

FRANKLIN-McKINLEY
EDUCATION ASSOCIATION
AND
FRANKLIN-McKINLEY SCHOOL DISTRICT
AGREEMENT



July 1, 2009 – June 30, 2012

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ARTICLE I: AGREEMENT

1.1 Term

1.1.1 The Articles and provisions contained herein constitute a bilateral and binding agreement ("Agreement") by and between the Governing Board of the Franklin-McKinley School District ("District") and the Franklin-McKinley Education Association/CTA/NEA ("Association"). This Agreement is entered into pursuant to Chapter 10.7, Sections 3540-3549, of the Government Code ("Act").

1.1.2 Any agreement reached between the parties shall be reduced to writing.

1.1.3 This Agreement shall remain in full force and effect and shall be effective as of July 1, 2009 and shall continue in effect until June 30, 2012. Negotiations shall be closed for the term of this Agreement except, upon request of the Board of Directors of FMEA, the Deputy Superintendent for Human Resources of the District shall meet with the said Board or their designated representative(s) within ten (10) days to discuss any issues or concerns and the reopening by mutual agreement of specific sections or articles within this Agreement.

1.2 Recognition

The District hereby recognizes the Association as exclusive representative for the unit of employees recognized by the District per its resolution dated July 21, 1976, and as mutually modified, as follows:

Classroom Teachers
Teachers on Special Assignment
Counselors
Librarians
Music Teachers
Nurses
Psychologists
District Resource Teachers/Miller Unruh
Special Day Class Teachers
Speech Therapists
Project Specialists
Resource Specialists
Adapted Physical Education Teachers

Specifically excluded from recognition are those employees who are management, supervisory or confidential employees and employees who are in the following classifications:

Substitute Teachers

Long-term Substitute Teachers

ARTICLE II: DEFINITIONS

- 2.1 For the purpose of this Agreement, the term "he" or "she" shall refer to both male and female.
- 2.2 A "Part-time Unit Member" is a unit member who is assigned to his position less than full time.
- 2.3 "Days" means any day when the District Service Center is open. For the purpose of filing and processing grievances the District Service Center shall be considered closed during the fall, winter, and spring breaks. When counting days, day one is the following workday.
- 2.4 "Inservice Meetings" are those activities scheduled for the total school staff by the administration, which are designed to improve teacher competency.
- 2.5 An "Opening" is an unfilled bargaining unit position.
 - 2.5.1 A "Position" shall include title and location, with grade level, and subject area as appropriate.
- 2.6 "Assignment" is the placement of a unit member in a specific position.
- 2.7 "Reassignment" is the placement of a unit member in a different position.
- 2.8 A "Transfer" is the placement of a unit member in a specific position at a different site.
- 2.9 "Employee-requested Transfer or Reassignment" means a transfer or reassignment, which is employee requested.
- 2.10 "Administrative Transfer or Reassignment" is a transfer or reassignment initiated and effected at the discretion of the District.
- 2.11 "Grade-level Changes" is the placement of a unit member in a different grade level.
- 2.12 "Emergency" means a sudden unexpected happening, or an unforeseen occurrence or condition, or a sudden or unexpected occasion for action beyond the control of the administration. Routine bus scheduling is excluded from this definition of emergency.
- 2.13 A "Complaint" is a verbal or written accusation of professional misconduct, illegal activity or other wrongdoing.

- 2.14 "Adjunct Duties" means other non-instructional duties.
- 2.15 "Assessment" is the act or process of gathering data or information for the purpose of appraising the level of achievement.
- 2.16 "Evaluation" is the process of making considered judgments concerning the degree of accomplishments of stated purposes.
- 2.17 "Evaluator" is an administrator designated by the District who is responsible for carrying out the evaluation process.
- 2.18 "Evaluatee" is the person whose performance is being evaluated.
- 2.19 "Goal" means a statement of broad direction or intent, which is generalized and timeless and is not concerned with a particular achievement within a specified time period.
- 2.20 "Objective" means a measurable performance stated in behavioral terms specifying criteria for attainment.
- 2.21 "Reemploy with Qualifications" means continued employment is conditional upon correction of specified areas needing improvement.
- 2.22 A "Grievance" (Article X) is a written allegation by the grievant that there has been a violation, misinterpretation, or misapplication of the specific provision(s) of this Agreement which adversely and directly affects the grievant. A grievance shall not include, and the grievance procedure shall not apply to, any of the following:
1. Any proceeding for the dismissal of a probationary or permanent unit member.
 2. Any proceeding for the layoff of a probationary or permanent unit member.
 3. Any attempt to alter or change the provisions of the agreement by filing a grievance.
 4. The evaluation of members of the unit, except of the violation of procedural matters.
- 2.23 A "Grievant" may be one or more employees of the unit alleging a grievance or the Association alleging a violation of its rights as contained in Article XII, Organizational Security; Article XIII, Negotiation Procedures; and Article XIV, Association Rights.

- 2.24 "Immediate Supervisor" is the lowest level administrator having immediate jurisdiction over the grievant who has been designated to adjust grievances.
- 2.25 "Representative of the Grievant" is a person chosen by the Association to represent the grievant.
- 2.26 "Elementary Combination Class" is a class comprised of students from more than one (1) grade level in grades K-6.
- 2.27 "Traditional School" refers to a school in which all students attend school on a ten (10) month basis from September to June.
- 2.28 "School Year" means the total number of days between July 1st of one (1) calendar year and June 30th of the next calendar year.
- 2.29 "Per Diem Rate" is a unit member's annual base salary, divided by the number of regular workdays.
- 2.30 "Qualified Inspector" is a person with experience and/or job responsibilities in the area of the specific hazardous condition or a person with specific licensing or training to provide the specific, required inspection.
- 2.31 "Domestic Partner" is as defined by the insurance carrier.
- 2.32 "Staff Meetings" are directed by the site administrator for the purpose of managing the site and curriculum. Staff meetings also include grade level or collaboration meetings. The site administrator has the sole discretion to determine the agenda and the manner in which items are added to or removed from the agenda. The site administrator also has the sole discretion to determine how staff meetings are scheduled and run. Staff meetings are generally held on Tuesday but may also be held at other times within the sole discretion of the site administrator.

ARTICLE III: COMPENSATION

3.1 Salaries

3.1.1 For the 2009-2010 school year the salary schedule shall be increased by an equivalent of zero percent (0%).

The certificated salary schedule, exclusive of Psychologists, Speech Therapists and Nurses shall be as indicated in Appendix G-1, and the salary schedule for Psychologists, Speech Therapists and Nurses shall be as indicated in Appendix G-2.

3.1.2 For the 2010-2011 fiscal year and the 2011-2012 fiscal year, compensation shall be reopened for negotiations. Each party shall have the right to reopen one additional contract article of their choice for the 2010-2011 and 2011-2012 reopener negotiations.

3.1.3 The certificated salary schedules referenced above are based upon a one hundred eighty-four (184) work day/work year. The Psychologists, Speech Therapist and Nurses schedule is based upon a one hundred ninety-four (194) work day/work year. Any additional District-required work days as part of a unit member's regular contract assignment shall be compensated at a per diem rate calculated upon base salary.

3.1.4 A salary schedule shall be distributed to each unit member within thirty (30) days of each salary adjustment.

3.1.5 Unit members who accompany students on 6th grade outdoor-education overnight trips shall receive a stipend or materials allowance of Fifty Dollars (\$50.00) per day.

3.1.6 Any unit member who possesses a Santa Clara County Office of Education registered Special Authorization in Bilingual Cross-Cultural Competence or Bilingual Cross-Cultural Language and Academic Development shall receive a one-time off-salary-schedule bonus of One Thousand Dollars (\$1,000.00).

3.1.7 A part-time unit member shall receive pro-rata pay based on the salary schedules set forth in Appendix G.

3.1.8 In case of a late pay warrant, and upon request, the District shall furnish the unit member with a cash advance check.

3.1.9 Newly employed unit members on the certificated salary schedule are limited to a maximum of twelve (12) years previous teaching experience at the time of employment. Credit for previous teaching experience shall be granted when properly documented and verified. Any unit member placed below the 12-year level shall move to the next year's salary level following their first year of employment so long as he/she worked at least 75% of the days school was in session. Any new unit member who possesses a teaching credential from an out-of-state institution that confers a teaching credential and a Bachelor's degree simultaneously shall be granted the equivalent of a BA+30 for placement on the salary schedule.

3.1.9.1.1 Outside experience must have been earned from performance of duties which meet the following criteria:

1. duties were completed while working in a school or institution while in possession of a valid teaching credential which is being used to apply for the FMSD position and;

2. the experience was within a Pre-K-12 assignment.

3.1.10 A unit member must have served in a full-time assignment while under contract for at least seventy-five percent (75%) of the days school was in session (twelve [12] month school year calendar) in order to have the year count as a year of experience for salary purposes. A unit member serving less than seventy-five percent (75%) of the days school was in session shall be allowed to compute the seventy-five percent (75%) requirement for salary purposes over a two (2) consecutive year period. When the unit member's aggregate over the two (2) years equals seventy-five percent (75%) of the days school is to be in session during a school year, the unit member shall be granted credit for a year of experience for salary purposes beginning the following school year.

3.1.11 College Units/Earned Degrees

Incentive increments are added for earned degrees beyond the B.A. degree and increments are also awarded for specific numbers of semester units earned after the B.A. has been granted.

- 3.1.11.1 All units offered to meet the requirements for Columns II, III, IV, and V must be completed through an accredited institution which grants the B.A., B.S., or B.E. degrees; or at District-sponsored workshops or community colleges when pre-approved by Deputy Superintendent for Human Resources.
- 3.1.11.2 All credit shall be evaluated in semester units. (A quarter unit equals two-thirds [2/3] of one [1] semester unit.) Unit requirements for Columns II, III, IV and V must be completed after the B.A. has been granted.
- 3.1.11.3 Normally, all work submitted for salary class advancement must carry upper division or graduate credit earned in an accredited four (4) year college or university. Some lower division courses may be related to the unit member's assignment, e.g., art for primary teachers, conversational Spanish; however, prior approval for salary credit for such courses must be obtained through the Human Resources Office or the Superintendent.
- 3.1.11.4 In order for a salary class change to be made or a professional growth increment requirement to be satisfied for a school year, an official transcript of work completed by September 1 must be on file in the Human Resources Office on or before the last Friday in October.
- 3.1.11.5 All grade cards must be submitted immediately upon completion of a course, to be returned upon receipt of a complete transcript. A grade of "C" (average) or better in any approved course is required for credit on the salary schedule. If no letter grade is indicated, a "P" or "+" shall meet course grade requirements.
- 3.1.11.6 Unit members shall be given credit for a maximum of two (2) masters degrees, provided the major coursework for each degree is exclusive of the other.
- 3.1.11.7 "Career increments" are compensation amounts, which recognize a unit member's service with the Franklin-McKinley School District.

3.1.12 Travel Credit

3.1.12.1 Travel credit shall be granted as means of improving skills and knowledge of unit members as certificated employees of the District.

3.1.12.2 All inquiries, requests for, and evaluations related to travel credit shall be conducted by the Travel Credit Committee. Recommendations shall be made to the Deputy Superintendent for Human Resources and units recorded by the Human Resources Office.

3.1.12.3 Upon approval of the Committee, unit members shall receive credit for approved travel.

3.1.12.4 Travel Credit Committee

The Travel Credit Committee shall be composed of the following persons:

- a. District office administrator as chairperson;
- b. One (1) building level administrator appointed by the Superintendent or designee; and
- c. Two (2) non-administrative certificated employees selected by the Association. A unit employee who has submitted a request for travel credit cannot serve as a member of the Travel Credit Committee.

