

**MEMORANDUM  
OF  
UNDERSTANDING**

**BETWEEN**

**CALIFORNIA NURSES  
ASSOCIATION**

**UNIT 7**

**AND**

**THE COUNTY OF FRESNO**

**NOVEMBER 2, 2020 – NOVEMBER 14, 2021**

# UNIT 7

## TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
42 ADMINISTRATIVE HEARINGS.....	27
18 ANNUAL LEAVE .....	13
49 ASSOCIATION AND MANAGEMENT MEETINGS .....	31
45 ASSOCIATION LABEL.....	28
19 BEREAVEMENT LEAVE.....	13
43 BILINGUAL SKILL PAY.....	27
11 BULLETIN BOARDS .....	5
30 CALL-BACK.....	23
37 CHARGE NURSE/LEAD WORKER DIFFERENTIAL AND SHIFT PREMIUM .....	26
50 CLINICAL SUPERVISION OF REGISTERED NURSES.....	31
28 COMPENSATORY TIME OFF .....	22
36 COMPUTER PROGRAMMING MODIFICATIONS.....	25
39 CONTINUITY OF OPERATIONS .....	26
40 CONTRACTING OUT.....	27
33 DEPARTMENTAL PERSONNEL FILES .....	23
14 DISCIPLINARY ARBITRATION.....	10
4 DUES AND DEDUCTIONS .....	1
22 EDUCATION LEAVE/ORIENTATION .....	16
35 EMPLOYEE APPEALS .....	25
13 EMPLOYEE GRIEVANCE PROCEDURE.....	5
52 EXTENSION OF PAID MILITARY LEAVE .....	32
51 FULL UNDERSTANDING .....	31
15 HEALTH AND SAFETY.....	12
20 HEALTH INSURANCE .....	14
23 HOLIDAYS .....	17
1 INTRODUCTION/PURPOSE.....	1
21 LEAVES OF ABSENCE .....	16
34 MANAGEMENT RIGHTS .....	24
17 MEDICAL CARE AND PRE-DESIGNATION.....	13
12 MEETING SPACE .....	5
9 NEGOTIATING COMMITTEE .....	4
5 NEW EMPLOYEE ORIENTATION .....	2
3 NON-DISCRIMINATION POLICY.....	1
27 OVERTIME.....	21
38 PAGING DEVICES AND CELLULAR TELEPHONES.....	26
32 PERFORMANCE EVALUATION.....	23
16 PERMANENT PART-TIME EMPLOYEE BENEFITS.....	12
26 PROFESSIONAL PRACTICE COMMITTEE .....	20

# UNIT 7

## TABLE OF CONTENTS CONT'D

<u>ARTICLE</u>	<u>PAGE</u>
2 RECOGNITION .....	1
8 RELEASE TIME .....	4
6 REPRESENTATION AND NURSE REPRESENTATIVES .....	2
24 REPRESENTATION IN COURT .....	19
7 REPRESENTATIVE ACCESS.....	4
31 REST PERIODS.....	23
10 SALARIES.....	5
41 SAVINGS CLAUSE .....	27
25 SCHEDULING.....	19
29 STANDBY/ON-CALL .....	22
53 TERM OF MOU AND RENEGOTIATION.....	32
46 TIER II RETIREMENT – MANDATORY [ONE (1) YEAR AVERAGE] .....	28
47 TIER IV RETIREMENT – MANDATORY [THREE (3) YEAR AVERAGE] .....	29
48 TIER V GENERAL RETIREMENT PLAN (PEPRA) – MANDATORY .....	30
44 WEINGARTEN RIGHTS.....	28

### **ADDENDA**

ADDENDUM – STATE DISABILITY INSURANCE PROGRAM

## **ARTICLE 1 – INTRODUCTION/PURPOSE**

We, the Undersigned, duly appointed representative of the County of Fresno, hereinafter referred to as “County” and California Nurses Association, Unit 7, hereinafter referred to as “Association”, having met and conferred in good faith, do hereby jointly prepare and execute the following written Memorandum of Understanding (MOU) for Representation Unit 7. It is the purpose of the MOU to promote and provide for harmonious relations, cooperation, and understanding between management and the employees covered herein and to provide an orderly and equitable means of resolving any misunderstandings or differences which may arise under this MOU.

## **ARTICLE 2 – RECOGNITION**

Pursuant to the provisions of the Fresno County Employee Relations Ordinance, the certification of the Fresno County Civil Service Commission, and appropriate State law, the County hereby recognizes the Association as the exclusive representative of all employees whose classifications have been certified for inclusion by the Fresno County Civil Service Commission in the Unit covered by this MOU, as well as such classifications as may be added to such Unit hereafter by the Civil Service Commission. Classes deleted from this Unit shall continue to receive the salary for that class as specified herein, but shall otherwise thereafter cease to be subject to this MOU.

## **ARTICLE 3 – NON-DISCRIMINATION POLICY**

The parties agree that the provisions of this Agreement shall be applied without favor or discrimination based upon a protected class as described in Equal Employment Opportunity/Non-Discrimination Statement of Federal and State laws.

## **ARTICLE 4 – DUES AND DEDUCTIONS**

The Association may have the regular dues of its bargaining unit members deducted from their paychecks under procedures as follows:

The Association is solely responsible for distributing to, and collecting from, employees the dues deduction authorization forms. It is the employees’ responsibility to submit requests to start or stop dues deductions directly to the Association and not to the County. The Association is responsible for maintaining the dues deductions forms from individual employees. Copies of an individual employee’s dues deduction authorization need not be provided to the County unless a dispute arises about the existence or terms of the authorization. Questions regarding Association membership, dues amounts, and payroll deductions must be directed to the Association and not the County.

The Association will provide to the County an updated, certified dues deduction list of bargaining unit members who have provided written authorization for regular dues deductions. The County will deduct dues for only those employees who are in the bargaining unit in accordance with such certified list. The Association will immediately notify the County of any change to an employee’s dues deduction, including starting and stopping dues deductions, or validly cancelling or revoking a dues deduction authorization, and will provide the County within one business day, an updated, certified dues deduction list noting any

specific changes from the last list provided to the County. The County will implement the changes(s) in the pay period following the County's receipt of such notification. The Association will pay the County's standard administrative fees for payroll deductions. Following the County's deductions of these administrative fees, the County will electronically transmit the balance of funds to the Association no later than thirty (30) days after the deductions occur.

The Association shall indemnify, defend, and hold the County, its officers, agents and employees harmless from and against any and all claims, demands, losses, defense costs, suits, or other action or liability of any kind or nature arising from this section, including claims for or related to employee authorizations, revocations, deductions made, cancelled, or changed in reliance of the Association's representations and certifications regarding employee dues deduction authorizations.

This section of the MOU is not grievable.

#### **ARTICLE 5 – NEW EMPLOYEE ORIENTATION**

The Association representative may provide a 15-minute presentation at each Department of Human Resources-sponsored New Employee Orientation (NEO), at a time specified by the County, where new employees in a classification represented by this unit are in attendance. The Association agrees to give the County copies of the materials to be used in the session, which shall include, but are not limited to, this MOU, a list of shop stewards, including their departments and/or work areas and their contact information. The County will provide the Association with 10 days advance notice of an NEO, when practicable.

It is understood that if the Association steward/officer wishes to make such presentations on behalf of the Association, the steward/officer shall be required to use his/her own annual leave for the presentation if it falls within his/her normal workday. When reviewing such requests for annual leave, the department will adhere to County and departmental policies regarding the use of annual leave.

In accordance with AB119, the County shall provide to the Association, within 30 days of hire date, electronic notification of the name, job title, department, work location, work, home and cell phone numbers, home address, and personal e-mail addresses of any newly hired employee in a classification represented by this unit, if provided by the employee.

This Article is not grievable.

#### **ARTICLE 6 – REPRESENTATION AND NURSE REPRESENTATIVES**

##### **Purpose**

The County recognizes the need and affirms the right of the Association to designate Nurse Representatives from among employees in the Unit. It is agreed that the Association in appointing such Nurse Representatives does so with the purpose of promoting an effective relationship between supervisors and employees by helping to settle problems at the lowest level of supervision.

## Role of Nurse Representative and Supervisor

The Nurse Representative recognizes the fact that the supervisor is the representative in the department and, as such, is responsible to higher management for the quality of the work. As the supervisor is the representative for management, the Nurse Representative and the CNA Labor Representative are the representatives for the Association. They must be willing to meet in good faith to settle grievances as they arise. The Nurse Representative understands that the Nurse Representative function does not relieve them from conforming to all rules of conduct and standard of performance established by law, regulation, County or department policy, or MOU.

## Selection of Nurse Representatives

The Association shall reserve the right to designate the method of selection of the Nurse Representatives. The Association shall select six (6) Nurse Representatives and shall provide, in writing, a list of all Nurse Representatives to the Labor Relations Manager and the appropriate department head(s) whenever there are changes to these Nurse representative or otherwise practicable.

