

**AGREEMENT**

**between**

**GERBER UNION ELEMENTARY SCHOOL DISTRICT**

**AND**

**GERBER EDUCATIONAL SUPPORT  
PERSONNEL/CTA/NEA**

**July 1, 2023 - June 30, 2026**

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## **ARTICLE ONE: AGREEMENT**

This is an Agreement made and entered into on this first day of July 2023, by and between the Gerber Union School District (hereinafter referred to as "District") and the Gerber Education Support Personnel/CTA/NEA (hereinafter referred to as "Association") pursuant to Government Code Chapter 10.7 commencing with Section 3540.

## **ARTICLE TWO: RECOGNITION**

The District recognizes the Association as the exclusive representative for a unit of classified employees described as follows:

The unit shall include: All classified employees with probationary or permanent status.

The unit shall exclude: All management, supervisory, and confidential employees and all other employees.

## **ARTICLE THREE: DISTRICT RIGHTS**

3.1 It is understood and agreed that the District retains all of its powers and authority to direct, manage, and control to the full extent of the law.

3.2 The District's exercise of its powers, rights, authority, duties, and responsibilities; the adoption of policies, rules, regulations, and practices in the furtherance thereof; and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Agreement, and then only to the extent such specific terms are in conformance with law.

3.3 It is also agreed and understood that no grievance shall be filed solely on the basis of an alleged violation of this Article.

## **ARTICLE FOUR: ASSOCIATION RIGHTS**

4.1 The Association shall have the right of access to areas in which employees work, subject to the following procedures and conditions. All Association business, discussion, and activities shall be conducted by unit members and Association officials outside of employees' assigned duty times and in such a way which as which will not interfere with school programs. Association representatives who are not employed by the District shall follow District procedure upon arrival at the school campus or work site.

4.2 The Association may use District facilities when not otherwise in use for the purpose of meetings concerned with the exercise of rights guaranteed by the Educational Employment Relations Act. District policies regulating the use of facilities must be followed.

4.3 The Association may use the school mailboxes and bulletin board spaces which shall be designated by the Superintendent/Principal in places where unit members work subject to the following conditions:

- a. All postings for bulletin boards or items for school mailboxes and internal mails system must contain the date of posting or distribution and the identification of the organization together with an authorization by an Association officer that such material is an official Association publication.
- b. At the time of posting or distribution, a copy of such material must be provided the Superintendent/Principal or designee.
- c. The Association shall not post or distribute information which is defamatory of the District or its personnel.

## **ARTICLE FIVE: ORGANIZATIONAL SECURITY**

### 5.1 Employee Rights

The District and Association recognize the right of employees to form, join and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations.

### 5.2 Dues Deduction

5.2.1. The Association has the sole and exclusive right to have membership dues deducted by the District for unit members.

5.2.2. The District shall deduct from the pay of Association members and pay to the Association the sum equal to the normal and regular monthly Association membership dues.

5.2.3. Deductions will be made only upon the filing with the District, by the employee, of a signed revocable authorization. Employees have the right to revoke their dues deduction authorization at any time.

- a. The District shall notify the Association if any member revokes their dues deduction authorization.
- b. The District shall not be obligated to put into effect any new, changed or discontinued dues deduction until the pay period commencing no less than thirty (30) calendar days after submission of the form to the designated representative of the District.

5.3 Agency Fee

5.3.1 Any unit member who is not a member of the Association or who does not make application for membership within thirty (30) calendar days from the date of commencement of duties, except as expressly exempted in this Article, shall pay to the Association a service fee in an amount equal to a fair share of the Association's cost of negotiating and administering a Collective Bargaining Agreement. Such amount shall exclude any expenditures used to support political candidates and to express ideological views unrelated to the Association's duties as exclusive bargaining representative. The unit member may authorize payroll deduction for such fee in the same manner as members of the Association authorize payroll deductions for dues.

5.3.2 It is agreed and understood that this section shall not be subject to Article 14: GRIEVANCE PROCEDURE.

5.3.3 Nothing in this section shall prohibit an employee from paying service fees directly to the Association.

5.3.4 The Association shall provide potential objectors with written information as to their rights as objectors under the rules of the Public Employment Relations Board (PERB). These rights include, but are not limited to, the right to have information about the manner in which the fees are being spent, the right to have fees escrowed until following a hearing and decision by an impartial decision maker, and the right to such a hearing.

5.3.5 Any unit member who is a member of a religious body whose traditional tenets or teachings include objections to joining or paying service fees to employee organizations shall not be required to form, maintain membership in, pay service fees to, or financially support the Association as a condition of employment; except that such unit member shall be required to contribute an amount equal to the service fee required in this Agreement to a nonreligious, non-labor charitable organization exempt from taxation under Section 501 (c) (3) of Title 26 of the Internal Revenue Code.

- a. Thad Blanchard III Memorial Scholarship Fund
- b. Tehama Museum
- c. American Cancer Society
- d. American Red Cross
- e. United Way

Proof of such payment shall be made annually to the Association.

## **ARTICLE SIX: EMPLOYEE WORK PERFORMANCE EVALUATION PROCEDURES**

### **6.1 Procedures**

6.1.1 Each probationary status unit member shall receive a written work performance evaluation by the immediate supervisor not less than three (3) times during the probationary period, which shall be nine (9) working months. Each permanent status unit member shall receive a written work performance evaluation by the immediate supervisor at least once each year. The "immediate supervisor" is the first level administrator or supervisor having immediate jurisdiction over the employee and who has been designated by the District to complete performance evaluations.

6.1.2 The immediate supervisor shall discuss each written evaluation with the employee and shall provide the employee with a copy.

6.1.3 Any negative written performance evaluation comments shall include recommendations for improvement in cited deficiencies.

6.1.4 The employee shall have the right to respond to negative written performance evaluations in accordance with Article 6.2.3.

6.1.5 Performance evaluation forms shall be as developed by mutual agreement between the District and the Association.

### **6.2 Employee Personnel Files**

6.2.1 An employee may inspect material in his/her personnel file which may serve as a basis for affecting the status of his/her employment except materials which:

- a. Are obtained prior to his/her employment
- b. Were prepared by identifiable examination committee members; or
- c. Were obtained in connection with a promotional examination.

6.2.2 An employee may inspect such material in his/her personnel file, with the exception of the above specified items, during the normal business hours of the District Office at times other than when the employee is required to render service. Such inspection shall take place under the supervision of a District Administrator or a designee. Association representatives may also inspect an employee's personnel with the written authorization of the employee.

6.2.3 No materials of a derogatory nature, except the above specified items, may be placed in an employee's personnel file without allowing the employee an opportunity to review and comment thereon during a ten (10) working day period. An employee shall

have the right to enter, and have attached to any such derogatory statement, his/her own comments thereon. The review and comment upon materials of a derogatory nature shall take place during the normal business hours of the District Office and at times when the employee can be spared from duty as determined by the supervisor. The employee shall be released from duty without loss of pay. The employee shall submit a request in advance to the supervisor to leave the normal place of work during the assigned times for such review and comment.

6.2.4 All material placed in an employee's personnel file shall be dated and signed by the contributor.

6.2.5 The official personnel file of each unit member as referred to in this Article shall be kept in the District Office.

## **ARTICLE SEVEN: JOB POSTING PROCEDURES**

7.1 The District shall post job vacancies in the representation unit for five (5) work days internally prior to advertising to outside candidates. Each vacancy announcement shall remain posted for a period of at least five (5) working days. Such announcement shall include pertinent information about the vacancy (such as job title, salary range, hours, duties, and job description, the number of hour per day, regular assigned work shifts, days per week and the number of months per school year) and the deadline for submitting requests for consideration. Employees may submit to the District Office a written request for consideration for such vacancy.

7.1.1 Vacancies During Summer Break: Notice of a vacancy that was not posted prior to the last week of school shall be sent to each unit member through the district's email system.

7.1.1.1 If a unit member has provided her/his home email address prior to the last week of school, a vacancy notice will be sent to the home email address.