3.1.12.5 Application for Travel Credit

An applicant shall submit an Application for Travel Credit/Itinerary no later than May 1st for travel during June through November and October 1st for travel during December through May. A minimum of 13 days of consecutive travel shall occur in order to receive travel credit.

3.1.12.6 The Travel Credit Committee shall review each application to determine whether the proposed trip merits the awarding of preliminary travel credit, pending later receipt of the Travel Report. Applicants shall be notified in writing of the decision of the Travel Credit Committee prior to departure.

3.1.12.7 On or before September 20th, a unit member shall file a Travel Report, giving evidence to the Travel Credit Committee that the program of travel has been carried out. The following requirements must be met at this time:

- a. The applicant shall have written, typed, and submitted an explanatory essay or detailed outline, which demonstrates a standard of professional caliber. The outline or essay must also be supplemented by material of the applicant's choice or preference, such as slides, film, scrapbook, coin collection, or similar materials.
- b. The applicant shall be prepared and willing to serve as a resource person, either through the lending of personal materials or services for a period not to exceed two (2) years.
- c. The applicant shall submit proof of travel such as transportation or lodging receipts.
- d. A unit member denied travel credit may resubmit the Travel Report within two (2) weeks of the original denial.

3.1.12.8 Credit for Travel

Credit for Travel shall be granted in the form of units for professional growth. Such credit shall be considered the equivalent of college units earned on a semester basis and shall allow advancement on the salary schedule not to exceed six (6) of the fifteen (15) units.

3.1.12.9 The number of travel units shall be awarded on the following basis:

- a. Travel within the Continental United States - up to one (1) unit for each two (2) weeks of travel.
- b. Travel outside the United States (Hawaii and Alaska included) - up to one (1) unit for each week of travel.

3.1.12.10 Unacceptable Travel Credit

A unit member cannot travel in connection with outside employment or a program where the unit member received pay or expenses for travel. Travel cannot be done in connection with a college or university travel course where credit is granted.

3.1.12.11 By October 10, the Travel Credit Committee, through the Human Resources Office, shall notify each applicant in writing regarding the credit allowed.

3.2 Fringe Benefits

The District provides fringe benefits to unit members and their dependents as set forth below. The District also provides fringe benefits to domestic partners of unit members, subject to the requirements, verification, etc. of the benefit carriers.

3.2.1 For the term of this Agreement, the District shall pay the full premium cost for dental and vision coverage for full-time unit members, and their dependents.

3.2.2 For the 2009 calendar year, the District shall pay for any premium increase beyond the 2008 premium up to 5%. Any difference will be deducted from the unit member's paycheck.

For the 2010-2011 fiscal year and the 2011-2012 fiscal year, benefits shall be reopened for negotiations. (Note: Benefit year corresponds with calendar year not fiscal year.)

3.2.2.2 An example of the application of section 3.2.2 is as follows:

- ❖ If the hypothetical monthly premium in 2007 is \$500;
- ❖ And the premiums increase by 10% for 2008 to raise the new monthly premium to \$550;
- ❖ The District would assume the first 5% of the 10% premium increase;
- ❖ Therefore, the District's 2008 monthly contribution would increase to \$525 ($\$500 \times 5\% = \25) and the employee would contribute the remaining \$25 per month; and
- ❖ The \$525 District contribution level would become the new base.

- 3.2.3 A part-time unit member shall receive pro-rata fringe benefits with the option to receive full insurance coverage upon reimbursement to the District subject to conditions stipulated by the carrier.
- 3.2.4 If a unit member dies while in the employment of the District, dependent survivors shall continue to receive the health and dental benefits of the deceased for the remainder of the school year.
- 3.2.5 Retirees shall be permitted to remain on District-paid health plans of their choice at their own expense, if the carrier so provides. This provision is nongrievable.
- 3.2.6 The District shall make available to the Association financial reports on VSP and Delta Dental usage so that the Association is made aware of claims experience under the administrative funding model. The District shall maintain separate accounts for VSP premiums and expenses and for Delta Dental premiums and expenses.
- 3.2.7 The District and Association shall enter into an agreement to provide the IRS Section 125 Plan option for unit members. Offering the IRS Section 125 Plan option shall not affect the existing fringe benefits nor be considered a cafeteria plan. Contributions to 125 Plan shall be limited to unit member's share of medical premiums, eligible insurance programs, unreimbursed medical costs and dependent care at the option of the unit member.

3.3 Substitute Teaching – Retired FMSD Teachers

A retired FMSD teacher shall receive the long-term substitute rate plus Twenty Dollars (\$20.00) per day for subbing.

3.4 Extra Pay

See Appendix J

ARTICLE IV: HOURS OF EMPLOYMENT

- 4.1 While it is recognized that the unit member's work day extends beyond the time spent at the school or department, the usual on-site work day shall be seven and one-half (7 1/2) hours, inclusive of a duty-free lunch period of at least thirty (30) minutes.
 - 4.1.1 Upon request of the Association or the District, a Review Group shall meet to consider any concerns arising from this Article. Issues may include, but are not limited to, a reasonable extension of the number of hours beyond the seven and one-half (7 1/2) hour work day; administrator-required meetings; shortened days for teacher-directed activities; et cetera.
 - 4.1.1.1 The Review Group shall be convened as necessary within ten (10) days and shall include two (2) FMEA appointees and two (2) District appointees. The Review Group shall resolve concerns in a timely manner.
- 4.2 Seventh and eighth grade teachers in a middle school program shall be granted a daily period in which they are to plan and perform duties directly related to the school and instructional responsibilities they have been assigned. This period shall not include student supervision. In the event of an emergency, when no substitute is available, the principal may require that a teacher provide coverage of another class during his preparation period. Such requirement shall be equitably distributed among unit members in any given preparation period. Pursuant to this provision, no unit member shall be required to provide coverage more than three (3) times in any school year. Consideration in this requirement shall be given to preparation needs of unit members. For all coverage beyond three (3) preparation periods, the unit member shall be paid at the hourly-substitute rate as specified in Article 3.3. Events which have been previously scheduled including, but not limited to, state-wide testing and co-curricular activities, do not constitute an emergency.
 - 4.2.1 Fourth through sixth grade teachers shall be provided with a daily teacher directed thirty (30) minute preparation period prior to the start of the instructional day, except when assigned yard duty, bus or other student supervision duties.

- 4.3 The parties agree to meet and negotiate contract language concerning the Middle School programs meeting all state and federal requirements no later than July 1, 2010.

Each 7-8 grade teacher in a middle school shall provide two hundred fifty (250) minutes of direct classroom instruction daily to students in addition to activity period responsibilities. A middle school activity period is a thirty (30) minute period in addition to the two hundred fifty (250) minutes of direct classroom instruction. The decision of when the activity period will occur shall be mutually determined between the teachers and the site administrator. Where consensus is not reached the issue shall be referred to the Assistant Superintendent of Educational Services for the final decision. During middle school activity periods, each unit member shall be responsible for direct student contact as approved by the principal. Such activities may include sponsorship of clubs or student organizations, student tutoring, or detention.

- 4.4 During the time Pre-K/Kindergarten is in session, any non-instructional portion of the Pre-K/Kindergarten teacher's workday shall be spent on the Pre-K/Kindergarten program.

- 4.5 On days when unit members are scheduled to work but the pupils are not scheduled to be present, on days of an emergency release of pupils or on minimum or rescheduled days, the work day shall be the same as if pupils were present for an entire instructional day. A shorter day may be authorized by the Superintendent or designee.

- 4.6 The basic work year for unit members shall consist of one hundred eighty-four (184) work days and one hundred ninety-four (194) work days for counselors, psychologists, speech therapist, nurses and project specialists. Any additional District-required workdays, beyond a unit member's basic work year, shall be compensated at his/her per diem rate calculated upon base salary.

Assigned work days shall be determined by the District and shall not include the following:

Independence Day	Labor Day
Veteran's Day	Thanksgiving Day and Day After
Christmas Day	New Year's Day
Martin Luther King, Jr. Day	Memorial Day
Presidents' Day	Day after Easter Sunday

4.6.1 The number of yearly instructional minutes for each child shall meet the following requirements:

Kindergarten:	36,000 minutes
Grades 1-3:	50,400 minutes
Grades 4-8:	54,000 minutes

4.6.1.1 Staff at the K-5, K-6, K-7, K-8, and Middle Schools grade levels shall form a joint committee with the site administrator to prepare a plan for providing the daily instructional minutes. The plan shall include four (4) minimum days per year for District use and may include at least one (1) minimum day per month for the purpose of teacher-directed activities. In addition the plan will allow for adjusted days of which the principal shall designate, on an annual basis, two (2) adjusted days per month to be used exclusively for teachers to plan and perform duties directly related to the school and their instructional responsibilities which will increase student achievement. The schedule of adjusted days shall rotate on an alternating basis from administratively directed to teacher directed and shall not include the adjusted weeks for parent teacher conferences. Minimum days shall not be scheduled on teacher directed adjusted days. The plan for instructional minutes shall be presented to the local staff. Should the staff be unable to reach agreement through a majority vote, the issue shall be referred to the Assistant Superintendent of Educational Services for a final decision.

4.7 The unit member's site administrator may approve a unit member's absence during the non-instructional work period for attendance at District-approved college or university course work. Such absence shall require prior approval by the on-site administrator. The time must be made up at a time mutually agreeable to the on-site administrator and the unit member.

4.8 There will be a maximum of thirty (30) administrator-required general staff meetings a year. Such meetings shall begin within 15 minutes after students are dismissed. It is the District's expectation that staff meetings shall not last more than one hour.

- 4.8.1 The following duties are included as part of a unit member's professional responsibilities, regardless of whether they occur during the regular work day: Parent Teacher Conferences, Back to School Night, Open House.
- 4.8.2 The District may require each unit member to participate in up to thirty (30) hours of professional activities beyond the end of the regular work day: Examples include, but are not limited to: SFA, SSC, CELL, DBAC, CCR, DAC, BAC, COMITE, TITLE VII Meetings, PQR, etc. Unit members may voluntarily agree to exceed the 30 hours.
- 4.8.3 At the beginning of the school year, the principal will hold a meeting with staff to discuss the adjunct duties. Unit members shall be given a list of adjunct duties for which they can sign up. In the event a unit member does not sign up for 30 hours of adjunct duties, such duties may be assigned to him/her by the principal.
- 4.9 Librarians may elect to work up to four (4) days during the summer recess instead of four (4) regularly scheduled work days during the school year, subject to approval by the site administrator.
- 4.10 Teachers returning shall have a minimum of one (1) day of preparation time in their classroom, provided however that the site administrator has the right to hold a meeting of not more than two hours at the beginning of the workday.
- 4.11 The special nature of the multiple school assignments of non-classroom personnel such as Nurses, Adapted Physical Education Teachers, and Speech/Language Pathologists shall be taken into consideration when scheduling IEP and CST meetings so that they shall not be required to work beyond the seven and one-half (7 ½) hour work day whenever practicable.
- 4.12 Pre-K teachers shall spend their District SIP days in District sponsored workshops. If District training is not relevant to a pre-K assignment this time will be used for collaboration. Questions regarding whether District sponsored workshops are relevant to a pre-K assignment shall be resolved within the sole discretion of the site administrator.
- 4.13 Qualified math teachers assigned to do math intervention/instruction as a professional responsibility during the activity period shall receive a stipend of \$2,500. Such teachers will be paid at the hourly rate of (\$35.00) for required professional development related this assignment. Teaching the math intervention/instruction during the

activity period, shall be voluntary. This language (section 4.13) will sunset on June 30, 2010.

