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MEMORANDUM
OF
UNDERSTANDING

820722
3/22/04 - 3/26/06
21 pgs.

BETWEEN

SEIU - LOCAL 535

UNIT 12

(CLERICAL, PARAMEDICAL, BUILDING
& SERVICE EMPLOYEES)

AND

THE COUNTY OF FRESNO

MARCH 22, 2004 – MARCH 26, 2006

UNIT 12

Table of Contents

<u>ARTICLE</u>	<u>PAGE</u>
ADMINISTRATIVE HEARINGS.....	19
AGENCY SHOP.....	1
ANNUAL LEAVE.....	8
ANNUAL LEAVE INTEGRATION WITH STATE DISABILITY INSURANCE (SDI)	8
APPLICATIONS AND FORMS	23
BEREAVEMENT LEAVE.....	9
BILINGUAL SKILL PAY.....	15
BULLETIN BOARDS	2
CALL-BACK PAY.....	16
CHILD CARE FACILITY	23
CLASS SPECIFICATIONS	21
CLASSIFICATION REVIEW APPEAL PROCESS.....	21
CLASSIFICATION STUDIES.....	24
CONTINUING EDUCATION.....	18
CONTINUITY OF OPERATIONS	19
CONTRACTING OUT.....	20
COUNTY-WIDE SALARY AND BENEFITS SURVEY.....	21
COURT APPEARANCES	13
DAMAGE TO PERSONAL PROPERTY OF EMPLOYEE	10
County May Provide Payment.....	10
Eligibility.....	11
Procedure.....	11
DICTATION DIFFERENTIAL	21
DIFFERENTIALS.....	18
DIRECT DEPOSIT OF PAYROLL CHECKS.....	6
DISCIPLINARY ACTION.....	7
EMPLOYEE APPEALS.....	4
EMPLOYEE ASSISTANCE PROGRAM.....	23
EMPLOYEE BENEFITS	7
FAIR LABOR STANDARDS ACT.....	22
FLEXIBLE WORK SCHEDULES.....	18
FRESNO COUNTY SALARY RESOLUTION AND PERSONNEL RULES.....	7
FULL UNDERSTANDING.....	21
GRIEVANCE PROCEDURE	6
HEALTH AND SAFETY	6
HEPATITIS VACINATIONS	23
HOLIDAYS.....	9
Compensation for Time Worked on a Holiday	10
Holiday Pay Eligibility.....	10
Holidays	9
Holidays - Part-time Employees.....	10
Holidays - Seven Days a Week Work Areas.....	10
INTRODUCTION/PURPOSE.....	1
LATERAL TRANSFER	12
LEAD WORKER ALLOWANCE.....	20
LIFE INSURANCE.....	19
MANAGEMENT RIGHTS.....	5
MEET AND CONFER REQUIREMENTS.....	22
MEETING SPACE	6
MEMORANDUM OF UNDERSTANDING-PRINTING AND DISTRIBUTING.....	18
MOU NEGOTIATIONS	24
NOTICE OF PROMOTIONAL OPPORTUNITIES	23

Unit 12 Table of Contents Cont'd

<u>ARTICLE</u>	<u>PAGE</u>
ON-THE-JOB INJURIES/HEALTH PLAN PREMIUMS	17
ORIENTATION PROGRAM FOR NEW EMPLOYEES.....	2
OVERTIME (INCLUDES COMPENSATORY TIME OFF PROVISIONS).....	15
PARKING	13
PART-TIME EMPLOYEE BENEFITS	8
PERFORMANCE EVALUATIONS.....	20
PERSONNEL FILES.....	17
PRIVATE VEHICLE USAGE.....	13
REASSIGNMENTS	12
RECOGNITION	1
RELEASE TIME	3
REPRESENTATION IN COURT.....	13
REPRESENTATIVE ACCESS.....	3
REST PERIODS	13
SALARIES.....	6
SAVINGS CLAUSE.....	21
SENIORITY PROVISION	20
SHIFT DIFFERENTIALS.....	14
Psychiatric Health Facility & University Medical Emergency Department.....	14
SPECIAL SALARY UPGRADING	11
STANDBY (ON CALL)	16
STEWARDS.....	3
Duties and Responsibilities of Stewards	4
Limitations on Time Off.....	4
Purpose.....	3
Role of Steward and Supervisor (Out-of-Unit).....	3
Selection of Stewards	3
TERM AND SALARY ADJUSTMENT	25
UNION AND MANAGEMENT MEETINGS	22
UNION LABEL.....	22
UNINTERRUPTED PROCESS TIME (UPT) – METRO DIVISION.....	24
USE OF COUNTY MAIL SYSTEM	23
USE OF PERSONAL VEHICLES	23
VOLUNTARY “WORK HOUR REDUCTION” PROGRAMS	20
WEINGARTEN RIGHTS	22
WORK SCHEDULES.....	11

ADDENDA/ATTACHMENTS

ADDENDUM NO. 1 - SALARIES

ADDENDUM NO. 4 – FREQUENCY OF EMPLOYEE EVALUATIONS

ADDENDUM NO. 5 - TRANSFERS

ADDENDUM NO. 9 - HSS - PERSONNEL ACTIONS (DELETED DUE TO DISSOLUTION OF HSS)

ADDENDUM - PUBLIC SERVICE RETIREMENT CREDIT

ADDENDUM – EXTENSION OF PAID MILITARY LEAVE

ADDENDUM – ACCESS – FRESNO COUNTY PLAZA LOBBY

ADDENDUM NO. 10 – SHIFT DIFFERENTIAL

ADDENDUM – BILINGUAL SKILL PAY AGREEMENT

ADDENDUM - EMPLOYEE GRIEVANCE RESOLUTION PROCEDURE

ADDENDUM – HEALTH BENEFIT AGREEMENT

ADDENDUM – CALIFORNIA GOVERNMENT CODE, SECTION 3500-3511 (The Meyers-Milias-Brown Act)

INTRODUCTION/PURPOSE

We, the Undersigned, duly appointed representative of the County of Fresno, hereinafter referred to as "County" and the Service Employees International Union, Local 535, hereinafter referred to as "Union", having met and conferred in good faith, do hereby jointly prepare and execute the following written Memorandum of Understanding (MOU) for Representation Unit 12 (Unit). 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.

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 Union 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 thereafter by the Civil Service Commission or the Board of Supervisors. Classifications added to this Unit shall be subject to the articles in this MOU, unless the article is classification specific. Classifications 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.

AGENCY SHOP

A. Agency Shop

Employees covered by this Memorandum of Understanding (MOU) shall, as a condition of continuing employment, become and remain members of Service Employees International Union Local 535 (SEIU - Local 535) or shall pay to the Union a service fee in lieu of membership dues. Such dues or service fee are as set in accordance with the bylaws of the Union.

B. Implementation of Agency Shop for Employees as of June 18, 2003

The County has provided employees of the County as of June 18, 2003, who occupied a position subject to this MOU, a Notice of Agency Shop Provision advising the employee that an election has resulted in an Agency Shop arrangement requiring that all employees in positions subject to this MOU must either join the Union or pay a service fee in lieu of membership dues to the Union unless the employee claims a religious exemption as described in paragraph 5.4 below. It is agreed that such employees shall have until August 15, 2003 to fully execute the notice of Agency Shop Provision and return it to the County. In the event any such employee fails to properly complete and return the notice of Agency Shop Provision, the County shall deduct the service fee established by the Union for the pay period of August 18, 2003 (current dues paying members will remain as dues paying members). Union membership may only be withdrawn the full month prior to the month in which this Agreement expires.

C. Implementation of Agency Shop for Employees Hired into Unit 12 After June 18, 2003

Any employee hired by the County in a position subject to this MOU shall be provided, by the County, with a Notice of Agency Shop Provision Form during their first pay period of employment (e.g. New Employee Orientation) advising the employee of the Agency Shop agreement with the Union and of the requirement that all employees subject to the MOU must either join the Union or pay a service fee in lieu of membership dues to the Union unless the employee claims a religious exemption as described in paragraph 5.4 below. The County shall automatically deduct the service fee established by the Union the first pay period following the date of hire, unless the employee has provided a dues deduction form electing membership in the Union, or the employee has provided verification of the religious exemption, as described in paragraph 5.4 below. If the employee has not properly completed the authorization form of his/her choice and returned said form to the County within 30 days of the date of hire, the County shall continue to automatically deduct the service fee and thereafter until such time as the notice of Agency Shop Provision is properly completed and returned to the County. Union membership may only be withdrawn the full month prior to the month in which this Agreement expires.

D. Religious Exemption

Any employee of the County subject to this MOU who wishes to request religious exemption, consistent with State and Federal law, must file such request with the Union. In addition, the employee will continue to have the deduction of an amount, equal to the monthly fair share service fee, to be paid to a non-religious, non-labor charitable fund selected as described in the paragraph below. The Religious Exemption Form is available from the Union only.

For purposes of this section, charitable deduction means a contribution to any other non-religious, non-labor charitable organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of the employee's choice.

E. Financial Reports

SEIU – Local 535 shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the Department of Personnel Services, Labor Relations Division once annually. Copies of such reports shall be available to employees subject to the Agency Shop requirement of this MOU at the Union Office.

F. Payroll Deductions and Dues/Fees Remittance

The County shall deduct from the pay of each employee in a position subject to this MOU Union dues or an amount equal to the service fee or other fees and insurance premiums established by the Union or religious exemption fee, and shall mail all said deductions to the Union no later than the end of the month after which said amounts were deducted.

G. Indemnification

SEIU – Local 535 shall indemnify, defend and hold the County, its officers, agents and employees harmless from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which may be imposed upon them relating to the County's compliance with the agency fee obligation including claims relating to the Union's use of the monies collected under these provisions.