7.1.1.2 A separate first-class postage mailing will be made to a unit member's home address if s/he filed a written request for mailing to the district office prior to the last week of school.

7.2 All unit members applying for a vacancy who meet the stated minimum requirements shall be granted an interview for the position.

7.3 The District shall inform all employees submitting requests for consideration for a vacancy of the disposition of their request.

7.4 If a unit member is not selected for a vacancy, she/he has the right to request and shall be given the reason(s) in writing by the Superintendent or designee. The unit member



may also request a meeting with the Superintendent to receive any explanation of the decision.

## **ARTICLE EIGHT: COMPENSATION**

### **8.1 Wages**

Subject to negotiations pursuant to Article 21.2, unit members shall be paid salaries pursuant to the schedule contained in Attachment "B."

### **8.2 Insurance Benefits**

8.2.1 Subject to negotiations pursuant to Article 21.2, effective July 1, 2023, the District will contribute \$14,200 per fiscal year for each full-time unit member towards the premium cost of the existing group health, dental, vision and life insurance plans for eligible employees and covered dependents.

8.2.2 Those employees regularly assigned to work less than thirty (30) hours per week shall not be eligible for any District premium contribution or coverage.

8.2.3 Part-time unit members regularly assigned to work at least thirty (30) hours per week may elect within thirty (30) calendar days of employment to receive coverage under the above referenced plans and to receive a prorated District premium contribution to be applied toward these plans. The above specified District premium contribution shall be prorated based upon the number of the normally assigned daily hours of employment as compared to eight (8). Part-time employees who are eligible to receive a prorated District premium contribution must enroll in all of the above plans.

8.2.4 During any fiscal year that the annual premium cost of the above insurance coverage exceeds the cap, the excess cost shall be borne by the employee by payroll deduction on a monthly basis, except as otherwise agreed by the Association and District.

8.2.5 A unit member on an unpaid leave of absence may participate at the employee's option and his/her own expense in the above insurance plans during the period of the leave, subject to the approval of the insurance carriers and administrators. If such an option is selected by an employee, premiums shall be paid to the District on a monthly basis in advance pursuant to District procedures.

8.2.6 During each fiscal year, as soon as premiums for the following fiscal year are determined, the District and the Association shall jointly inform unit members of the following:

- a. The new premium for health, dental and vision insurance plans.
- b. The plans and coverage that are available.

- c. The open enrollment period during which the insurance provider allows unit members to make changes in plans and coverage.
- d. The status of negotiations by the parties concerning the District premium contribution.

At this time, unit members will have monthly payroll deductions.

### 8.3 Automobile Mileage Expense Reimbursement

A unit member who is authorized in advance by his/her supervisor to use his/her automobile in the performance of duties shall be reimbursed at the current IRS rate. To be eligible for such mileage reimbursement, an employee must follow District approval and claim procedures.

### 8.4 Expense Reimbursement

A unit member who has the prior authorization of the District shall be reimbursed for the cost of meals and lodging while in the performance of duties, subject to the following conditions:

8.4.1 Lodging reimbursement shall be for the actual necessary cost, except that if the cost exceeds eighty-five dollars (\$85.00), reimbursement is subject to the prior approval of the Superintendent/Principal.

8.4.2 Except with the prior approval of the Superintendent/Principal, meal reimbursement shall not exceed the following amounts:

Breakfast \$6.00    Lunch \$7.00    Dinner \$15.00

8.4.3 To be eligible for such expense reimbursement, the employee must follow District claim procedures.

### 8.5 Uniforms

The District may require unit members to wear a distinctive uniform and items of identification. As determined by the District, the purchase, lease or rental of such uniforms, equipment, identification badges, emblems and cards required by the District shall be borne by the District.

### 8.6 Split Shift Differential

Unit members shall be paid an additional two and one half percent (2.5%) of the regular rate of pay if assigned to a split work shift with a break of at least two (2) hours between daily work assignments. Such differential shall not apply to work hours compensated on an

overtime basis. To be eligible for such differential in any month, an employee must be in paid status for at least one-half of the business days within that month.

## 8.8 Professional Growth Incentive

8.8.1 For employees who complete one (1) professional growth credit (defined in 8.8.2 below), a one percent (1%) increment will be added to the regularly scheduled salary on an ongoing basis. A maximum of two (2) salary increments [one percent (1%)] may be added to the schedule in any school year despite the number of credits earned during the year. Additional credits shall be added at one (1) salary increment per year except that an employee may earn a maximum of seven (7) increments during employment with Gerber Union Elementary School District

8.8.2 The increment will be awarded only after the documented and satisfactory completion of one (1) professional growth credit consisting of six (6) semester units or the equivalent "quarter" units; or the completion of 180 hours of training programs; or a combination of these two which shall mean that 30 hours of training shall equal one (1) college unit. All college classes and training under these provisions shall be directly related to the employee's job assignment as determined by the Professional Growth Review Committee.

8.8.2.1 The Professional Growth Review Committee shall be composed of two unit members and the Superintendent/Principal or designee.

8.8.2.2 Employees shall submit to the Committee in advance proposed units or training for purposes of this section. The Committee will meet and determine in advance whether or not the proposed units or activity are directly related to the employee's job assignment. The Committee's determination will be rendered in writing.

8.8.2.3 Upon completion of the units or activity the employee shall submit verification of attendance and satisfactory participation/completion of the units or activity.

8.8.2.4 After the completion of the requirements in 8.8.2 the employee shall be entitled to a professional growth increment as of the next July 1. That increment shall be permanent as long as the employee remains in the same job class or in a related job class.

8.8.3 Because this program has not been active prior to this Agreement, employees may apply no later than September 1, 2001, for credit for professional growth activities completed after July 1, 1999. Any resulting professional growth increment will be paid as of July 1, 2001.

## 8.9 Retiree Medical Insurance Continuation

Unit members hired before May 1, 2004 and who have worked full-time for ten (10) years for the District and who will be at least 55 at the date of retirement under PERS or STRS are eligible to receive retiree health benefits as follows:

1. The unit member must submit a notice of retirement before March 15.
2. The retiree health benefits contribution shall be paid annually until the retiree reaches age 65.
3. Effective beginning June 1, 2014, the annual contribution shall be fixed at the health benefits (medical, dental, vision and life insurance) CAP amount the District contributed to that unit member during his/her last year of employment prior to retirement. The retiree may apply the CAP amount (calculated as a monthly amount) toward the premium cost of retiree "medical insurance" only (at the tier the retiree chooses) each year of participation. The annual District contribution amount shall not change during the retiree's participation in the program. (Example: John D. retires 6/30/2014 participating in health benefits with a District CAP contribution of \$11,999/fiscal year (\$999.91/month). District will contribute \$999.91/month toward retiree medical insurance premium cost each year retiree is eligible for program. Retiree pays difference between current year premium at tier level chosen and District contribution.)
4. The retiree must pay all insurance costs not covered by the District contribution and 100% of all dental and vision, if selected, to remain eligible to receive the District contribution and to participate in group plans.
5. In any year that the retiree is eligible for the benefits for less than twelve (12) months, the annual District contribution shall be prorated on a monthly basis (e.g., retires mid-year).
6. Any unit member who qualified for this benefit and retired prior to March 15, 2013 will continue to receive an annual contribution for "medical insurance" fixed at the amount of \$885.00. The retiree benefit contribution shall be paid annually until the retiree reaches age 65.
7. If a retired unit member who participated in this program becomes deceased before age 65, his/her surviving spouse shall be eligible to continue to receive a District medical insurance contribution for the same period of time and under the same conditions as would have been provided to the retiree.

## ARTICLE NINE: HOURS OF EMPLOYMENT

### 9.1 Work Week and Work Pay

9.1.1 Full-time employment within this representation unit consists of a forty (40) hour week rendered in units of eight (8) hours. The work week shall consist of up to five (5) consecutive work days for all employees rendering service averaging four (4) hours or more per day during the work week.