ARTICLE V

LEAVES

5.1 Bereavement Leave

Unit members shall be entitled to a minimum of three (3) days bereavement leave because of a death in the immediate family. "Immediate family" is defined as brother, sister, father, mother, husband, wife, child, grandchild, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandmother, grandfather, mother-in-law, father-in-law, any person living in the immediate household of the unit member, including domestic partner as defined in Article 2, any person claimed as a dependent by the unit member, or a case where the unit member's relationship is significantly close and where the unit member's presence is required or necessary as determined by the Superintendent or designee. When used, this leave shall be in addition to all other leaves.

Under extenuating circumstances, the Superintendent or designee may extend the leave to a maximum of five (5) days.

Up to seven (7) additional days may be granted under personal necessity leave.

5.2 Pregnancy Disability Leave

The length of Pregnancy Disability Leave is designated by the employee's treating physician. Typical Pregnancy Disability Leave periods are six weeks for a normal pregnancy and delivery and eight weeks for a caesarian delivery. However, employees may be eligible for up to four months of Pregnancy Disability Leave if they are temporarily disabled due to pregnancy, childbirth and recovery therefrom as verified by the employee's treating physician. Periods of leave may be totaled in computing the four months. Pregnancy Disability Leave as provided by the law is unpaid. Employees are also eligible for unpaid Family Medical Leave Act (FMLA) leave while disabled due to pregnancy, childbirth and recovery therefrom. FMLA leave runs concurrently with Pregnancy Disability Leave.

District employees may be eligible for compensation for Pregnancy Disability Leave first from accumulated sick leave and second from differential sick leave if they qualify for such leaves in accordance with Section 5.4 of this Contract and Section 44977 of the California Education Code.

Employees who are disabled for longer than the maximum four months provided under Pregnancy Disability Leave may still be eligible for differential sick leave under Section 5.4 of the contract and Section 44977 of the California Education Code.

5.2.1 Adoption/Paternity Leave

Unit members are entitled to up to three (3) days adoption/paternity leave without loss of pay. When used, this leave shall be in addition to all other leaves.

5.3 Personal Necessity Leave

Unit members may use up to seven (7) days per year of accumulated sick leave for personal necessity leave. Personal necessity leave is defined as:

5.3.1 Accident or illness involving his person or property or that of a member of his immediate family.

5.3.2 Death of a member of his immediate family.

5.3.3 Deaths not covered under bereavement leave, but which are of great personal concern to the unit member.

5.3.4 Appearance in court as litigant.

5.3.5 Other personal contingency or emergency that requires a unit member's absence from duty. The words "contingency" and "emergency" are used to mean an event "out of the ordinary", i.e., an act of God or circumstances beyond one's control, or an occasion that cannot be covered in the normal course of events. Personal business, for example, is not normally considered a necessity unless the employee's presence is required at a specific time to prevent loss of property or other personal loss.

5.3.6 A matter of compelling personal importance may be accepted by the Superintendent or designee as personal necessity (not to be construed to include vacation or other recreational activities).

5.3.7 Verification of absence due to personal necessity under Sections 5.3.1 through 5.3.6 shall occur through a form mutually developed by the Association and the District.

5.3.7.1 A unit member may take four (4) personal necessity days for reasons stated in 5.3.1 through 5.3.6 without being required to state which reason.

5.3.8 The unit member's site administrator may approve an employee's absence during the non-instructional work period in cases of personal necessity. The unit member shall inform the site administrator or designee prior to the absence. The time must be made up at a time mutually agreeable to the site administrator and the unit member.

5.3.9 Observance of a Religious Holiday

5.3.9.1 A unit member may use up to seven (7) days of personal necessity leave for observance of religious holidays.

5.3.9.2 Independent of 5.3.9.1 above, a unit member may be absent up to three (3) days to observe a religious holiday(s). In order to be absent under this provision, the unit member must give five (5) days advance notice to the Deputy Superintendent for Human Resources and agree to provide an equal number of days service on a date(s) mutually agreed between the unit member and the Deputy Superintendent for Human Resources. In the event the unit member does not provide service as mutually agreed by June 30 of that school year, there shall be a per diem deduction(s) for the day(s) originally absent.

5.4 Sick Leave

Each unit member shall be granted sick leave at the rate of ten (10) days for the standard work year for that position. This sick leave shall be cumulative without limit.

5.4.1 A regular unit member working more or less than the standard work year for his/her position shall receive prorated sick leave based upon the standard work year for that position.

5.4.2 In the event of illness/disability, the unit member shall utilize sick leave in the following order:

5.4.2.1 Use balance of current year's sick leave

5.4.2.2 Use other accumulated sick leave

5.4.2.3 If absence extends beyond accumulated sick leave and is less than or equal to one hundred (100) days following expiration of the current year's sick leave, the unit member shall receive the difference between his pay and the amount paid to a short-term substitute, or if no short-term substitute employee was employed, the amount which would have been paid to the short-term substitute had a substitute been employed. The differential pay shall extend for a maximum of one hundred (100) days beginning with the expiration of the current year's sick leave. The employee's health and welfare program shall remain in effect during this period of disability.

5.4.2.4 Illness/disability, the unit member may be required to provide to the Deputy Superintendent for Human Resources a written statement from a physician certifying the nature of the illness/disability. The physician's statement shall be specific as to the health condition and as to the disabling effects of the health condition. At reasonable intervals thereafter, the District may require from the unit member additional written statements by a physician certifying to the continuing nature of the disability.

5.4.3 Catastrophic Leave Bank

5.4.3.1 Definitions

5.4.3.1.1 "Catastrophic illness or injury" means any illness or injury that incapacitates a unit member for an extended period of time, or that incapacitates a member of the unit member's family, which incapacity requires the unit member to take time off from work for an extended period of time to care for that family member, and taking extended time off work creates a financial hardship for the unit member because he or she has exhausted all of his or her sick leave and other paid time off. Examples of catastrophic illness or injury include, but are not limited to: cancer, heart attacks or strokes,

severe respiratory conditions, spinal injuries, emphysema, severe arthritis, severe nervous disorders, and Alzheimer's.

5.4.3.1.2 "Day," for the purposes of this Article, means any day a unit member is expected to be on duty as determined by the terms of this Agreement.

5.4.3.1.3 "Family member" shall be defined as spouse, parent, or child.

5.4.3.1.4 "Eligible leave credits" means sick leave accrued to the donating employee.

5.4.3.2 Eligibility and Contributions

5.4.3.2.1 Unit members on active duty with the District who have a minimum of ten (10) days of accrued sick leave are eligible to contribute to the Catastrophic Leave Bank.

5.4.3.2.2 Participation is voluntary, but requires contribution to the Bank. Only contributors will be permitted to withdraw from the Bank.

5.4.3.2.3 Unit members who elect not to join the Catastrophic Leave Bank upon first becoming eligible must wait until the following year's open enrollment period and are not eligible to withdraw from the Bank until they are enrolled.

5.4.3.2.4 The contribution, on the appropriate form, shall be authorized by the unit member and continued from year to year until canceled by the unit member.

5.4.3.2.5 Cancellation occurs automatically whenever a unit member is unable to make his/her annual contribution. Cancellation, on the proper form, may be effected at any time and the unit member shall not be eligible to draw from the Bank as of the effective date of the cancellation. Sick leave previously authorized for contribution to the Bank shall not be returned upon cancellation.

5.4.3.2.6 Contributions shall be made between July 1 and October 1 of each year. Eligible unit members returning from extended leave, which included the enrollment period, and eligible new hires are permitted to contribute within 30 calendar days of resuming or beginning work.

5.4.3.2.7 The annual rate of contribution by each participating unit member for each school year shall be limited to one (1) day of sick leave. Contributions are irrevocable.

5.4.3.2.8 Part-time unit members may contribute and use catastrophic leave on a pro-rata basis.

5.4.3.3 Withdrawal from the Bank

5.4.3.3.1 Catastrophic Leave Bank participants whose sick leave is exhausted may withdraw from the Bank for catastrophic illness or injury.

5.4.3.3.2 Unit members must use all sick leave, but not differential leave, available to them before being eligible for a withdrawal from the Bank. Participants who are approved and who have exhausted all accrued sick leave are entitled to supplement their differential leave with Catastrophic Leave charged at one-half day increments.

5.4.3.3.3 Withdrawals from the Catastrophic Leave Bank shall be granted in units of no more than thirty (30) days. Unit members may submit requests for extensions of withdrawals as their prior grants expire. A unit member's withdrawal from the bank may not exceed the statutory maximum period of twelve consecutive months.

5.4.3.3.4 Unit members applying to withdraw or extend their withdrawal from the Catastrophic Leave Bank will be required to submit a doctor's statement indicating the nature of the illness or injury and the probable length of absence from work.

- 5.4.3.3.5 If a unit member has drawn thirty (30) Catastrophic Leave Bank days and requests an extension, the Deputy Superintendent for Human Resources may require a medical review by a physician of the District's choice at the unit member's expense. Refusal to submit to the medical review will terminate the unit member's continued withdrawal from the Bank. The Deputy Superintendent for Human Resources may deny an extension of withdrawal from the Catastrophic Leave Bank based upon the medical report.
- 5.4.3.3.6 Catastrophic leave credits shall not be used for illness or disability which qualify the unit member for workers' compensation benefits.
- 5.4.3.3.7 If the unit member may be eligible for a Disability Award or a Retirement under STRS or, if applicable, Social Security, the District may require the unit member apply for disability or retirement. Failure of the unit member to submit a complete application, including medical information provided by the unit member's physician, within twenty (20) calendar days of the request shall disqualify the unit member from further Catastrophic Leave Bank payments. Any requests for additional medical information from STRS and Social Security shall be submitted within ten (10) days or the unit member's entitlement to Catastrophic Leave Bank payments will cease.
- 5.4.3.3.8 If the Catastrophic Leave Bank does not have sufficient days to fund a withdrawal request, the District is under no obligation to pay the participant any funds whatsoever. If a request for withdrawal is denied because of insufficient days to fund the request, the District shall notify the unit member, in writing, of the reason for the denial.

- 5.4.3.3.9 Catastrophic Leave Bank unit member participants who are denied a withdrawal or whose withdrawal is not renewed or terminated may, within 10 days of denial, appeal, in writing, to the Superintendent. The Superintendent shall hold a hearing within fifteen (15) days. The Superintendent shall issue a confidential written decision within fifteen (15) workdays of the hearing. If the unit member's incapacitation does not allow participation in this appeal process, the unit member's agent or member of the family may process the appeal.
- 5.4.3.3.10 Approval or denial of catastrophic leave requests shall be final and not subject to grievance.
- 5.4.3.3.11 Participants and applicants shall complete the form attached in Appendix A.
- 5.4.3.3.12 Unit members do not accrue sick leave while using catastrophic leave credits.

5.4.3.4 Administration of the Bank

- 5.4.3.4.1 The Human Resources office shall maintain the records of the Catastrophic Leave Bank, receive withdrawal requests, verify the validity of requests, approve or deny the requests, and communicate its decision, in writing, to the unit member participants.
- 5.4.3.4.2 The District shall approve all properly submitted requests complying with the terms of this Article on a first come first served basis. Withdrawals may not be denied on the basis of the type of illness or disability, except as provided in this Article.
- 5.4.3.4.3 In the event the parties agree to discontinue the bank, the parties will negotiate how the hours donated will be returned to the donating unit members.

5.4.3.5 The Association shall indemnify and hold the District harmless from any and all claims, demands or suits, or other action arising from the District's implementation and administration of Article 5.4.3 "Catastrophic Leave", including reasonable attorney fees and costs. The Association as the indemnitor shall have the exclusive right to decide and determine which matters shall or shall not be compromised, resisted, defended, tried or appealed.