H. Waiver of Election for Newly Represented Employees and New Representation Units

The addition of classifications and/or employees to the bargaining unit in this MOU shall not require an election herein for the application of this agency shop provision to such classification and/or employees.

BULLETIN BOARDS

The County shall provide space for and permit the installation of Union bulletin boards (or provide reasonable space on County bulletin boards) for official Union notices at each central work location where the Union represents members of this Unit. 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.

ORIENTATION PROGRAM FOR NEW EMPLOYEES

The County agrees to maintain, within budget constraints, during the term of this MOU, a personnel-sponsored orientation program for newly hired County employees. A total of fifteen (15) minutes will be provided for presentations by Union representatives. One (1) representative of the Union may participate in these presentations at each Department of Personnel Services-sponsored new employee orientation program where new employees of this unit are in attendance. Reasonable time will also be allowed for questions and answers. The County will schedule each new employee for orientation within forty-five (45) working days of hire.

REPRESENTATIVE ACCESS

Consistent with the County Employee Relations Ordinance, authorized Union Representatives will be granted reasonable access to work locations, with the approval of the appropriate management representative, for the purpose of conducting grievance investigations and observing working conditions.

To gain such access, the Union Representative shall obtain permission from the appropriate management representative sufficiently in advance as determined by the management representative. Once access permission is granted and the Union Representative arrives, the Union Representative shall confine activity specifically to the stated reasons listed above.

RELEASE TIME

When the Union wishes to be represented by a County employee, rather than a Union representative, at meetings within the scope of representation which affect the representation Unit, that employee will have release time with prior department head approval to attend such meetings. The Union representative will submit a written request to the department head at least twenty-four (24) hours prior to the scheduled meeting unless waived by mutual agreement. Reasonable time off will be approved if it does not interfere with the performance of County services.

STEWARDS

8.1 Purpose

The County recognizes the need and affirms the right of the Union to designate Shop Stewards from among employees in the Unit. It is agreed that the Union in appointing such Shop Stewards 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.

8.2 Role of Steward and Supervisor (Out-of-Unit)

The Shop Steward recognizes the fact that the out-of-unit supervisor is the representative in the department and, as such, is responsible to higher management for the quality of the work. As the out-of-unit supervisor is the representative for management, the Shop Steward is the representative for the Union. They must be willing to meet in good faith to settle grievances as they arise. The Shop Steward understands that the Stewardship 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 this MOU.

8.3 Selection of Stewards

8.3.1 The Union shall reserve the right to designate the method of selection of the Shop Stewards. The Union shall provide, in writing, a list of all Shop Stewards and Unit Officers to the Labor Relations Manager and the appropriate department head(s) in February of each year. Further, the Union shall notify the Labor Relations Manager and the appropriate department head(s) each time there is a change of either Stewards or Unit Officers.

8.3.2 The County agrees the number of Stewards for the Unit shall be one (1) per shift for each work location. If there are more than forty (40) Unit employees at one location, an additional Steward will be added for each forty (40) Unit employees.

8.3.3 If a Steward promotes, demotes, or otherwise leaves the work location, the Union shall have the right to appoint a replacement.

8.4 Duties and Responsibilities of Stewards

The following functions are understood to constitute the duties and responsibilities of Shop Stewards:

- 8.4.1 Upon request of the aggrieved employee, and when the grievance has been reduced to writing as specified in the grievance procedure, a Steward may investigate the grievance provided it is in the Steward's area of responsibility, as assigned by the Union, and assist in its presentation. Stewards 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 out-of-unit supervisor. Grievances will be handled by one (1) Steward, but the Union may assign not more than two (2) Stewards to a group grievance.
- 8.4.2 After obtaining out-of-unit supervisory permission, Shop Stewards 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 Steward shall advise the out-of-unit supervisor of the general nature of the grievance. The Shop Steward is permitted to discuss the problem with all employees immediately concerned and if appropriate, to attempt to achieve settlement with the appropriate management representative involved. Agencies, wards, clients, detainees, and outside interested parties will not be contacted by Stewards as part of the grievance process.
- 8.4.3 If, in the judgment of the out-of-unit supervisor because of the necessity of maintaining adequate level of service, permission cannot be granted immediately to the Shop Steward in order to present or investigate a grievance during on-duty time, such permission shall be granted by the out-of-unit supervisor no later than the next working day from the date the Shop Steward was denied permission.
- 8.4.4 Shop Stewards may utilize the County E-mail system pursuant to his/her duties and responsibilities as defined by this MOU.

8.5 Limitations on Time Off

Stewards shall not be permitted time away from their work assignments for the purpose of conducting general Union business, consistent with the Employee Relations Ordinance.

EMPLOYEE APPEALS

When an employee believes he/she has been adversely affected by an action taken by the County, he/she may appeal the consequence, where applicable, through:

1. The Employee Grievance Procedure when the alleged adverse action is grievable as specified in the procedure;
2. The Civil Service Commission when the alleged adverse action is appealable, as specified in the Personnel Rules or in Section 3.12.430 of the Employee Relations Ordinance, Unfair Employee Relations Practices - County;
3. Discrimination Complaint Procedure when the alleged adverse action involves an unlawful discriminatory employment practice or act;
4. Employee appeals for unclassified Court employees will be governed by the Court Personnel Manual.

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

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 charges.
- 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. In the exercise of its rights, the County shall not require an employee to perform an act or acts contrary to licensing law.
- F. This article is not intended to restrict consultation with the Union at the request of the latter regarding matters within the right of the County to determine.
- G. 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, layoff, 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 mail;
 - 6. take disciplinary actions;
 - 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 work shifts 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.

SALARIES

Salaries for all classifications covered by this Unit shall be as specified on Addendum No. 1.

DIRECT DEPOSIT OF PAYROLL CHECKS

All paychecks of employees represented by this Unit shall be directly deposited by the Auditor-Controller/Treasurer-Tax Collector (hereinafter Auditor-Controller) in a financial institution of the employee's choice, which accepts direct-deposits and does not charge the County any fee(s) for such service.

In the event an employee declines or fails to designate a financial institution to receive deposit of their paycheck, such employee's paycheck shall be deposited in an account established for their use at the Fresno County Federal Credit Union, and such deposit procedure shall continue unless and until another financial institution has been designated by the employee on the appropriate form and forwarded to the Department of Personnel Services.

In the event that the financial institution designated by the employee to receive their paycheck commences to charge a fee to the County of Fresno for such deposit service, the County shall notify the employee of the effective date of such proposed fee, when such information is available to the County, and the employee shall decide to either: 1) continue the designation of that institution and pay the fee required by the financial institution; or 2) designate another institution which does not charge such fees to receive the employee's paycheck; or 3) make no designation and have the paycheck processed in accordance with the provisions above.

Employees electing options 1 or 2 shall complete the appropriate designation form and forward it to the Auditor-Controller (Payroll Division) one (1) week in advance of the effective date of such fees.

MEETING SPACE

The County, at the Union's request, shall reasonably make available conference rooms and other meeting areas for the purpose of holding Union meetings during off-duty time periods. The Union shall provide timely advance notice (24 hours) of such meetings. The Union also agrees to pay any documented additional costs of security, supervision, damage and cleanup, and shall comply with County regulations for assignment and use of such facilities.

GRIEVANCE PROCEDURE

All Unit employees are covered by the Fresno County Employee Grievance Procedure. Refer to Addendum No. 2 for the grievance procedure and grievance form.

HEALTH AND SAFETY

The County agrees to comply with all applicable local, state, and federal health and safety laws and regulations. It is the duty of management to make reasonable effort to provide and maintain a safe and healthy place of employment. The Union will cooperate by encouraging all employees to perform their work in a safe manner. It is the duty of all employees in the course of performing their regularly assigned duties to be alert to unhealthy and/or unsafe conditions, practices, and equipment and to report any such unhealthy and/or unsafe conditions or practices to their immediate supervisor.

The Illness & Injury Prevention Program process must be exhausted before a complaint is further pursued in any other forum/process.

FRESNO COUNTY SALARY RESOLUTION AND PERSONNEL RULES

Copies of the Fresno County Salary Resolution and Personnel Rules Manual shall be available for employees' reference in each County department and at the central branch of the County Library. This document may also be reviewed at the Labor Relations Division office.

Employees desiring answers to specific questions regarding Salary Resolution and/or Personnel Rules. may call:

Service Employees International Union - Local 535
5756 North Marks Avenue, Suite 152
Fresno, CA 93711
(559) 261-9311 or 1-800-525-0752 (ask to speak to the Field Representative for Unit 12 for Fresno County)

OR

Fresno County Labor Relations Division
2220 Tulare Street, 16th Floor
Fresno, CA 93721
(559) 488-3048 (ask to speak to a Personnel Analyst)

DISCIPLINARY ACTION

Disciplinary actions shall be governed by the Fresno County Personnel and Pay Policies Manual, Chapter 3, Rule 10.

Disciplinary action for civil service employees is governed by Fresno County Personnel Rules. Disciplinary action for at-will employees is not governed by the Fresno County Personnel Rules.

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Fresno County Labor Relations Division
2220 Tulare Street, 16th Floor
Fresno, CA 93721
(559) 488-3048 (ask to speak to a Personnel Analyst)

EMPLOYEE BENEFITS

The parties agree that employees covered by this MOU shall have made available to them the same holidays, vacation, sick leave, health insurance, life insurance, dental insurance, bereavement leave, unemployment insurance, disability insurance, mileage reimbursement and miscellaneous member retirement as are generally provided to the majority of other bargaining units.

PART-TIME EMPLOYEE BENEFITS

Incumbents of part-time permanently allocated positions shall continue to receive all currently prorated benefits provided by the County.