## Duties and Responsibilities of Nurse Representatives

The following functions are understood to constitute the duties and responsibilities of Nurse Representatives:

Upon request of the aggrieved employee, and when the grievance has been reduced to writing as specified in the grievance procedure, a Nurse Representative may investigate the grievance provided it is in the Nurse Representative's area of responsibility, as assigned by the Association, and assist in its presentation. Nurse Representatives shall be allowed a reasonable time for this purpose during their work shift without loss of pay, subject to prior notification and approval by their supervisor. Grievances normally will be handled by one (1) Nurse Representative, but the Association may assign not more than two (2) Nurse Representatives to a group grievance.

After obtaining supervisory permission, Nurse Representatives will be permitted to leave their normal work area during on-duty time in order to assist in presentation of a grievance. To obtain permission to investigate a grievance on on-duty time, the Nurse Representative shall advise the supervisor of the grievance and the investigation of the facts and the general nature of the grievance. The Nurse Representative is permitted to discuss the problem with all employees immediately concerned, and if appropriate, to attempt to achieve settlement with the supervisory personnel involved. Agencies, wards, clients, detainees, and outside interested parties will not be contacted by Nurse Representatives as part of the grievance process. The employee may be represented by a Nurse Representative at such time as a grievance is reduced to writing.

If, in the judgment of the supervisor, because of the necessity of maintaining adequate level of service, permission cannot be granted immediately to the Nurse Representative in order to present or investigate a grievance during on-duty time, such permission shall be granted by the supervisor no later than the next working day from the date the Nurse Representative was denied permission.

## Changes in Nurse Representatives or Number of Nurse Representatives

If a Nurse Representative promotes, demotes, or otherwise leaves the work location, the Association shall have the right to appoint a replacement. Requests for change in the number and/or assignment of Nurse Representatives will be considered during the annual salary negotiation period, except that Nurse Representatives will be increased or decreased based upon the opening or closing of area or branch offices.

All supervisors, division managers and nurse representatives shall be provided training presented by CNA and the County of Fresno regarding the grievance procedure process.

The County of Fresno and CNA will mutually agree on the training information and subsequent date of the training session.

## Limitations on Time Off

Nurse Representatives shall not be permitted time off from their work assignments for the purpose of conducting general Association business.

## **ARTICLE 7 – REPRESENTATIVE ACCESS**

Authorized Association representatives will be granted access to work locations with the approval of the appropriate management representative for the purpose of conducting grievance investigations and observing working conditions.

## **ARTICLE 8 – RELEASE TIME**

The Association may request that a reasonable number of employees, who serve as official representatives of the Association, be released from work, with prior department head approval, without loss of compensation when meeting and conferring with the County where matters within the scope of representation are being considered.

The Association shall submit a written request for release time to the department head, or designee, at least forty-eight (48) hours in advance of the meeting. The use of County time for this purpose shall not be excessive, nor shall it interfere with the performance of County services as determined by the department head.

## **ARTICLE 9 – NEGOTIATING COMMITTEE**

A maximum of five (5) unit members may serve on the Association Negotiating Committee. The Association may designate alternates to the Negotiating Committee as needed. Release time will be required from the member's supervisor before each bargaining session with the County. County ordinance requires these requests be in writing. Attendance will be on County time only if the bargaining session takes place during the employee's normal on-duty hours. At all other times, employees are on their own time.

## **ARTICLE 10 – SALARIES**

<b><u>Classification</u></b>	<b><u>Current Bi-weekly Salary Range</u></b>
Mental Health Nurse I	2570
Mental Health Nurse II	2939
Nurse Practitioner	3715
Psychiatric Mental Health Nurse Practitioner	4126
Public Health Nurse I	2749
Public Health Nurse II	3162
Staff Nurse I (Flat)	2331
Staff Nurse II	2537
Staff Nurse III	2939

## **ARTICLE 11 – BULLETIN BOARDS**

The County shall provide space for and permit the installation of the Association bulletin boards (or provide reasonable space on County bulletin boards) for official Association notices at each central work location. Such bulletin boards shall be maintained in accordance with provisions of the County Employee Relations Ordinance.

No such bulletin boards shall be located in areas frequented by the public doing business with the County as determined by the County.

## **ARTICLE 12 – MEETING SPACE**

The County, at the Association's request, shall reasonably make available conference rooms and other meeting areas for the purpose of holding Association meetings during off-duty time periods provided space can be made available without interfering with County needs. The Association shall provide timely advance notice (48 hours) of such meetings. The Association also agrees to pay any additional cost of security, supervision, damage, and cleanup and shall comply with County regulations for assignment and use of such facilities.

## **ARTICLE 13 – EMPLOYEE GRIEVANCE PROCEDURE**

The agreed upon Employee Grievance Procedure and Form shall be available on the Human Resources website, through the individual departments and the Union.

Before filing a grievance, be certain to read this entire procedure, including the rules and definitions.



## Purpose:

It is a mutual obligation on the part of administrative, supervisory, and non-supervisory employees of the County of Fresno to provide efficient and continuous services to the public. Employee morale is an important factor in maintaining a high level of public service and the administration has a responsibility to provide an orderly and expeditious method for resolving problems which may arise from working relationships and conditions. This procedure is intended to provide an orderly method for processing grievances in the interest of obtaining a fair and equitable solution.

## General

The parties so involved must act in good faith and strive for objectivity, while endeavoring to reach a solution at the earliest date and at the lowest step in the process. The processing of a grievance shall be considered as County business, and the employee and his/her representative shall have reasonable time and facilities allocated. The use of County time shall not be excessive, nor shall this privilege be abused. The aggrieved employee(s) shall have the assurance that the filing of a grievance will not result in reprisal of any nature. A Grievance shall be signed by the affected employee, and a Group Grievance shall be signed by a minimum of two (2) employees affected by the grievance.

Time lines are designed to quickly resolve a grievance. It is realized, however, that on occasions the parties concerned may be unable to comply with the established time lines. In such instances, the time lines may be extended upon the mutual agreement of all parties concerned. Absent such an agreement, grievances filed beyond the fourteen (14) business day time limit, as outlined in Step 1 – Informal Resolution, or beyond the (7) business day time limit, as outlined in Step 2, will not be processed and will be returned to the employee. However, the employee or his/her representative may withdraw the grievance at any time.

### **STEP 1: INFORMAL RESOLUTION**

When an employee becomes aware that a problem exists, the employee shall discuss the matter informally with the lowest ranking immediate supervisor whose job classification is not included in the same certified representation unit. This discussion shall be sought by the employee not later than fourteen (14) business days after the alleged problem occurred or was discovered. The provisions outlined in Steps 2 and 3 do not act to restrict the employee or the immediate supervisor from seeking advice and counsel when it appears that settlement can be reached informally. The immediate supervisor will respond in writing to the employee within fourteen (14) business days of their discussion with the employee.

### **STEP 2: DEPARTMENT REVIEW**

If a mutually acceptable solution has not been reached during Step 1, and the employee wishes to pursue the grievance formally, the employee shall submit it in writing on the Employee Grievance Resolution Form to the Department Head, or designee, with a copy to the Labor Relations Division no later than the end of the seventh (7th) business day after the supervisor's written response. The Department Head, or designee, will give notice and hear the grievance, which may include a meeting with the employee, and render a written decision

within fourteen (14) business days of receipt of the formal grievance from the employee. The written decision shall include a clear and concise statement including the reason(s) for the decision.

The intent of Step 2 is to identify why the employee filed a grievance and facilitate communication and resolution. The goal is to clearly identify issues and areas of agreement/disagreement and to have the parties present whatever available information/documentation necessary to fully attempt to resolve the grievance. Therefore, further clarification of the problem may be necessary and a clear and concise statement of the issue shall be developed.

The process that may be followed at Step 2 is dependent on the nature of the grievance and may include, but is not limited to, the following: referring the grievance to Step 3 if the grievance is outside of department head's authority, as determined by the department in consultation with Labor Relations Division; setting up a conference/meeting with involved parties to discuss the grievance, including Labor Relations staff if necessary; referral of the employee or their representative to another department manager/supervisor.

### **STEP 3: LABOR RELATIONS REVIEW**

Grievances unresolved at Step 2, or grievances involving matters outside the department head's authority, or grievances involving employees working in separate departments may be submitted to the Labor Relations Division for resolution. If the grievance has been reviewed at Step 2, the Labor Relations Division will attempt to mediate the grievance. If it has been referred directly to the Labor Relations Division, without having gone through Step 2, the Labor Relations Division will review the grievance, render a written response to the grievance, and will send the response to the employee or their representative (as indicated on the grievance form). A request for Labor Relations Review must be received by Labor Relations Division within seven (7) business days of the completion of Step 2 – Department Review, or within seven (7) business days of the completion of Step 1 – Informal Resolution for grievances involving matters outside the department head's authority, or involving employees working in separate departments.

In the latter instance, the intent, consistent with Step 2, is to identify issues and areas of agreement/disagreement and to have the parties present whatever available information/documentation necessary to fully attempt to resolve the grievance. Therefore, further clarification of the problem may be necessary and a clear statement of the issue shall be developed.

