. Use of Cumulative Sick Leave Allowance After Transfer Between Departments. When an Employee resigns a position to accept a position in another department of the Employer as the result of a transfer (including promotion, demotion or original appointment) or in case of any other movement from one department to another of the Employer, the Employee shall not thereby forfeit any unused accumulated sick leave allowance that is credited to the Employee in the department from which the Employee was transferred or moved. If, after the date of such transfer, the Employee uses any or all of such cumulative sick leave credited to the Employee, the appropriation of the department to which the Employee is transferred shall bear the entire charge thereof. In no event, shall the appropriation of the department from which the Employee was transferred or moved be charged for any cumulative sick leave taken after the date of transfer or movement.

O. Credit for Sick Leave During Vacation. When sickness lasting one (1) or more consecutive working days occurs during a vacation, the period of sickness shall, upon submittal of a licensed physician's certificate or other satisfactory proof of such sickness as deemed necessary by the department head, be charged as sick leave, and the charge against vacation allowance shall be reduced accordingly. Application for such substitution of sick leave for vacation shall be made within five (5) working days after return to work from the leave.

P. No Sick Leave After Termination of Services. Upon termination of services an Employee shall forfeit all sick leave allowance accrued and accumulated to the date of such termination, except for purposes of computing service credit in the retirement system in accordance with Act 177, SLH 1975 which provides, in part that an Employee with sixty (60) days of unused sick leave to the Employee's credit shall have the Employee's years of service increased by three months for the purpose of computing the Employee's retirement allowance and that for each additional twenty (20) days or major fraction thereof of unused sick leave in excess of sixty (60) days that the Employee has credited shall have the

Employee's years of service increased by one month for the purpose of computing the Employee's retirement allowance. This section shall not be construed to provide for the forfeiture of sick leave accumulation when the Employee is granted a leave without pay, including military leave or is immediately rehired by the Employer.

Q. Sick leave shall be allowed for temporary disabilities as defined under the Equal Employment Opportunity Commission Guidelines, Title 29, Chapter XIV, Section 1604, of the Code of Federal Regulations.

R. An Employee who is laid off pursuant to Article 12 - Layoff and Reemployment, shall retain her accumulated sick leave credits for the period that her name remains on the recall list. If the Employee is recalled to work pursuant to Article 12, the Employee shall be credited with all accumulated sick leave credits retained.

S. Sick Leave upon Separation from Service.

1. Upon separation from service, an Employee shall forfeit all sick leave allowance accrued and accumulated to the date of the separation except as otherwise provided by chapter 88, Hawai'i Revised Statutes. This paragraph shall not be construed to provide for the forfeiture of sick leave accumulation when the Employee is granted leave without pay, including military leave, or is rehired by the Employer within seven calendar days.

2. When an Employee moves from one Employer jurisdiction to another to accept employment in a position in which sick leave allowance is earned, the Employee may request and be allowed to transfer any unused sick leave credits accumulated at the time of movement. Any sick leave credits used after the effective date of the movement shall be charged to the appropriation of the receiving Employer.

## **ARTICLE 42A – FAMILY LEAVE**

A. Employee entitlement to state family leave is set forth in Chapter 398, Hawai'i Revised Statutes. Accrued vacation leave and/or sick leave may be substituted for any part or all of the allowable state family leave up to a maximum of four (4) weeks per designated twelve (12) month period.

B. Employee entitlement to federal family leave is set forth in the Family and Medical Leave Act of 1993.

C. Administration and enforcement of the state and federal family leave provisions shall be in accordance with applicable laws and regulations. Appeals with regard to state and federal family leave shall be filed with the appropriate state and/or federal agencies who are responsible for administering and enforcing the respective provisions mentioned herein, i.e., State of Hawai'i Department of Labor and Industrial Relations or the United States Department of Labor, Wage and Hour Division. Appeals

shall not be filed through the grievance procedure found in the collective bargaining agreement, unless a representative of the applicable state or federal agency first determines that the agency does not have jurisdiction over the administrative appeal because the appeal concerns the interpretation/application of this Article.

#### **ARTICLE 43 - FUNERAL LEAVE**

A. Employees covered by this Agreement shall be allowed three (3) working days as funeral leave with pay which shall not be deducted from any other leave to which the Employee may be entitled. Funeral leave shall be granted on such days as designated by the Employee provided they fall within a reasonable period of time after a death in the immediate family.

B. For the purpose of this Article, immediate family is defined as: spouse, reciprocal beneficiary, children, parents, brothers, sisters, parents-in-law, grandparents, grandchildren, or an individual who has become a member of an immediate family through the Hawai`ian "Hanai" custom. Provided, however, an individual affected by the "Hanai" relationship shall be entitled to utilize funeral leave only for those members of the Employee's immediate family resulting from the "Hanai" relationship. Provided further that funeral leave with pay can only be used for one mother and one father regardless of whether the parent relationship is natural, hanai, step or legal guardians. "Reciprocal beneficiary" for purposes of this article, means two adults who meet the requirements of HRS 572C-4 and who have registered their reciprocal beneficiary relationship pursuant to HRS 572C-5. "Reciprocal beneficiary" is further defined to mean that individual the Employee has selected as the Employee's life partner in lieu of a spouse.

C. Hanai/natural parents not covered in B, above; sons- and daughters-in-law and great grandparent's relationship. An employee shall be entitled to use up to three (3) days of vacation leave or compensatory time off for the death of hanai/natural parents not covered in B above, son- or daughter-in-law or great grandparent. Vacation leave or compensatory time off shall be granted on days designated by the Employee provided they fall within a reasonable period of time after the death.