The County shall pay one-half (1/2) of the County 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 County 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, the County shall pay one-half (1/2) of the County health insurance premium contribution and the employee shall be required to pay any remaining premium rate. 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.

ANNUAL LEAVE INTEGRATION WITH STATE DISABILITY INSURANCE (SDI)

The County agrees to integrate Annual Leave/Sick Leave benefits with State Disability Insurance benefits upon implementation of the County's new payroll system.

ANNUAL LEAVE

All existing employees covered by this MOU currently in the Vacation and Sick Leave Plan (established December 14, 1998) shall have any existing balances converted to the Annual Leave II Plan.

All existing employees covered by this MOU currently in the Vacation and Sick Leave Plan (established December 14, 1998) and the Annual Leave II Plan shall be subject to the provisions of Salary Resolution Section 600 Annual Leave II with the following exceptions:

1. Employees will be allowed to accrue Annual Leave II to a maximum of 550 hours. There shall be no accrual of Annual Leave II beyond 550 hours.
2. At the point of conversion, employees with Annual Leave II or combined Vacation and Sick Leave hours in excess of 120.00 hours will have the option to designate those hours in excess of 120.00 to be transferred to the Time Off Bank (TOB) upon implementation of this article. This designation will be a one-time only election and will be irrevocable upon execution. TOB hours will have no cash value, but may be used at anytime for either vacation or sick leave purposes.
3. Upon termination of County employment, any remaining TOB will be converted to retirement service credit.
4. Annual Leave II hours will be paid at 100% of the current hourly rate upon separation.
5. Salary Resolution Section 610.7 is no longer available for employees covered by this MOU (including employees currently in the New Annual Leave Plan).
6. All applicable sections of the Salary Resolution and MOUs will be modified to delete the Vacation and Sick Leave Program references and any other sections determined to no longer be applicable.
7. All employees hired after the conversion will be eligible for the Annual Leave II plan.
8. This conversion requires modifications to existing computer programs of the County, therefore, the conversion shall not become effective until the beginning of the payroll period following the completion of such modifications.

9. Upon ratification of the Memorandum of Understanding by both parties, SEIU Local 535 shall cause that certain lawsuit known as ANN BENNETT; GERALD A. GALLAGHER; THOMAS GATTIE; DOLORES MEDINA; SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 535, AFL-CIO, FRESNO DEPUTY SHERIFF'S ASSOCIATION, Plaintiffs and Petitioners, v. COUNTY OF FRESNO; BOARD OF SUPERVISORS, COUNTY OF FRESNO; GARY PETERSON, AUDITOR/CONTROLLER, COUNTY OF FRESNO; SUPERIOR COURT, COUNTY OF FRESNO, Defendants and Respondents, Fresno County Superior Court Case No. 01 CE CG 01042, to be dismissed with prejudice in its entirety as to plaintiff Service Employees International Union, Local 535, AFL-CIO.

Employees who are eligible for UPT as defined by this MOU who have received a satisfactory performance evaluation, shall not be denied vacation time off based solely upon completion of his/her caseload. Consequently, approval of vacation time off shall not be conditioned on the requesting employee obtaining "caseload" coverage. This section shall not be grievable.

Counseling Memorandums and Written Reprimands based solely on completion of case loads must be reviewed and approved by the Department of Personnel Services prior to be served upon the employee.

BEREAVEMENT LEAVE

Each employee occupying a permanent position shall be eligible for paid Bereavement Leave up to a maximum of thirty-two (32) working hours per bereavement for the death of a relative defined as the employee's: husband, wife, parent, brother, sister, child, grandparent, or grandchild, or the corresponding relations by affinity (excludes step-relationships). In instances of a step relationship, employees may request the use of annual leave.

Employees may request use of annual leave when the employee desires time off in excess of thirty-two (32) hours for bereavement-related purposes.

Use of bereavement leave and/or annual leave for bereavement purposes shall not be considered unscheduled time off.

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.

HOLIDAYS

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 approved vacation or sick leave on their last assigned shift immediately before and after the holiday. Employees claiming sick leave on their last assigned shift immediately before and/or after a County holiday as set forth in this MOU may be required by the department head 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.

Compensation for Time Worked on a Holiday

When employees represented by this Unit are required to work on a holiday as listed herein, the time so worked shall be compensated at the rate of two and one-half (2½) times the employee's base hourly rate of pay for the first eight (8) hours worked and at time and one-half (1½) the employee's base hourly rate of pay for all subsequent hours worked on the holiday. Holiday compensation shall include all consecutive shift hours worked when a major portion (greater than 50%) of the shift is worked on the holiday. Holiday compensation shall be limited to a single consecutive shift worked on the holiday. Holiday compensation is not included as FLSA overtime in the FLSA work period. Therefore, holiday compensation can be received in cash or compensatory time off, consistent with this MOU and the Salary Resolution.

In lieu of the two and one-half (2½) time holiday compensation mentioned herein, an employee can choose to receive holiday credit (straight time) equal to the number of hours worked on a holiday up to eight (8) hours. In addition, the employee would receive compensation of time and one-half (1½) for all hours worked on a holiday.

Holidays - Part-time Employees

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

Holidays - Seven Days a Week Work Areas

Notwithstanding the above, only the actual days upon which January 1, July 4, November 11, and December 25 fall shall be considered paid holidays for employees working in areas which routinely remain open seven (7) days a week and who are required to work on those dates.

DAMAGE TO PERSONAL PROPERTY OF EMPLOYEE

County May Provide Payment

Pursuant to Government Code Section 53240, the County may provide for the payment of the costs of replacement or repair of property or prostheses of an employee, such as eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried by the employee, when such items are lost or damaged in the line of duty without fault of the employee.

Eligibility

Damage to items being claimed must occur without fault of the employee and while the employee is on official County business. All claims must be verified and approved by the employee's department head.

Procedure

All claims for reimbursement must be submitted to the Auditor-Controller within thirty (30) days after damage was incurred.

1. All receipts, invoices, and estimates of repair or value must be attached to claim when submitted.
2. Estimates of value or repair must be made by a dealer or authorized repairperson of the items being claimed and not by the employee.
3. If the items are damaged beyond repair, or if the cost of repair exceeds the estimated value, reimbursement shall be made on the value of the items at the time the damage occurred.

SPECIAL SALARY UPGRADING

Special Salary Upgrades shall be governed by the Fresno County Salary Resolution, Section 413.9, with the exception that Special Salary Upgrading shall start no later than the beginning of the second pay period.

Employees desiring answers to specific questions regarding Personnel and Pay Policies may call:

Service Employees International Union - Local 535
5756 North Marks Avenue, Suite 152
Fresno, CA 93711
(209) 261-9311 or 1-800-525-0752 (ask to speak to the Field Representative for Unit 12 for Fresno County)

OR

Fresno County Labor Relations Division
2220 Tulare Street, 16th Floor
Fresno, CA 93721
(209) 488-3048 (ask to speak to a Personnel Analyst)

WORK SCHEDULES

Every effort will be made to arrange work schedules in conjunction with the employees in the Unit, considering staffing needs, experience, seniority, and the needs and desires of the employees. All other factors being equal in the judgment of the department head, employee seniority will be the primary consideration. Nothing in this section shall be construed as limiting management's responsibility to take whatever scheduling or staffing measures it deems necessary.

Whenever practicable, employees shall be given two (2) weeks advance notice of a schedule change. The parties acknowledge that situations will occur where it will not be practicable to give two (2) weeks notice of a schedule change in order to fill vacancies on a shift or in a work unit arising from unscheduled absences or termination where less than two (2) weeks notice is given.

Except for those employees who are hired with the understanding that they will perform weekend work, employees of this Unit shall be scheduled for one (1) weekend off per month unless waived by the employee. This provision shall not apply where management determines there to be an emergency, which precludes one (1) weekend off for the duration of the emergency only.

Former Unit 21 employees shall only be covered by the provisions listed below:

Every effort will be made to arrange work schedules in conjunction with the employees in the Unit, considering staffing needs, experience, seniority, and the needs and desires of the employees. All other factors being equal in the judgment of the department head, employee seniority will be the primary consideration.

All schedules will attempt to allow two (2) weekends off per month. Employees covered by this MOU shall be scheduled for one (1) weekend off per month. Employees assigned to the Apollo Residential Treatment Center shall be exempt from this provision. PHF employees shall be exempt from this provision provided:

- A. Implementation of fixed scheduling occurs with employees soliciting shifts and days off by seniority; except that
- B. An appropriate balance of male/female staff on all shifts occurs to ensure departmental safety needs; and
- C. Permanent employees shall have shifts/days off selection priority over extra-help employees; and
- D. Future shifts/days off assignments of existing and future staff shall be handled in accord with the above provision (male/female staff balance is considered to be a "staffing need").

Schedules will be provided for at least one (1) month periods to be posted no later than two (2) weeks prior to the effective date. Work schedules will be subject to change in instances of work load and/or staffing problems, as determined by management. Schedules for PHF employees may be changed with two (2) weeks' advance notice because of critical staffing shortages.

Employees in the Unit who wish to propose work schedules different from those currently in use may submit their proposals to the department head or designee. Management will review the proposed schedules and will advise employees of the feasibility of implementing such schedules on either an experimental or permanent basis. If a significant number of employees in any work unit might be affected by such proposed schedules, management will consult with the employee organization representing those employees prior to implementation. Nothing in this section shall be construed as limiting management's responsibility to take whatever scheduling or staffing measures it deems necessary.

REASSIGNMENTS

Employees who desire to be reassigned to a specific work location or work shifts within their department may submit a written request for reassignment to the appropriate supervisory/management staff. Such requests will be valid until the employee advises the appropriate supervisory/management staff that they no longer wish to be considered for reassignment.