All processing of the grievance at Step 3 shall be completed within fourteen (14) business days of receipt of the request for Labor Relations Review, unless mutually waived.

### **STEP 4: MEDIATION**

Grievances unresolved at Step 3 may be submitted to Mediation upon written request by the employee, or their representative, to the Labor Relations Division within seven (7) business days of the completion of Step 3 - Labor Relations Review. Should mediation be requested, the parties shall obtain the services of a mediator from the State Mediation and Conciliation

Service in an effort to mediate a grievance resolution before Step 5 - Arbitration can be pursued. The parties shall not divulge in any form the offers made in mediation.

### **STEP 5: ARBITRATION**

Grievances unresolved at Step 4 may be submitted to arbitration. If a grievance is not resolved through mediation, the employee, or their representative, shall contact State Mediation and Conciliation Services within seven (7) business days following mediation, to obtain a list of persons willing to serve as Arbitrator, with a copy to the Labor Relations Division. The cost of the Arbitrator shall be borne equally between the employee, or their representative, and the County.

A pre-hearing conference with the Arbitrator and the parties shall be set on the day of the hearing immediately preceding the hearing. The purpose of the conference is to identify issues to be resolved and remedy(ies); jurisdiction, or grievability; stipulate to uncontested facts and documents; to identify whether or not the potential decision can be implemented or is appealable; to review the process and conduct of the hearing; and to identify any potential problems. The Arbitrator shall state in writing their factual findings and reasons for their decision within thirty (30) business days of the hearing, if possible.

### **IMPLEMENTATION**

If the remedy requested by the employee can be implemented by the Department Head the decision of the Arbitrator is final and subject to judicial review as set forth below. If the remedy requested by the employee cannot be implemented by the Department Head but requires actions by the Board of Supervisors', the Arbitrator shall issue a recommendation to the Board of Supervisors. The recommendation will be submitted for consideration by the Board of Supervisors at their next regularly scheduled public meeting. The action of the Board of Supervisors shall be final and binding.

### **JUDICIAL REVIEW**

Final decisions of the Arbitrator may be submitted to the Superior Court for judicial review by either the County or the employee. A party desiring to reserve the right to appeal the Arbitrator's decision in a court of law pursuant to these rules has the burden of preserving the record of the hearing. A party who plans to use a court reporter shall inform the other party within three (3) business days of the hearing to avoid duplication of costs. Appeal from decisions by the Arbitrator shall be on the record of the Arbitrator's hearing by administrative mandamus under California Code of Civil Procedure Section 1094.5, which appeal shall be filed within ninety (90) calendar days after the decision.

#### **Explanation of Rules:**

1. Except where a remedy is otherwise provided for by County Charter, Civil Service Commission rules, or law, any employee shall have the right to present a grievance arising from his employment in accordance with the rules and regulations of this procedure. Grievances filed that are pursuant to another administrative remedy, e.g. discrimination complaint procedure, shall be returned unprocessed with an explanation for the decision.

2. The aggrieved employee shall have the right to be represented or accompanied by a person of the employee's choice if the complaint is not resolved at the informal level as provided for in Step 1 of the grievance procedure. This representation may commence when the grievance is presented in writing to the Department Head, or designee, as provided in Step 2 of the grievance procedure.
3. Failure by the aggrieved employee to abide by the prescribed time limits at any phase shall terminate the grievance process and the matter shall be deemed resolved. The County shall abide by the prescribed time limits; failure to do so will result in the grievance being automatically moved to the next phase of the grievance procedure, unless the next step in Arbitration.
4. When two or more employees experience a common grievance, they may initiate a single grievance. The aggrieved employees must sign the grievance form. The initial hearing of the grievance shall be by the Department Head or designee. If the employees work in separate departments, the grievance shall be referred immediately for a Labor Relations Review.

### Definitions

Arbitrator – An individual selected by the employee, or their representative, and the Labor Relations Division from a panel of five (5) candidates submitted by the State Mediation and Conciliation Services. The cost of the Arbitrator shall be borne equally by the employee, or their representative, and the County.

Chain of Command – This is the normal chain of supervision in a department for addressing/resolving operational concerns/problems. This normally would begin with the first-line supervisor through the Department Head/Administration.

Day/Business Day - A regular County workday (i.e. Monday-Friday). The time period for grievance purposes begins on the first day following the day the grievance is filed or submitted to the next step.

When the time period for a given step in the grievance procedure ends on either a weekend or a holiday, it shall be automatically extended to the next regular County workday.

Department Head - The administrative head or acting head of the department involved, or a designated representative.

Employee - An individual occupying a position permanently allocated by the Board of Supervisors as a part of the regular staffing of the department.

Grievance - A grievance is a complaint relating to any phase of an employee's employment or working conditions which the employee believes has been adversely affected because of:

A misapplication of a Memorandum of Understanding, Ordinance or Resolution of the Board of Supervisors, or of the written policies, administrative orders, or a clearly established lawful past practice of a department, relating to the employment of the individual; provided, however, that such complaint shall not include an action subject to

the jurisdiction of the Civil Service Commission or any other matters which are otherwise reviewable pursuant to another administrative remedy.

**NOTE:** If a grievance is alleged relating to a past practice as specified above, the grievant must first establish that practice has existed, and if sustained, any decision relating to the grievance shall only apply to the specific grievance and shall not be considered as a precedent.

Group Grievance – A common grievance involving two (2) or more employees.

Immediate Supervisor - The individual who assigns, reviews, or directs the work of an employee, and who is not in a job classification in the same certified representation unit as the grievant.

Parties – Reference to parties in this procedure include the employee or their representative (as indicated on the Grievance Form), department management, and Labor Relations staff, depending on the context of the particular reference.

Representative - The person identified by the employee on the Grievance Form to appear along with the employee in the presentation of a grievance.

## **ARTICLE 14 – DISCIPLINARY ARBITRATION**

### **REQUEST FOR ARBITRATION**

If the Department Head agrees to arbitration he/she shall indicate so on the Order of Disciplinary Action and the Order shall advise the employee of his/her right to either:

- 1) Appeal the action to the Fresno County Civil Service Commission within fifteen (15) working days of service of the Order by a signed statement asking for a hearing; **or**
- 2) Submit to the Director of Human Resources a request in writing within fifteen (15) working days of service of the Order, that the matter be submitted to arbitration. A copy of the Order will be filed with the Association by the acting department.

Under no circumstance can the employee submit an appeal of the disciplinary action to both the Fresno County Civil Service Commission and to arbitration.

If the employee requests to submit the matter to arbitration (rather than to the Fresno County Civil Service Commission), the provisions of this Article supersede Sections 10120 through 10190 of Fresno County Personnel Rule 10 – Disciplinary Actions.

Failure by the employee to file an appeal within the above-referenced time frames will result in the employee waiving his/her right to appeal the Order and the action of the department becoming final.

## WRITTEN RESPONSE TO THE ORDER OF DISCIPLINARY ACTION

Twenty (20) working days prior to the scheduled arbitration hearing, the employee will submit a written response to the Order of Disciplinary Action, which includes his/her reasons for disagreeing with the Order.

## SELECTION OF ARBITRATOR

The County and the Association agree to utilize a panel of five (5) mutually agreed upon arbitrators. Arbitrators will be issued a number of one (1) through five (5) and will be scheduled to hear arbitrations in that order (e.g.) arbitrator #1 will hear the first requested appeal, arbitrator #2 will hear the second requested appeal, etc. Once the sixth requested appeal is received the cycle will start over (e.g.) arbitrator #1 will hear the sixth requested appeal, arbitrator #2 will hear the seventh requested appeal, and so on.

The Director of Human Resources or his/her designee and/or the Association will contact the agreed upon arbitrator to schedule a mutually agreed upon hearing date as soon as possible.

## ARBITRATION COSTS

The arbitrator shall be compensated up to a rate of Fifteen Hundred Dollars (\$1,500). The cost of the arbitrator shall be paid by the County. Costs of the court reporter, if any, shall be paid by the County.

## SCOPE OF ARBITRATOR'S AUTHORITY

The arbitrator shall have no power to alter, amend, add to or subtract from the provisions of this Article, any other terms of this Agreement or to Fresno County Personnel Rule 10 – Disciplinary Actions.

If the arbitrator finds that none of the charges contained in the Order of Disciplinary Action are true, then he/she shall set aside the action taken by the appointing authority. If the arbitrator finds that one or all of the charges are true, then he/she shall make a decision confirming or modifying the action of the appointing authority provided, however, that his/her authority to modify the appointing authority's action is limited to those disciplinary actions described in Section 10030 – Types of Disciplinary, of Fresno County Personnel Rule 10 – Disciplinary Actions. The arbitrator shall have no authority to increase the discipline imposed by the appointing authority.

Nothing shall preclude the arbitrator from ordering the reinstatement of an employee with or without back pay.

The decision of the arbitrator shall be final and binding.