D. If the death or funeral occurs outside the State of Hawai`i, the Employee shall be granted, upon request, a reasonable number of additional days of accumulated vacation leave, compensatory time off, or leave without pay for travel to attend the funeral or to make necessary arrangements for a funeral in the State of Hawai`i.

#### **ARTICLE 44 - LEAVE FOR JURY OR WITNESS DUTY**

A. An Employee covered by the terms of this Agreement, if summoned to serve as a witness or juror in any judicial proceeding except those which may involve or arise out of the Employee's outside employment or personal business or private affairs, shall, if the Employee serves, be entitled to leave of absence with pay.

B. An Employee who serves as a witness or as a juror, and who receives a fee or mileage allowance shall not suffer the loss of such monies or have it offset against the Employee's salary account.

C. An Employee called to serve as a witness in a case which may involve or arise out of the Employee's outside employment or personal business or private affairs shall not be entitled to leave of absence with pay as provided in paragraph "A" above, provided that the Employee shall be entitled to use annual vacation leave or elect to take leave without pay.

#### **ARTICLE 45 - TIME OFF FOR BLOOD DONATIONS**

Employees shall be granted a reasonable amount of time off with pay to donate to the Blood Bank.

#### **ARTICLE 46 - OTHER LEAVES OF ABSENCE**

A. Leave Without Pay to Work at the State Legislature. With the approval of the chief executive, and upon request of a member of the State Legislature, a regular Employee may be granted a leave of absence without pay to render service at the State Legislature. The leave without pay shall be for a duration of no more than twelve (12) months. The Employee shall have return rights as provided in paragraph I.

B. Leave Without Pay to Delay a Layoff. A regular Employee may be granted a leave of absence without pay for no more than twelve (12) months in order to delay a planned layoff when the position which the Employee occupies has been abolished. If the Employee has not been placed at the expiration of the twelve (12) month period, the Employee shall be subject to Article 12, Layoff and Reemployment.

C. Leave Without Pay for Employees Serving Temporary Intergovernmental and Intragovernmental Assignments and Exchanges. Subject to the provisions of section 78-27, Hawai'i Revised Statutes, regular Employees on temporary intergovernmental and intragovernmental assignments and exchanges may be granted leaves without pay. The Employee shall have the same rights and benefits as any other Employee of the sending agency who is on leave without pay status.

D. Educational Leave Without Pay. An appointing authority may grant a leave without pay to regular Employees for any of the following reasons:

1. To pursue a course of instruction which is related to the Employee's field of work;

2. To engage in research which has a beneficial effect on the skills or knowledges required in the Employee's field of work; or,

3. To improve the Employee's ability and increase the Employee's fitness for public employment.

The duration of the educational leave without pay shall be for no more than twelve (12) months. For good cause, as determined by the appointing authority, educational leave without pay may be extended an additional twelve (12) months. The Employee shall have return rights as provided in paragraph H.

E. Industrial Injury Leave.

1. An Employee may be granted leave without pay not to exceed twelve (12) months, provided she is receiving workers' compensation wage loss replacement benefits.

2. An Employee may be granted additional leave without pay in twelve (12) month increments, provided the Employee is receiving workers' compensation wage loss replacement benefits or provided the Employee's application for retirement is pending determination by the State Retirement System.

F. Leave Without Pay to Work in Certain Appointive Positions.

1. An appointing authority may grant a leave without pay to a regular Employee to render services as a department head, agency head, deputy department head, as a secretary to a department head or a deputy department head, or as an appointee to any other position within the jurisdiction that is mutually agreeable between the Employer and the Union. The Employer shall compile a list of the appointive positions to which this section applies and maintain its currency.

2. The rights of an Employee who is released from the above appointments are as follows:

a. Upon completion of no more than four (4) years of the leave without pay, reinstatement in the position in which the Employee last held a permanent appointment. In the event the Employee is retained beyond these four (4) years for the transition to a new chief executive's term, but for not more than three (3) months, the Employee shall retain the reinstatement right to the Employee's former civil service position.

b. Following more than four (4) years of leave without pay, reinstatement to the Employee's former position if vacant or placement in a comparable vacant position.

c. Upon reinstatement in the former position or placement in another comparable position, compensation shall be as though the Employee had remained continuously in the position.

G. Other Leaves Without Pay. An appointing authority may grant regular or non-regular Employees leaves without pay for no more than twelve (12) months, for any of the following reasons:

1. To recuperate from physical or mental illnesses; provided, for leaves without pay of five (5) days or more, an Employee shall submit a licensed physician's certificate to substantiate the fact that period of leave without pay was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of her position. However, the Employer may require an Employee to submit a licensed physician's certificate from the first day of absence without pay.

2. Death in the family.

3. To extend an annual vacation leave for travel, rest, or for recreation purposes.

4. To seek political office.

5. Personal business of an emergency nature.

6. Annual periods of temporary cessation of normal operation.

7. Child or pre-natal care.

8. Child adoption leave.

9. Care for an immediate family member (spouse, children, parents, brothers, sisters, parents-in-law, grandparents, grandchildren, or an individual who has become a member of an immediate family through the Hawai`ian "hanai" custom) who is ill or injured.