Requests of employees wishing to be reassigned will be given priority over outside applicants insofar as the best interests of the department will permit. Final selection shall rest with the department head. Employees to be reassigned will be given reasonable notice in advance of such reassignment whenever possible. Nothing in this article shall be construed in such a way as to conflict with existing personnel rules or regulations nor shall this article be applicable in cases of emergency.

LATERAL TRANSFER

When an employee transfers from one department to another within the same job classification and where a new probationary period has been required, if the employee is unsuccessful in the new position, as determined by management, the employee shall have the right to return to his/her former department in the same job classification if:

1. The two (2) department heads agree in advance of the transfer that the employee may return within a maximum two (2) month period; and
2. The employee had gained permanent status in the current job classification series in the department from which he/she is transferring; and

3. In the department from which the employee transfers, he/she has had five (5) continuous years of service following receipt of status.

REST PERIODS

Employees shall generally be entitled to two (2) rest periods each work day, not including the normal lunch or dinner break. Rest periods are County-paid time; only during periods of extremely heavy workload and/or staffing shortages as determined by management, rest periods may not be possible.

PRIVATE VEHICLE USAGE

Departments may authorize their department employees to use their private vehicle to travel on business for the County provided that each such employee shall have first complied with County automobile insurance requirements.

In order to be authorized travel by private vehicle, the employee must possess an appropriate valid California driver's license and required insurance with limits of not less than \$100,000/\$300,000 public liability and \$25,000 property damage, or a combined single limit of \$300,000.

Any employee authorized to travel on business for the County and who has been duly authorized to use and does use a privately owned automobile shall be allowed and paid as traveling expenses for the actual miles traveled during any calendar month at the rate authorized by the Internal Revenue Service (IRS). This rate shall become effective on the date approved by the Board of Supervisors authorizing the IRS rate on a County-wide basis. After the initial approval by the Board of Supervisors of the IRS rate, subsequent changes of the rate shall become effective on the pay period following the County's receipt of the published IRS rate. Until the Board approves the IRS rate, employees shall be reimbursed at the prevailing County reimbursement rate per mile, except that said rate shall be increased or decreased in accordance with the private auto mileage reimbursement agreement which became effective July 1, 1988.

PARKING

The County will continue to make reasonable effort to provide free parking facilities for employees who use their own vehicle for County business.

The County will continue to make reasonable effort to provide safe parking facilities for all employees who park on County-controlled parking facilities.

REPRESENTATION IN COURT

Subject to all appropriate provisions of California Government Code Sections, the County will, upon request of an employee or former employee, defend against any claim or action for an injury arising out of an act or omission 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.

COURT APPEARANCES

All employees shall receive full compensation as though they were performing their regular duties during such time as they are required to appear as a witness before any Grand Jury or in any court as:

1. A juror;
2. Witness in a criminal case;
3. Witness in a civil case for the purpose of giving testimony as to facts related to or the knowledge of which they have received in the course of their County employment;

4. A party to an action arising out of the course of County employment.

The employee shall claim any jury, witness, or other fee to which the employee may be entitled by reason of such appearance and forthwith pay the same over to the Auditor-Controller to be deposited in the appropriate fund of the County. This reimbursement shall not apply to any meal allowance or travel allowance, unless the employee is reimbursed by the County.

Whenever practicable, as determined by management, employees called for jury duty will be assigned to a day shift schedule.

Any employee who initiates an action against the County or who appears in court on behalf of an employee organization against the County shall not receive paid time off for such appearance.

Employees shall not be compensated for performing as a member of any Grand Jury.

SHIFT DIFFERENTIALS

The regular day shift will consist of eight (8) working hours between 7:00 a.m. and 5:00 p.m. as scheduled by the department head. No shift differential shall be paid when the entire eight (8) hour shift falls between these hours. In addition, any employee whose regular work hours begin and conclude between 7:00 a.m. and 5:00 p.m. shall not receive shift differential pay for any overtime worked. Finally, employees working a regular day shift flexible work schedule which extends into the above stated hours shall not be eligible for shift differential.

Whenever an employee who by assignment or by rotation works a regular shift, any portion of which occurs between the hours of 5:00 p.m. and 7:00 a.m., the employee shall be paid, in addition to the basic compensation, an eight percent (8%) differential for all work hours which occur after 5:00 p.m., and before 7:00 a.m. There shall be no shift differential paid during periods of Annual Leave, vacation/sick leave, during holiday time off, and during periods of temporary reassignment to work hours excluded from shift differential payment.

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

Psychiatric Health Facility & University Medical Emergency Department

Whenever an employee who by assignment or by rotation works a regular shift (excluding regular day shift employees) at the above-stated facilities, any portion of which occurs between the hours of 5:00 p.m. and 7:00 a.m., the employee shall be paid, in addition to the basic compensation, a twelve percent (12%) differential for all work hours which occur after 5:00 p.m. and before 7:00 a.m.

Those employees who by assignment or by rotation work a regular shift where five (5) or more hours occur between midnight and 7:00 a.m., shall be paid, in addition to the basic compensation, a fourteen percent (14%) differential for all work hours which occur after 5:00 p.m. and before 7:00 a.m. There shall be no shift differential paid during periods of Annual Leave, vacation leave, sick leave, during holiday time off, and during periods of temporary reassignment to work hours excluded from shift differential payment.

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

BILINGUAL SKILL PAY

Effective no later than July 8, 2002, an employee occupying a position that is authorized by the County Administrative Officer, or his/her designee, to receive Bilingual Skill Pay shall be eligible to receive such pay in the amount of \$23.08 per pay period. Such employee shall receive Bilingual Skill Pay after certification by the Department of Personnel Services.

Bilingual Skill Pay shall not be paid during periods of paid time off (e.g., annual leave, vacation or sick leave); instead, departments may assign these responsibilities to other employees who are certified to receive this pay.

Within 30 days of the effective date of this MOU, the parties agree to meet and confer in coalition with other employee groups regarding the County-wide administrative procedures and certification/testing process necessary to implement/administer Bilingual Skill Pay.

OVERTIME

All employees covered by this MOU shall be paid at the rate of time and one-half (1½) for overtime worked. In determining whether or not overtime hours have been worked, only productive work hours (actual hours worked) shall apply. Time off for a holiday during the pay period in which the holiday occurs shall be considered productive time. Overtime is authorized work performed by employees in excess of eight (8) hours a day or over forty (40) hours in a work week which will be paid at time and one-half (1½) of the employee's base rate of pay unless the overtime meets the definition of overtime under the provisions of FLSA. In the latter instance, overtime shall be calculated at the rate of one and one-half (1½) times the employee's regular rate of pay, as defined by provisions of the FLSA.

Due to the County's current economic constraints, the County and SEIU – Local 535 agree to temporarily encourage all employees covered by this MOU to accrue the maximum amount of compensatory time off (CTO) allowed.

Employees covered by this MOU in the following departments may accrue CTO up to a maximum of sixty (60) hours:

- Agriculture
- Child Support Services
- Cooperative Extension
- County Administrative Office (General Services Division – Excluding Parks and Recreation)
- County Clerk
- County Counsel
- District Attorney
- Human Services System
- Information Technology Services
- Library
- Public Works & Planning
- Sheriff

Employees in the following departments may accrue CTO up to a maximum of twenty-four (24) hours: Assessor-Recorder, Auditor-Controller/Treasurer-Tax Collector and Coroner/Public Administrator-Public Guardian.

Employees may request to be paid in cash at anytime for accrued hours. Use of CTO shall be at a time mutually agreed upon by the employee and department head or his/her representative. CTO balances may be paid off annually in cash at a time selected by the department head at his/her discretion.

The sixty (60) hour CTO accrual maximum referenced above will decrease to twenty-four (24) hours effective the last pay period prior to the expiration of this MOU for employees in the referenced departments. Those employees who have CTO balances in excess of twenty-four (24) hours shall not be eligible to accrue additional hours until such time as his/her CTO balance falls below twenty-four (24) hours.

Effective the last pay period prior to the expiration of this MOU, employees in the Assessor-Recorder, Auditor-Controller/Treasurer-Tax Collector or the Coroner/Public Administrator-Public Guardian offices will no longer be eligible to accrue CTO hours.

Should employees of this Unit be scheduled by management to work more than seven (7) consecutive work days, commencing on the eighth (8th) day, the employee will be compensated at two (2) times his/her base hourly rate for each hour worked 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 (8th) 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 (8th) consecutive day worked nor days thereafter. Employees may rescind such waiver in writing prior to their scheduled shift.

Within sixty (60) days of the approval of this MOU, the parties agree to meet and confer regarding pay provisions for employees who perform election duties as assigned by the County Clerk/Registrar of Voters.

STANDBY (ON CALL)

Employees who are placed on standby shall be compensated for time on call at the rate of two and 50/100 dollars (\$2.50) per hour.

When an employee is required to stand by on a County holiday, as defined in the Salary Resolution, the employee receives holiday pay of eight (8) hours for that day, and \$2.50 per hour standby compensation for each hour the employee is required to stand by and a maximum time and one-half in overtime for each hour the employee is required to actually work while on standby.

When on standby, the employee shall remain within the metropolitan Fresno area, shall inform the designated management or supervisory person of exactly where the employee may be reached at any time and shall be in a fit condition to report to work.

The rate of pay upon which the time and one-half payment shall be made shall be the employee's base rate of pay, unless the overtime meets the definition of overtime under provisions of the FLSA; in the latter instance, overtime shall be calculated at the rate of one and one-half (1½) times the employee's regular rate of pay, as defined by provisions of the FLSA. The fact that the County may initially calculate overtime based on the regular rate of pay for all overtime hours worked does not obviate the County's future exclusive right to differentiate between overtime rates as set forth herein.