## PROCEEDINGS

The arbitrator, attorney or other representative of a party may issue subpoenas. A pre-hearing conference with the arbitrator and the parties shall be set on the day of the hearing immediately preceding the hearing. The purpose of the conference is to stipulate to

uncontested facts and documents; to review the process and conduct of the hearing; and to identify any potential problems.

Except as provided in Fresno County Ordinance 3.12.070, the parties have the right to be represented by the person of their choice.

The parties shall have the right to: call and examine witnesses; introduce exhibits; cross-examine opposing witnesses; impeach any witness; and to rebut the evidence against them.

Oral evidence shall only be taken on oath or affirmation.

### REPORT OF HEARING

The arbitrator shall render his/her report to the parties in writing, including reasons for the decision, within thirty (30) calendar days of the completion of the hearing. Failure to comply with this provision shall result in the automatic waiver of the arbitration fee.

### REMOVAL OF ARBITRATOR FROM PANEL

An arbitrator may be removed from the panel upon mutual agreement between the County of Fresno and the California Nurses Association. If an arbitrator is removed from the panel, a replacement will be added to the panel upon mutual agreement of the parties.

## **ARTICLE 15 – HEALTH AND SAFETY**

It is management's responsibility to provide and maintain a safe and healthy work environment. The Association will cooperate by encouraging all employees to perform their work in a safe manner and adhere to all applicable policies and procedures. It is the duty of all employees in the course of performing their regular assignments to be alert to unsafe and/or unhealthy practices, equipment, and conditions and to report any such issues to their immediate supervisor and appropriately complete the employee hazard report. The employee shall receive a written response as to what action(s) were taken by the Department of Public Health to eradicate or improve the reported hazard.

## **ARTICLE 16 – PERMANENT PART-TIME EMPLOYEE BENEFITS**

Except as otherwise specified herein, incumbents of part-time permanently allocated positions shall continue to receive all currently pro-rated benefits provided by the County. In addition, the County shall pay one-half (½) of the health insurance benefit contribution for each such part-time employee who regularly works fifty percent (50%) or more of the hours required of full-time employees. The County shall continue to pay the full health insurance contribution for employees who regularly work eighty percent (80%) or more of the hours required of full-time employees.

Health insurance coverage shall be optional for part-time employees who regularly work fifty percent (50%) or more of the hours required of full-time employees. When such employee options for health insurance coverage, such employee shall be required to pay the current employee premium contribution rate less one-half (½) of the County contribution for full-time

employees. Eligible part-time employees may also enroll dependents on the same basis as full-time employees.

Part-time employees who regularly work less than fifty percent (50%) of the hours required of full-time employees shall not be eligible for health insurance coverage.

Employees occupying permanently allocated positions who work eighty percent (80%) or more of a full-time position shall be credited with eight (8) hours of holiday pay; the above employees who work less than eighty percent (80%) of a full-time position shall be credited with four (4) hours of holiday pay.

### **ARTICLE 17 – MEDICAL CARE AND PRE-DESIGNATION**

Workers' compensation benefits shall be provided through the County's Workers' Compensation Program. If an Association member has notified Risk Management in writing (i.e. via the appropriate pre-designation form) prior to the date of injury/illness that the Association member has a personal physician (i.e. primary care provider) willing to treat work-related injury/illness, the Association member shall have the right to be treated by such physician from the date of work-related injury/illness. Otherwise, the County reserves the right to provide a list of physicians within the County's Medical Provider Network from which the Association member may select a treating physician for his/her work-related injury/illness.

Annual influenza vaccinations will be provided to Association members at no cost. Advance notification will be provided to Association members regarding the location and time influenza vaccinations will be available.

### **ARTICLE 18 – ANNUAL LEAVE**

All employees covered by this MOU hired on or before October 9, 1983, will participate in the Annual Leave II Plan (formerly known as New Annual Leave Plan) as governed by the Fresno County Salary Resolution, Section 600.

All employees hired on or after October 10, 1983, will participate in the Annual Leave IV Plan as governed by the Fresno County Salary Resolution, Section 600.

### **ARTICLE 19 – BEREAVEMENT LEAVE**

Each employee occupying a permanent position shall be eligible for paid Bereavement Leave up to a maximum of twenty-four (24) hours (to begin no later than 15 working days after notification and, if non consecutive, to conclude no later than 30 calendar days from notification) per bereavement for the death of a qualifying relative. A qualifying relative shall be defined as the employee's: legally recognized spouse, mother, father, brother, sister, child (including California Health and Safety Code, Section 102950), grandmother, grandfather, or grandchild. Also qualifying shall be an employee's corresponding relative through their legally recognized spouse: spouse's mother, spouse's father, spouse's brother, spouse's sister, spouse's child (including California Health and Safety Code, Section 102950), spouse's grandmother, spouse's grandfather, or spouse's grandchild.



Employees granted Bereavement Leave shall only be paid for any work hours regularly scheduled, but not worked.

Employees may request use of annual leave when the employee desires time off in excess of twenty-four (24) hours for bereavement-related purposes.

In determining the number of hours to be permitted for a bereavement, the department head will, in addition to other factors, consider potential interruption of service.

Employees taking Bereavement Leave shall submit a statement under penalty of perjury on a form provided by the County stating the name of the deceased, place of death, relationship to the employee and circumstance showing that the time taken as Bereavement Leave was reasonably necessary in order for the employee to attend to any necessary family obligations.

### **ARTICLE 20 – HEALTH INSURANCE**

1. Effective December 16, 2019, the County will contribute, on behalf of each full-time (.8 or higher FTE) employee the following amount per pay period based on the employee’s plan selection:

<u>Plan Selection</u>	<u>Amount</u>	<u>Add'l Amount</u>	<u>Total Contribution</u>
Employee Only	\$343	N/A	\$343
Employee plus Child(ren)	\$343	\$110	\$453
Employee plus Spouse	\$343	\$110	\$453
Employee plus Family	\$343	\$115	\$458

Effective December 14, 2020, the County will contribute up to, on behalf of each full-time (.8 or higher FTE) up to the following amounts per pay period based on the employee’s plan selection:

<u>Plan Selection</u>	<u>Amount</u>	<u>Add'l Amount</u>	<u>Total Contribution</u>
Employee Only	\$368	N/A	\$368
Employee plus Child(ren)	\$368	\$110	\$478
Employee plus Spouse	\$368	\$110	\$478
Employee plus Family	\$368	\$115	\$483

2. A minimum of one (1) health benefit plan, one (1) dental benefit plan, one (1) vision benefit plan, and one (1) pharmacy benefit plan will be available to employees and their dependents. If, during the term of this agreement, any of the health benefit plan(s), dental benefit plan(s), vision benefit plan, mental health plan, or the pharmacy benefit plan is unable to fulfill its contractual obligation, the County, upon consultation with the Health Benefits Advisory Committee (HBAC), if necessary, will secure a suitable replacement.
3. Any employee participating in the County’s Health Benefit Program must enroll in one of the Health Insurance Plan(s), unless an employee chooses to opt out of the County’s Health Benefit Program.

4. Unless otherwise court ordered, eligible employees may choose to opt out of the County's Health Benefit Program (including any related life insurance program) by completing the Opt Out Form and by providing written proof that they have medical coverage from another group health insurance plan. In addition, the employee must verify that a discontinuance of the County's Health Benefit Program does not constitute a violation of any court order or legal obligation. Eligible employees may only opt out during the designated open enrollment period for each respective Health Benefit Plan Year as defined by Human Resources or via a qualifying event (must be turned in within 30 days of the effective date of other group health insurance). Group health insurance plan is defined as employer-sponsored medical coverage.

In the event an employee, who has opted out of the County's Health Benefit Program, subsequently loses his/her alternate medical coverage due to a qualifying event as defined by the Consolidated Omnibus Budget Reconciliation Act (COBRA), the employee may re-enroll in the County's Health Benefit Program. It shall be the responsibility of the employee to notify Employee Benefits within 30 days of the qualifying event.

Any employee who opted out of the County's Health Benefit Program for any Plan Year and desires to maintain their opt out status for subsequent Health Plan Years, must submit a new Opt Out Form during the open enrollment period for each respective Health Plan Year as defined by Human Resources. If an Opt Out Form for Health Plan Year is not received in the Employee Benefits Division within the respective open enrollment period for each Plan Year as defined by Human Resources, said employee shall be enrolled in the Anthem Blue Cross EPO Health Plan and DHMO Dental Plan. Additionally, any employee who has opted out of the County's Health Benefit Program may re-enroll in the Program during the annual Open Enrollment period.