10. Care for parents, spouse, children, and/or grandparents, who are unable to perform one or more Activities of Daily Living (ADL). Typical Activities of Daily Living includes the following:

a. Mobility: Walking or wheeling any distance on a level surface.

b. Transferring: Moving between the bed and a chair or the bed and a wheelchair.

c. Dressing: Putting on and taking off all necessary items of clothing.

d. Toileting: Getting to and from the toilet, getting on and off the toilet, and associated personal hygiene.

- e. Eating: All major tasks of getting food into the body.
- f. Bathing: Getting into or out of a tub or shower and/or otherwise washing the parts of the body.
- g. Contenance: Controlling one's bladder and bowel functions.

H. Return Rights from a Leave Without Pay. Except as specifically provided otherwise in this Article, Employees granted leaves without pay under this Article shall, upon condition of showing to the satisfaction of the appointing authority that the Employee has fulfilled the purpose of her leave, shall have the following rights:

1. A regular Employee, upon expiration of her leave shall be reinstated to her former position; provided, that if such position has been abolished during the period of such leave, the provisions of Article 12, Layoff and Reemployment shall be applicable.

2. A non-regular Employee, upon expiration of her leave shall have reinstatement rights to her former position, provided that the status and function of the position remained the same in her absence. In the event that the Employee cannot be reinstated, she shall be terminated.

3. Failure of an Employee to return to duty at the expiration of her leave shall be deemed a resignation; provided that if within fifteen (15) days of the expiration of the leave, the Employee furnishes satisfactory reasons to the appointing authority as to why the Employee was unable to return immediately after the expiration of the leave, the Employee shall be entitled to such rights as she had at the expiration of the leave. In the event the appointing authority does not accept the reasons, the issue of the reasonableness of the reasons shall be subject to the provisions of Article 14, Grievance Procedure.

I. Other Rights and Conditions.

1. A regular Employee on an approved leave of absence shall be eligible during the period on such leave for promotional examinations and status of promotional eligible lists under the same conditions as though in active service.

2. An Employee who accepts employment, either in another position under civil service or in conflict with the purpose of her leave during the leave of absence, shall be deemed to have resigned from her position from which the leave was granted, effective the date of the appointment to the other position.

J. Unauthorized Leave. Any absence from work which does not meet the requirements for an authorized leave, with or without pay, shall be charged as unauthorized absence from work. Any period of unauthorized absence from work shall not be considered as service rendered.



K. Leave Pending Investigation of Charges.

1. Whenever an investigation of charges against an Employee is pending and the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place, the Employee may be placed on a leave of absence without pay pending investigation subject to the following:

a. The Union and the Employee who is placed on the leave without pay pending an investigation shall be given written notice within forty-eight (48) hours after such action is taken. The written notice shall provide an explanation, including available facts, on why the Employee's presence at the work site is deemed by the Employer to be detrimental to the proper conduct of the investigation or the operations of the work place and the effective date of the leave of absence without pay pending an investigation.

b. The period of leave of absence without pay pending an investigation shall be for such length of time as may be necessary to conclude the investigation, but not exceeding thirty (30) days. In the event the investigation exceeds thirty (30) days, the appointing authority may exercise its options provided in subparagraph K.2.

c. If the Employee who has been placed on leave of absence without pay pending investigation is cleared of all charges or if the charges are dropped or not substantiated, the Employee shall be reinstated without loss of pay and all rights and benefits will be restored as though the Employee had not been on leave of absence without pay pending an investigation.

d. Disciplinary or Discharge Action Resulting From an Investigation of Charges.

1) In the event a suspension is warranted, the Employer may consider any portion of the period of the leave of absence without pay pending an investigation towards fulfilling, in whole or in part, the disciplinary action considered appropriate by the Employer. The Employee shall be reinstated without loss of pay and benefits for any portion of the period of the leave of absence without pay which has not been considered towards fulfilling the disciplinary action.

2) In the event a discharge is warranted, the Employee shall not be granted any back pay or restored with any rights and benefits for the period of the leave of absence without pay pending an investigation.

2. Notwithstanding the foregoing, whenever an investigation of charges against an Employee is pending, the Employer shall have the discretion to:

- a. retain the Employee in active duty status;
- b. place the Employee on leave of absence with pay;
- c. return the Employee to active duty status from leave without pay pending an investigation; or,
- d. reassign the Employee to another work unit or area in the same or different capacity.

The action shall be for the length of time as may be necessary to conclude the investigation.

#### **ARTICLE 47 - ADOPTIVE LEAVE**

A. A regular Employee who is covered by this Agreement and who has completed at least one year of continuous service immediately preceding any application for adoptive leave may request and shall be entitled to leave without pay. The request shall be made at least thirty (30) days in advance and shall include the beginning and ending dates of the leave as well as the expected date of adoption.

B. Leave for adoption shall normally be for a period of not more than twelve (12) months. Such leave may be extended for another period of not more than twelve (12) months for reasons acceptable to the Employer or its designee.

C. An Employee shall have the right to use vacation leave credits in place of leave without pay starting the day the adoptive child is placed in the custody of the Employee.

D. An Employee, upon expiration of the adoptive leave or extension thereof, shall be returned to the same job as the Employee had prior to the taking of the leave, provided that if such job has been abolished, the Employee shall be considered for placement in other positions in accordance with Article 12, Layoff and Reemployment. Upon return to work, the Employee shall resume the same pay status as the Employee had prior to the beginning of the leave, except as amended by the terms of this Agreement or applicable law.