CALL-BACK PAY

An employee shall be eligible for call-back pay when all of the following conditions are met:

1. The employee is unexpectedly ordered to return to work and does, in fact, return to work.
2. The order to return is given to the employee following termination of the employee's normal shift and his/her departure from his/her work location.
3. Such return to work occurs not less than two (2) hours prior to the established starting time of the employee's next shift.

Compensation for call-backs during each twenty-four (24) hour period shall be the greater of:

1. Two (2) hours at the rate of time and one-half (1½); or

2. Time spent at the work location at the rate of time and one-half (1½).

The rate of pay upon which the time and one-half (1½) payment shall be made shall be the employee's base hourly rate of pay, unless the call-back time worked meets the definition of overtime under provisions of the FLSA; in the latter instance, overtime shall, as to non-exempt classifications, be calculated at the rate of one and one-half (1½) times the employee's regular hourly rate of pay, as defined by provisions of the FLSA. The fact that the County may initially calculate overtime based on the regular rate of pay for all overtime hours worked does not obviate the County's future exclusive right to differentiate between overtime rates as set forth herein.

Employees called back, and who meet the criteria for use of private vehicles, shall be reimbursed for mileage driven to and from home when called back at the current reimbursement rate.

Compensatory time off may be elected subject to provisions set forth in this MOU and the Salary Resolution.

PERSONNEL FILES

Personnel files shall be governed by the Fresno County Personnel Rule 9.

Employees desiring answers to specific questions regarding Salary Resolution and/or Personnel Rules may call:

Service Employees International Union - Local 535
5756 North Marks Avenue, Suite 152
Fresno, CA 93711
(559) 261-9311 or 1-800-525-0752 (ask to speak to the Field Representative for Unit 12 for Fresno County)

OR

Fresno County Labor Relations Division
2220 Tulare Street, 16th Floor
Fresno, CA 93721
(559) 488-3048 (ask to speak to a Personnel Analyst)

ON-THE-JOB INJURIES/HEALTH PLAN PREMIUMS

Employees who are seriously injured; or who become ill; or who are exposed to toxic materials; any of which are as a result of an incident or exposure on the job which causes need for medical treatment and who cannot return to work, as verified by a California Licensed Physician's statement, on the day such incident or exposure occurs, shall receive their full normal compensation for that day as though they had continued to work. There shall be no required use of annual or sick leave time for such day. Under conditions set forth below, the County will continue to pay the County contribution toward the employee's health insurance premium for up to fifteen (15) full pay periods. The Health Benefit Plan employee-only contribution will be paid when all of the following conditions have been met:

1. The employee is on an approved medical leave of absence under provisions of County Personnel Rule 7;
2. The medical leave of absence is a result of a bona fide on-the-job injury or illness;
3. The employee has exhausted all accrued paid time off including, but not limited to, annual leave, sick leave, and compensatory time off;
4. The employee has not been released by the attending physician to return to duty on a full- or part-time basis.

The employee will assume full responsibility for payment of the employee-only premium at the beginning of the sixteenth (16th) pay period of a medical leave of absence due to an on-the-job injury or illness. The employee retains full responsibility for payment of Health Benefit Plan premiums for any continued dependent coverage regardless.

MEMORANDUM OF UNDERSTANDING - PRINTING AND DISTRIBUTING

Within four (4) weeks of adoption by the Board of Supervisors, the County shall provide the Union twenty-five (25) copies of this MOU.

Any distribution of this MOU by the Union shall not interfere with County operations.

FLEXIBLE WORK SCHEDULES

At the request of either the County or the Union, the parties agree to meet and confer on flexible work schedules.

The Union shall be given two (2) weeks advance notice of any changes to flexible work schedules and afforded an opportunity to meet and confer on the impact of flexible work week changes. If the Union requests to meet and confer, the County will not implement said changes until either agreement is reached or impasse declared.

The County of Fresno and SEIU – Local 535 agree to hold an interest-based bargaining session within sixty (60) days of the approval of the MOU. The purpose of the session will be to explore the mutual benefits of implementing flexible schedules for employees assigned to Child Protective Services, as well as employees in the Eligibility Worker and Appraiser classification series.

CONTINUING EDUCATION

Employees in classifications represented by this Unit who, during the term of this MOU, are required to attend continuing education courses, seminars, etc., as a requisite for retention of a license, certification or registration which is a condition of continuing County employment, shall be given County-paid time off from their regular work schedule for said attendance, if it does not interfere with the performance of County services as determined by the department head.

In order to avoid favoritism, in-service seminars and workshops pertaining to skill development will be granted as equitably as possible.

DIFFERENTIALS

PHF, PACT & CCAIR Differential

Employees of this Unit who are assigned to the Psychiatric Health Facility (PHF) inpatient locked facility, Psychiatric Assessment Center for Treatment (PACT), and the Children's Crisis Assessment Intervention and Resolution (CCAIR) Unit shall be paid five and 00/100 dollars (\$5.00) per day differential when four (4) or more hours are spent in the facility. Employees assigned for less than four (4) hours per day shall be paid the above differential on a pro-rated basis at \$.625 per hour.

The differential shall continue for employees permanently assigned to the facility during periods of, vacation, sickness, and temporary reassignments for the convenience of management, for training or other purposes.

When a permanent employee is temporarily reassigned from this facility for a period of one (1) month or more no differential shall be paid.

Differential payments are not included in Annual Leave payoff.

The parties agree to meet and confer, at the request of the Union, regarding the applicability of this differential to new and similar mental health programs.

Emergency Room Differential

Employees of this Unit who are assigned to the Emergency Room shall be paid five and 00/100 dollars (\$5.00) per day differential when four (4) or more hours are spent in the Emergency Room. Employees assigned for less than four (4) hours per day shall be paid the above differential on a pro-rated basis at \$.625 per hour.

The differential shall continue for employees during periods of vacation, sickness and during holiday time off. Payment shall continue during temporary reassignment for the convenience of management, for training or other purposes for periods of one (1) month or less.

Differential payments are not included in Annual Leave payoff.

Detention Facility Differential

Employees of this Unit who are assigned to a County detention facility shall be paid five and 00/100 dollars (\$5.00) per day differential when four (4) or more hours are spent in one (1) of these facilities. Employees assigned for less than four (4) hours per day shall be paid the above differential on a pro-rated basis at \$.625 per hour.

The differential shall continue for employees permanently assigned to the specified facilities during periods of vacations, sickness, and temporary reassignments for the convenience of management, for training or other purposes for periods of one (1) month or less.

CONTINUITY OF OPERATIONS

Continuous and uninterrupted service to the citizens of Fresno County, and orderly employee/employer relations between the County and its employees are essential considerations of this MOU. Therefore, the Union agrees on behalf of itself and those County employees which it represents both individually and collectively, 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.

In the event the County determines there to be a violation of this article by the Union and/or the employees which it represents, the employer may, in addition to other remedies, discipline such employees up to and including discharge.

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

ADMINISTRATIVE HEARINGS

Upon the approval of the department head or his/her designee, a maximum of two (2) 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, or for Employment Development Department (EDD) hearing. No overtime nor shift premium shall be paid.

LIFE INSURANCE

The County agrees to offer term life insurance at the option of individual employees. Such insurance will be paid for by the employee opting to receive this insurance, and shall be subject to provisions as established by the County and the insurance carrier.

LEAD WORKER ALLOWANCE

Employees in classifications, denoted by an asterisk (*) in Addendum No. 1 - Salaries, who are assigned by management to perform lead work involving assigning, reviewing and coordinating the work of employees shall receive an allowance of \$50 per pay period, pro-rated for the actual number of hours worked, not to exceed eighty (80) hours per pay period. There shall be no allowance paid during periods of Annual Leave, sick leave use, and during holiday time off.

Employees designated by the Department Head to receive this allowance do so at the pleasure of the Department Head and assignment decisions designating or removing designation are not grievable or appealable to the Civil Service Commission, or subject to challenge in a court of law.

PERFORMANCE EVALUATIONS

Performance evaluations are governed by Personnel Rule 13. Details concerning frequency of these evaluations are set forth in Addendum No. 4.

Where the employee has had more than one (1) supervisor during a rating period, all such persons who are still in the employ of the County who have supervised the employee for more than three (3) months shall cooperate in preparing a single evaluation.

Remedy For Employee Dissatisfied With Evaluation: An employee dissatisfied with his or her performance evaluation and wishing to supplement the evaluation with written comments may do so. The written comments must be signed, dated and submitted to the employee's supervisor within ten (10) working days of the employee's receipt of the evaluation. In addition, the written comments must identify the areas of disagreement and include a request to meet with the reviewer. The reviewer shall hold a meeting with the employee to discuss the employee's concerns within ten (10) working days from receipt of the written comments. Both the employee's written comments and the reviewer's written response become a part of the employee evaluation document and a permanent part of the employee's personnel record. There shall be no appeal or other remedy available to the employee.

VOLUNTARY "WORK HOUR REDUCTION" PROGRAMS

If layoffs are to occur in any classification in this Unit, the County and the Union agree to meet and confer regarding voluntary departmental "work hour reduction" programs as an alternative to those layoffs.

CONTRACTING OUT

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

The County will meet and confer with the Union regarding the impact of Management's decision to contract out services where those services are being performed by current incumbents of affected Unit classifications and where layoffs may be contemplated because of the decision to contract out services.

SENIORITY PROVISION

The purpose of this article is to provide a mechanism whereby the County and the Union can resolve departmental seniority related issues as they may apply to days off, selection of shift assignments, preferred work assignments, selection of vacation, holiday work schedules and overtime hours worked.