5. Any newly hired employee eligible to participate in the County's Health Benefit Program must enroll in one of the Health Insurance Plan(s), unless the newly hired employee chooses to opt out (as delineated in No. 4 above) of the County's Health Benefit Program no later than 30 days after date of hire. Any newly hired employee who does not select one of the Health Insurance Plan(s) and does not opt out of the County's Health Benefit Program by the stated deadline, shall be enrolled in the Anthem Blue Cross EPO Health Plan and DHMO Dental Plan.
6. Effective December 17, 2018, any employee who opts out of the County's Health Benefit Program for any Plan Year and does not submit a new Opt Out Form during the open enrollment period (as outlined in No. 4 above), shall be enrolled in the lowest cost Health and Dental Plan. Additionally, any newly hired employee who does not select one of the Health Insurance Plan(s) and does not submit an Opt Out Form (as outlined in No. 5 above), shall be enrolled in the lowest cost Health and Dental Plan.
7. If during the term of this agreement the State or Federal government legislates mandatory benefit levels in excess of those covered by agreement between the County and health/dental plan(s) which result in increased premiums, either the County or the employee organization may request the other party to meet and confer regarding the terms and conditions set forth herein.

8. Pursuant to the HBAC agreement, the parties agree to continue to meet and discuss the County's health benefit program before the commencement of each Plan Year.

## **ARTICLE 21 – LEAVES OF ABSENCE**

Upon return from an authorized leave of absence, the nurse shall be employed in the same classification, and if there is an opening, appointed to the same shift and unit. When no shift and/or unit vacancy exists, the nurse shall receive priority consideration for unit and shift assignment when a vacancy occurs.

## **ARTICLE 22 – EDUCATION LEAVE/ORIENTATION**

When attendance at any education program is at the department's request, the Registered Nurse in attendance shall receive, in addition to reimbursement of expenses incurred in attending such programs, the regular rate of pay for those hours spent attending the class, in addition to payment for hours worked.

Registered Nurses shall be granted thirty-two (32) hours of leave with pay per two-calendar years with advance approval to participate in courses, institutes, workshops, seminars, or other classes of an educational nature related to continuing education requirements or the specific assigned working area. Additionally, education leave may not be used in addition to the full worked pay period. Mandatory training scheduled by the department shall not be counted as part of the thirty-two (32) hours per two-calendar years. Hours taken as educational leave by nurses shall be counted as such on the time cards. Continuing education certificate or other proof of completion is required. The employee shall give one (1) month's notice of the educational program. Approval or denial will be made by management within seven (7) calendar days of the request.

Registered Nurses who request CEL on their regularly scheduled work day shall be granted leave hours equal to the number of CE hours required for the program. CEL, AL, Dock, or accrued Comp Time may be used at the employee's discretion to supplement up to the employee's usual number of work hours for that day. Nurses shall not be charged a fee for classes offered by the County except when a nurse voluntarily chooses to attend a class involving extraordinary cost relative to use of outside consultants, equipment, books, etc.

When a travel request is submitted, it shall be accompanied with a completed Justification for Attending Workshop/Seminar form. These forms must be submitted at least fifteen (15) days prior to the departure date.

Within two (2) weeks after the nurse's return from the workshop/seminar, the nurse must complete a Summary of Workshop/Seminar Experience form and return it to the department.

Each nurse when hired will be presented with a general orientation schedule which will be determined by the respective departmental management. In addition, the nurse shall receive an orientation schedule peculiar to his/her particular area. Orientation and continuing education programs will be in compliance with JCAH and Title XXII licensing standards. In the Departments of Public Health and Behavioral Health this will be developed by the supervisor. Each orientation program will be completed within a prescribed period of time as set forth in the respective schedule. Except in an emergency, during the orientation the

nurse being oriented shall not be included in the staffing pattern until the nurse's orientation is completed. Management shall make effort to insure that the orientee shall not be counted in the staffing pattern.

The County will establish and maintain on-going, in-service training for members of this Unit, including an orientation program for newly hired nurses.

The Departments of Public Health and Behavioral Health will make available to the members of this Unit continuing education programs which will be in compliance with regulations of the State of California, Department of Consumer Affairs, Board of Registered Nursing.

### **ARTICLE 23 – HOLIDAYS**

The dates listed below which fall within the normal workweek of Monday through Friday shall be considered paid holidays and shall be observed subject to provisions contained in the Salary Resolution.

1. January 1 (New Year's Day)
2. Third Monday in January (Martin Luther King Jr.'s Birthday)
3. Third Monday in February (Washington-Lincoln Day)
4. March 31 (Cesar Chavez' Birthday)
5. Last Monday in May (Memorial Day)
6. July 4 (Independence Day)
7. First Monday in September (Labor Day)
8. November 11 (Veteran's Day)
9. Fourth Thursday in November (Thanksgiving Day)
10. Day following Thanksgiving
11. December 25 (Christmas)
12. Every Monday following a Sunday, which falls on January 1, March 31, July 4, November 11, or December 25
13. Every Friday when such Friday immediately precedes January 1, March 31, July 4, November 11, or December 25

#### **Holiday Pay Eligibility**

Employees are eligible for holiday pay only if they are at work or on an approved paid leave on their last assigned shift immediately before or after the holiday. Employees claiming annual leave for illness purposes or sick leave on their last assigned shift immediately before or after a County holiday as set forth in Section 900 of the Fresno County Salary Resolution may be required to provide a statement from a California licensed physician setting forth the specifics which necessitated the employee's absence for illness or injury purposes in order to be eligible for holiday pay.

#### **Holiday Credit**

If eligible, full-time employees shall receive eight (8) hours of holiday pay at their base hourly rate of pay for the holiday itself. If the employee works the holiday, the employee may elect to accrue the aforementioned eight (8) hours, in lieu of cash compensation. The combined

balances of Holiday (maximum 24 hours) and Compensatory Time Off shall not exceed sixty (60) hours.

#### Compensation for Time Worked on a Holiday

When employees in permanent positions in classifications eligible for overtime are required to work on a holiday as defined herein, the time so worked shall be compensated at the rate of one and one-half (1½) times the employee's regular rate of pay for the first eight (8) hours worked. Therefore, holiday compensation can be received in cash or compensatory time off. Employees may accrue up to eight (8) hours of the above holiday compensation as holiday credit per holiday. The maximum accrual of holiday credit is included in the 60-hour Compensatory Time Off cap as specified in the Overtime Article of this MOU.

Overtime hours worked on a holiday as defined in the Overtime Article of this MOU shall be paid at the overtime rate of one and one-half (1½) times the employee's regular hourly rate of pay as set forth in the Overtime Article of this MOU. The employee may elect to accrue Compensatory Time off for these hours in accordance with the Compensatory Time Off and Overtime Articles of this MOU, subject to the combined balances of Holiday and Compensatory Time Off.

Except as herein provided to the contrary, an employee shall be credited with up to eight (8) hours of holiday time for a holiday on his/her regular day off.

#### Holiday Time Off Balances

Holiday Time Off balances (maximum 24 hours) when combined with the CTO balances shall not exceed sixty (60) hours. Employees may request to be paid in cash at any time for accrued hours. Use of holiday time off shall be at a time mutually agreed upon by the employee and department head or his/her representative.

Employees shall not be allowed to accrue any additional hours until their holiday accrual falls below 24 hours, and their combined hours fall below the maximum sixty (60) hours. Any hours exceeding the sixty (60) hour combined maximum shall be paid in cash by the department on the next available pay period. Holiday time off hours may be paid off annually in cash at a time selected by the Department head at his/her discretion.

Additionally, prior to any promotion or departmental transfer, employees must either cash out or use all accrued CTO and Holiday Time Off balances.

#### Equitable Rotation of Holidays:

All holidays mentioned under this article shall be equitably rotated among all members of the bargaining unit, to ensure that the same employee shall not receive the same holiday off in two consecutive years without mutual agreement between management and all affected employees. For example, if a Registered Nurse is off for Christmas she/he shall not be off for Christmas the following year unless all other Registered Nurses who did not have Christmas off the year before decline to take it off the following year. This shall not prohibit Registered Nurses from trading holidays among themselves once holiday bidding and assignment has taken place.

## **ARTICLE 24 – REPRESENTATION IN COURT**

Subject to all appropriate provisions of California Government Code Sections, the County will, upon request of an employee or former employee and approval by the Board of Supervisors, defend against claim or action for an injury arising out of an act or omission (i.e. not as a result of negligence and/or unlawful behavior) occurring within the scope of employment as an employee of the County and will pay any judgment based thereon or any compromise or settlement of the claim or action to which the County has agreed.

## **ARTICLE 25 – SCHEDULING**

Each work schedule shall cover a period of two (2) weeks. The schedule covering the current date and the schedule immediately following it shall be posted on each Nursing unit at all times.

Every attempt shall be made in scheduling to maximize the frequency of Saturday/Sunday weekends off.

Where schedules, approved by management, are developed for any or all work locations and presented by the Association, employees of this Unit shall be scheduled for every other Saturday and Sunday off. These schedules must provide for the staffing level required by management in each nursing post involved without incurring additional staffing costs through overtime, additional personnel, call-backs, etc.

Each work schedule shall clearly set forth assigned working times for all employees. Schedules shall include:

- a. A minimum of one (1) Saturday/Sunday weekend off every other week shall be provided.
- b. Any agreed-upon flexible or “non-standard” working hours.
- c. Split shifts shall not be scheduled unless mutually agreed upon.
- d. Existing modified permanent work week schedules shall not be changed without advance notice to the Association and the opportunity to meet and confer on any proposed change.