E. An Employee who does not return to duty at the expiration of the adoptive leave or extended adoptive leave shall be deemed to have resigned; provided, that if the Employee within fifteen (15) days after the expiration date, submits reasons acceptable to the department head, the Employee shall be entitled to the rights contained in paragraph "D". In the event the department head does not accept the reasons, the issue of the reasonableness of the reasons may be subject to the provisions of Article 14, Grievance Procedure.

## **ARTICLE 48 - LEAVE FOR CHILD CARE**

A. Employees may request leave without pay for a period up to twelve (12) months for child care. The department head may grant such leave of absence in accordance with the general rules and practices concerning leaves of absence without pay, the circumstances of the case, the needs of the agency, etc. Leave shall not exceed twelve (12) months unless for good reason an extension of time is authorized by the Director of Personnel Services.

B. An Employee desiring to return to work, on a part-time basis, during the approved leave of absence may be permitted to accept such an appointment, subject to mutual agreement.

C. An Employee returning from an approved leave of absence granted under this Article shall be reinstated to the Employee's former or comparable position. If the position has been abolished, a regular Employee shall be considered for placement in accordance with Article 12, Layoff and Reemployment and shall have the right to have the Employee's name placed on the appropriate reemployment lists.

## **ARTICLE 49 - POLITICAL CAMPAIGN LEAVE**

A. An appointing authority may grant an Employee leave without pay for up to twelve (12) months for purposes of seeking political office.

B. An Employee, upon return from an authorized leave, shall be reinstated in her former or comparable position. If her former position has been abolished and a comparable position cannot be found, a regular Employee shall be considered for placement in other positions in accordance with the provisions of Article 12, Layoff and Reemployment.

C. A regular Employee on an approved leave of absence shall be eligible during the period of such leave for promotional examinations and status on promotional eligible lists under the same conditions as though in active service.

## **ARTICLE 50 - LEAVE FOR INDUSTRIAL LEAVE**

A. Whenever an Employee who is temporarily exposed to unusually hazardous conditions, or who is a member of a class recognized by the action of repricing to be a class exposed to unusually hazardous conditions, receives personal injury arising out of the unusually hazardous conditions and in the performance of the Employee's duty, the Employee shall be placed on accidental injury leave unless suspended or dismissed for cause, and continued on the payroll of the Employee's respective department at the Employee's full regular monthly salary during the first four (4) months of the Employee's disability and thereafter during the period of the Employee's total disability from work at

sixty percent (60%) of the Employee's regular monthly salary, as though the Employee did not sustain an industrial injury. The Employee shall be entitled to all rights and remedies allowed under Chapter 386, Hawai'i Revised Statutes, as amended, provided that any salary paid under this Article shall be applied on account of any compensation allowed the Employee under Chapter 386, Hawai'i Revised Statutes, as amended, or any benefits awarded the Employee under Part III of Chapter 88, Hawai'i Revised Statutes, as amended.

B. No accidental injury leave shall be granted for an injury incurred by an Employee by her willful intention to injure herself or another or by her intoxication.

## **ARTICLE 51 - MILITARY LEAVE**

### **A. Military Leave With Pay.**

1. Employees whose appointment is for six (6) months or more shall, while on active duty or during periods of camps of instruction or field maneuvers as members of the Hawai'i National Guard, Air National Guard, naval militia, organized reserves, including the officers' reserve corps and the enlisted reserve corps, under call of the President of the United States or the Governor of the State, be placed on leave with pay status for a period not exceeding fifteen (15) working days in any calendar year, except as provided in subparagraph A.2. No such person shall be subjected by any person, directly or indirectly, by reason of absence to any loss or diminution of vacation or holiday privileges or be prejudiced by reason of the absence with reference to promotion or continuance of employment or reemployment.

2. If an Employee is called to active duty or required to report for camp training or field maneuvers by official military orders a second time within a calendar year, the Employee may elect to use up to fifteen (15) working days of military leave with pay from the succeeding calendar year; provided that the Employee's entitlement to the working days advanced shall be canceled from the succeeding calendar year, and the Employee shall so agree in writing. The Employee who is advanced military leave with pay shall be required to reimburse the Employer an amount equivalent to the days advanced in the event the Employee leaves employment prior to completion of a year's service in the succeeding year from which leave was advanced, except in the case of death of the Employee.

### **B. Military Leave Without Pay.**

1. The following Employees shall be entitled to military leave without pay for service in the United States Armed Forces:

a. Employees serving initial probationary appointments.

b. Regular Employees serving permanent or new probationary appointments.

c. Regular Employees serving temporary appointments and who have not forfeited their rights to the position in which they last held permanent appointment.

d. Exempt Employees serving other than temporary appointments.

2. The duration of the military leave without pay shall be for no more than four (4) years plus a one (1) year voluntary extension of active duty when the extension is at the request and for the convenience of the U.S. government.

3. Upon conclusion of the military leave without pay, Employees shall have reemployment rights in accordance with Chapter 43 of Title 38 of the United States Code.

4. Replacements for Employees on Military Leave Without Pay.

a. In filling a position which became vacant by military leave without pay, the appointing authority may appoint a replacement Employee and shall inform the replacement the status of the replacement's employment and the provisions of this Agreement relating to military leaves without pay.

b. A replacement employed in the position from which military leave was granted shall be displaced so that the position may be filled again by the former Employee returning to government employment. Replacement Employees with regular status shall be returned to their former positions or other comparable positions deemed appropriate by the director of personnel services. In the event there are no such positions, the replacement Employees shall be subject to Article 12, Layoff and Reemployment.