Additionally, it represents the County's commitment in working with the Union and County departments regarding the consistent application of departmental seniority provisions.

Discussions regarding seniority related issues shall only occur under the guidance of the County's Employee Relations Unit. Should the parties agree to meet-and-confer on seniority issues, these negotiations will only occur between employee relations staff, the affected department, and the Union. Any seniority provisions agreed to during the meet-and-confer process will be memorialized in a sideletter agreement and incorporated into this MOU upon approval by the Board of Supervisors of a successor MOU.

CLASS SPECIFICATIONS

In the event class specifications for classifications covered in this Unit are revised, the County agrees to provide the Union with copies of the revised specifications as soon as they are promulgated. Such copies shall serve as notice to the Union relative to impact bargaining. At the Union's request, the County will meet and confer on the impact of changes to class specifications for classifications covered by this Unit.

DICTIONATION DIFFERENTIAL

Employees in the following classes: Secretary I, Secretary II, Secretary III and Secretary IV shall be paid a twenty and no/100 dollars (\$20.00) per pay period differential when a significant portion of time, as determined by management, is spent taking and transcribing dictation at a minimum of eighty (80) words per minute as determined by examination approved by the Director of Personnel Services. To qualify, the dictation shall be used as a business convenience by the secretary's supervisor or designee.

CLASSIFICATION REVIEW APPEAL PROCESS

An employee who wishes to appeal the results of a classification review shall submit a written appeal request to the Labor Relations Manager. Additional appeal beyond the Labor Relations Manager shall be to the Director of Personnel Services. Final review shall rest with the Director of Personnel Services.

COUNTY-WIDE SALARY AND BENEFITS SURVEY

The County shall, as soon as feasible, commission a county-wide salary and benefits survey. Once the County chooses a consultant, employee organizations will be given the opportunity to meet with the consultant prior to commencement of the survey to discuss labor's perspective regarding salaries and benefits. The results of the survey will be discussed during negotiations over successor MOU.

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.

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 addendums and sideletter agreements), whether formal or informal, regarding any such matters are hereby superseded and terminated in their entirety. With respect to addendums and sideletter agreements, all previously existing addendums and sideletter agreements that have not expired, and new addendums 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 with provisions of existing County ordinances, rules and regulations pertaining to wages, hours, and other terms and conditions of employment, but otherwise such ordinances, rules and regulations shall be effective and 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.

FAIR LABOR STANDARDS ACT

If, during the course of this MOU, legislation or a court decision makes the provisions of the FLSA no longer applicable to the County, the parties hereby agree that the overtime provisions of this MOU shall terminate and no longer be applicable to the parties and that the provisions regarding overtime as set forth in the Overtime, Overtime Compensation, Stand-by Pay and Call-back Pay Articles of the parties' previous MOU, approved by the Board of Supervisors on July 30, 1985, shall become applicable on the same date the above-referenced legislation or court decision becomes effective, and shall remain applicable throughout the duration of this MOU.

UNION 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 Union/Management meetings, at the request of the Union or the department in the Human Services System and Probation 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 Union 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 Union or the Department, if mutually agreed upon by both parties. This article shall not be grievable or appealable. However, any operational/service issues arising out of these meetings that are otherwise grievable may be pursued consistent with the Employee Grievance Resolution Procedure. Concerns regarding the administration of this article may be raised with the Director of Personnel Services.

WEINGARTEN RIGHTS

The County and SEIU 535 agree that it is in the best interest of both parties and the best interest of the County employees that all employees be informed of these 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.

SEIU 535 and the County to mutually agree on the form.

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

UNION LABEL

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

MEET AND CONFER REQUIREMENTS

California Government Code, Section 3500 (The Meyers-Milias-Brown Act), is attached as an addendum to this MOU.

NOTICE OF PROMOTIONAL OPPORTUNITIES

Employees who have authorized access to the Fresno County e-mail system will be sent bi-weekly updates regarding pending promotional opportunities from the Department of Personnel Services. The opportunities will be limited to open, departmental promotional and general promotional recruitments. All departmental internal suspension of competition recruitments will continue to be conducted pursuant to Personnel Rule 4310.6.

APPLICATIONS AND FORMS

Fresno County applications and forms related to employment opportunities will be made available through the County Intranet System. Employees may submit application materials to the Department of Personnel Services via the Fresno County e-mail system. The employee will be allowed to show e-mail documentation that the application materials were sent by the final filing date and time.

This Article does not apply to internal, departmental suspension of competition recruitments, which will be conducted pursuant to Personnel Rule 4310.6.

This Article shall not be grievable

EMPLOYEE ASSISTANCE PROGRAM

The County and SEIU – Local 535 agree that within 30 days of the adoption of the MOU, representatives of the County and SEIU – Local 535 agree to meet to discuss Fresno County's Employee Assistance Program.

HEPATITIS VACCINATIONS

The County Health Officer shall review the classifications covered by this MOU and make a recommendation as to the benefit of having hepatitis vaccinations provided to employees within designated classifications.

This review and recommendation shall be completed within six (6) months from the approval of this MOU. A copy of the recommendation will be provided to SEIU – Local 535.

CHILD CARE FACILITY

The County agrees to continue exploring the possibility of creating a child care facility for use by County employees.

USE OF COUNTY MAIL SYSTEM

SEIU – Local 535 may request that informational material be distributed to employees covered by this MOU via the County Inter-Office Mail system. All such requests must be submitted two weeks in advance of the proposed distribution date to the Personnel Services Manager - Labor Relations in writing with the informational material attached. If the Personnel Services Manager - Labor Relations authorizes the distribution of the information via the County Inter-Office Mail system, the Union will be notified and required to provide the appropriate number of copies, in addressed envelopes to the County Reprographics Manager for distribution.

USE OF PERSONAL VEHICLES

The County of Fresno agrees to review the current process of assigning/allocating County vehicles to employees who conduct field work associated with their assignments in various departments/programs within the Human Services System. The findings of the review will be reported during the next quarterly Union/Management meeting in June 2004.

CLASSIFICATION STUDIES

The County agrees to conduct classification studies based on the following requests made by SEIU – Local 535:

- Job Specialist (Analyze the necessity of eliminating college degree requirement at the III level)
- Licensed Vocational Nurse (Analyze the necessity of establishing salary parity between the LVN and Psychiatric Technician classification series)
- Driver (Analyze the necessity of establishing a II level)

The Job Specialist study will be completed within three (3) months of the adoption of this MOU. The LVN and Driver studies will be completed within six (6) months of the adoption of this MOU.

MOU NEGOTIATIONS

Employees authorized to participate in MOU negotiations whose classifications require them to carry a caseload, shall not be assigned any new cases on days they have participated in the MOU negotiation process.

UNINTERRUPTED PROCESS TIME (UPT) METRO DIVISION

The County and SEIU 535 agree to an Uninterrupted Process Time Trial Program for the following Classification series covered by this M.O.U. assigned to the Metro Division in the Department of Adult Services:

Community Mental Health Specialist I and II

This trial program shall commence upon the effective date of this M.O.U. for a minimum period of twelve (12) months. The purpose of this trial program will be to determine if UPT significantly increases employee-billing time for client services.

Employees in the above referenced classifications shall be permitted a one (1) hour period of time, up to two (2) hours as determined by management, which they are free from routine public contact each work day at his/her requests. During the worker's uninterrupted process time, all telephone calls and interview requests will be handled by other staff.

If a worker is absent during all or part of the scheduled uninterrupted process time, the process time lost cannot be rescheduled, unless an exception is granted by the supervisor with the approval of the program manager.

Uninterrupted process time for those who work part-time will be the amount of time which corresponds to their work schedule. For example, a half-time worker would have an ½ hour (half of one hour) of the workday designated as uninterrupted process time.

The County and SEIU 535 during their monthly labor/management meetings agree to discuss the employee billing for client services and collaboratively work to improve this issue.

At the end of the trial period, the department head may discontinue or modify UPT in any or all work areas when it is determined by the department head that to do so would be in the best interest of the department. In the event that it is necessary, the County will notify SEIU 535 and offer them the opportunity to meet and confer over the impact of this decision prior to implementation of changes.

TERM AND SALARY ADJUSTMENT

Term

Two years – March 22, 2004 through beginning of the second pay period of March 2006.

Salary Adjustment

First Year – 0% salary adjustment.

Second Year – The parties agree to meet and confer over the issue of a salary adjustment during the month of April 2005.

Favored Nations – If the majority of representation units (excluding representation units 1, 10, 14 and 35) receive an across-the-board salary increase greater than that received by representation units represented by SEIU – Local 535, that same greater increase shall also be offered to units represented by SEIU – Local 535 on the same terms and conditions and as approved by the Board of Supervisors.