Every effort shall be made to adhere to posted work schedules.

Except in instances of voluntary change for the convenience of the nurse, or cases of emergency, as determined solely by management, changes in scheduled calendar work days and/or scheduled calendar days off shall require a minimum of seven (7) full calendar days advance notice. If the full advance notice required herein cannot be given, each nurse rescheduled to work any day with less than seven (7) full calendar days notice, shall be compensated at time and one-half the regular hourly rate for all hours worked on such days.

Every effort shall be made to adhere to posted Annual Leave schedules.

Vacations of forty (40) consecutive work hours or longer which have been scheduled and agreed to by management more than six (6) weeks in advance of the vacation beginning date

shall not be cancelled or modified by management unless a minimum of six (6) weeks advance written notice is provided to the nurse by management.

The only exceptions to this provision shall be in the case of an emergency as determined solely by management; or of a reassignment from one area of service to another area of service which has been initiated by the nurse.

Employees of the County may propose alternative work schedules to their immediate supervisor or to management staff. These alternative schedules shall show how employee needs and client services can be maintained. Implementation of employee proposed alternative work schedules shall be after a sideletter agreement is reached between CNA and the Labor Relations Division.

## **ARTICLE 26 – PROFESSIONAL PRACTICE COMMITTEE**

### **Purpose:**

The parties agree to the formation of an advisory “Professional Practice Committee”. The purpose of this employee committee is to:

- a. Work constructively for the improvement of patient care and nursing practices.
- b. Recommend to management ways and means to improve patient care.
- c. Recommend changes in working conditions, which will improve nurse safety and health.
- d. Discuss and, where appropriate, recommend changes in standardized procedures.
- e. To make recommendations to the County, where in the opinion of the Committee, a critical Nurse staffing shortage exists.
- f. To consider constructively the improvement of safety and health conditions which may be hazardous.
- g. To review and make recommendations to the department head regarding job-sharing arrangements.

Nothing herein describing the role of the Professional Practice Committee (PPC) shall be construed as limiting managers to make the final decision regarding these matters.

### **Committee Composition/Meetings:**

The PPC shall be composed as follows:

The PPC shall be composed of a cross section of up to eight (8) Registered Nurses employed within the County. The Committee members shall be elected by the Registered Nurse staff covered by this MOU and the results shall be communicated in writing to the department head/designee. Within ten (10) working days, at the request of the County, the

parties shall meet and discuss the composition of the committee to ensure an appropriate cross section of Registered Nurses are represented.

PPC members must obtain his/her supervisor's approval to attend scheduled meetings. Denial of attendance shall not be done arbitrarily/capriciously. The PPC shall schedule six (6) meetings per calendar year, and may elect up to two (2) additional meetings per calendar year. The PPC shall prepare an agenda, which shall be provided to the department head/designee for informational purposes two (2) weeks in advance of a scheduled meeting. Additionally, the PPC shall keep minutes of all meetings, a copy of which shall be provided to the department head/designee no later than two (2) weeks after a meeting.

Upon mutual agreement between management and the PPC, additional meetings may be scheduled.

Meetings, or portions thereof, that occur during the members, or invitees, scheduled working hours will be considered as time worked.

#### PPC Recommendations:

Once approved by the PPC, recommendations shall be forwarded to the appropriate department head/designee.

The department head/designee will respond in writing within 30 calendar days. Should the recommendation(s) be denied, reasons for this denial will be provided.

#### Limitations

The role of the PPC is advisory. Subjects for discussion are restricted to those specified in this Article and shall not include matters subject to the grievance process.

#### Nursing Information

Requests for daily staffing records as well as non-confidential information pertaining to the mission of the PPC will be provided, upon request, in a timely manner not to exceed ten (10) days from the date of the request, unless mutually agreed.

### **ARTICLE 27 – OVERTIME**

#### Compensation

All employees covered by this MOU shall receive compensation in cash at the rate of one and one-half (1½) the employee's hourly rate of pay for overtime worked.

In determining whether or not overtime hours have been worked, only productive time (actual time worked) shall be utilized. Overtime is authorized work performed by employees in excess of eight (8) hours per day or over forty (40) in a workweek.



Overtime shall also include all authorized consecutive hours worked over eight (8) hours in a day and which extend into a new day. This provision shall include hours worked before or at the end of a normal work schedule. However, overtime paid in this setting shall not be included in any overtime/double-time overtime computation for regularly assigned work hours on the new day.

Overtime may be paid in cash or accrued as Compensatory Time Off (CTO) as outlined in the following Compensatory Time Off article contained in this MOU.

#### Eighth Consecutive Day

Should employees of this Unit be scheduled by management to work more than seven (7) consecutive work days, commencing on the eighth (8<sup>th</sup>) day, the employee will be compensated at two (2) times his/her regular hourly rate for each hour worked over eight (8) hours until such time as two (2) consecutive days off are received. This payment shall only apply when the employee has been scheduled by management and ordered to work more than seven (7) consecutive work days and does not apply when the work is as a result of the employee volunteering. To clarify which employees are volunteers, each current employee shall be provided a form upon which to waive eighth (8<sup>th</sup>) day overtime eligibility. Employees may either complete the form, thereby indicating waiver or discard it. Employees who return the form shall not be entitled to double time pay for the eighth (8<sup>th</sup>) consecutive day worked nor days thereafter. Employees may rescind such waiver in writing prior to their scheduled shift.

### **ARTICLE 28 – COMPENSATORY TIME OFF**

Employees covered by this MOU may accrue compensatory time off (CTO) up to a combined maximum of sixty (60) hours (24 of which may be holiday accrual). Employees may request to be paid in cash at any time for accrued hours. Anything over the maximum combined sixty (60) hour balance will be paid in cash by the department on the next available pay period.

Use of CTO shall be at a time mutually agreed upon by the department head or his/her representative and the employee.

Employees shall not be allowed to accrue any additional hours until their combined hours fall below the maximum sixty (60) hours. Additionally, prior to any promotion or departmental transfer, employees must either cash out or use all accrued CTO and Holiday Time Off balances.

The department may choose to pay out in cash any remaining compensatory time off balances during the last pay period of the fiscal year.

### **ARTICLE 29 – STANDBY/ON-CALL**

Any Registered Nurse who is required to be on standby/on-call while off the premises shall be paid at the rate of twenty-five percent (25%) of the nurse's hourly rate for all hours the nurse remains on standby/on-call.

Employees who are authorized by management to receive work-related phone calls at home in lieu of returning to the work site shall be compensated at time and one-half (1½) of their base hourly rate for time actually spent addressing the call.

When on standby/on-call, the employee shall remain within a reasonable distance from the work site and inform the designated supervisor or management person of where they may be reached.

### **ARTICLE 30 – CALL-BACK**

All call-backs, in any department, on regular days off shall be compensated at time and one-half (1½) the regular hourly rate for either a minimum of two (2) hours or the time actually worked, whichever is greater. For the specific purpose of call-back, time actually worked shall include time spent traveling to work and returning home.

Employees who meet the criteria for use of private vehicles shall be reimbursed for mileage driven both ways between their permanent local residence and their reporting point at the current reimbursement rate.

Nurses called in, who are then unable to work their regularly scheduled shift may use compensation time and shall not be required to use Annual Leave.

### **ARTICLE 31 – REST PERIODS**

Each employee is allowed a relief period during each half of the workday and a minimum thirty (30) minute lunch period. In instances where employees are unable to take their thirty (30) minute lunch period, management shall authorize one of the following options: earlier departure time, overtime, or CTO.

### **ARTICLE 32 – PERFORMANCE EVALUATION**

After six (6) months of employment, a Nurse shall receive a written performance evaluation, and again just prior to completion of twelve (12) months of service. Thereafter, each Nurse shall receive, at least annually, a written performance evaluation of the Nurse's work performance.

### **ARTICLE 33 – DEPARTMENTAL PERSONNEL FILES**

An Association member's departmental personnel file is strictly confidential. Only Human Resources and other employment-related persons shall have access to the file for work-related purposes.

No detrimental material will be placed in an Association member's file unless it has first been discussed with the member and the member has an opportunity to respond. The response, should one be submitted by the member, will be placed in the departmental personnel file and remain there as long as the detrimental material remains in the file.

Association Members shall have access to their own departmental personnel file and be entitled to copies of anything therein except letters of reference.