9.1.2 The work day and work week for all unit members shall be established and regularly fixed by the District. However, changes of more than one (1) hour in the starting

time of an existing employee shall be subject to meeting and negotiating with the Association.

9.1.3 The District retains the right to extend the regular work day or work week of employees when it deems it necessary to carry out the District's business. The District shall provide the employee as much advance notice as possible.

9.1.4 A part-time employee who is assigned by the District to work a minimum of thirty (30) minutes per day in excess of his/her regular assignment for a period of twenty (20) consecutive working days or more, shall have the basic assignment changed to reflect the longer hours for the purposes of fringe benefit proration. A part-time member who is temporarily assigned increased hours shall not gain the right to continue the increased hours after the termination by the District of such temporary assignment.

## 9.2 Meal Period

A non-compensated meal period of between thirty (30) and sixty (60) minutes shall be provided all unit members who render service of at least six (6) consecutive hours. The length of the meal period shall be determined by the supervisor. The supervisor shall assign the meal period to be taken as soon after the conclusion of four (4) hours of service as possible.

## 9.3 Rest Period

A fifteen (15) minute compensated rest period shall be provided for unit members for each four (4) hour period of service. This rest period shall be taken at the direction of the supervisor at or near the mid-point of each four (4) hour period of service. Unit members assigned to work for a period of three and one-half (3.5) hours shall be entitled to one fifteen (15) minute compensated rest period.

## 9.4 Overtime Compensation

9.4.1 It is the policy of the District to properly compensate classified employees for required services provided. The District shall not require, nor knowingly permit, service to be performed for which appropriate compensation is not provided. Accordingly, employees shall not perform services beyond the normal assigned work hours without the knowledge and approval of the Superintendent/Principal or designee.

9.4.2 Overtime compensation shall be provided employees who are directed by the immediate supervisor to work in excess of eight (8) hours in any one (1) day, or in excess of forty (40) hours in any calendar week.

9.4.3 For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, Sick Leave, vacation, compensatory time off, or other paid leave shall be considered as time worked by the employee. All time

during which a unit member is directed and authorized by the immediate supervisor to be on duty and to perform service shall be considered as time worked.

9.4.4 Unit members directed and authorized by the immediate supervisor and who provide service to the District for five (5) consecutive work days averaging four (4) hours or more per day shall be provided overtime compensation on the sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) day following the commencement of the work week.

9.4.5 Unit members directed and authorized by the immediate supervisor and whose average work day is less than four (4) hours shall be provided overtime compensation on the seventh (7<sup>th</sup>) day following the commencement of the work week.

9.4.6 For authorized overtime worked, a unit member shall be compensated equal to time and one-half of the employee's regular rate of pay, or at the option of the employee, shall receive compensatory time off at time and one-half of the employee's regular rate of pay. Employees authorized by the District to take compensatory time off in lieu of cash compensation for authorized overtime shall take the compensatory time off, as approved by the District, within six (6) calendar months following the month overtime service was rendered. If the employee is unable to take the time, the unit member shall be compensated in the form of pay as set forth herein.

9.4.7 The intent of the parties is to provide total compensation or compensatory time off of one and one-half times the regular rate of pay and to avoid "pyramiding" of overtime worked.

9.4.8 Overtime work will be distributed as equally as possible during each fiscal year among all employees within their job classification, shift, and job skills as far as the character of the work permits. It is recognized that a variety of factors may cause imbalances in the equal distribution of overtime. The District shall post a cumulative log of overtime distribution by classification.

#### 9.5 Priority Rights to Increases in Hours:

All increases in regular hours (e.g., open positions and ongoing increases in hours) and temporary extra hours shall be offered first by seniority order to unit employees who are on the seniority list. This requirement does not apply to substitute work.

### ARTICLE TEN: LAYOFF AND RE-EMPLOYMENT

#### 10.1 Definitions

10.1.1 "Classification" means a particular employment listed in Appendix "A."

10.1.2 "Class" means a group of classifications within a job occupational family which have common characteristics, as listed in Appendix "A."

10.1.3 "Length of Service" means all time worked since date of hire in a probationary status.

10.2 Layoff Procedures

10.2.1 Unit members shall be subject to layoff for lack of work or lack of funds. Layoff includes any reduction in hours of employment or assignment to a class or grade lower than that in which the employee has permanence, voluntarily consented to by the employee (pursuant to these provisions), in order to avoid interruption of employment by layoff.

a. This provision shall not be construed as giving the District the right to reduce the hours of employment of unit members, except by application of the provisions of this Article.

b. Any proposed reduction of hours of employment of unit members shall be the subject of meeting and negotiating between the parties of this Agreement.

10.2.2 Order of Notice of Layoff

a. The order of notice of layoff within the classification affected shall be determined by length of service. The employee who has the shortest length of service in the class, plus classifications(s) with a higher salary range in other classes, shall be notified of layoff first, except as provided herein.

b. Notwithstanding the above, it is agreed and understood that the District has the right to discontinue a function or service performed by a particular position within a classification.

c. In the case of two (2) or more employees having identical seniority, the seniority shall be determined by lot.

10.2.3 Options of Employees Notified of Layoff

The District shall notify an employee whose position has been eliminated that he/she must elect one of the following within five (5) working days of receipt of notice.

a. Select a vacant position in the same class.

b. Displace a less senior employee from a remaining position in the same class.

c. Select in another class a vacant position in which the employee has previously served satisfactorily, and for which the employee possesses the required licenses or certificates.

d. Displace a less senior employee in another class from a remaining position in which the employee has previously served satisfactorily, and for which the employee possesses the required licenses or certificates.

e. Elect to be laid off.

f. Elect a service retirement as provided in Article 10.5

10.2.4 Prior to any layoff, the District shall post a seniority list of affected unit members. The District shall also provide the Association with a copy of the seniority list.

### 10.3 Notice of Layoff

10.3.1 When as a result of the expiration of a specially funded program, unit members' positions must be eliminated at the end of any school year, and unit members will be subject to layoff for lack of funds, the unit members to be laid off at the end of such school year shall be given written notice on or before May 29 informing them of their layoff effective at the end of such school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, such notice shall be given not less than sixty (60) days prior to the effective date of their layoff, and informed of their displacement rights, if any, and reemployment rights.

10.3.2 When, as a result of a bona fide reduction or elimination of the service being performed by any department, unit members shall be subject to layoff for lack of work, affected unit members shall be given notice of layoff not less than **sixty (60)** days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

10.3.3 Nothing herein provided shall preclude a layoff for lack of funds in the event of an actual and existing financial inability to pay salaries of unit members, or layoff for lack of work resulting from causes not foreseeable or preventable by the Board of Trustees, without the notice required by aforementioned subsections.

10.3.4 Simultaneous with the notice to the employee, the District shall provide a copy to the Association.

### 10.4 Reemployment

10.4.1 Reemployment shall be in the reverse order of layoff. Employees who are laid off are eligible for reemployment in their former class in any position with equal or lower pay, for a period of thirty-nine (39) months, and shall be reemployed in preference to new applicants. In addition, such employees laid off shall have the right to apply for promotional position within the District during the thirty-nine (39) month period.



10.4.2 Unit members who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be granted the same rights as unit members laid off for a period of sixty-three (63) months, provided that the same tests of fitness under which they qualified for appointment shall still apply.

10.4.3 Refusal of two (2) offers of reemployment to the class from which laid off shall cause removal from the list and loss of any reemployment rights. However, declining an offer of reemployment of fewer hours of employment than held at the time of layoff shall not constitute a refusal of employment. However, the person shall be reinstated on the list by providing the District a written request.

10.4.4 Offers of reemployment shall be made either by personal service or via U.S. First Class Mail addressed to the last known address and shall include the specific vacancy and hours being offered, the rate of pay, level of benefits, a current job description, and a mechanism for acceptance or refusal of the offer of reemployment within the prescribed time limit, and a place for the unit member's signature. Failure to so reply within ten (10) working days from date of personal service or mailing of the offer of reemployment shall be deemed a refusal of that offer of reemployment. It is the responsibility of each person on a reemployment list to file with the District Office a current mailing address.