COUNTY OF FRESNO

SEIU - LOCAL 535, UNIT 12

By _____

Date _____

Date _____

ADDENDUM NO. 1
 TO MEMORANDUM OF UNDERSTANDING
 FOR SEIU - LOCAL 535, UNIT 12
 (MOU Term: March 22, 2004 – March 26, 2006)

SALARIES

RECOMMENDED SALARY RANGE AND EFFECTIVE DATES

<u>Classification</u>	<u>Current Range</u>
Account Clerk I *	777
Account Clerk II *	860
Account Clerk III	967
Admitting Interviewer I	828
Admitting Interviewer II *	973
Assessment Technician I *	905
Assessment Technician II *	1064
Baker	922
Communicable Disease Specialist I	1210
Communicable Disease Specialist II	1293
Community Mental Health Specialist I	1097
Community Mental Health Specialist II	1211
Cook	840
Data Entry Operator I *	677
Data Entry Operator II *	809
Dietary Aide I *	685
Dietary Aide II *	724
Dietary Aide III *	772
Driver *	784
Health Aide I	609
Health Aide II	757
Health Education Assistant	1058
Janitor *	749
Laundry Supervisor - Jail	983
Library Aide *	599
Licensed Vocational Nurse I * (Step 3)	883
Licensed Vocational Nurse II *	961
Licensed Vocational Nurse III *	1101
Maintenance Janitor *	772
Medical Interpreter Escort *	685
Mental Health Worker I	668
Mental Health Worker II	811
Non-Licensed Vocational Nurse (Step 3)	839
Occupational Therapist I	1899
Occupational Therapist II *	2011
Occupational Therapist III *	2357

* Classifications eligible to receive lead worker allowance

<u>Classification</u>	<u>Current Range</u>
Office Assistant I *	732
Office Assistant II *	822
Office Assistant III	915
Physical Therapist I	1899
Physical Therapist II *	2011
Physical Therapist III *	2357
Property Recording Clerk *	981
Psychiatric Technician I	1020
Psychiatric Technician II	1134
Psychiatric Technician III	1242
Public Health Nutritionist I	1376
Public Health Nutritionist II	1523
Recreational Therapist I	(Step 3) 1199
Recreational Therapist II	1343
Secretary I	822
Secretary II	915
Secretary III	1022
Secretary IV	1128
Senior Janitor	820
Therapy Aide *	749
Washer *	708

* Classifications eligible to receive lead worker allowance

ADDENDUM NO. 4
TO MEMORANDUM OF UNDERSTANDING FOR
SEIU-LOCAL 752 - UNIT 12
(JUNE 2, 1997 - SEPTEMBER 16, 2001)

FREQUENCY OF EMPLOYEE EVALUATIONS

For information purposes and not to be construed as a part of the Agreement:

1. Probationary Period

Ratings for an employee will occur at least once during the probationary period. However, it is anticipated that in the course of normal supervisor/employee relationships, the employee will be kept informed as to his or her job performance during the course of the probationary period. The required official rating shall occur just prior to the ending of the probationary period--usually approximately one month prior thereto. Since probationary periods are either of six months or one year duration, the required official rating will occur at approximately the 5th or 11th month of the probationary period. If an employee with an original six month probationary period has probation extended, another rating will be required immediately prior to the end of the extended period.

2. Annual--Anniversary Date

Employees not in probationary status will be rated at least annually. For administrative control purposes, the annual rating is established in accord with the salary review anniversary date. Employee evaluations shall occur at approximately one month prior to the anniversary date. Once an employee has achieved the top step of the salary range, ratings will be at least annually at the established anniversary date which determined the top step salary advancement or appointment.

3. Other

A department head may make employee performance evaluations more frequently than required herein as determined by:

a. Department Policy

For the entire department, or for specialized, or technical job classes.

b. Employees whose overall job performance has been unsatisfactory or needs improvement

c. Mitigating individual circumstances other than the above are appropriate for the occasion.

ADDENDUM NO. 5
TO MEMORANDUM OF UNDERSTANDING FOR
SEIU-LOCAL 535 - UNIT 12
(JUNE 2, 1997 - SEPTEMBER 16, 2001)

TRANSFERS

The following is an excerpt from the Fresno County Personnel Rules. This excerpt is printed for informational purposes and is not to be construed as part of this Agreement.

11020 Transfer:

This section permits employees to move laterally either within or between classification series. Transfer may be made for a variety of reasons including the desire to change to a series which might offer better career advancement opportunities, or because of personal reasons.

11021 Definition:

Assignment of an employee to another position: (a) in the same class, in another department; (b) in a different class which has the same salary range, in the same or another department; (c) in a different class which has a different salary range, in the same or another department when, in the judgment of the County Administrative Officer, both classes are equivalent with respect to duties and responsibilities.

11022 Requirements for Transfer:

11022.1 From One Class to Another:

An employee, at his request, and with the approval of the department head(s), may be transferred from a position in one class to that in another class provided there is satisfactory evidence of the employee's ability and fitness to perform in the new class. This type of transfer is effective only with the approval of the County Administrative Officer.

11022.2 From One Department to Another:

An employee, at his request, and with approval of the department heads involved, may be transferred within the same class from one department to another. This type of transfer is effective only with the approval of the County Administrative Officer.

Employees who transfer from one department to another may be required by the department head to begin a new probationary period. If unsuccessful in the new probationary period, the employee is terminated from County service forfeiting all employment rights. If a new probationary period is a condition for transfer, the employee must sign a statement indicating an understanding of this fact prior to the effective date of the transfer.

11022.3 Reassignment:

A department head may at any time reassign an employee from one position to another in the same class within his department.

11023 Transfer of Functions:

Whenever the functions of a department will transfer to another department, employees performing such functions will also be transferred. Such employees retain the same status and seniority in the new department as they enjoyed in the department from which transferred. The department head(s) must notify the County Administrative Officer a minimum of 60 days in advance of the proposed effective date. This written notice will set forth all the specifics of the transfer.

ADDENDUM
TO MEMORANDUM OF UNDERSTANDING FOR
CLERICAL, PARAMEDICAL, BUILDING
& SERVICE EMPLOYEES - UNIT 12
(MOU Term: March 22, 2004 – March 26, 2006)

CALIFORNIA GOVERNMENT CODE, SECTION 3500-3511
(The Meyers-Milias-Brown Act)

3500. (a) It is the purpose of this chapter to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the various public agencies in the State of California by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice and be represented by those organizations in their employment relationships with public agencies. Nothing contained herein shall be deemed to supersede the provisions of existing state law and the charters, ordinances, and rules of local public agencies that establish and regulate a merit or civil service system or which provide for other methods of administering employer-employee relations nor is it intended that this chapter be binding upon those public agencies that provide procedures for the administration of employer-employee relations in accordance with the provisions of this chapter. This chapter is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed.
- (b) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under this chapter are not reimbursable as state-mandated costs.
- 3500.5. This chapter shall be known and may be cited as the "Meyers-Milias-Brown Act."
3501. As used in this chapter:
- (a) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing those employees in their relations with that public agency.
- (b) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency as an employee organization that represents employees of the public agency.
- (c) Except as otherwise provided in this subdivision, "public agency" means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 5 (commencing with Section 45100) of Part 25 and Chapter 4 (commencing with Section 88000) of Part 51 of the Education Code or the State of California.

(d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

(e) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(f) "Board" means the Public Employment Relations Board established pursuant to Section 3541.

3501.5. As used in this chapter, "public agency" does not mean a superior court.

3502. Except as otherwise provided by the Legislature, public employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public agency.

3502.1. No public employee shall be subject to punitive action or denied promotion, or threatened with any such treatment, for the exercise of lawful action as an elected, appointed, or recognized representative of any employee bargaining unit.

3502.5. (a) Notwithstanding Section 3502 or 3502.6, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization which has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may only be filed after the recognized employee organization has requested the public agency to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from any claims, demands, or other action relating to the public agency's compliance with the agency fee obligation.

(c) Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of

at least three of these funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to any such fund chosen by the employee. Proof of the payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

(d) An agency shop provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during that term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement. The procedures in this subdivision are also applicable to an agency shop agreement placed in effect pursuant to subdivision (b).

(e) An agency shop arrangement shall not apply to management, confidential, or supervisory employees.

(f) Every recognized employee organization that has agreed to an agency shop provision or is a party to an agency shop arrangement shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of the financial reports.

3503. Recognized employee organizations shall have the right to represent their members in their employment relations with public agencies. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public agency.
3504. The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.
- 3504.5. (a) Except in cases of emergency as provided in this section, the governing body of a public agency, and boards and commissions designated by law or by the governing body of a public agency, shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the governing body or the designated boards and commissions and shall give the recognized employee organization the opportunity to meet with the governing body or the boards and commissions.
- (b) In cases of emergency when the governing body or the designated boards and commissions determine that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the governing body or the boards and commissions shall provide notice and opportunity to meet at the earliest practicable time following the adoption of the ordinance, rule, resolution, or regulation.
- (c) The governing body of a public agency with a population in excess of 4,000,000, or the boards and commissions designated by the governing body of such a public agency shall not discriminate against employees by removing or disqualifying them from a health benefit plan, or otherwise restricting their

ability to participate in a health benefit plan, on the basis that the employees have selected or supported a recognized employee organization. Nothing in this section shall be construed to prohibit the governing body of a public agency or the board or commission of a public agency and a recognized employee organization from agreeing to health benefit plan enrollment criteria or eligibility limitations.

3505. The governing body of a public agency, or such boards, commissions, administrative officers or other representatives as may be properly designated by law or by such governing body, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of such recognized employee organizations, as defined in subdivision (b) of Section 3501, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action. "Meet and confer in good faith" means that a public agency, or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent.
- 3505.1. If agreement is reached by the representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the governing body or its statutory representative for determination.
- 3505.2. If after a reasonable period of time, representatives of the public agency and the recognized employee organization fail to reach agreement, the public agency and the recognized employee organization or recognized employee organizations together may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the public agency and one-half to the recognized employee organization or recognized employee organizations.
- 3505.3. Public agencies shall allow a reasonable number of public agency employee representatives of recognized employee organizations reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the public agency on matters within the scope of representation.
- 3505.4. If after meeting and conferring in good faith, an impasse has been reached between the public agency and the recognized employee organization, and impasse procedures, where applicable, have been exhausted, a public agency that is not required to proceed to interest arbitration may implement its last, best, and final offer, but shall not implement a memorandum of understanding. The unilateral implementation of a public agency's last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption by the public agency of its annual budget, or as otherwise required by law.
3506. Public agencies and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public employees because of their exercise of their rights under Section 3502.
3507. A public agency may adopt reasonable rules and regulations after consultation in good faith with representatives of an employee organization or organizations for the administration of employer-employee relations under this chapter (commencing with Section 3500). Such rules and regulations may include provisions for (a) verifying that an organization does in fact represent employees of the public agency (b) verifying the official status of employee organization officers and representatives (c) recognition of employee organizations (d) exclusive recognition of employee organizations formally recognized pursuant to a vote of the employees of the agency or an appropriate unit thereof, subject to the right of an employee to represent himself as provided in Section 3502 (e) additional procedures for the resolution of disputes involving wages, hours and other terms and conditions of employment (f) access of employee organization

officers and representatives to work locations (g) use of official bulletin boards and other means of communication by employee organizations (h) furnishing nonconfidential information pertaining to employment relations to employee organizations (i) such other matters as are necessary to carry out the purposes of this chapter. Exclusive recognition of employee organizations formally recognized as majority representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of such recognition. No public agency shall unreasonably withhold recognition of employee organizations.