C. Leave for Pre-Induction Examination. An Employee who is absent from work for the purpose of undergoing physical examination prior to induction into the United States Armed Forces shall be granted leave with pay for such purpose, and the leave shall not be charged against the Employee's vacation allowance.

## **ARTICLE 52 - PARKING**

A. Parking Rates

1. This paragraph shall apply only to Employees under the following conditions:

a. The Employee is required to provide a personal vehicle for work purposes as a condition of employment as determined by the Employer; and

b. The Employee parks at a parking facility under the jurisdiction of the State Department of Accounting and General Services or the City and County of Honolulu Building Department.

2. Parking rates for Employees covered by this paragraph shall be as follows:

STATE OF HAWAII

Island of O`ahu

Covered Parking \$12.50/month

Uncovered Parking \$ 7.50/month

Neighbor Islands

Covered Parking \$ 7.50/month

Uncovered Parking \$ 5.00/month

CITY AND COUNTY OF HONOLULU

All Parking \$ 7.50/month

B. It is understood and agreed that Employees who are required to provide a personal automobile as a condition of employment and who are parking in commercial parking facilities shall be offered a parking assignment in a DAGS or City Building Department facility, as applicable, and as space becomes available. Until such time that the Employer can offer such parking assignment, the Employer agrees to reimburse each Employee a monthly sum as follows:

STATE OF HAWAII

Island of O`ahu

Covered Parking \$12.50/month

Uncovered Parking \$ 7.50/month

Neighbor Islands

Covered Parking \$ 7.50/month

Uncovered Parking \$ 5.00/month

CITY AND COUNTY OF HONOLULU

All Parking \$ 7.50/month

Any Employee who declines an offer to park in a DAGS or City Building Department facility shall not be entitled to the reimbursement.

C. It is further understood and agreed that Employees who are required to provide a personal automobile as a condition of employment and who presently are not charged for parking shall continue to receive free parking, unless their conditions of employment are changed.

### **ARTICLE 53 - MISCELLANEOUS**

A. Copies of Contract. The Employer agrees to furnish a copy of the Agreement together with any letter which may be furnished by the Union outlining its collective bargaining services and membership information to all new Employees of the bargaining unit.

B. The Employer shall provide the Union upon request, not more than twice each year, lists showing the names of all Employees, their classification titles, their department, and the most recent dates of continuous hire in the jurisdiction.

C. Section 78-12, Hawai'i Revised Statutes, relating to "salary withheld for indebtedness to the government" which also covers salary overpayment shall apply to affected Employees.

### **ARTICLE 54 - NO STRIKE OR LOCKOUT**

The Union agrees that during the life of this Agreement the Union, its agents, or its bargaining unit members will not authorize, instigate, aid or engage in any work stoppage, slow down, sickout, refusal to work, picketing or strike against the Employer.

The Employer agrees that during the life of this Agreement, there will be no lockout.

Any alleged violation of this Article by the Union shall not be subject to Article 14, Grievance Procedure.

### **ARTICLE 55 – DRUG AND ALCOHOL TESTING**

The Union and Employer have reached an agreement on alcohol and controlled substance testing. Part one of the agreement pertains to alcohol and controlled substance testing for all Employees based on "reasonable suspicion." Part two of the agreement pertains to "random" alcohol and controlled substance testing for certain identified health, safety and public trust (HSPT) Employees. The agreement has an attached list of identified HSPT positions.

The agreement is intended to keep the workplace free from the hazards related to the use of alcohol and controlled substances by the testing program. Employees are expected to report to work in a physical and mental condition consistent with this agreement which enables them to perform their duties in a safe and productive manner. Employees subject to alcohol and controlled substance tests and who are subject to disciplinary action shall be afforded "due process" as provided in the alcohol and controlled substance testing agreement and applicable provisions of the collective bargaining agreement.

All health, safety and public trust employees will receive a copy of the "random" alcohol and controlled substance agreement from the Employer. All other Employees will receive a copy of the "reasonable suspicion" alcohol and controlled substance agreement from the Employer. Employees may also request a copy of the alcohol and controlled substance agreement from the Union.

NOTE: The agreement reflects a "two strikes and you're out" disciplinary action schedule for confirmed positive tests for alcohol and controlled substance that was negotiated through a memorandum of agreement and ratified by Employees in the bargaining unit.

## **ARTICLE 56 - SALARIES**

A. Subject to the approval of the respective legislative bodies and effective July 1, 2007:

1. The Salary Schedule designated as Exhibit E in the July 1, 2005 to June 30, 2007 agreement shall be amended to reflect a 5 percent (5%) across-the-board increase and such amended schedule shall be re-designated as Exhibit A.

2. Following A.1. above, Employees shall be placed on the corresponding salary range and step of Exhibit A, provided that Employees whose basic rate of pay on June 30, 2007 exceeds the maximum step of their pay range shall receive a five percent (5%) increase and shall remain above the maximum rate of the salary range.

3. Employees not administratively assigned to the Salary Schedule shall receive a five (5%) pay increase.

B. For the period July 1, 2007 to June 30, 2008, Employees who are eligible for step movements shall receive their step movements on the first day of the pay period immediately following the completion of the required amount of service. Step movements shall occur as provided in the July 1, 2005 to June 30, 2007 agreement (Art.56 B.).

C. Subject to the approval of the respective legislative bodies and effective July 1, 2008:



1. The Salary Schedule currently designated as Exhibit A shall be amended to reflect a four percent (4%) across-the-board increase and such amended schedule shall be re-designated as Exhibit B.