10.4.5 A unit member who is laid off and subsequently rehired from a reemployment list shall have the same accrued Sick Leave balance as of the date of layoff when reinstated.

10.4.6 Upon reemployment in the class in which laid off, a unit member shall be placed on the former step of the salary range. Notwithstanding the provisions of Appendix "A" of this Agreement, the unit member shall be eligible for advancement to the next step of the salary schedule on the first of the month after twelve calendar months after reemployment, less the months of paid service rendered after the previous step advancement.

#### 10.5 Retirement and Layoff

Notwithstanding any other provisions of law, any unit member who was subject to being, or was in fact, laid off for lack of work or funds and who elected service retirement from the Public Employees' Retirement System (PERS), shall be placed on an appropriate reemployment list. The District shall notify the Board of Administration of the PERS of the fact that the retirement was due to layoff for lack of work or of funds. If the unit member is subsequently subject to reemployment and accepts, in writing, the appropriate vacant position, the District shall maintain the vacancy until the Board of Administration of the PERS has properly processed his/her request for reinstatement from retirement.

#### 10.6 General Provisions

10.6.1 It is the intent of the parties that the District has the right to direct the work force in order to provide services and educational programs. In providing services and educational programs, it is the intent that the utilization of non-bargaining unit persons will

not result in the arbitrary, capricious, and discriminatory denial of reemployment or displacement of unit members on the reemployment list.

10.6.2 It is agreed and understood that this provision shall in no way be construed as precluding the District from utilizing non-bargaining unit persons consistent with past practice.

10.6.3 It is further agreed and understood that this provision shall in no way be construed as limiting the District in any way from utilizing students, in conjunction with any educational or training programs.

#### **ARTICLE ELEVEN: HOLIDAYS**

11.1 The following shall be the holiday schedule for unit members:

1. July 4-Independence Day
2. The First Monday in September-Labor Day
3. September 9-Admission Day\*
4. The third Monday in January-Martin Luther King, Jr. Day
5. November 11-Veterans' Day
6. The Fourth Thursday in November-Thanksgiving Day
7. The Day following Thanksgiving
8. December 25-Christmas
9. January 1-New Year's Day
10. Lincoln Day
11. Presidents' Day
12. The Last Monday in May-Memorial Day
13. Any other day appointed by the President or the Governor of this State, pursuant to subdivisions (b) and (c) of Section 37220 of the California Education, for a public fast, thanksgiving, or holiday.

\* In the event that school is operated on this day, an alternate holiday shall be designated by mutual agreement between the District and Association.

11.2 To be entitled to any of the above paid holidays, a unit member must be in paid status during any portion of the working day immediately preceding or succeeding the holiday. Unit members who are not normally assigned to duty during the school holiday of December 25, the working day preceding, and January, shall be paid for those holidays provided they were in paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

11.3 When one of these holidays falls on a Sunday, the following Monday shall be deemed that holiday. When one of the above holidays falls on a Saturday, the preceding Friday shall be deemed to be that holiday.

11.4 Unit members assigned by the District to work on one of the above holidays shall be paid or given compensatory time off for such work, in addition to the regular rate of pay, at one and one-half time the regular rate of pay.

## **ARTICLE TWELVE: VACATION**

12.1 Paid vacation leave shall accrue for unit members at the following rates:

<u>Calendar Years of District Service</u>	<u>Work Days of Vacation</u>	<u>11Mo. Or Less</u>
One (1) to five (5)	12	10
Six (6) to ten (10)	15	11
Eleven (11) to fifteen (15)	17	13
Sixteen (16) to twenty (20)	19	14
Twenty (20) years and beyond	20	15

12.2 Vacation leave shall be prorated for unit members employed less than full time for twelve (12) months on a proportionate basis based upon the number of straight-time hours the part time employee is paid in comparison with a full time twelve (12) month employee.

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

12.4 A holiday falling within a vacation period shall not constitute a vacation day.

12.5 Except in the case of school year employees, accrued vacation may be taken at any time during the school year, upon the approval of the Superintendent/Principal. An employee must have been employed for at least six (6) months before taking vacation. If

the employee is not permitted to take the full accrued vacation, the amount not taken shall accumulate for use in the next year or be paid for in cash at the option of the District. In any event, the maximum vacation which may be accumulated shall be one year's allowance.

12.6 Vacations shall be scheduled at times requested by unit members so far as possible within the District's work requirements as determined by the District. However, school year employees will not be permitted to take vacation when school is in session; generally, such employees' vacation entitlement shall be included in their regular pay checks during any fiscal year. Normally, vacations for employees who work other than the school year shall be established during the month of April of each year. Such schedule shall be subject to change due to school emergencies. If such employee is not permitted to take the full accrued vacation, the amount not taken shall accumulate for use in the next school year or be paid for in cash at the option of the District.

### **ARTICLE THIRTEEN: LEAVE POLICIES**

#### **13.1 Bereavement Leave**

13.1.1 A unit member shall be entitled to a maximum of three (3) days of leave of absence without loss of salary for the death of any member of the immediate family. If travel out-of-town in excess of 350 miles one-way is required, an employee shall be entitled to a maximum of two (2) additional days paid Bereavement Leave.

13.1.2 Member of the "immediate family" is defined as the parent (including step parent), grandparent, or grandchild of the employee or of the spouse of the employee, and the spouse, son (including step-son), son-in-law, daughter-in-law, brother, brother-in-law, sister, sister-in-law, registered domestic partner or any relative living in the immediate household of the employee.

#### **13.2 Jury Duty**

13.2.1 A unit member is entitled to leave for the period he/she is required to appear for jury duty. An employee shall receive his/her regular pay, less any amount received for jury fees, exclusive of allowed mileage, parking or meal expenses reimbursement.

13.2.2 Proper notification shall be given to the immediate supervisor and the District absence reporting form shall be completed by the employee upon return to duty.

13.2.3 In the event an employee is excused from jury duty prior to the last half of the employee's work day, he/she shall return to work.

13.2.4 A unit member whose regular work shift commences after 5:00 p.m. shall be relieved from work with pay for any day during which he/she serves jury duty beyond 3:00 p.m.

### 13.3 Military Leave

Employees covered by the Agreement are entitled to appropriate Military Leave of absence provided by applicable law.

### 13.4 Sick Leave

13.4.1 Unit members employed five (5) days a week shall **earn** one (1) day leave of absence for illness or injury, with full pay for each month of employment.

13.4.2 Employees employed for less than five (5) days a week and/or less than a full fiscal year are entitled to Sick Leave as follows:

a.) A member of the unit employed five (5) days a week who is employed for less than a full fiscal year is entitled to that proportion of twelve (12) days of Sick Leave as the number of months he/she works bears to twelve (12).

b.) A unit member employed less than five (5) days a week shall be entitled, for a fiscal year of service, to that proportion of twelve (12) days of Sick Leave the number of days he/she is employed per week bears to five (5). When such persons are employed for less than a full fiscal year of service, this and the preceding paragraph shall determine that proportion of leave of Sick Leave to which they are entitled.

c.) School term employees are entitled to ten (10) days of Sick Leave for each full school year of paid service.

13.4.3 During any calendar year, unit members are entitled to use up to six (6) days of their accumulated Sick Leave to attend to an illness of a child, parent or spouse of the employee. For purposes of this provision, a "child" is defined as a biological, foster or adopted child; a step child, a legal ward or a child of a person standing in loco parentis; a "parent" is defined as a biological, foster or adoptive parent; a stepparent or a legal guardian. All conditions and restrictions regarding the use of Sick Leave shall also apply to this Article.

13.4.4 Unit members may accumulate unused Sick Leave without limitation.

13.4.5 The District may require as a condition of payment of Sick Leave a doctor's verification of the absence provided they have notified the employee in writing in advance of their return to work.

13.4.6 Employees shall notify their immediate supervisor or designee as far in advance as possible of taking Sick Leave and as far in advance as possible of returning to work after Sick Leave, pursuant to District policies.