5.5 Family Care and Medical leave

The governing Board shall grant Family Care and Medical Leave to eligible employees in accordance with current state and federal law. Employees taking this leave shall be reinstated in the same or comparable position upon returning from family care leave, except as allowed by law.

Definitions:

"Family care and medical leave" means any of the following:

- (1) Leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious health condition of a child of the employee.
- (2) Leave to care for a parent or a spouse who has a serious health condition.
- (3) Leave because of an employee's own serious health condition that makes the employee unable to perform the functions of the position of that employee, except for leave taken for disability on account of pregnancy, childbirth, or related medical conditions.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis as long as the child is under eighteen (18) years of age or an adult dependent child.

"Parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either of the following:

- (1) Inpatient care in a hospital, hospice, or residential health care facility.
- (2) Continuing treatment or continuing supervision by a health care provider.

5.5.1 Eligibility

5.5.1.2 Unit members who have served more than 12 months with the District, and who have served at least 1250 hours of work service (178.5 days of full time service) with the District during the previous twelve-month period are eligible for Family Care and Medical Leave in accordance with state and federal law. If both parents of a child work for the District, their Family Care and Medical Leave related to the birth or placement of their child shall be limited to a total of twelve (12) weeks.

5.5.1.3 A unit member on Family Care and Medical Leave under this Section may use any accrued leave or other paid leave or may elect to take it as unpaid leave. If a member takes such a leave because of the employee's own serious health condition, the employee shall substitute accrued sick leave during the period of the leave.

5.5.2 Duration

5.5.2.1 Leave under this Section may be taken for a total of twelve (12) workweeks in a twelve (12) month period.

5.5.2.2 Family Care and Medical Leave may be taken in one-half day increments.

5.5.3 Benefits

5.5.3.1 While on Family Care and Medical Leave, a unit member's group health insurance coverage including dental and vision shall be maintained by the District at the same level and under the same conditions as coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

5.5.3.2. Maintenance of Status. The employee shall retain his/her status with the District during the Family Care and Medical Leave period, and the leave shall not constitute a break in service for purposes of longevity or seniority. For purposes of layoff or recall, the employee returning from Family Care and Medical Leave shall return with no less seniority than he/she had when the leave began.

5.5.3.3 Leave taken pursuant to the California Family Rights Act (CFRA) shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act (FMLA) except for any pregnancy disability leave. If an employee is disabled due to pregnancy, childbirth, or related medical conditions, she may be entitled to take up to four months of pregnancy disability leave in addition to the twelve weeks of family care and medical leave; however, the employee shall only be entitled to health and welfare benefits for the duration of her paid pregnancy disability leave.

5.5.4 Reinstatement

As a condition of an employee's return from leave taken because of the employee's own serious health condition, the employee shall obtain certification from his/her health care provider that the employee is able to resume work at least two (2) weeks before returning to work.

5.5.4.1 Upon granting an employee's request for Family Care and Medical Leave, the District shall reinstate the employee in the same or a comparable position when the leave ends.

5.5.4.2 An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the District reduces its workforce during the leave period, and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the District has no continuing obligations under a collective bargaining agreement or otherwise.

5.5.5 Procedures

- 5.5.5.1 Requests, Advance Notice and Certification. The employee shall give the District at least thirty (30) days written advance notice of his/her need for Family Care and Medical Leave. If the employee learns of the need for this leave fewer than thirty (30) days in advance, he/she shall provide such notice as soon as practicable.
- 5.5.5.2 When requesting Family Care and Medical Leave because of a serious health condition, the request shall be supported by a certification from a health care provider of the person requiring care. This certification shall include the following:
 - 5.5.5.2.1 The date on which the serious health condition commenced.
 - 5.5.5.2.2 The probable duration of the condition.
 - 5.5.5.2.3 If the employee is requesting leave to care for a child, spouse or parent who has a serious health condition, the health care provider's certification of both of the following:
 - 5.5.5.2.3.1 Estimated amount of time the health care provider believes the employee needs to care for the child, parent or spouse.
 - 5.5.5.2.3.2 Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent or spouse.
 - 5.5.5.2.4 If the employee is requesting leave because of his/her own serious health condition, the health care provider's certification, that due to the serious health condition, the employee is unable to perform the functions of his/her job.
- 5.5.5.3 If this leave is needed for a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of District operations. This scheduling shall be subject to the health care provider's approval.

- 5.5.5.4 If the member is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave.
- 5.5.5.5 If additional leave is needed when the time estimated by the health care provider expires, the District may require the member to provide re-certification of the need for the leave specified above.
- 5.5.5.6 If the District has reason to doubt the validity of a certification that accompanies a request for leave, the District may challenge the certification and require the unit member to obtain, at District expense, a second opinion from a District-approved health care practitioner not regularly employed by the District. If the second opinion is contrary to the first, the District may require, again at District expense, that the unit member obtain a third medical opinion from a third health care practitioner approved by both the unit member and the District.

5.6 Industrial Accident and Illness Leave

- 5.6.1 Unit members are entitled to industrial accident or illness leave according to the provisions in California Education Code section 44984 for personal injury which has qualified for Workers' Compensation.
- 5.6.2 Such leave shall not exceed sixty (60) days during which the schools of the District are required to be in session or when the unit member would otherwise have been performing work for the District in any one (1) fiscal year for the same industrial accident. When an industrial accident or illness leave overlaps into the next fiscal year, the unit member shall be entitled to only the amount of unused leave due him for the same illness or injury.

- 5.6.3 The District has the right to have the unit member examined by a physician, designated by the District at District expense, to assist in determining the length of time during which the unit member shall be temporarily unable to perform assigned duties, and the degree to which the disability is attributable to the injury involved.
- 5.6.4 For any days absent from duty as a result of the same industrial accident, the unit member shall endorse to the District any wage loss benefits check(s) from the District's worker's compensation carrier which would make the total compensation from both sources exceed one hundred percent (100%) of the amount the unit member would have received as salary had there been no industrial accident or illness.
- 5.6.5 If the unit member fails to endorse to the District any wage loss disability indemnity check received on account of the industrial accident or illness as provided above, the District shall deduct from the unit member's salary warrant the amount of such disability indemnity actually paid to and retained by the unit member.
- 5.7 Jury Duty Leave
 - 5.7.1 Unit members are entitled to paid leave for jury duty or as a subpoenaed witness in court, or legal proceedings when serving other than as a litigant.
 - 5.7.2 Any amount received for jury service or witness fees, other than mileage, shall be payable to the District.
- 5.8 Military Leave
 - 5.8.1 Unit members who are members of any reserve corps of the Armed Forces of the United States or of the National Guard, or who are inducted, enlisted, or are otherwise ordered to active military duty, shall be granted such leave and military pay as is provided in the California Education Code and the California Military and Veterans Code.
 - 5.8.2 Unit members on military leave shall retain those rights and privileges as required by law.
 - 5.8.3 Voluntary participation by a unit member in Reserve Corps and National Guard training periods must occur only at times when the unit member is not assigned to work.

5.9 Long-Term Leave

- 5.9.1 The District may grant long-term leaves without pay for health, hardship, study, and other reasons acceptable to the District. Except under extenuating circumstances, all requests for such leaves must be submitted by May 1.
- 5.9.2 Unit members granted a long-term leave shall inform the Deputy Superintendent for Human Resources in writing within ninety (90) days of the leave expiration of his intention to return or not return to the District. This provision applies to leaves granted for one (1) semester or more.
- 5.9.3 While on leave under this section, unit members may elect to continue medical, dental, and vision premium payments at their own expense with the Business Office.
- 5.9.4 Unit members requesting a leave of absence for the remainder of any contractual school year may be granted a leave for the remainder of that school year only. Thirty (30) days prior to the expiration of a long term leave, a unit member may reapply for an extension.
- 5.9.5 The District shall specify beginning and ending dates for all long term leaves.

5.10 Sabbatical Leave

Upon recommendation of the Superintendent or designee, the District may grant sabbatical leaves to unit members for purposes of permitting study and travel, or individual projects of said employees, which shall benefit the schools and the pupils of the District. The granting of leaves is subject to the following conditions:

5.10.1 Service

The sabbatical leave applicant must have served at least seven (7) consecutive years as a full-time certificated employee of the district. (Qualifying shall be interpreted as seventy-five percent [75%] of the teaching days of a school year.)

5.10.2 Number of Persons Allowed Sabbatical Leave

The number of persons allowed sabbatical leave during any given school year shall not exceed one percent (1%) of the certificated employees.

5.10.3 Length of Sabbatical Leave

Sabbatical leaves may be granted for the full year at half pay or for one (1) semester of school year at full pay.

5.10.4 Applications for Sabbatical Leave

Application for sabbatical leave must be made to the District through the Deputy Superintendent for Human Resources on the District Sabbatical Leave form. Application must be made by March 1 of the school year preceding the one for which the leave is requested.

All requests for sabbatical leave shall be reviewed by the Sabbatical Leave Committee. This committee shall be composed of the following persons:

- a. A District Office administrator as chairperson.
- b. One (1) building level administrator appointed by the Superintendent or designee.
- c. Two (2) non-administrative certificated employees selected by the Association.

The Committee shall recommend approval or disapproval of sabbatical leaves by March 31st.

5.10.5 Sabbatical Leave for Study

Sabbatical leaves shall be granted for the purpose of full-time graduate study or research or extensive travel. A unit member shall complete twenty-four (24) semester units of study, which is related to the unit member's assignment. Not less than eight (8) semester units shall be completed during either semester while on such leave. These courses shall be exclusive of correspondence and/or extension courses. Previous to such leave, the Sabbatical Leave Committee must approve the courses. A special project or research problem may be substituted for the unit requirements, if approved in advance by

the Sabbatical Leave Committee. Transcripts of other evidence of completion shall be submitted to the Human Resources Office within sixty (60) days after the unit member returns to duty, except that if credit is to be claimed for salary classification (or increment), transcripts must be filed in accordance with the salary schedule requirements.

5.10.6 Sabbatical Leaves for a Combination of Study and Travel

Unit members on sabbatical leaves for study and travel shall be on continuous travel status for at least four and one-half (4 ½) months of leave granted. The applicant for leave shall complete a minimum of twelve (12) semester units of work during the sabbatical year, not less than eight (8) of which shall be completed during a semester. In addition, all other provisions of Section 5.10.4 and Section 5.10.5 shall apply.

5.10.7 Sabbatical Leave for Individual Project(s)

In preplanning individual projects, the applicant shall include a detailed plan of the project, a detailed statement of the time to be allocated to the project, the name and position of the supervisor, university or consultant, and a statement that the work to be done in the project shall be equivalent in time spent and in the quality of work, to twenty-four (24) semester units for a one (1) year sabbatical leave, or twelve (12) semester units for a half (1/2) year sabbatical leave.

The Sabbatical Leave Committee shall evaluate the value of the project and its equivalence to course units. Evidence of completion of the project shall include one or more of the following: a log book, a daily journal, slides, photographs or charts to show stages of development, verification of completed work by advisor, university or consultant, or specific evidence of a completed project.

5.10.8 Sabbatical Leave Agreement

Unit members applying for sabbatical leave must sign an agreement to return to service in the District for not less than two (2) years upon completion of the leave. The sabbatical leave shall be counted as a year of experience on the salary schedule, and the unit member shall be entitled to return to the same type of position as held when the leave was granted.

5.10.9 Sabbatical Leave Not Completed

Should injury or illness prevent a unit member from completing a sabbatical leave the sabbatical leave shall be terminated, and all provisions of sick leave shall apply. If death prevents the unit member from fulfilling his agreement to return to service in the District, no repayment of salary shall be required from his estate.