2. Following C.1. above, Employees shall be placed on the corresponding salary range and step of Exhibit B, provided that Employees whose basic rate of pay on June 30, 2008 exceeds the maximum step of their pay range shall receive a four percent (4%) increase and shall remain above the maximum rate of the salary range.

3. Employees not administratively assigned to the Salary Schedule shall receive a four percent (4%) pay increase.

4. Step movements shall occur as provided in the July 1, 2005 to June 30, 2007 agreement for the period 7/1/08 to 12/31/08.

D. Subject to the approval of the respective legislative bodies and effective January 1, 2009:

1. The Salary Schedule currently designated as Exhibit B shall be amended to reflect two new steps on the salary schedule with modifications to Salary Range 21 and above, and such amended schedule shall be re-designated as Exhibit C.

2. Following D.1. above, Employees shall be placed on the corresponding salary range and step of Exhibit C. Employees shall then move to their appropriate step on the salary schedule in accordance with the following new step movement plan:

a. All Employees at SR 18 B shall remain at that range and step until their positions are reallocated.

b. Step movements. All Employees at SR 20 and above, shall move as follows:

1) Step B to Step C upon completion of three (3) or more months of satisfactory service with the Employer to equal at least twelve (12) months of registered professional nurse experience, including the three (3) months with the Employer; provided that the previous registered professional nurse experience was gained within the preceding five (5) years.

2) Step B to Step D upon completion of three (3) or more months of satisfactory service with the Employer to equal at least eighteen (18) months registered professional nurse experience, including the three (3) months with the Employer; provided that the previous registered professional nurse experience was gained within the preceding five (5) years.

3) Step B to Step E upon completion of three (3) or more months of satisfactory service with the Employer to equal at least twenty-four (24) months registered professional nurse experience; provided that the previous registered professional nurse experience was gained within the preceding five (5) years.

4) Step C to Step D upon completion of the required months of satisfactory service with the Employer to equal to at least eighteen (18) months registered professional nurse experience, including time with the Employer; provided that the previous registered professional nurse experience was gained within the preceding five (5) years.

5) Step C or Step D to Step E upon completion of the required months of satisfactory service with the Employer to equal to at least twenty-four (24) months of registered professional nurse experience, including time with the Employer; provided the previous registered professional nurse experience was gained within the preceding five (5) years.

6) Longevity (5 years). All Employees with at least five (5) years of creditable service but less than ten (10) years of creditable service as a registered professional nurse with the Employer, and who are on Step D or Step E, shall move to Step L-1 of their respective salary ranges.

7) Longevity (10 years). All Employees with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service as a registered professional nurse with the Employer, and who are on Step E or Step L-1, shall move to Step L-2 of their respective salary ranges.

8) Longevity (15 years). All Employees with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service as a registered professional nurse with the Employer, and who are on Step L-1 or Step L-2, shall move to Step L-3 of their respective salary ranges.

9) Longevity (20 years). All Employees with at least twenty (20) years of creditable service as a registered professional nurse with the Employer, and who are on Step L-1, Step L-2 or Step L-3, shall move to Step L-4 of their respective salary ranges.

E. For purposes of this Article, satisfactory service is defined as receiving a satisfactory or meets expectations rating in the Employees' performance evaluations made by the respective Employer. Creditable service shall include service in all

Employer jurisdictions and incorporates all leaves of absences with pay and the following authorized leaves without pay (LWOP).

1. LWOP to pursue a course of instruction relating to the Employee's work;
2. LWOP to engage in research, relating to the Employee's work;
3. LWOP to render service at the State Legislature;
4. LWOP to serve on loan by contract to other governments;
5. Sabbatical Leave;
6. Military Leave;
7. LWOP to recuperate from an injury for which weekly workers' compensation payments are made;
8. LWOP to work in an exempt position.

#### **ARTICLE 57 – HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND**

Subject to the applicable provisions of Chapters 87A and 89, Hawaii Revised Statutes, the Employer shall pay monthly contributions to the Hawaii Employer-Union Health Benefits Trust Fund ("Trust Fund" or EUTF) as follows:

- A. "Health Benefit Plan" shall mean the medical PPO, HMO, HDHP, prescription drug, dental, vision and dual coverage medical plans.
- B. "Prevalent Medical Benefit Plan" shall mean the medical PPO, HMO, or HDHP as determined by the EUTF Board of Trustees to have the largest number of total active Employee enrollments as of December 31 of the previous fiscal year.
- C. Effective July 1, 2007

Effective July 1, 2007 for plan year 2007-2008, the Employer shall pay monthly contributions which include the cost of the Trust Fund administrative fees to the Trust Fund not to exceed the monthly contribution amounts as specified below:

1. For each Employee-Beneficiary with no dependent-beneficiaries enrolled in the following Trust Fund health benefit plans:

<u>BENEFIT PLAN</u>	<u>TOTAL MONTHLY CONTRIBUTION</u>
a. Medical (PPO, HMO or HDHP) (drug & chiro)	\$149.44

b.	Dental	\$16.46
c.	Vision	\$3.64
d.	Dual coverage (medical, drug, chiro):	
	(1) HMSA	\$86.36
	(2) Royal State	\$31.16
e.	Stand-alone Drug Plan	\$27.12

The Employer shall pay the same monthly contribution for each Employee-Beneficiary enrolled in a self-only medical plan (PPO, HMO or HDHP), regardless of which plan is chosen.