13.4.7 Employees returning to work from Sick Leave after surgery or serious illness, upon request of the District, must provide a doctor's release, certifying medical permission to return to work.

13.4.8 When an employee's employment terminates and more Sick Leave has been used than earned, the amount used but not earned shall be deducted from the final pay warrant.

13.4.9 Unit members are entitled to use Sick Leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom on the same terms and conditions governing leaves of absence for other illness or medical disability. Such leave shall not be used for child care, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date on which the duties are to be resumed, shall be determined by the unit member and the unit member's physician, provided that such verification clearly demonstrates to the District that such leave is solely for disability and not for purposes of child care or other non-disability purposes.

13.4.10 When an employee is absent from duties on account of illness or accident for a period of five (5) months or less, the amount deducted from the salary due the employee for the month in which the absence occurs shall not exceed the sum actually paid any employee employed to fill the position during the absence.

13.4.11 All eligible unit members will elect to take SDI and have the cost of SDI deducted from his/her paychecks. SDI provides partial payment of normal wages for illness or injuries not work-related (including pregnancy) after a specified length of absence under regulations established by the State of California.

During any time period an employee is on paid Sick Leave and is also receiving SDI payments, the employee will continue to accrue full benefits for vacation, Sick Leave and holidays.

### 13.5 Industrial Accident and Illness Leave

13.5.1 Unit members are eligible for leave of absence because of industrial accident or illness of up to sixty (60) work days in one (1) fiscal year for the same accident or illness.

13.5.2 Leave of absence under this provision shall not be accumulated from year to year. When the Industrial Accident or Illness Leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due to him/her for the same illness or injury.

13.5.3 Employees shall be paid such portion of the salary due them for any month in which absence occurs as, when added to the temporary disability indemnity under the California Labor Code, will result in payment to them of not more than their full salary.

13.5.4 Leave of absence applied for under this provision shall be reduced by one (1) day for each day of authorized absence, regardless of a temporary disability indemnity award to the employee.

13.5.5 Industrial Illness and Accident Leave is to be used in lieu of Sick Leave. When entitlement of Industrial Illness and Accident Leave has been exhausted, entitlement to Sick Leave shall then be used. If an employee is receiving a temporary disability indemnity, the employee shall be entitled to utilize only so much of his/her accumulated Sick Leave and Vacation Leave, which when added to his/her temporary disability indemnity, will result in a payment of no more than the full salary. During any paid leave of absence, the employee shall endorse to the District the temporary disability indemnity checks received on account of his/her industrial accident or illness. The District in turn shall issue the appropriate salary warrants for payment of salary and shall deduct normal retirement and other authorized deductions.

13.5.6 Unless travel outside of California is authorized by the Governing Board, employees receiving benefits under this Article shall remain in the State of California.

13.5.7 The District may require a written statement from a physician verifying any employee's absence under this leave and his/her ability to return to work. Upon such verification to return to work from an absence under this leave, an employee shall be entitled to return to his/her position or to an equivalent position.

#### 13.6 Personal Necessity Leave

13.6.1 Employees may use a maximum of seven (7) days of accumulated Sick Leave in any school year for Personal Necessity Leave for the following specified purposes. Personal Necessity Leave shall not accumulate from year to year. Personal Necessity Leave is to be used in cases of compelling personal reasons which require the employee to be absent from duty during regular duty hours.

- a. Imminent danger to the home of an employee which reasonably requires the attention of an employee during duty hours.
- b. Accident or injury involving the employee's person or property, or the person or property of an employee's immediate family, of sufficient emergency nature to require the employee's attention during duty hours.
- c. Serious or critical illness of a member of an employee's immediate family or a significant other reasonably requiring the immediate presence of the employee during duty hours.
- d. The birth of a child making it necessary for the employee who is the father to be absent during duty hours.

- e. An extension of the Bereavement Leave necessary for reasonable circumstances.
- f. Bereavement for someone not included under Bereavement Leave, Article 13.1.
- g. Child care emergencies.
- h. Appearance in court as a litigant or as a witness under an official order. in such cases the employee is expected to return to work when it is not necessary to be absent for the entire day.
- i. Service as a pallbearer.
- j. To attend to the requirements of adoption proceedings.

13.6.2 "Member of the immediate family" shall be as defined in Bereavement Leave (Article 13.1.2).

13.6.3 The employee taking Personal Necessity Leave must notify the immediate supervisor or designee as far in advance as possible and must complete a District absence reporting form upon return to work.

13.6.4 In cases of a confidential nature, as determined by the employee, that employee may specify "confidential" on the absence from duty form used to specify the reason for absences. If it is necessary, however, for an employee to use more than five (5) days for confidential reasons, that employee shall consult with the Superintendent/Principal or designee.

13.6.5 With the advance approval of the Superintendent/Principal, unit members may use additional days of accumulated Sick Leave, beyond the seven (7) days provided for in Article 13.6.1, for cases of Personal Necessity for the following purposes:

- a. Death or serious illness of a member of the employee's immediate family.
- b. Accident involving the employee's person or property, or the person or property of a member of the employee's immediate family.

### 13.7 Family And Medical Care Leave (unpaid)

13.7.1 Unit members who have been employed by the District for at least twelve (12) months and who have been employed for at least 1,250 hours of service during the preceding twelve (12) month period are eligible for unpaid Family and Medical Care Leave, pursuant to applicable State and Federal law and Board policies. In the case of an employee's serious health condition, this leave shall run concurrently with other paid leaves. In all other reasons for such leave, the leave shall run consecutively with other paid leaves.



13.7.2 Eligible unit members shall be entitled to maternity/paternity leave pursuant to applicable provisions of the Education Code.

13.7.3 During this unpaid leave, the District will continue its regular payment of group insurance premiums.

13.8 Differential Paid Leave

Employees may be granted up to three (3) days of Differential Paid Leave in any school year, subject to the following conditions:

- a. Such leave is for legitimate personal needs of an employee which are not covered by other leave provisions and which cannot be taken care of outside of work hours.
- b. Such leave requires request to the Superintendent or designee at least forty-eight (48) hours in advance.
- c. Approval of the requested leave is contingent upon the Superintendent/Principal determining that the employee can be spared and that all conditions specified in this Article have been met.
- d. Pay during such leave shall be the employee's regular pay less the cost of the substitute employed during the absence. In the event the District is unable to obtain a substitute, the pay during such leave shall be the difference between the employee's regular pay less the cost of a substitute had one been employed.

13.9 Child Care Leave

13.9.1 Unit members may be granted parental Child Care Leave of up to three (3) months for the purpose of preparing for and caring of a newly born or newly adopted child.

13.9.2 Such leave is without pay and benefits of any kind.

13.9.3 Request for such leave must be made at least thirty (30) workdays prior to the requested beginning day in the case of a newly born child and as far in advance as possible in the case of an adoption. The beginning date and duration of such leave shall be at the discretion of the Board of Trustees.

13.10 Other Leave Without Pay

13.10.1 Unpaid leave may be approved at the discretion of the District for reasons not specified under other leave provisions of the Agreement.

13.10.2 Advance approval is required. Requests are to be made on the appropriate District form and submitted to the District Office. Leaves of up to ten (10) work days may

be approved by the Superintendent/Principal or designee. Leaves of greater than ten (10) work days require the approval of the Board of Trustees.

13.10.3 One (1) full day's pay shall be deducted from employee's salary and benefits for each day of leave taken.

## **ARTICLE FOURTEEN: PROCEDURE FOR PROCESSING GRIEVANCE**

### **14.1 Definitions**

14.1.1 A "grievance" is an allegation by a grievant that he/she has been adversely affected by a misinterpretation, misapplication, or a violation of the specific provisions of this Agreement. Matters for which a specific method of review is provided by law or by the rules and regulations of the District, are not within the scope of this procedure.

14.1.2 A "grievant" is an employee covered by the terms of this Agreement, or the Association on behalf of such employee.