5.10.10 Detailed Written Report

Each unit member who has been on sabbatical leave shall file with the Sabbatical Leave Committee a detailed written report not later than sixty (60) days after return to active duty. The employee shall not be considered as having completed the requirements of a sabbatical leave until such report has been filed with the Sabbatical Leave Committee.

5.10.11 District's Right to Disseminate Information

The District shall retain the right to disseminate for the good of the District any information received as the result of any sabbatical leave.

5.10.12 Indemnification Bond

The terms and conditions of leave shall be agreed upon in writing, and shall include, but not be limited to, an indemnification bond for failure to successfully complete the sabbatical program or render the necessary post-leave service, a stipulation to a post leave service of not less than two (2) years for a full year leave, and one (1) full year for a one-half (1/2) year leave, a description of the sabbatical program, and appropriate reporting procedures as may be designated by the Superintendent or designee.

5.11 Leave of Absence for Employee Elected to the Legislature

5.11.1 A permanent employee in a position requiring certification qualifications who is elected to the Legislature shall be granted a leave of absence from his duties as an employee of the District by the Governing Board of the District.

- 5.11.2 During the term of such leave of absence, the unit member may be employed by the District to perform less than full-time service requiring certification qualifications, for such compensation and upon such terms and conditions, as may be mutually agreed upon by the unit member and the District.
- 5.11.3 Such absence shall not affect in any way the classification of such employee.
- 5.11.4 Within six (6) months after the term of office of such employee expires, he shall be entitled to return to the position held by him at the time of his election, at the salary to which he would have been entitled had he not absented himself from the service of the District under this section.
- 5.11.5 Notwithstanding any provision of law to the contrary, an employee shall not have any right to such position of the person employed to take the place of any elected official following the return of such elected official to their original position.

5.12 Association Release Time

Elected officers or designated representatives of the Association are entitled to a total of sixty (60) days per year of release time for professional business. The substitute's salary for the first forty-five (45) days of this release time is to be paid by the Association at the current rate, and the remaining fifteen (15) days is to be paid by the District. A request for release time is to be submitted to the Deputy Superintendent for Human Resources or designee for approval five (5) days in advance of the absence whenever practical. On an emergency basis, a phone call followed by a written notice shall be allowed.

ARTICLE VI: ASSIGNMENT, TRANSFER AND EARLY RETIREMENT

6.1 Openings

- 6.1.1 The Human Resources Office shall provide for posting at each school a list of openings as they occur throughout the year. The specifications of the position and the qualifications required of the applicant shall be on file in the Human Resources Office.
- 6.1.2 Unit members shall indicate their desire for transfer or reassignment to the Deputy Superintendent for Human Resources prior to March 15th.
- 6.1.3 A list of unit members requesting transfer shall be sent to each site administrator by March 20th for consideration for vacancies as they occur.
- 6.1.4 A unit member who has not requested a transfer or reassignment in writing prior to March 15th may apply for openings as they occur.
- 6.1.5 Written notice of transfer or reassignment shall be given by an administrator to the unit member as soon as practicable and, under normal circumstances, not later than ten (10) days before the end of the unit member's work year.
- 6.1.6 A unit member requesting a transfer shall have consideration for any District opening within the same certification.
- 6.1.7 A unit member returning from a job sharing assignment shall have consideration for openings within his certification.
- 6.1.8 A special education teacher who requests a reassignment shall meet with the Deputy Superintendent for Human Resources to explore potential assignments.
- 6.1.9 The Association President shall be notified of all certificated openings or any newly created certificated classification, excluding management and supervisory positions, under Article 1, Section 1.2, of the Agreement, within three (3) days.

6.2 Assignment

6.2.1 Unit members shall be assigned only within the scope of their teaching certificates and/or their major or minor fields of study.

6.2.2 The site administrator shall prepare a tentative schedule indicating the number of classes at each grade level and subject. Bilingual, Slingerland, and other special classes shall be indicated. The tentative schedule shall be posted and distributed no later than March 15.

6.2.3 Unit members shall be surveyed by site administrators and shall indicate grade level and subject preferences by April 1. Site Administrators shall publish the results of the survey, including names, within five (5) days.

A tentative master schedule, including names, shall be posted and distributed by April 15. Whenever practicable, the unit member will be notified prior to publication of the on-site assignment and may request a conference with the site administrator and/or the Deputy Superintendent for Human Resources.

6.2.4 In order to establish practices that are fair and support the educational needs of the District, as determined by the District, in January each multi track year round school staff shall review/revise/update their local site procedure for staff assignment.

6.2.4.1 Includes broad staff input in its development at the site level by an elected committee consisting of unit members.

6.2.4.2 Is reviewed/revise/updated with staff input at least every four (4) years; and

6.2.4.3 Is submitted to the Association President and the Deputy Superintendent for Human Resources for review by January 31 of each school year.

6.2.5 Any middle school 7th and/or 8th grade teacher who is required to change subject area during the academic year shall be notified a minimum of twenty (20) days before the end of the current grading period, except under unusual circumstances including, but not limited to enrollment changes or certification requirements.

- 6.2.6 Except under unusual circumstances, no middle school (7-8) teacher shall be required to teach more than two (2) unrelated subject areas.
- 6.2.7 Unit members shall be assigned, whenever practicable, to a single classroom.
- 6.2.8 No regular classroom teacher in an elementary school shall be required to serve in more than two (2) classroom locations in one (1) school year.
- 6.2.9 No regular classroom teacher shall be required to serve in more than two (2) schools in one (1) school year, except in emergencies beyond the control of the District.
- 6.2.10 A unit member may appeal an assignment to the site administrator or Deputy Superintendent for Human Resources. Upon request, specific reason(s) for the assignment shall be given by the Deputy Superintendent for Human Resources to the unit member.

6.3 Employee-Requested Transfer or Reassignment

- 6.3.1 A unit member may request a transfer to another location or reassignment by submitting a written request prior to March 15th to the Deputy Superintendent for Human Resources. In evaluating such a request, the District shall consider the following:
 - a. The comparability requirements of State and Federal guidelines.
 - b. Racial-ethnic background of the school community.
 - c. Special school programs.
 - d. Length of certificated service within the District.
 - e. Potential contribution of the individual to the school or department.
 - f. Date of transfer request.
 - g. Reason(s) for the transfer

6.3.2 Transfer or reassignment is contingent upon interview and approval by the receiving site administrator or supervising administrator.

6.3.3 Upon request, specific reason(s) for transfer or reassignment denial shall be given to the unit member by the Deputy Superintendent for Human Resources or designee.

6.4 Administrative Transfer or Reassignment

Upon request, any unit member administratively transferred or reassigned under this section shall be notified by the Deputy Superintendent for Human Resources of the specific reason prior to the publication of the transfer or reassignment and may request a conference with the Deputy Superintendent for Human Resources.

Unit members shall not be administratively transferred more than once in a two (2) year period.

During the school year, a teacher reassigned to a different grade level at the same site shall be given, upon request, one (1) self-directed work day without responsibilities to prepare for the new assignment; a teacher transferred to a different site shall be given, upon request, two (2) self-directed work days to prepare for the new assignment.

Any unit member who is involuntarily assigned to a different grade level shall not be involuntarily assigned to a different grade level again for at least two (2) years without the consent of the unit member except when the assignment is caused by declining enrollment, elimination of programs or compliance with law, e.g., Office of Civil Rights requirements.

6.4.1 Reasons for Administrative Transfer or Reassignment

Administrative transfers or reassignment may be made for one of the following three (3) reasons:

6.4.1.1 Educationally-related needs of the District

Administrative transfer or reassignment may be made and shall be based exclusively on the educationally-related needs of the District.

6.4.1.1.1 Volunteers shall be considered first but are not automatically entitled to the position.

6.4.1.1.2 A transfer may be made to meet State compliance requirements and/or because a specialized credential is required. Upon request, the unit member shall be granted two (2) days of paid service without teaching duties within the first two (2) weeks of the new assignment to prepare and Four Hundred Dollars (\$400.00) for instructional materials.

6.4.1.1.3 When a unit member is transferred to a new location where a specialized credential is required, the District shall pay the application fee for the specialized credential. This payment shall be made one time only.

6.4.1.2 Over-staffing or relocation of programs

In selecting a unit member to be transferred because a school is over-staffed, in selecting a unit member to be reassigned because the District is over-staffed, in selecting a unit member to be transferred because a program is being relocated or in implementing primary class size reduction, the administration shall consider the following: volunteers; comparability requirements of State and Federal guidelines; racial-ethnic background of the school community; educational school programs; credential requirements; and length of certificated service in the District. The district shall consider enrollment fluctuation in making decisions to relocate staff due to under enrollment prior to September 15th.

6.4.1.2.1 Upon request, the unit member shall be granted two (2) self-directed work days of paid service without teaching duties within the first two (2) weeks of the new assignment to prepare and Four Hundred Dollars (\$400.00) for instructional materials.

6.4.1.3 To provide a new teaching setting for certain staff members

Administrative transfer or reassignment may include transfer or reassignment as a means of providing a new teaching setting for a unit member whose performance has been evaluated with a reemployment recommendation of "no" or "yes with qualifications."

6.5 Early Retirement Program

Unit members interested in participating in the Early retirement Program who meet the following criteria should meet with the Deputy Superintendent for Human Resources and make application by February 1. Acceptance into the Early Retirement Program is at the sole discretion of the District. Participants who are selected by the District must obtain approval of their project by the Deputy Superintendent for Human Resources and the project supervisor.

6.5.1 A unit member accepted into the Early Retirement Program must resign.

6.5.2 A unit member must be eligible for California State Teachers' Retirement System regular retirement benefits.

6.5.3 A unit member must work a minimum of 30 days.

6.5.4 Selection of participants in the Early Retirement Program may not be grieved under Article X of this Agreement. A unit member not selected may request a conference with the Superintendent. Participation in the Early Retirement Program is not an entitlement, but shall be subject to review and confirmation annually by June 1st.

6.6 Job Sharing

6.6.1 Joint applications for a job-sharing assignment for the following school year shall be filed with the Deputy Superintendent for Human Resources Office no later than March 1. Unit members in a job-sharing assignment must renew their application each year.

6.6.2 The Deputy Superintendent for Human Resources shall notify, in writing, the site administrator and the applicant(s) of the District decision. An unsuccessful applicant(s) shall, upon request, be notified of the specific reasons for denial.

6.6.3 If a unit member on a part-time contract is in a job-sharing assignment and elects to return to full-time teaching, and the unit member notifies the Deputy Superintendent for Human Resources within 30 days of the end of the school year, the unit member shall be given a full-time position within his certification at the beginning of the next school year.

6.7 Retirement Notification

In exchange for a unit member providing the District with a minimum of five full months advanced notice of retirement, the District will provide a \$1,000 stipend in the last paycheck for a unit member who provides notice as follows:

The unit member planning to retire within or at the end of the school year must provide written notice to the Deputy Superintendent for Human Resources. If the unit member will retire within the school year, the unit member must provide written notice no later than five full months prior to the last day they plan to work of the school year in which they will retire. If the unit member will retire at the end of the school year, the unit member must provide written notice by January 30th of the school year in which they will retire.