## **ARTICLE 34 – MANAGEMENT RIGHTS**

- A. All County rights, powers, functions, and authorities except as expressly abridged by this MOU shall remain vested in the County whether or not they have been exercised in the past.
- B. No portion of this County Management Rights article shall be construed to obligate the County in any way.
- C. All decisions made in accordance with County Management Rights which are established in this article or are inherently existent shall not be subject to any aspect of the grievance procedure or unfair employee relations practice charge.
- D. This article is not intended to nor may it be construed to modify the provisions of the Charter relating to Civil Service or personnel administration. The Civil Service Commission shall continue to exercise authority delegated to it.
- E. This article is not intended to modify those rights which have been granted to employees in this MOU following procedures specified in Government Code Sections 3500 et seq.
- F. In this exercise of its rights, the County shall not require an employee to perform an act or acts contrary to licensing law.
- G. This article is not intended to restrict consultation with the Association at the request of the latter regarding matters within the right of the County to determine.
- H. The rights, powers, and authorities of the County include, but are not limited to, the sole and exclusive right to:
  - 1. determine the mission of its constituent departments, commissions, boards, and committees;
  - 2. set standards of services and evaluate the County's effectiveness in delivery of these services;
  - 3. determine the procedures and standards for employee selection, promotion, demotion, transfer, reassignment and/or layoff;
  - 4. select, train, direct, assign, demote, promote, lay-off, dismiss its employees;
  - 5. communicate fully and openly with its employees on any subject at any time orally, in writing, both at work or through the U.S. mail;
  - 6. take disciplinary actions for just cause;
  - 7. relieve its employees from duty or reassign employees because of lack of work or for other reasons the County considers legitimate;
  - 8. evaluate and maintain the efficiency of County operations;

9. determine and change the method, means, personnel, and standards by which County operations are to be conducted;
10. determine the content of job classifications;
11. take all necessary actions to carry out its mission in emergencies including the suspension of portions or all of this MOU for the period of emergency as determined by the County;
12. exercise complete control and discretion over its organization and the technology to perform its work;
13. make rules and regulations pertaining to employees consistent with this MOU;
14. make all financial and budgetary decisions;
15. establish, allocate, schedule, assign, modify, change and discontinue workshifts and working hours and workweeks;
16. contract, subcontract, establish, merge, continue or discontinue any function or operation of the County;
17. engage consultants for any future or existing function or operation of the County;
18. order overtime.

### **ARTICLE 35 – EMPLOYEE APPEALS**

When an employee believes he or she has been adversely affected as a consequence of an action by the County, he or she may appeal the consequence, where applicable, through:

1. Discussion informally with the immediate out-of-unit supervisor;
2. The grievance procedure, when the alleged adverse action falls within the definition of a grievance, as specified in the procedure;
3. The Civil Service Commission, when the alleged adverse action is appealable, as specified in the Personnel Rules.

Nothing contained hereinabove shall be construed to limit the rights of management as specified in this MOU. This article is not intended to modify those rights which have been granted to employees following procedures specified in Government Code Section 3500 et seq.

### **ARTICLE 36 – COMPUTER PROGRAMMING MODIFICATIONS**

Notwithstanding any language in this MOU to the contrary, the respective articles of this MOU which will involve modifications to existing computer programs of the County shall not become effective until the beginning of the payroll period following the completion of such

modifications. Furthermore, the provisions of this article shall not be used to extend the effective date of salary changes.

### **ARTICLE 37 – CHARGE NURSE/LEAD WORKER DIFFERENTIAL AND SHIFT PREMIUM**

#### **Charge Nurse/Lead Worker Differential:**

Nurses who are assigned to perform charge/lead worker duties, including assigning, reviewing, and coordinating the work of other employees, shall receive seventy-five and no/dollars (\$75.00) per pay period pro-rated for the actual number of hours worked in that capacity. Other duties may include program leadership and input in project/program scope of work and outcomes. Said assignment shall be made in writing via either posted work schedules or otherwise by a Nurse Manager, supervisor, or manager.

#### **Shift Premium:**

The regular day shift will consist of eight (8) working hours between 5:00 a.m. and 7:00 p.m. as scheduled by the department head. There shall be no shift premium payment applied to any regular day shift hours as defined herein. Any employee whose regular work hours begin and conclude between 5:00 a.m. and 7:00 p.m. shall not receive shift premium pay for overtime worked which extends the workday past 7:00 p.m. Employees working a flexible work schedule shall not be eligible for shift premium.

Whenever an employee who by assignment or by rotation works a regular shift, any portion of which occurs between the hours of 7:00 p.m. and 5:00 a.m., the employee shall be paid, in addition to the basic compensation, a four percent (4%) premium for all work hours which occur after 7:00 p.m. and before 5:00 a.m. There shall be no shift premium paid during periods of annual leave, sick leave, and during holiday time off.

Whenever an employee who is eligible for shift premium is required to perform overtime work between the hours of 7:00 p.m. and 5:00 a.m., such employee's basic compensation plus the shift premium will be used in determining any cash payment for overtime hours worked.

### **ARTICLE 38 – PAGING DEVICES AND CELLULAR TELEPHONES**

Any nurse required by the designated supervisor or manager to carry a paging device shall have one provided by the County.

Cellular telephones will be made available for check out by any nurse required to conduct a home visit. Upon return from the home visit the nurse shall immediately return the cellular telephone to his/her supervisor.

### **ARTICLE 38 – CONTINUITY OF OPERATIONS**

Continuous and uninterrupted service to the citizens of the County, and orderly employee/employer relations between the County and its employees are essential considerations of this MOU. Therefore, the Association agrees on behalf of itself and those County employees which it represents that there shall not be any strikes, picketing, boycotting, work stoppages, sitdowns, sickouts, speed-ups, slow-downs, or secondary

actions such as refusal to cross picket lines or any other concerted refusal to render services or to obstruct the efficient operations of the County or refusal to work, including refusal to work overtime, or any other curtailment or restriction of work at any time.

The County shall not utilize a lock-out technique in its employee-employer relationships.

#### **ARTICLE 40 – CONTRACTING OUT**

The County will notify the Association of its intent to request proposals for the contracting out of the performance of County services when those services are currently being performed by incumbents of this unit's classifications. This notification will occur not later than at the same time the "RFP" is disseminated.

Upon the Association's request, the County will meet and confer with the Association regarding the impact of management's decision to contract out services.

#### **ARTICLE 41 – SAVINGS CLAUSE**

The provisions of this MOU are declared to be severable and if any section, subsection, sentence, clause, or phrase of this MOU shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this MOU, but they shall remain in effect, it being the intent of the parties that this MOU shall stand notwithstanding the invalidity of any part.

Should any portion of this MOU be found invalid or unconstitutional the parties will meet and confer to arrive at a mutually satisfactory replacement for the portion found to be invalid or unconstitutional.

#### **ARTICLE 42 – ADMINISTRATIVE HEARINGS**

Upon the approval of the department head or his/her designee, a maximum of four (4) employees shall receive compensation, as if they were working, for appearing as a witness on behalf of the complainant in a Fresno County hearing related to an employee grievance, discrimination complaint, retirement, Civil Service Commission matter.

#### **ARTICLE 43 – BILINGUAL SKILL PAY**

Association members are eligible for Bilingual Skill Pay of \$50.00 per pay period. Designated Bilingual Skill Pay positions are at the sole discretion of the Department Head. Positions designated/eligibility shall be governed by the Fresno County Salary Resolution, Section 533, with the exception of 533.1.

Pay Provisions:

1. Bilingual Skill Pay shall be paid in the amount of \$50.00 per pay period.
  - a. Employee pay periods that consist of all paid (e.g. vacation) and/or unpaid leave hours will not be eligible for bilingual skill pay.

2. Employees shall be paid in the amount of \$50.00 per pay period regardless of the number of languages they are certified for.

#### **ARTICLE 44 – WEINGARTEN RIGHTS**

The County and the California Nurses Association agree that it is in the best interest of both parties and the best interest of the County's employees that all employees be informed of their Weingarten Rights.

The County agrees that every employee who is subject to an administrative investigatory interview by management will be given a copy of their Weingarten Rights and a form to indicate if he/she wishes to invoke his/her Weingarten Rights. The employee will be given time to read the form and mark if he/she wishes to have a representative in the meeting. The employee will then sign the form and be given a copy of the signed form. This form is available on the Personnel Services website, no changes shall be made to the form without mutual agreement of the Association and County.

This article shall not be grievable or appealable, except for the employee's right to appeal if their Weingarten rights are violated.

#### **ARTICLE 45 – ASSOCIATION LABEL**

The County agrees that any employee covered by this MOU shall have the right to wear on their person and/or display in their workstation their Association affiliation. This includes buttons, lapel pins, pens and ribbons, unless doing so is contrary to the Fresno County Employee Relations Ordinance or a department policy/procedure.

This article is not grievable or appealable.

#### **ARTICLE 46 – TIER II RETIREMENT – MANDATORY [One (1) year average]**

Effective October 18, 2010, any employee newly hired into a permanent General/Miscellaneous position represented by the California Nurses Association – Unit 7, shall be enrolled pursuant to the following sections of the County Employees Retirement Law of 1937 (Tier II):

- GC Section 31676.16
- GC Section 31621.4
- GC Section 31462.1

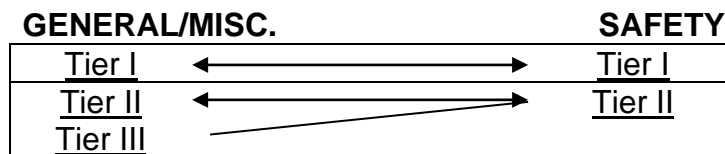
The vested "health benefit" (currently \$3.00 per year of service) resulting from the Settlement Agreement (Fresno County Superior Court Cases 605588-3, 608028-7 and 634171-3) [see Section 9] entered into judgment on December 15, 2000 shall be extended to employees enrolled in Tier II.