14.1.3 A "day" is any day in which the District Office is open for business.

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

14.1.5 Any matters or disputes Article 16, Discipline Procedures, shall not be subject to this grievance procedure. Any appeals of disciplinary matters shall be undertaken pursuant to the appeal process specified in Article 16.

### **14.2 Informal Level**

Within twenty (20) days after the occurrence of the act or omission giving rise to the grievance, the grievant shall attempt to resolve it by an informal conference with the immediate supervisor.

### **14.3 Formal Level One**

14.3.1 If not satisfied with the disposition of the informal conference, the grievant may present the grievance in writing on the District form to the immediate supervisor within ten (10) days of the decision at the Informal Level.

14.3.2 The grievant shall indicate the contract provision alleged to have been violated, the circumstances involved, the decision rendered at the informal conference, and the specified remedy sought.

14.3.3 The supervisor shall communicate his/her decision to the employee in writing within ten (10) days after receiving the grievance. If the supervisor does not respond within the time limits provided, the grievant may appeal to the next level.

#### 14.4 Formal Level Two

If the grievant is not satisfied with the decision at Formal Level One, he/she may within ten (10) days appeal the decision on the District form to the Superintendent/Principal or designee. This statement shall include a copy of the original grievance and the decisions rendered. The Superintendent/Principal or designee shall communicate his/her decision to the grievant within ten (10) days of the appeal. If the Superintendent/Principal or designee does not respond within the time limits provided, the grievant may appeal to the next level. In the event the Superintendent/Principal is the immediate supervisor who processed the grievance at Formal Level One, this level shall be bypassed.

#### 14.5 Formal Level Three: Mediation

Prior to submission to Formal Level Four, upon the request of the Association, the grievance may be submitted to the mediation process for voluntary settlement. The parties will jointly request the California State Conciliation Service for such services. During the pendency of such mediation, the time limits herein will be suspended.

#### 14.6 Formal Level Four: Arbitration

14.6.1 If not satisfied with the decision of Formal Level Two (or Format Level Three is not successful), the grievant within ten (10) days of the Level II decision, (or within ten (10) days of conclusion of Formal Level Three) may request in writing that the Association submit the grievance.

14.6.2 The Association, by written notice to the Superintendent/Principal or designee within ten (10) days of the above request of the grievant, may submit the grievance to arbitration.

14.6.3 The Association and the District shall by mutual agreement select an arbitrator. If no agreement can be reached within five (5) days of the above request of the Association, the parties shall request the California State Conciliation Service to supply a list of five (5) names of persons experienced in hearing grievances in public schools. Each party shall alternately strike a name until only one name remains the order striking shall be determined by lot.

14.6.4 In each dispute, the arbitrator shall, as soon as possible, hear evidence and render a decision on the issue(s) submitted. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues(s) by discussion with the parties and by referring to the written grievance and the answers thereto at each step. It is agreed and understood that neither party may raise a new issue which was not discussed in previous levels.

14.6.5 If any question arises regarding the arbitrability of a grievance, the arbitrator shall make a determination on this issue prior to hearing the merits of the grievance, unless the arbitrator determines otherwise.

14.6.6 After the hearing and after both parties have been given an opportunity to make written arguments, the arbitrator shall submit his/her findings and award to both parties.

14.6.7 The arbitrator shall have no power to add to, subtract from, or modify the terms of this Agreement, nor shall the arbitrator be empowered to render a decision on issues(s) not before the arbitrator. The authority of the arbitrator to award back pay shall be limited to thirty (30) days prior to the filing of the grievance. The arbitrator shall also be without power or authority to make any decision which requires the commission of an act prohibited by law.

14.6.8 The decision of the arbitrator shall be final and binding, subject to established right of judicial appeal.

14.6.9 The fees and expenses of the arbitrator shall be borne equally by the District and the Association. Concerning transcripts, the cost shall be borne equally by the parties if the transcript is requested by both parties or by the arbitrator. If the transcript is requested by only one party, that party shall incur the expense. All other expenses shall be borne by the party inuring them.

#### 14.7 Miscellaneous Provisions

14.7.1 A grievant shall be entitled to representation at each step of the grievance procedure by a person designated by the Association.

14.7.2 All documents resulting from a grievance shall be filed in a separate grievance file and shall not be kept in an employee's personnel file.

14.7.3 Time lines in this Article shall be computed from the day following the referenced event. Time lines in this procedure may be extended by mutual written agreement between the parties.

14.7.4 A decision rendered at any step in these procedures becomes final unless appealed within the time limits specified. Failure by the administration to respond within the time limits specified at each level shall start the time period for the grievant to appeal to the next level.

14.7.5 An employee may present grievances to the District, and have such grievances adjusted without the intervention of the Association, so long as the adjustment is reached prior to arbitration, and the adjustment is not inconsistent with the terms of this Agreement. The District shall not agree to a resolution of the grievance until the Association has received a copy of the grievance and the proposed resolution and has been given an opportunity to file a response.

14.7.6 If the same complaint or substantially the same complaint is made by more than one employee against one party, the parties may agree that only one employee on behalf of himself/herself and the other grievants may process the grievance through the grievance procedure. Names of all aggrieved parties shall appear on all documents related to the processing of the grievance.

14.7.7 During the pendency of any proceeding, and until a final determination has been reached, all proceedings shall be private and any preliminary disposition shall not be public without the written agreement of all parties.

14.7.8 An employee grievance shall in no way interfere with the right of the District to proceed in carrying out its management responsibilities subject to final decision of the grievance. In the event the alleged grievance involved an order, requirement, etc., the aggrieved shall fulfill or carry out such order or requirement, etc., pending the decision of the grievance.

14.7.9 Forms for filing grievances shall be prepared jointly by the District and Association.

#### **ARTICLE FIFTEEN: DISCIPLINARY ACTION**

15.1 As used herein, "Disciplinary Action" shall mean suspension with or without pay, demotion, reduction of pay step in class, or dismissal.

The pattern of discipline procedure is progressive-from oral warning(s), written reprimand(s) and suspensions(s), to the ultimate penalty of discharge. However, there are cases where the action is of such a serious nature that suspension or discharge is justifiable even on a first offense.

Progressive discipline is a program in which the penalties become progressively more severe in accordance with progressive seriousness of the infraction(s).

15.2 Causes: Each of the following constitutes cause for disciplinary action against a permanent classified employee.

- a. Falsifying any information supplied to the District, including, but not limited to, information supplied on application forms, employment records, or any other District records.
- b. Failure or unwillingness to perform duties and responsibilities assigned to an employee's position.
- c. Insubordination.
- d. Dishonesty.

- e. Drinking alcoholic beverages while on duty; drinking alcoholic beverages prior to duty times as to cause any detrimental effect on the employee's ability to perform the duties and responsibilities of his/her position.
- f. Unauthorized use of narcotics, controlled substances, or habit forming drugs; use of any medication or other substance as to cause any detrimental effect on the employee's ability to perform the duties and responsibilities of his/her position.
- g. Absence and/or repeated tardiness without authority or sufficient reason.
- h. Conviction of felony, conviction of any sex offense made relevant by provisions of the Education Code, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his/her position. A plea of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.
- i. Conduct which adversely affects the employee's ability to perform the duties and responsibilities of his/her position.
- j. Discourteous, abusive, or offensive treatment of the public, pupils, or other employees.
- k. Improper political activity as governed by federal and state law.
- l. Willful or negligent damage to public property or equipment.
- m. Violation of or refusal to obey the school laws of the State or the rules and regulations of the District.
- n. Failure to possess or keep in effect any license, certificate, or similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position.
- o. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with his/her employment.
- p. Physical or mental disability which disability precludes the employee from the proper performance of his/her duties and responsibilities as determined by competent medical authority. Reasonable accommodation must be provided for employees with a permanent or temporary disability who are unable to perform duties of the position.
- q. For employees who drive a vehicle in the regular course of their employment, failure to satisfy the insurability requirements of the District's insurance carrier under the District's regular insurance policies. The District's ability to obtain

insurance for the employee under a high risk or any policy other than the regular insurance policies does not mitigate this failure.

r. Abandonment of position. If a unit member fails to show up for work and perform his/her duties for five (5) consecutive workdays, the District will notify the employee that he/she is presumed to have resigned from employment with the District. This notification shall state that the employee must return to the District and perform his/her duties within five (5) workdays after the notice is mailed. Such notice shall be sent certified mail, return receipt requested, to the last known address of the employee. (The employee is responsible to provide the District with the correct mailing address.) If the employee fails to show up for work and perform his/her duties within five (5) workdays after the mailing of such notice, the employee shall be conclusively presumed to have abandoned his/her position and shall be deemed to have resigned his/her employment.