Article VII: SAFETY CONDITIONS

- 7.1 Unit employees shall not be required to perform tasks which endanger their health or safety. A unit member who notes such conditions must report, in writing, to the site administrator or designee the location of the hazard and the type of injury which is likely to occur. Hazards verified by the site administrator or designee shall be remedied as soon as practicable. A written report of any action taken or the action planned to be taken, along with a timeline, shall be given to the unit member within 5 working days. If, in this process, an inspection is required, such inspection shall be performed by a qualified inspector.
- 7.1.1 Upon request of the Association, the District shall review the specifications for additional facilities in regard to asbestos content.
- 7.1.2 Upon request the District shall supply verification that the formaldehyde level in any new relocatable facility is within established health limits prior to occupancy by a unit member.
- 7.1.3 The District and the Association shall form a joint committee to develop procedures for handling emergencies and the inspection of real and/or potential hazards: fires, earthquakes, intruders on campus, disasters, et cetera. The District shall facilitate a process where schools and departments develop plans to assure necessary staffing in the event of an emergency/disaster. Such plans shall consider the home and/or personal responsibilities of unit members.
- 7.1.4 Each site administrator shall assure that procedures and systems are in place to cover emergencies such as fires, earthquakes, and intruders on campus.
 - 7.1.4.1 Each school site shall perform regular monthly fire or disaster drills. Drills for intruders on campus and disasters shall be held at least twice a year. These drills shall be held at various times during the school day.
 - 7.1.4.2 Each site in the district shall have a Disaster Kit. The Safety Committee at each site shall recommend to the district what shall be in the kit and where it shall be housed.

- 7.1.5 All reports received by the District of inspections by local, state or federal health or safety agencies regarding potential hazardous conditions shall be available to any unit member upon request.
- 7.2 Except in the event of a system failure each school shall have a communication system whereby unit members may contact the office.
 - 7.2.1 Unit members shall have access from their classrooms to an outside telephone line for emergency purposes. The District will make every reasonable effort to repair a non-working phone as soon as possible.
- 7.3 A unit member shall immediately report threats or cases of assault or battery suffered in connection with his employment to the site administrator or designee who shall immediately take action to assure the safety of the unit member and report the incident to the police. Such notification shall be immediately forwarded to the Superintendent or designee, who shall take further action.
 - 7.3.1 All staff at the school site shall be notified by the site administrator in person prior to receiving a student who has been charged with or convicted of a suspendable/expellable offense(s). The District will ensure that every school site has in place and follows a procedure for notifying teachers of each pupil who has engaged in or who is reasonably suspected to have engaged in any of the acts set forth in Education Code section 48900 and required to be disclosed to teachers under Education Code section 49079. (See Appendix K for copies of 48900 and 49079).
- 7.4 A teacher may suspend, for good cause, any pupil from his class for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal for appropriate action. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. The procedures as set forth in section 48910 of the Education Code shall be followed. (See Appendix K for a copy of section 48910).

- 7.4.1 The parties agree that site safety is best served when at least one site administrator is present when students are on campus. When this is not possible, an administrator will be available by phone. Teachers who may serve as administrative designee(s) during the school day in the absence of a principal and/or a vice-principal shall be identified within the first month of school.
- 7.5 Except as specified in a job description, a unit member shall not be required to perform any procedures that are deemed to be medical in nature that the unit member has not voluntarily been trained to do.
- 7.6 It shall be the District's responsibility to move cabinets, files and other heavy teaching materials that must be removed from the classroom for storage at the site. Unit members shall ensure that their materials are ready for moving on track change day. Unit members shall not be required to perform cleaning services normally performed by a custodian.
- 7.6.1 All classrooms shall be cleaned daily, except when beyond District control, e.g., due to personnel issues involving the classified unit.
- 7.7 Potentially hazardous conditions/materials shall be identified to the schools as follows:
- a. The Warehouse catalog shall indicate any items that are potentially hazardous/toxic.
 - b. Any safety precaution literature in regard to hazardous/toxic materials shall be available to the user. There shall be a binder of all hazardous materials and precautions in the school office.
 - c. Materials shall be used in accordance with any safety labels.
 - d. When a potentially hazardous condition is identified, including but not limited to heating and cooling systems, air purity, mold and refuse, an inspection by a qualified inspector shall be made and the condition remedied as appropriate. A copy of the report and a timeline for any repairs shall be given to the unit member. Emergencies shall be dealt with immediately.

- e. Unit members shall only use materials that have been approved and/or provided by the District. Unit members who wish to purchase materials/supplies which have not been approved and/or provided by the District shall obtain approval from the supply committee, prior to purchase.
 - f. The District shall provide annual training on a-e above.
- 7.7.1 In classrooms where toilet training is necessary, the District shall provide water, gloves, and proper cleaning materials.
- 7.7.2 All hazardous waste (i.e., diapers) shall be removed from the classroom on a daily basis.
- 7.8 All bathrooms and toilets shall be cleaned daily when school is in session.
- 7.9 All teachers shall be notified at least 2 weeks before any planned construction, roofing, painting, paving, and annual notice of the pesticide and herbicide spraying schedules, so that, if necessary, the school staff can come up with a workable plan for safety of teachers and students.
- 7.10 When practical, unit members shall be able to control heating or heating/cooling thermostats governing work locations. The District is responsible for maintaining heating/cooling systems at each site.
- 7.11 Materials, such as rolling carts and textbook bins handled by unit members, shall be in safe working condition. Unit members shall report any equipment that is not in safe working condition and shall not use or handle any such equipment.
- 7.12 CPR and First aid classes shall be offered by the District on a semi-annual basis. The classes shall be voluntary on the part of the unit member. The District shall pay for registration of unit members accepted into either class if no substitute is required, but shall not pay a unit member for attendance. Those unit members who have been trained at District expense shall be placed on a list which will be made available at the site.

ARTICLE VIII: CLASS SIZE

- 8.1 So long as the District is eligible and funded by the State under the Class Size Reduction Program for kindergarten to third grade, the District shall meet class size requirements under such program for kindergarten.
- 8.2 For the 2009-2010 school year the maximum class size for participation in the Class Size Reduction Program for Kindergarten to Third grade shall be twenty-one (21) students. This language will sunset on June 30, 2010. So long as the district is eligible and funded by the State under the Class Size Reduction Program for kindergarten to third grade, the District shall meet class size requirements under such program for grades 1 to 3. If the Class Size Reduction Program is not funded by the state then the maximum class size for kindergarten through third grade classes shall be thirty (30) students.
- 8.3 The maximum class size for fourth through sixth grade classes shall be thirty-two (32) students.
- 8.4 Combination classes, grades K-6, shall be limited to twenty-eight (28) students.
- 8.5 The District shall employ one (1) certificated staff member for every twenty-four point five (24.5) enrolled students in grades seven and eight at the middle schools. Administrative, and/or teaching leadership personnel, counselors, special education teachers, and librarians shall be excluded from this calculation. The class size ratio will revert back to twenty-three point five (23.5) on June 30, 2010.
 - 8.5.1 The District will limit the total number of students assigned to each middle school teacher to one hundred fifty (150) students. The District will limit the number of students assigned to each Physical Education, Band and Choral teacher to two hundred (200) students. These limitations do not apply to the activity period.
- 8.6 The maximum caseload for a Resource Specialist shall be twenty-eight (28) students; for a Speech Therapist, fifty-five (55) students; and for an A.P.E. Teacher, fifty-five (55) students, and for Pre-K, Speech Therapist, forty (40) students.

- 8.7 The District shall not exceed a class size of thirteen (13) in any Special Day Class. If the 14th student is enrolled, a stipend shall be paid to the teacher at the rate of \$5.00 per day per student for any student in excess of 13. In no event shall the actual enrollment exceed 14 students. This stipend shall be paid on a monthly basis.
- 8.7.1 Upon the thirteenth (13th) enrolled student, an additional hour of aide time shall be provided by the District.
- 8.8 Specialized or experimental programs or projects approved by the Board may deviate from the class maximums noted above. Individual teachers, however, may elect not to participate in such projects.
- 8.9 No grievance regarding class size may be filed until the Friday after Labor Day, if the District has a mid-August start of the school year or after the 15th day of instruction if the District has a September start of the school year.
- 8.10 The class size provisions noted above may be exceeded in the event of an emergency.
- 8.11 The following positions shall be provided unless a reduction in positions is authorized by the Board of Education. Such Board action is excluded from the Grievance Procedure (Article X).
- | | |
|----------------------|---|
| Counselors | 3 per District |
| Music Teachers | 4 per District |
| Nurses | 4.2 per District |
| Psychologists | 4 per District |
| Speech Therapists | 6.5 per District |
| Resource Specialists | As authorized and funded by SELPA (Special Education Local Planning Area) |
- 8.11.1 The District shall attempt to establish its staffing configurations for any positions other than classroom teachers by March 15 and notify all of the unit members involved of its decision.

8.12

Since the inclusion or mainstreaming of a special day class student with exceptional needs into a regular classroom demands significant additional teacher time and/or preparation, the unit member may request a conference with the site administrator, resource specialist(s), and/or the Director of Special Services in order to discuss concerns and explore possible alternatives. These may include, but are not limited to, the following:

- a. Reassignment of student(s)
- b. Additional aide time
- c. More resource specialist time and/or assistance
- d. Other consultation and/or assistance
- e. Supplemental materials

ARTICLE IX: EVALUATION

9.1 Philosophy of Evaluation of Certificated Personnel

The Mission Statement of the Franklin-McKinley School District reads as follows:

“The mission of the Franklin-McKinley School District, as the premier center of diversity, opportunity, and innovation, is to develop all children into well rounded, lifelong learners, with a solid academic foundation, and unlimited capacity to excel and contribute, within society. This is accomplished by guaranteeing a safe, nurturing environment that inspires individual excellence and integrates the strength of our diverse community.”

If the District is to achieve its goals, it must engage in purposeful and continuous evaluation of every aspect of its operation. Such an effort tied to the assessment of needs and the identification of goals, will serve as a built-in mechanism for constant improvement of the educational program.

Therefore, evaluation of the District’s certificated personnel should promote the professional growth and development of all parties involved in the process, a satisfactory level of staff competency and performance and assure that strong instructional strategies are being implemented in every classroom. Evaluation should be an on-going task with continual feedback to the certificated staff. Those involved in implementing evaluation are engaged in exchanging perceptions and hence should approach the task with due modesty, humility and empathy.

Evaluation of human behavior in any form tends to be highly subjective. Despite this tendency, the District believes that reasonable attempts should be made to introduce objectivity into the evaluation process. To this end, the development of definitive job descriptions is essential, as are clear and precise statements of instructional objectives. By measuring performance against such existing bases, progress may be made toward the objectivity that is desired.

Permanent status (tenure) is granted by the Board of Education to employees who have successfully completed a probationary period.

Properly implemented, the evaluation process should be:

1. Methods of identifying and recognizing the service of outstanding certificated staff members.
2. A stimulus for certificated personnel to make conscious organized efforts to improve professional competence and performance, thus guaranteeing that each student will benefit from the service of professionals who constantly strive to maintain the highest possible standards.
3. A means for cooperative development and review of mutually understood standards and criteria for professional service and pupil growth.
4. A planned program to keep certificated personnel informed of their respective strengths and weaknesses and to provide for appropriate professional growth activities to meet identified needs.
5. A method of measuring and predicting employee success, insuring that capable, qualified, certificated employees maintain a high level of professional service and continue to provide a strong educational program for our children.

The Franklin-McKinley School District expects the evaluation of personnel to be positive in nature. Those responsible for personnel evaluation are expected to follow orderly methods of identifying strengths and deficiencies, to suggest and extend assistance for remediation of deficiencies and to maintain accurate and impartial records as outlined in the evaluation policy.

9.2 Evaluation Relationships

In the Franklin-McKinley School District, certificated evaluation is based upon a positive relationship between an evaluator and an evaluatee. The District believes that in order for a successful evaluation to result there must be mutual respect and confidence existing between evaluator and evaluatee.

All certificated personnel within the school district are to be evaluated. The evaluation process will be consistent with applicable California Education Code provisions. The evaluator of each unit member shall be an administrator designated by the District, whose identity shall be established and made known to the employee prior to the first day of instruction.

The implementation of these evaluation procedures rests with the designated administrator. While other certificated staff may be called upon to assist fellow employees, they will not be required to render evaluative judgments on an evaluatee's performance.