- 3507.1. (a) Unit determinations and representation elections shall be determined and processed in accordance with rules adopted by a public agency in accordance with this chapter. In a representation election, a majority of the votes cast by the employees in the appropriate bargaining unit shall be required.
- (b) Notwithstanding subdivision (a) and rules adopted by a public agency pursuant to Section 3507, a bargaining unit in effect as of the effective date of this section shall continue in effect unless changed under the rules adopted by a public agency pursuant to Section 3507.
- (c) A public agency shall grant exclusive or majority recognition to an employee organization based on signed petition, authorization cards, or union membership cards showing that a majority of the employees in an appropriate bargaining unit desire the representation, unless another labor organization has previously been lawfully recognized as exclusive or majority representative of all or part of the same unit. Exclusive or majority representation shall be determined by a neutral third party selected by the public agency and the employee organization who shall review the signed petition, authorization cards, or union membership cards to verify the exclusive or majority status of the employee organization. In the event the public agency and the employee organization cannot agree on a neutral third party, the Division of Conciliation of the Department of Industrial Relations shall be the neutral third party and shall verify the exclusive or majority status of the employee organization. In the event that the neutral third party determines, based on a signed petition, authorization cards, or union membership cards, that a second labor organization has the support of at least 30 percent of the employees in the unit in which recognition is sought, the neutral third party shall order an election to establish which labor organization, if any, has majority status.
- 3507.3. Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees. In the event of a dispute on the appropriateness of a unit of representation for professional employees, upon request of any of the parties, the dispute shall be submitted to the Division of Conciliation of the Department of Industrial Relations for mediation or for recommendation for resolving the dispute. "Professional employees," for the purposes of this section, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.
- 3507.5. In addition to those rules and regulations a public agency may adopt pursuant to and in the same manner as in Section 3507, any such agency may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the public agency and restricting such employees from representing any employee organization, which represents other employees of the public agency, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of employees to be members of and to hold office in an employee organization.
3508. (a) The governing body of a public agency may, in accordance with reasonable standards, designate positions or classes of positions which have duties consisting primarily of the enforcement of state laws or local ordinances, and may by resolution or ordinance adopted after a public hearing, limit or prohibit the right of employees in these positions or classes of positions to form, join, or participate in employee organizations where it is in the public interest to do so. However, the governing body may not prohibit the right of its employees who are full-time "peace officers," as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, to join or participate in employee organizations which are composed solely of those peace officers, which concern themselves solely and

exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and which are not subordinate to any other organization.

(b) (1) This subdivision shall apply only to a county of the seventh class.

(2) For the purposes of this section, no distinction shall be made between a position designated as a peace officer position by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code at the time of the enactment of the 1971 amendments to this section, and a welfare fraud investigator or inspector position designated as a peace officer position by any amendment to that Chapter 4.5 at any time after the enactment of the 1971 amendments to this section.

(3) It is the intent of this subdivision to overrule *San Bernardino County Sheriff's Etc. Assn. v. Board of Supervisors* (1992) 7 Cal.App.4th 602, 611, with respect to San Bernardino County designating a welfare fraud investigator or inspector as a peace officer under this section.

(c) (1) This subdivision shall apply only to a county of the seventh class and shall not become operative until it is approved by the county board of supervisors by ordinance or resolution.

(2) For the purposes of this section, no distinction shall be made between a position designated as a peace officer position by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code at the time of the enactment of the 1971 amendments to this section, and a probation corrections officer position designated as a peace officer position by any amendment to that Chapter 4.5 at any time after the enactment of the 1971 amendments to this section.

(3) It is the intent of this subdivision to overrule *San Bernardino County Sheriff's Etc. Assn. v. Board of Supervisors* (1992) 7 Cal.App.4th 602, 611, to the extent that it holds that this section prohibits the County of San Bernardino from designating the classifications of Probation Corrections Officers and Supervising Probation Corrections Officers as peace officers. Those officers shall not be designated as peace officers for purposes of this section unless that action is approved by the county board of supervisors by ordinance or resolution.

(4) Upon approval by the Board of Supervisors of San Bernardino County, this subdivision shall apply to petitions filed in May 2001 by Probation Corrections Officers and Supervising Probation Corrections Officers.

(d) The right of employees to form, join and participate in the activities of employee organizations shall not be restricted by a public agency on any grounds other than those set forth in this section.

3508.1. For the purposes of this section, the term "police employee" includes the civilian employees of the police department of any city. Police employee does not include any public safety officer within the meaning of Section 3301.

(a) With respect to any police employee, except as provided in this subdivision and subdivision (d), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 2002. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the police employee of its proposed disciplinary action within that year, except in any of the following circumstances:

(1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(2) If the police employee waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves more than one employee and requires a reasonable extension.

(5) If the investigation involves an employee who is incapacitated or otherwise unavailable, the time during which the person is incapacitated or unavailable shall toll the one-year period.

(6) If the investigation involves a matter in civil litigation in which the police employee is named as a party defendant, the one-year time period shall be tolled while the civil action is pending.

(7) If the investigation involves a matter in criminal litigation in which the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(8) If the investigation involves an allegation of workers' compensation fraud on the part of the police employee.

(b) When a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(c) If, after investigation and predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the police employee in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the police employee is unavailable for discipline.

(d) Notwithstanding the one-year time period specified in subdivision (a), an investigation may be reopened against a police employee if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exists:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the police employee's predisciplinary response or procedure.

3508.5. (a) Nothing in this chapter shall affect the right of a public employee to authorize a dues or service fees deduction from his or her salary or wages pursuant to Section 1157.1, 1157.2, 1157.3, 1157.4, 1157.5, or 1157.7.

(b) A public employer shall deduct the payment of dues or service fees to a recognized employee organization as required by an agency shop arrangement between the recognized employee organization and the public employer.

(c) Agency fee obligations, including, but not limited to, dues or agency fee deductions on behalf of a recognized employee organization, shall continue in effect as long as the employee organization is the recognized bargaining representative, notwithstanding the expiration of any agreement between the public employer and the recognized employee organization.

3509. (a) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (b) and (c).
- (b) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a public agency pursuant to Section 3507 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter.
- (c) The board shall enforce and apply rules adopted by a public agency concerning unit determinations, representation, recognition, and elections.
- (d) Notwithstanding subdivisions (a) to (c), inclusive, the employee relations commissions established by, and in effect for, the County of Los Angeles and the City of Los Angeles pursuant to Section 3507 shall have the power and responsibility to take actions on recognition, unit determinations, elections, and all unfair practices, and to issue determinations and orders as the employee relations commissions deem necessary, consistent with and pursuant to the policies of this chapter.
- (e) This section shall not apply to employees designated as management employees under Section 3507.5.
- (f) The board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a public agency if that rule or regulation is itself in violation of this chapter. This subdivision shall not be construed to restrict or expand the board's jurisdiction or authority as set forth in subdivisions (a) to (c), inclusive.
- 3509.5. (a) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, and any party to a final decision or order of the board in a unit determination, representation, recognition, or election matter that is not brought as an unfair practice case, may petition for a writ of extraordinary relief from that decision or order. A board order directing an election may not be stayed pending judicial review.
- (b) A petition for a writ of extraordinary relief shall be filed in the district court of appeal having jurisdiction over the county where the events giving rise to the decision or order occurred. The petition shall be filed within 30 days from the date of the issuance of the board's final decision or order, or order denying reconsideration, as applicable. Upon the filing of the petition, the court shall cause notice to be served upon the board and thereafter shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless that time is extended by the court for good cause shown. The court shall have jurisdiction to grant any temporary relief or restraining order it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the decision or order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superseded by this section, apply to proceedings pursuant to this section.
- (c) If the time to petition for extraordinary relief from a board decision or order has expired, the board may seek enforcement of any final decision or order in a district court of appeal or superior court having jurisdiction over the county where the events giving rise to the decision or order occurred. The board shall respond within 10 days to any inquiry from a party to the action as to why the board has not sought court enforcement of the final decision or order. If the response does not indicate that there has been compliance with the board's final decision or order, the board shall seek enforcement of the final decision or order upon the request of the party. The board shall file in the court the record of the proceeding, certified by the board, and appropriate evidence disclosing the failure to comply with the decision or order. If, after hearing, the court determines that the order was issued pursuant to the procedures established by

the board and that the person or entity refuses to comply with the order, the court shall enforce the order by writ of mandamus or other proper process. The court may not review the merits of the order.

3510. (a) The provisions of this chapter shall be interpreted and applied by the board in a manner consistent with and in accordance with judicial interpretations of this chapter.

(b) The enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public employees.

3511. The changes made to Sections 3501, 3507.1, and 3509 of the Government Code by legislation enacted during the 1999-2000 Regular Session of the Legislature shall not apply to persons who are peace officers as defined in Section 830.1 of the Penal Code.