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

t. Conduct in violation of Section 1028 of the Government Code, which provides: It shall be sufficient cause of the dismissal of any public employee when such public employee advocates or is knowingly a member of the Communist Party or of any organization which during the time of his /her membership he/she knows advocates the overthrow of the Government of the United States by force or violence.

u. Revealing confidential information in violation of law, board or administrative policy or written administrative directive restricting the information's release.

15.3 No disciplinary action shall be taken for any cause which arose prior to the employee's becoming permanent, nor for any cause which arose more than two (2) years preceding the date of the filing of the notice of cause unless such was concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

15.4 The Superintendent/Principal or designee may initiate a disciplinary action as defined herein against a permanent classified employee.

15.5 Except in cases of emergency where the employee must be removed from the premises immediately, at least five (5) calendar days prior to the effective date of any disciplinary action involving suspension with or without pay for more than five (5) days, demotion, reduction in pay step in class, or dismissal, the Superintendent/Principal or designee, shall give the employee written notice of the proposed disciplinary action. The notice shall include the causes of the proposed action, a copy of the materials upon which the proposed action is based, and the right to respond either orally or in writing prior to the

proposed disciplinary action. Any response made by the employee shall be considered by the Superintendent/Principal prior to initiating any disciplinary action. In the event of emergency circumstances that require removal of the employee from the work site immediately, such notice and right to respond shall be provided to the employee at the earliest reasonable time after his/her removal from the premises.

15.6 If the Superintendent/Principal initiates a disciplinary action, he/she shall serve a written notice of disciplinary action upon the employee either personally or by registered or certified mail, return receipt requested, by the employee's last known address. The notice shall include:

- a. A statement of the nature of the disciplinary action (suspension with or without pay, demotion, reduction of pay step in class, or dismissal);
- b. A statement of the cause therefore as set forth in 15.2 above;
- c. A statement of the specific acts or omissions upon which the causes are based. If the cause stated in 15.2 is alleged, the rule, regulation, or law violated shall be set forth in the recommendation;
- d. A statement of the employee's right to appeal to the Board of Trustees the disciplinary action and of the manner and time within which his/her appeal must be filed, which shall be no sooner than five (5) business days; and
- e. A card or paper, the signing and filing of which shall constitute a demand for hearing before the Board of Trustees and a denial of all charges.

The request for hearing may be mailed to the office of the Superintendent but must be received or postmarked no later than the time limit stated herein. If the employee fails to file such a request for hearing within the time specified, the employee, shall be deemed to have waived his/her right to appeal.

15.7 Appeal Hearing: The Board shall conduct a hearing on the appeal, or at its discretion, appoint a hearing officer who shall be an impartial third party experienced in conducting hearings in California. If the Board hears the appeal, it may use the services of its counsel or a hearing officer to rule on procedural questions, objections to evidence and issues of law. If a hearing officer is appointed, all references in this Article to the Board's conduct of the hearing or writing a decision shall refer to the hearing officer except section 15.7.5. The hearing shall be scheduled at the earliest convenient date, taking into consideration the established schedule of the Board of Trustees and the availability of counsel and witnesses.

15.7.1 Rights of Employee: The employee shall attend any hearing, unless excused by the Governing Board, and shall be entitled to:

- a. Be represented by counsel or any other person at such hearing;



- b. Testify under oath;
- c. Consistent with applicable law, compel the attendance of other District employees to testify in his/her behalf;
- d. Cross-examine all witnesses appearing against him/her and all District employees whose actions are in question or who have investigated any of the matters involved in the hearings and whose reports are offered in evidence before the Governing Board;
- e. Present such affidavits, exhibits, and other evidence as the Governing Board deems pertinent to the inquiry;
- f. The party attempting to substantiate the charges against the employee shall be entitled to the same privileges.

#### 15.7.2 Evidence

The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only under oath.

#### 15.7.3 Exclusion of Witnesses

The Governing Board may in its discretion exclude witnesses not under examination, except the employee and the party attempting to substantiate the charge against the employee, and their respective counsel. When hearing testimony on scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.

#### 15.7.4 Burden of Proof

The burden of proof shall be upon the District.

#### 15.7.5 Findings and Decision

If the hearing is held by a hearing officer, he/she shall prepare a proposed decision for review by the Board. A copy of the proposed decision shall be provided to each party when it is filed with the Board. The Board may take the following actions regarding the proposed decision:

- (1) Adopt the proposed decision without change;
- (2) Adopt the proposed decision and modify the remedy;
- (3) Reject the proposed decision in its entirety;
- (4) Modify the decision and/or remedy.

If the Board rejects the proposed decision in its entirety, each party shall be notified of such action and the Board may decide the case upon the record including the transcript, with or without taking additional evidence, or may refer the case back to the same or another hearing officer to take additional evidence. In the latter case, the hearing officer shall prepare a new or revised proposed decision for review by the Board.

The decision of the Governing Board shall contain findings of fact and the remedy if any. Unless the decision indicates otherwise, it shall be effective immediately. Notice of the decision shall be mailed promptly to the employee and his/her counsel or representative. Except for the correction of clerical error, such decision shall be final and conclusive, subject to established rights of judicial review.

#### 15.7.6 Transcripts of Hearing

Transcripts of hearings shall be furnished to any party of the hearing on payment of the costs of preparing such transcripts. When transcripts are provided by District employees, the cost shall be determined by the employee in charge of business affairs.

#### 15.7.7 Continuances

The Governing Board may grant a continuance of any hearing upon such terms and conditions as it may deem proper, including in its discretion the condition that the employee shall waive salary for the period of the continuance.

#### 15.8 Termination of Probationary Classified Employees

At any time prior to the expiration of the probationary period, the Board of Trustees, may in its sole discretion, release a probationary classified employee from the employ of the District. A probationary classified employee shall not be entitled to a release from probation hearing or to any statement of reasons for the Board's action.

### **ARTICLE SIXTEEN: SAFETY CONDITIONS OF EMPLOYMENT**

16.1 Any condition deemed to be unsafe by a unit member shall be reported in writing to the immediate supervisor. The administration shall investigate, including contracting the appropriate health and safety agencies as necessary, and inform the unit member of the conclusions within a reasonable time. The administration shall determine whether immediate action is necessary to protect the health and safety of unit members and/or students.

16.2 The District shall prepare and post rules for employee safety and the prevention of on-the-job accidents. Such rules shall provide regulations and precautions for safety of employees in the performance of their duties.

16.3 The District shall establish and maintain a Safety Committee, consistent with the provisions of S.B. 198.

## **ARTICLE SEVENTEEN: BUS DRIVER PROVISIONS**

### **17.1 Bus Drivers**

Bus Drivers are unit members. The Lead Bus Driver is not in the unit. This Article applies to lead bus driver only where specific reference to lead bus driver is made.

### **17.2 Bus Driver Hours and Pay**

Bus drivers shall have their daily work hours established on the basis of the "estimated driving time" for their route (including tutoring route if applicable) plus forty (40) minutes per day. The forty (40) minutes is an average amount of time to allow drivers to perform the following specified non-driving duties:

- a. Up to ten (10) monthly staff meetings per school year.
- b. Participation in the annual evacuation drills.
- c. Daily checkouts and clean up of assigned bus which includes: fueling and refueling, monthly bus wash (weather permitting, September through May), daily reports and student discipline notices.
- d. Bus breakdowns will be handled as extra assignment.