As a basis for evaluation, an evaluator and evaluatee will jointly agree on objectives to be used in the evaluation process. The evaluator and the evaluatee may adjust objectives because of changing conditions in the job situation.

In order to assure as much objectivity as possible, each evaluation will be supported by adequate and valid data from which judgments have been made. If the objectivity of the evaluation is questionable, the unit member may request a second evaluator through the Human Resources Administrator.

9.3 Evaluatees Responsibilities

9.3.1 The evaluatee will become familiar with the responsibilities stated in his job description and with specific responsibilities related to his assignment to a particular school/department.

9.3.2 By the 20th school day, the evaluatee will write objectives on the Certificated Staff Objective Forms in the following areas as defined by the California Standards for the Teaching Profession: (or successor designation as mutually agreed to by the Association and the District).

AREA 1: Engaging and Supporting All Students In Learning (One required).

AREA 2: Understanding and Organizing Subject Matter For Student Learning (One required).

AREA 3: Planning Instruction and Designing Learning Experiences for all Students (One required).

AREA 4: Creating and Maintaining Effective Environments For Student Learning (One required).

AREA 5: Assessing Student Learning (One required).

AREA 6: Developing As A Professional Educator (One required).

Support staff members will be expected to write a comparable total number of objectives, mutually agreeable with the evaluator and evaluatee and related to their job descriptions.

Should an evaluatee receive an “IMPROVEMENT NEEDED” within any area of the most recent evaluation, the evaluator may require the unit member to participate in the development of an action plan.

9.3.3 The evaluatee will arrive at agreement on standards of performance with evaluator. No later than the thirtieth (30th) instructional day, the evaluator and the evaluatee will meet to review the evaluatee's written objectives. If an evaluator will not accept the evaluatee's objectives, the unit member may appeal to the Human Resources Administrator.

9.3.4 The evaluatee will conduct appropriate programs for meeting the objectives agreed upon with the evaluator.

When submitting objectives for District approval, evaluatees will also identify any necessary teaching materials, which are not available at the time of writing, including: a) title of material; b) vendor; c) cost; and d) availability, including alternate materials. If the District agrees that the materials are necessary to meet the objectives, but the materials are not provided, the objective(s) will be changed.

If an evaluatee determines that he/she is unable to provide an appropriate instructional program for a student, he/she shall notify the evaluator in writing. This shall include: a) name of child; b) date of first recognition of problem; c) outline of steps taken, including requested and provided support services; d) dates of parent conferencing; e) identified learning modality; f) attendance record. The evaluatee will initiate a meeting with the evaluator within ten (10) days of recognition for the purpose of establishing alternate objectives for said child.

9.3.5 The evaluatee will submit documentation of progress toward meeting objectives and will complete the "Assessment of Results" section of the Certificated Staff Objective Form (Appendix D)

9.3.6 The evaluatee will meet with the evaluator in order to review the achievement of instructional objectives and other evaluatee responsibilities.

9.3.7 The evaluatee will execute, to the best of his/her ability, the recommendations for improvement of his/her performance.

9.4 Evaluator Responsibilities

In the performance of his/her duties the evaluator will utilize a monitoring process which includes the following:

9.4.1 The evaluator will take appropriate steps early in the year to assure that each evaluatee understands the responsibilities stated in job descriptions and related to specific assignments. In this effort, special assistance will be given to new employees.

9.4.2 The evaluator will establish a calendar for evaluation conferences.

9.4.3 The evaluator will hold conferences when appropriate following observations and/or other visitations. These observations will be recorded in writing on appropriate forms, a copy of which will be given to the evaluatee.

9.4.4 The evaluator will, during the conference, discuss the degree of attainment of outlined standards of performance with the evaluatee as well as the evaluatee's other responsibilities and make suggestions for improvement when necessary.

9.5 Procedures for Personnel Evaluation

9.5.1 Prior to the first instructional day of the school year, each evaluator will review, with his/her staff, District procedures related to personnel evaluation. At this time, he/she will discuss District requirements and forms.

9.5.2 The evaluator at this time will indicate that evaluation is to be a continual process which will include the monitoring of adherence to curriculum objectives, maintenance of a suitable learning environment, instructional techniques and strategies, progress of pupils toward standards established by the District, and developing as a professional educator, all of which are defined by the California Standards for the Teaching Profession.

9.5.3 Monitoring will include continuing review with all certificated employees and follow-up counseling whenever the performance in any area is marked “IMPROVEMENT NEEDED” in the summative evaluation. In the latter case the evaluator has the obligation to follow the procedures listed below:

- a. The evaluator will notify the employee in writing of the performance, which needs to improve.
- b. The written notice of performance, improvement needed, will be clearly and comprehensively stated.
- c. The evaluator will actually confer with the employee and make specific recommendations on improvement of his performance.
- d. The evaluator will offer assistance to the employee to improve his performance.

9.5.4 When a unit member receives an “unsatisfactory” in any indicator, the evaluator has the obligation to follow the following procedures:

- a. Evaluatee needs to be notified in writing of the performance, which was unsatisfactory.
- b. Any unsatisfactory needs to be clearly and comprehensively defined.
- c. State measurable objectives for improvement.
- d. State the means for measuring improvement.
- e. State evaluator’s role in assisting unit member, (model, demonstrate).
- f. State timeline for completion/and resources available.
- g. The evaluator will recommend that the unit member consider a self referral to PAR.

9.5.5 By the thirtieth (30th) instructional day, each evaluatee and his evaluator will have reviewed and mutually agreed upon objectives. If mutually agreed, objectives may be modified on or before January 31st.

- 9.5.6 At least one-half (1/2) of the objectives must be written for completion no later than (30) days prior to the final evaluation date. For the objective(s) not yet completed, the evaluatee shall present a summary of the steps taken toward completion of the objective(s).
- 9.5.7 During the school year, each teaching employee to be evaluated that year will receive a minimum of two (2) classroom observations by the evaluator. These observations are not to occur on the first two or last two instructional days of the employee's assigned track, or on the two days before or after a school break period of at least five (5) instructional days. In addition, these observations should not occur on the third through fifth days at the beginning of, or before the end of the employee's assigned track. If an observation is conducted during this period (i.e., the third through fifth day at the beginning of or before the end of the track), and any concerns are noted in the observation, the evaluator shall note whether such concerns may be attributable to the time period in which the observation occurred. None of the time limitations set forth in this section apply to or in any manner limit when a post observation conference may be held.
- 9.5.7.1 Prior to the observation, a pre-observation conference between the evaluatee and administrator can occur, and is recommended. The pre-observation conference must occur if either party requests it.
- 9.5.7.2 Within three days of the observation, the evaluator will give evaluatee a copy of the observation form containing the descriptors that were observed in the observation.
- 9.5.7.3 Within five days of the observation, both parties will meet for a post-observation conference. Both parties will complete, collaboratively, the post observation form.
- 9.5.8 Every probationary certificated staff member will be evaluated by his immediate supervisor in writing at least twice each school year, no later than the last instructional day in December and no later than March 1. Permanent employees shall be evaluated at least once every other year. Those to be evaluated will be notified by the evaluator prior to the first day of instruction. Permanent employees may be evaluated at any time during the school year if, in the opinion of the evaluator,

the employee's performance merits an "IMPROVEMENT NEEDED" or "UNSATISFACTORY" rating in any area. Permanent employees to be evaluated will be evaluated at least thirty (30) days before the end of the school year. The Progress/Summary Evaluation Form will be used for all evaluations. Staff scheduled for evaluation will submit "Certificated Staff Objective Forms" (see Appendix D to this Agreement). Staff not being evaluated are encouraged to submit individual or grade/departmental objectives and are encouraged to meet with the administrator to review the employee's objectives.

- 9.5.9 When performance is unsatisfactory in three (3) out of five (5) indicators in one of the following areas; Engaging and Supporting all Students in Learning/Understanding and Organizing Subject Matter for Students Learning/Planning Instruction and Designing Learning Experiences for all Students, the evaluatee will become a referred participating teacher in the PAR Program and will be provided the evaluator's specific action plan.

All areas marked UNSATISFACTORY must be fully explained in the "Comment" section. If the recommendation is being made for non-employment or reemployment with qualifications, the evaluator must indicate which area of the evaluation is the basis for this recommendation.

- 9.5.10 Evaluation of an evaluatee's competence will not include the use of publisher's norms established by standardized tests.
- 9.5.11 If the Evaluatee feels that the District has not followed evaluation procedures, the evaluatee may utilize the grievance procedure.

9.6 Job Descriptions

- 9.6.1 Job descriptions for certificated employees are contained in the Job Description binder in each school office. Additional copies of job descriptions are available from the Human Resources Office.

- 9.7 Complaints Against Employees
- 9.7.1 A complaint regarding a certificated staff member made to any member of the administration or Board of Education by any parent, student or other person, which does or may influence evaluation of the certificated staff member shall be discussed with the staff member.
- 9.7.2 The following steps must be followed if a complaint becomes part of the unit member's evaluation:
- 9.7.2.1 The complaint must be reported to the staff member by the administrator in a timely manner. If the complaint is written, a copy will be given to the employee.
- 9.7.2.2 The staff member against whom the complaint is made may seek legal counsel or representation.
- 9.7.2.3 The administration will make an investigation of the complaint and review its findings with the employee.
- 9.7.2.4 In the process of the investigation of the complaint, the employee will be consulted and given the opportunity to be heard.
- 9.7.2.5 Only a complaint, which has been verified by the District, may be placed in the employee's personnel file, in which case the employee may submit a written response to be attached to the complaint.
- 9.8 "Progress/Summary Evaluation Form" (Appendix C)
- 9.8.1 The format of the evaluation instrument parallels that of the six (6) areas of evaluation specified in the California Standards for the Teaching Profession and should reflect the degree to which the evaluatee is fulfilling the requirements of his/her assignment. In special cases, a performance task listed on the evaluation form may not apply to the evaluatee. In those situations, the evaluator will use the term "not applicable" or "N/A". Conversely, there may be special situations in which performance tasks will be added to the form because of the nature of the certificated assignment.
- The evaluator will check each of the applicable items, rating the evaluatee's performance in one (1) of three (3) categories.

- 9.8.2 "Competent" ratings reflect the performance of the successful evaluatee who consistently plans for and carries out required activities with considerable satisfaction.
- 9.8.3 When performance is less than competent, the evaluator will so indicate by checking the "IMPROVEMENT NEEDED" or "UNSATISFACTORY" column. In such cases, the evaluator is required to state clearly the nature of the deficiency and to make specific recommendations for improvement. All areas marked for improvement must be fully explained in the "Comment" section. If the recommendation is being made for non-reemployment or reemployment with qualifications, the evaluator must indicate which area(s) of the evaluation is the basis for this recommendation.
- 9.8.4 The evaluator and the evaluatee then sign the completed "PROGRESS/SUMMARY EVALUATION FORM". As indicated, the evaluatee has the option to append a statement to the original copies, which will be placed in the evaluatee's personnel file.
- 9.8.5 The completed evaluation forms are confidential documents and should be so regarded by all parties.
- 9.9 Evaluation Observations Forms
- 9.9.1 A formal observation is made, the evaluator will prepare a written report based upon his/her observation. A copy of this report should be provided to the evaluatee at the conclusion of the visit, or shortly thereafter.
- 9.9.2 In each building/department, the form should be consistent with objectives.
- The observation will be completed by using the districts a) Pre-observation Form, (optional), b) Observation Form, c) Post Observation Form, as per 9.5.7.
- 9.9.3 During the school year, each evaluatee to be evaluated that year will receive a minimum of two (2) classroom observations by the evaluator. Observations may be conducted for employees not scheduled for evaluation at the discretion of the evaluator.