2. For each Employee-Beneficiary with one dependent-beneficiary enrolled in the following Trust Fund health benefit plans:

<u>BENEFIT PLAN</u>	<u>TOTAL MONTHLY CONTRIBUTION</u>
a. Medical (PPO, HMO or HDHP) (drug & chiro)	\$372.92
b. Dental	\$32.94
c. Vision	\$6.74
d. Dual coverage (medical, drug, chiro)	
	(1) HMSA \$216.26
	(2) Royal State \$76.10
e. Stand-alone Drug Plan	\$68.48

The Employer shall pay the same monthly contribution for each Employee-Beneficiary enrolled in a two-party medical plan (PPO, HMO or HDHP), regardless of which plan is chosen.

3. For each Employee-Beneficiary with two or more dependent-beneficiaries enrolled in the following Trust Fund health benefit plans:

<u>BENEFIT PLAN</u>	<u>TOTAL MONTHLY CONTRIBUTION</u>
a. Medical (PPO, HMO or HDHP) (drug & chiro)	\$484.00
b. Dental	\$68.16
c. Vision	\$8.82
d. Dual coverage (medical, drug, chiro)	
	(1) HMSA \$283.98
	(2) Royal State \$86.74
e. Stand-alone Drug Plan	\$93.88

The Employer shall pay the same monthly contribution for each Employee-Beneficiary enrolled in a family medical plan (PPO, HMO or HDHP), regardless of which plan is chosen.

4. For each Employee-Beneficiary enrolled in the Trust Fund group life insurance plan, the Employer shall pay \$4.16 per month which reflects one hundred percent (100%) of the monthly premium and administrative fees.

D. Effective July 1, 2008

Effective July 1, 2008 for plan year 2008-2009, with the exception of items 5 and 6, the Employer shall pay a specific dollar amount equivalent to sixty percent (60%) of the final premium rates established by the Trust Fund Board for the respective health benefit plan, plus one hundred percent (100%) of all administrative fees:

1. The amounts paid by the Employer shall be based on the plan year 2008-2009 final monthly premium rates established by the Trust Fund for each Employee-Beneficiary with no dependent-beneficiaries enrolled in the following Trust Fund health benefit plans:

- a. Medical (PPO, HMO or HDHP) (drug & chiro)
- b. HMSA Dual coverage medical, drug, chiro
- c. Stand-alone Drug Plan

The Employer shall pay based on the prevalent medical benefit plan the same monthly contribution for each Employee-Beneficiary enrolled in a self-only medical plan (PPO, HMO or HDHP), regardless of which plan is chosen.

2. The amounts paid by the Employer shall be based on the plan year 2008-2009 final monthly premium rates established by the Trust Fund for each Employee-Beneficiary with one dependent-beneficiary enrolled in the following Trust Fund health benefit plans:

- a. Medical (PPO, HMO or HDHP) (drug & chiro)
- b. HMSA Dual coverage medical, drug, chiro
- c. Stand-alone Drug Plan

The Employer shall pay based on the prevalent medical benefit plan the same monthly contribution for each Employee-Beneficiary enrolled in a two-party medical plan (PPO, HMO or HDHP), regardless of which plan is chosen.

3. The amounts paid by the Employer shall be based on the plan year 2008-2009 final monthly premium rates established by the Trust Fund for each Employee-Beneficiary with two or more dependent-beneficiaries enrolled in the following Trust Fund health benefit plans:

- a. Medical (PPO, HMO or HDHP) (drug & chiro)
- b. HMSA Dual coverage medical, drug, chiro
- c. Stand-alone Drug Plan

The Employer shall pay based on the prevalent medical benefit plan the same monthly contribution for each Employee-Beneficiary enrolled in a family medical plan (PPO, HMO or HDHP), regardless of which plan is chosen.

4. The amounts paid by the Employer for the following health benefit plans shall be based on the plan year 2008-2009 final monthly premium rates established by the Trust Fund. Monthly contributions shall not exceed the amounts specified in items 4a and 4b for Vision and Dual Coverage Medical plans offered by Royal State.

MAXIMUM MONTHLY PREMIUM ONLY CONTRIBUTIONS

		Self Only	2-party	Family
a.	Vision	\$3.59	\$6.64	\$8.67
b.	Dual coverage (medical, drug, chiro)			
	Royal State	\$32.32	\$80.38	\$89.38

5. a. For each Employee-Beneficiary with no dependent-beneficiaries enrolled in the Trust Fund's Dental plan, the Employer shall pay a specific dollar amount equivalent to sixty percent (60%) of the final premium rates established by the Trust Fund Board for the 2008-2009 Dental plan (self-only) plus one hundred percent (100%) of the administrative fee.

b. For each Employee-Beneficiary with one dependent-beneficiary enrolled in the Trust Fund's Dental plan, the Employer shall pay a specific dollar amount equivalent to sixty percent (60%) of the final premium rates established by the Trust Fund Board for the 2008-2009 Dental plan (two-party) plus one hundred percent (100%) of the administrative fee.

c. For each Employee-Beneficiary with two or more dependent-beneficiaries enrolled in the Trust Fund's Dental plan, the Employer shall pay a specific dollar amount based on the actual 2008-2009 Dental plan rates established by the Trust Fund Board, adjusted and calculated as described in Exhibit A.

d. In no case will Employer contributions for Dental plan premiums exceed the following:

MAXIMUM MONTHLY PREMIUM ONLY CONTRIBUTIONS

	Self-only	2-party	Family
Dental	\$16.76	\$33.53	\$69.73

6. For each Employee-Beneficiary enrolled in the Trust Fund group life insurance plan, the Employer shall pay no more than \$4.12 per month which reflects one hundred percent (100%) of the monthly premium. The Employer shall also pay one hundred percent (100%) of all administrative fees.