17.2.1 Between the start of each school year and the completion of bidding, each bus driver shall continue driving the same bus routes as the prior school year, and work the same number of hours and shifts. Any new drivers will be assigned to vacant routes and assigned hours and shifts by the District.

17.2.2 As a result of bidding, the work hours of each bus driver may increase or decrease. Once bus routes have been bid, the work hours of each driver shall remain the same for the remainder of the work year unless a route is increased (see next sentence) or a new round of bidding is required by Section 17.3.8. If a route is increased at least ten (10) minutes, but less than thirty (30) minutes for at least twenty (20) work days, the driver will be paid for the extra time on a monthly time sheet.

17.2.3 Any change in monthly pay resulting from changed work hours shall become effective in October if practicable, or if not practicable, at the beginning of the next pay period following bidding. Any adjustment to vacation and leave allowances shall become effective at the same time. It is contemplated that drivers will have their salary annualized each year for the period from October through the next September following annual bidding on routes.

17.2.4 A reduction in assigned work hours resulting from annual bidding shall be a reduction in hours until the next bid period and the District has no duty to negotiate. This provision does not waive the District's duty to negotiate a reduction in work hours for any other unit position. Nothing shall prohibit the District from reducing bus driver services by layoff based upon a lack of work or lack of funds.

### 17.3 Bus Routes and Bidding

17.3.1 As used in this Article “estimated driving time” shall mean the sum of the average driving times for each route rounded to the nearest five (5) minutes. Driving time begins when the driver pulls away from the designated parking space and ends when the bus is parked in its designated parking space.

17.3.2 Current year calculation for routes is established by school enrollment and District needs and shall be concluded by October 1.

17.3.3 Route design and efficiency will be determined by the District. After such recalculation, the District shall meet with the drivers and Association to determine the impact. If a driver questions the calculation by the lead bus driver, that driver and the job representative may request a review and explanation of the calculation by the lead bus driver. Such review will be made as soon as is practicable so as to speed appropriate time adjustments.

17.3.4 Each year route schedules and times will be posted by the District during the first full week of October. The new schedules shall be posted five (5) work days before drivers make their selection.

17.3.5 Bus drivers shall make their selection of routes based upon hire date (seniority) in the Bus Driver job class plus any higher paid bargaining unit job classes. The lead bus driver shall have no seniority for the purpose of bidding and shall bid last. Each driver shall give written notice of route selected within three (3) working days of the posted schedule change. It is anticipated the bid process will be completed around October 15<sup>th</sup>.

17.3.6 By seniority a bus driver may be granted more than one (1) route assignment as a result of bidding in order to increase hours if the assigned times of the routes and/or routes and other classified positions held do not conflict and the assignments, together with other classified positions held, will not result in more than an eight (8) hours per day regular assignments. A driver may resign from one (1) or more other classified positions held in order to accept a route with increased time or more than one (1) route. The lead bus driver shall have no seniority for bidding and shall bid last.

17.3.7 Tutoring Routes: When available, tutoring routes will be bid by bus drivers in seniority order separately from regular bus routes. The lead bus driver shall have no seniority for bidding and shall bid last.

17.3.8 If a bus route is discontinued, becomes vacant or is increased by thirty (30) minutes or more, a new bidding process will go into effect immediately unless the District and the Association agree in writing that re-bidding is unnecessary (i.e., the route of the least senior driver is vacated and no other driver is interested in changing).

### 17.4 Special Trip Assignments

17.4.1 Special trip assignments that can not be performed by the lead bus driver shall be distributed to bargaining unit bus drivers as equally as possible during each school year. It

is understood and agreed that certain factors, including, but not limited to, driver availability, overtime costs, employee preferences, time requirements for assigning, appropriate driver experience, weather factors, and last minutes schedule changes, may cause imbalances in distribution of special trip assignments. The after school tutoring routes are not considered special trips. A driver who is "unavailable" due to conflicting work hours between the special trip and assigned hours of another unit position may be released from the other position for the field trip on a case by case basis by the Superintendent in consideration of educational needs.

#### 17.5 Physical Examination Required for Renewal of School Bus Driver Certificate

17.5.1 The District will either provide such examination by a physician selected by the District, or shall reimburse the employee for an examination completed by a physician of his/her choice, subject to the following conditions:

- a. The reimbursement is limited to a maximum reasonable charge based upon a current District survey.
- b. The employee shall observe the claims for reimbursement procedures established by the District.

17.5.2 The District shall, at its option, either provide or reimburse employees for the costs of training in connection with renewing school bus driver licenses: such as the School Bus Driver's Certificate, DMV fees, Class B endorsement, CHP fees, the required physical examination, or any other required fees and materials. Reimbursement will be made only if the unit member completes the requirements and receives renewal or a temporary certificate prior to expiration of a current Bus Driver Certificate.

### **ARTICLE EIGHTEEN: SAVINGS PROVISION**

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

### **ARTICLE NINETEEN: EFFECT OF AGREEMENT**

It is understood and agreed that the specific provisions contained in this Agreement shall prevail over District practices and procedures to the extent of a conflict and over State laws to the extent permitted by State law, and that in the absence of specific provisions in the Agreement, such practices and procedures are discretionary.

### **ARTICLE TWENTY: CONCERTED ACTIVITIES**

20.1 It is agreed and understood that there will be no strike, work stoppage, slow-down, illegal picketing, or refusal or failure to fully and faithfully perform job functions and responsibilities, or other interferences with the operations of the District by the Association or by its officer, agents, or members during the term of this Agreement,

including compliance with the request of other labor organizations to engage in such activity.

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

20.3 It is agreed and understood that any employee violating this Article may be subject to discipline up to and including termination by the District.

20.4 It is also agreed and understood that in the event this Article is violated, District shall be entitled to withdraw any rights, privileges, or services provided for in this Agreement or in District policy from any employee and/or the Association.

#### **ARTICLE TWENTY-ONE: COMPLETION OF MEETING AND NEGOTIATION**

21.1 Except as specifically provided in this Article, and Article 22: TERM, during the term of the Agreement, the Association expressly waives and relinquishes the right to meet and negotiate on wages, hours of employment, and terms and conditions of employment, including but not limited to, reclassification, and agrees that the District shall not be obligated to meet and negotiate with respect to any subject matter, whether referred to or covered in this Agreement or not, even though such subject or matters may not have been within the knowledge or contemplation of either or both the parties at the time they met and negotiated on and executed this Agreement, and even though such subject or matters were proposed and later withdrawn.

21.2 All negotiations for the 2023-24 and 2024-25 school year are closed. For the 2025-26 school year, each party may reopen negotiations on Article VIII: Wages and Salaries and Article IX: Health and Welfare Benefits, and any two (2) other Articles of this Agreement or subjects within the lawful scope of representation by notifying the other party in writing no later than the second week of September for the year to which the proposals would be effective.

21.3 It is agreed and understood that this Article shall not be construed as eliminating the obligation of the District to notify the Association and provide an opportunity to meet and negotiate on proposed changes in matters within the lawful scope representation which are not specified in this Agreement.

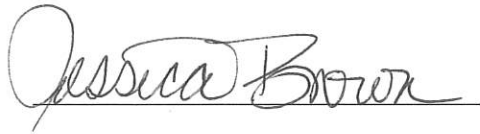
#### **ARTICLE TWENTY-TWO: TERM**

This Agreement shall remain in full force and effect up to and including June 30, 2026, and thereafter shall continue in effect year by year unless one of the parties notifies the

other in writing no later than the second week of September, to amend or terminate the Agreement.

SIGNATURE PAGE

GERBER UNION ELEMENTARY  
SCHOOL DISTRICT

A handwritten signature in black ink, appearing to read "Jessica Brown", written over a horizontal line.

President of the Board of Trustees

GERBER EDUCATIONAL  
SUPPORT PERSONNEL

A handwritten signature in blue ink, appearing to read "Ronda", written over a horizontal line.

President of the GESP

Approved by the Board of Trustees on:      January 23, 2023