Any employee occupying a permanent position that is represented or unrepresented, who promotes, demotes or transfers into a permanent position represented by the California Nurses Association – Unit 7, shall continue under the retirement tier which they were enrolled in immediately prior to their promotion, demotion or transfer. Any employee represented by the

California Nurses Association – Unit 7, who promotes, demotes or transfers into a permanent position that is represented or unrepresented, shall continue under the retirement tier which they were enrolled in immediately prior to their promotion, demotion or transfer.

Any employee who promotes, demotes or transfers from a Safety classification to a General/Miscellaneous classification, or vice versa, shall be enrolled in the corresponding retirement tier (e.g., Tier I Safety membership shall end and Tier I General/Miscellaneous membership shall begin, Tier II Safety membership shall end and Tier II General/Miscellaneous membership shall begin).

**CORRESPONDING TIERS**



NOTE: Employees initially enrolled in Tier III General/Miscellaneous who become enrolled in Tier II Safety and subsequently return to a permanent position in a General/Miscellaneous classification shall be re-enrolled into Tier III General/Miscellaneous.

Any employee who deferred retirement prior to the December 15, 2000 Ventura II settlement agreement who subsequently rejoins the retirement association shall be enrolled in Tier I. Any other employee who defers retirement and subsequently rejoins the retirement association shall continue under the retirement tier he or she was enrolled in prior to deferral provided that tier is available. If that tier is no longer available, the employee shall be enrolled in the retirement tier offered to newly hired employees.

Any employee, who is enrolled in Tier II retirement plan, whether voluntarily or mandatorily, shall not be eligible for the Tier III retirement plan.

The foregoing summary of Tier II General/Miscellaneous Retirement Plan - Mandatory is for the parties' general reference, and does not modify the County Board resolutions or County ordinances which established the tiers.

**ARTICLE 47 – TIER IV RETIREMENT – MANDATORY – [THREE (3) YEAR AVERAGE]**

Effective June 11, 2012, any employee newly hired into a permanent position in a General/Miscellaneous classification represented by the California Nurses Association – Unit 7, shall be enrolled pursuant to the following sections of the County Employees Retirement Law of 1937 (Tier IV):



- GC 31676.1 – 1.67% @ 57½; 2% @ 61; 2.43% @ 65
- GC 31621 – Default Member Contribution Code
- GC 31462 – 3 year average for final compensation
- 0 (zero) Cost of Living

The “Settlement Health Benefit” (currently \$3.00 per year of service) resulting from the Settlement Agreement (Fresno County Superior Court Cases 605588-3, 608028-7 and 634171-3) [see Section 9] entered into judgment on December 15, 2000 shall not be extended to employees enrolled in General Tier IV.

Any employee occupying a permanent position who promotes, demotes or transfers from a Safety classification to a General/Miscellaneous classification, or vice versa, shall be enrolled in the corresponding retirement tier (e.g., Tier I Safety membership shall end and Tier I General/Miscellaneous membership shall begin; Tier II Safety membership shall end and Tier II General/Miscellaneous membership shall begin).

**CORRESPONDING TIERS**

<b>GENERAL/MISC.</b>		<b>SAFETY</b>
Tier I	←————→	Tier I
Tier II	←————→	Tier II
Tier III	↘————→	
Tier IV	←————→	Tier IV

NOTE: Employees initially enrolled in Tier III General/Miscellaneous who become enrolled in Tier II Safety and subsequently return to a permanent position in a General/Miscellaneous classification shall be re-enrolled into Tier III General/Miscellaneous.

Any employee who deferred retirement prior to the December 15, 2000, Ventura II settlement agreement who subsequently rejoins the retirement association shall be enrolled in Tier I General/Miscellaneous or Tier I Safety. Any other employee who defers retirement and subsequently rejoins the retirement association shall continue under the retirement tier he or she was enrolled in prior to deferral.

The foregoing summary of Tier IV Safety Retirement Plan – Mandatory is for the parties’ general reference and does not create any retirement benefits. The tier will be established by resolution, or other enactment, as applicable, to be adopted or approved by the County Board of Supervisors prior to June 11, 2012.

**ARTICLE 48 – TIER V GENERAL RETIREMENT PLAN (PEPRA) – MANDATORY**

Pursuant to the California Public Employees’ Pension Reform Act of 2013 (“PEPRA;” AB 340, GC §§7522 et seq), any employee newly hired into a permanent position on or after December 24, 2012, who will become a new member of FCERA on or after January 1, 2013, shall be enrolled in the State mandated defined benefit retirement formula specified in Government Code § 7522.20 and will be subject to all other retirement plan provisions as mandated by PEPRA. This state mandated retirement tier shall be known as the Tier V General Retirement Plan.

Consistent with PEPRA, the exception to being enrolled into General Tier V for any employee newly hired on or after December 24, 2012, who will become a new member of FCERA on or after January 1, 2013, is an individual who was previously employed by another public employer and was able to establish reciprocity with FCERA as specified in § 7522.02(c). In the case of reciprocity being established, the new employee would be enrolled into General Tier IV.

The foregoing information is only for the parties' general reference.

#### **ARTICLE 49 – ASSOCIATION AND MANAGEMENT MEETINGS**

The parties recognize that timely resolution of operational/service issues is in the best interest of employees, the County and the customers we serve. Therefore, the parties agree that employees are required to follow their chain of command (beginning at the lowest level supervisor/manager as appropriate) to resolve operational issues that arise and to make recommendations regarding such operations/services issues.

There shall be quarterly Association/Management meetings, at the request of the Association or the Department, to discuss issues that were not resolved through the normal chain of command and/or to make recommendations regarding operations/service issues between the Association representative, stewards and/or officers and the department head or his/her designee. If necessary, these meetings may increase in frequency at the request of either the Association or the Department, if mutually agreed upon by both parties. This article shall not be grievable or appealable.

All parties so involved must act in good faith, strive for objectivity and act in a professional manner. Employees who participate in the above-referenced meetings have the assurance that such participation will not result in retaliation.

#### **ARTICLE 50 – CLINICAL SUPERVISION OF REGISTERED NURSES**

The parties agree that clinical supervision of registered nurses is an important aspect of patient safety. Therefore, the County will comply with all applicable laws regarding the clinical supervision of registered nurses.

#### **ARTICLE 51 – FULL UNDERSTANDING**

It is intended that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other previous understanding or agreements by the parties (with the exception of addenda and sideletter agreements), whether formal or informal, regarding any such matters are hereby superseded, or terminated in their entirety. With respect to addenda and sideletter agreements, all previously existing sideletter agreements and addenda that have not expired and addenda and sideletter agreements entered into during the term of this MOU shall continue in force subject to the terms and conditions set forth within each.

This MOU shall govern in case of conflict and the Association shall have the right to meet and confer in good faith with the County regarding wages, hours, and other terms and conditions of employment. Additionally, the Board of Supervisors and other County boards and

commissions retain the power to legislate pertaining to such matters subject to compliance with the Meyers-Milias-Brown Act and other applicable provisions of law provided such actions are not in conflict with the provisions of this MOU.

**ARTICLE 52 – EXTENSION OF PAID MILITARY LEAVE**

Eligible Bargaining Unit Members shall be subject to paid military leave as approved by the Board of Supervisors until such time that the Board of Supervisors terminates said Resolution.

**ARTICLE 53 – TERM OF MOU AND RENEGOTIATION**

This MOU shall be in effect from November 2, 2020, through November 14, 2021. Negotiations for the successor MOU shall begin on or about July 1, 2021.

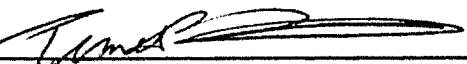
COUNTY OF FRESNO

By 


By \_\_\_\_\_

Date 8.20.20

CALIFORNIA NURSES ASSOCIATION

By 

By 

By 

By Sunshine Harder

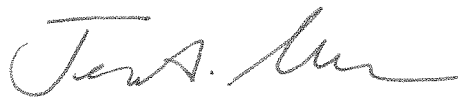
By \_\_\_\_\_

Date \_\_\_\_\_

ADDENDUM  
TO MEMORANDUM OF UNDERSTANDING  
UNIT 07 – NURSES

**STATE DISABILITY INSURANCE PROGRAM**

The California Nurses Association has requested to participate in the State Disability Insurance Program. Participation shall be mandatory for all employees of this Unit and shall be paid for by the employee subject to provisions established by the State of California and the County of Fresno. It is also understood that any future increase in the premiums for this coverage shall be borne by the employee.



County of Fresno

03/07/19

Date



California Nurses Association  
Unit 07 – Nurses

02/28/19

Date