E. No later than three (3) weeks after the Trust Fund Board formally establishes and adopts the final premium rates for the Fiscal Year 2008-2009, the Office of Collective Bargaining shall distribute the final calculation of the Employers' monthly contribution amounts for each health benefit plan.

F. Should the Trust Fund Board eliminate any significant portion (e.g. the elimination of prescription drug benefits in the medical plan) or part of a Trust Fund health benefit plan or adopt a new plan, this Article shall be reopened for the purpose of renegotiating the Employers' monthly contribution amounts.

G. Rounding Employer's Monthly Contribution. Whenever the Employer's monthly contribution (premium plus administrative fee) to the Trust Fund is less than one hundred percent (100%) of the monthly premium amount, such monthly contribution shall be rounded to the nearest cent as provided below:

1. When rounding to the nearest cent results in an even amount, such even amount shall be the Employer's monthly contribution. For example:

- (a) \$11.397 = \$11.40 = \$11.40 (Employer's monthly contribution)
- (b) \$11.382 = \$11.38 = \$11.38 (Employer's monthly contribution)

2. When rounding to the nearest cent results in an odd amount, round to the lower even cent, and such even amount shall be the Employer's monthly contribution. For example:

- (a) \$11.392 = \$11.39 = \$11.38 (Employer's monthly contribution)
- (b) \$11.386 = \$11.39 = \$11.38 (Employer's monthly contribution)

Employer contributions effective July 1, 2007 reflect the rounding described in item G.

Employer contributions effective July 1, 2008 shall be rounded as described in item G after administrative fees have been determined by the Trust Fund Board.

H. Should the Union consider establishment of a Voluntary Employees' Beneficiary Association Trust (VEBA) pursuant to Act 245, Session Laws of Hawai'i 2005, this Agreement is subject to reopening by mutual consent, for the purpose of negotiating Employer contributions. The Union will provide written notification of its intent and the parties will meet not later than fifteen (15) working days after receipt of notification for the purpose of renegotiating the affected provisions and execution of a Memorandum of Understanding.

## **EXHIBIT A**

### **CALCULATION OF EMPLOYERS' SHARE OF FAMILY DENTAL COST FOR FY 2008-2009**

1. Determine the Family Dental Rate without the Administrative Fee.  
Determine the Two-Party Dental Rate without the Administrative Fee.
2. Subtract the Two-Party Dental Rate from the Family Dental Rate. This results in the attributable Children Dental Cost.

The Employer will pay one hundred percent (100%) of the attributable Children Dental Cost, rounded to the lower even cent.

3. The Employer will also pay sixty percent (60%) of the Two-Party Dental Rate plus 100% of the administrative fee, rounded to the lower even cent.
4. In summary, the Employer will pay (rounded as provided in Article 52, paragraph G):
  - One hundred percent (100%) of the attributable Children Dental Cost;
  - Sixty percent (60%) of the Two-Party Dental Rate, rounded to the lower even cent;
  - One hundred percent (100%) of Administrative Fee.

### **ARTICLE 58 - ENTIRETY AND MODIFICATION CLAUSE**

The Employer and the Union agree that the terms and provisions herein contained constitute the entire Agreement between the parties and supersede all previous communications, representations or agreements, either verbal or written, between the parties hereto with respect to the subject matter herein. The Employer and the Union agree that all negotiable items have been discussed during the negotiations leading to this Agreement and, therefore, agree that negotiations will not be reopened on any item during the life of this Agreement except by mutual consent or as otherwise provided herein.

### **ARTICLE 59 - SAVINGS CLAUSE**

If any provision of this Agreement or any application thereof to any Employee or group of Employees is held contrary to law by a court of competent jurisdiction, said provision or the application thereof will not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions or applications will continue in full force and



effect. The parties will meet not later than twenty (20) days after any such holding for the purpose of attempting to legalize the provision affected.

#### **ARTICLE 60 - DURATION**

This Agreement shall become effective as of July 1, 2007 and shall remain in effect to and including June 30, 2009. It shall be renewed thereafter with respect to the subject matter covered, in accordance with statutes unless either party gives written notice to the other party of its desire to amend, modify or terminate the Agreement, and such written notice is given no later than May 15, 2008. After such written notice is given, the parties shall exchange their specific written proposals, if any, no later than June 16, 2008. Negotiations for a new Agreement shall commence on a mutually agreeable date following the exchange of written proposals, as applicable.

IN WITNESS WHEREOF, the parties hereto, by their authorized representatives, have executed this Agreement.

STATE OF HAWAI`I

HAWAI`I GOVERNMENT EMPLOYEES  
ASSOCIATION, AFSCME, LOCAL 152,  
AFL-CIO

By: Linda Lingle  
Its Governor

By: Russell K. Okata  
Its Executive Director

Marie C. Laderta

Elizabeth Asahara

HAWAI`I HEALTH SYSTEMS  
CORPORATION

Myra Elliott

M. Lupe Ochoa-Smith

By: Thomas M. Driskill Jr.  
President & CEO

Lani Tsuneishi

Barbara Uweko`olani

Janice Wakatsuki

THE JUDICIARY

By: Ronald T.Y. Moon  
Chief Justice

Sharen Tokura