9.10 Use of "Certificated Staff Objective Form" (Appendix D)

9.10.1 The objective and the action plans are used as a means to achieve desired outcomes. At the time the performance objectives are developed and agreed upon, it is necessary to also discuss and agree on the actions and the efforts to be taken to attain the objectives. The "Certificated Staff Objective Form" is prepared so that both staff member and supervisor understand what is to be done, the outcome desired and the method of measurement that will be used to determine whether the objective has been attained.

ARTICLE X: GRIEVANCES (See Article II, 2.23-2.26)

- 10.1 The purpose of this procedure is to secure, at the lowest possible administrative level, solutions to grievances. Both parties agree that these proceedings shall be kept as informal and confidential as possible at any level of the procedure. When counting days, day one is the end of the workday following the day on which the grievance/response is submitted.
- 10.1.1 A grievant is entitled to have a representative present at any level of the grievance procedure.
- 10.1.2 If at the end of the school year or track, a grievant is unable to attend a grievance meeting, he is entitled to designate in writing a representative to act in his absence.
- 10.1.3 Forms for filing grievances and other related documents shall be developed jointly by the Superintendent or designee and the Association.
- 10.1.4 Grievance forms shall be available from each site office, the Human Resources Office, the Association Office, and the faculty grievance representative.
- 10.1.5 The time limits for processing grievances may be waived, extended or reduced by mutual agreement between the District and the Association when confirmed in writing.
- 10.1.6 Failure by the administration to reply to the employee's grievance within the time limits specified automatically grants to the employee the right to process the grievance to the next level.
- 10.1.7 Failure by the grievant to file an appeal to the next step within the time limits specified automatically denies the grievance.
- 10.1.8 By mutual written agreement, the grievance may revert to a prior level for consideration.
- 10.1.9 Upon written request, the District or the grievant shall provide pertinent information, which is relevant to the issues raised by the grievance. Information, which is privileged under law, is excluded from this provision.

- 10.1.10 All documents, communications, and records dealing with the processing of a grievance shall be filed in a separate grievance file and shall not be kept in the personal file of any of the participants.
- 10.1.11 When it is necessary for the grievant or his representative to attend a grievance meeting or hearing scheduled during the day by the administrator or the arbitrator, the representative shall, upon notification to his site administrator or immediate supervisor, be released without loss of pay in order to permit participation in the foregoing activities. Any teacher who is required to appear in such investigations, meetings, or hearings, as a witness shall be accorded the same right.
- 10.1.12 Any unit member may during the work day present grievances to the employer and have such grievances adjusted without the intervention of the exclusive representative as long as the adjustment is reached prior to Level III and adjustment is not inconsistent with the terms of this Agreement provided that the District shall not agree to a resolution of the grievance until the Association representative has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.
- 10.1.13 Grievances of a similar or like nature may be joined as a single grievance by mutual agreement of the District and the Association.
- 10.1.14 No party in interest shall take reprisals affecting employment status of any unit member, party in interest, any Association representative, or any other participant in the procedure by reason of such participation.

10.2 Procedures

10.2.1 Informal Level

Before filing a formal written grievance, the grievant shall attempt to resolve the problem by an informal conference with the immediate supervisor.

10.2.2 Formal Level

10.2.2.1 Step I

- a. Within twelve (12) days after the grievant knew, or by reasonable diligence could have known, of the occurrence of an act or omission giving rise to the occurrence, the grievant must present the grievance to the immediate supervisor in writing on the appropriate form.
- b. This statement shall be a clear, concise statement of the grievance, the circumstances involved, the decision rendered at the informal conference, and the specific remedy sought.
- c. Upon the request of the grievant, there shall be a conference between the supervisor and the grievant within five (5) days. The supervisor shall communicate his decision to the grievant in writing within ten (10) days after receiving the grievance. A copy will be provided simultaneously to each of the two (2) Association representatives designated by FMEA for this purpose.

10.2.2.2 Step II

- a. In the event the grievant is not satisfied with the decision rendered at Step I, he may appeal the grievance to the Superintendent or designated representative within five (5) days of receipt of the written decision from Step I.
- b. This appeal should include a copy of the original grievance, the decision rendered at Step I and a statement of the reasons for the appeal.
- c. The Superintendent or designee shall communicate his decision in writing to the grievant within ten (10) days after receiving the appeal. A copy will be provided simultaneously to each of the two (2) Association representatives designated by FMEA for this purpose.

- d. Either the grievant or the Superintendent or his designee may request a personal conference within the above time limits.

10.2.3 Arbitration

10.2.3.1 Step III

If the grievant is not satisfied with the disposition of the grievance at Step II, the Association may within eight (8) days submit the grievance to arbitration and shall notify the Superintendent in writing.

- a. The Association and the District shall attempt to agree upon an arbitrator. If no agreement can be reached, the parties shall request the State Conciliation Service or the American Arbitration Association to supply a panel of five (5) names of persons experienced in hearing grievances in public schools. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.
- b. The fees and expenses of the arbitrator shall be borne equally by the District and the Association. All other expenses shall be borne by the party incurring them. If either party requests a transcript of the proceedings, that party shall bear full costs for that transcript. If both parties request a transcript, the total cost of the two transcripts shall be divided equally between the District and the aggrieved.
- c. Once the arbitrator has been selected, the hearing shall be scheduled as mutually agreed upon by the parties and the arbitrator. Hearings shall be confined to working days.
- d. The arbitrator shall conduct the hearing in accordance with the voluntary arbitration rules of the American Arbitration Association and the provisions of this procedure.

- e. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step.
- f. Neither the District nor the aggrieved shall be permitted to assert any grounds or evidence before the arbitrator, which was not previously disclosed to the other party. The arbitrator shall consider only those issues, which have been carried through prior steps as required by the provisions of the procedure.
- g. The arbitrator shall have no power to add to, subtract from or modify the terms of this Agreement.
- h. The arbitrator's decision shall be in writing and shall set forth the arbitrator's findings of fact, reasoning and conclusions on the issues submitted. The arbitrator shall be without the power or authority to make any decision, which requires the commission of an act, prohibited by law or which is violative of the Agreement. However, it is agreed that the arbitrator is empowered to include in any award such financial reimbursement or other remedies which the arbitrator judges to be proper. The award of the arbitrator shall be final and binding on the parties, and a copy shall be submitted to the Superintendent, the aggrieved, and the Association.
- i. The District may request the arbitrator to rule on the arbitrability of a grievance by submitting a written request to the arbitrator no later than sixty (60) days prior to the scheduled date of the arbitration hearing. A copy shall be sent to the Association simultaneous. The Association shall have an opportunity to respond in writing to the District's request within fifteen (15) days of service of the District's request. The arbitrator shall have the discretion to rule on the arbitrability of the grievance either before the hearing commences or at the conclusion of the hearing. If the arbitrator rules on the arbitrability

of the grievance before the hearing commences, he/she shall issue his/her ruling no later than thirty (30) days prior to the date of the scheduled hearing.

ARTICLE XI: SUMMER SCHOOL

- 11.1 In the event the District provides a summer school program, the District shall give preference to regularly employed teachers who are qualified for available summer school positions and who have notified the Deputy Superintendent for Human Resources of their desire to teach.
- 11.2 Location of summer school and invitation to apply for positions shall be posted in every school no later than April 1. Interested teachers will return the completed application to the district no later than May 1.
- 11.3 Written notice of assignment and location shall be included with each offer of employment.
- 11.4 Offers of employment for summer school assignments shall be made commencing no later than the last work day in May. Offers of employment for intersession shall be made on the sixth (6th) day after posting.
- 11.5 First priority shall be provided to summer school classes for remediation in core subject areas.
- 11.6 A summer school offer of employment shall be null and void if anticipated student registration does not materialize and/or class enrollments fail to meet the District standards. No offer of employment shall be canceled after the tenth (10th) day of summer school instruction.
- 11.7 The summer school rates of pay shall be as provided in Appendix J, and shall apply to all time that teachers are required to be on campus.
- 11.8 Student lunch periods shall be utilized by teachers for self-directed collaboration activities. Teachers shall not be assigned any duty during the student lunchtime, breaks or recesses, except in the case of an emergency as defined in section 2.12 of this Agreement.
- 11.9 When implementing hourly programs, the summer school compensation and staff development time shall be uniform throughout the district. When “prep time” is designated as a component of a program it shall be uniform throughout the district. This shall not preclude sites from offering additional hours (to be compensated per section 11.7) to their hourly programs based on the receipt of the revenue other than the state funded summer school programs.

11.10 Except for this article as outlined above and the Grievance Procedure, no other articles or provisions in this Agreement shall apply to summer school personnel.

ARTICLE XII: ORGANIZATIONAL SECURITY

- 12.1 Any unit member who is a member of the Franklin-McKinley Education Association/California Teachers' Association/National Education Association, or has applied for membership, may sign and deliver to the District an assignment authorizing deduction of unified membership dues, initiation fees, and general assessments in the Association. Pursuant to such authorization, the District shall deduct one tenth (1/10th) of such dues from the regular salary check of the unit member each month for ten (10) months. Deductions for unit members who sign such authorization after the commencement of the school year shall be appropriately prorated to complete payments by the end of the school year.
- 12.2 Any unit member who is a member of the Franklin-McKinley Education Association/CTA/NEA, on June 1, 1988 or who is hired after June 1, 1988, shall, within thirty (30) days from the date of commencement of assigned duties within the bargaining unit, become a member of the Association or pay to the Association an agency fee payable to the Association in one (1) lump sum cash payment provided; however, the unit member may authorize payroll deduction for such fee in the same manner as provided in Section 12.1 of this Article. In the event that a unit member does not pay such a fee directly to the Association or authorize payment through payroll deduction as provided in Section 12.1, the Association shall so inform the District, and the District shall immediately begin automatic payroll deduction as provided in Education Code section 45061 and in the same manner as set forth in Section 12.1 of this Article. There shall be no charge to the Association for such deductions.
- 12.2.1 Except as provided by this article, the District and Association recognize the right of unit members to form, join, and participate in the activities of an employee organization and the equal alternative right of employees to refuse to form, join, or participate in employee organization activities.
- 12.3 Any unit member who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to join or financially support the Franklin-McKinley Education Association/CTA/NEA as a condition of employment; except that such unit member shall pay, in lieu of an agency fee, sums equal to such agency fee to a non-religious, non-labor organization, or charitable fund exempt from taxation under Section 501 (C)(3) of Title 26 of the

Internal Revenue Code. Such payment shall be made before October 30 or through the payroll deduction system. The charitable organization(s) shall be mutually agreed to between the member and the Association.

- 12.4 Proof of payment and a written statement of objection along with verifiable evidence of membership in a religious body whose traditional tenets or teachings object to joining or financially supporting employee organizations, pursuant to Section 12.3 above, shall be made on an annual basis to the Association and District as a condition of continued exemption from the provisions of Sections 12.1 and 12.2 above. Proof of payment shall be in the form of payroll deduction verification, receipts and/or canceled checks indicating the amount paid, date of payment, and to whom payment in lieu of the service fee has been made.
- 12.5 With respect to all sums deducted by the District pursuant to Sections 12.1 and 12.2 above, whether for membership dues or agency fee, the District agrees to remit promptly such monies to the Association accompanied by an alphabetical list of unit members for whom such deductions are being made.
- 12.6 The Association agrees to furnish any information needed by the District to fulfill the provisions of this Article.
- 12.7 The Association shall indemnify and hold the District harmless from any and all claims, demands or suits, or other action arising from the organizational security provisions contained herein, including reasonable attorney fees and costs. The Association as the indemnitor shall have the exclusive right to decide and determine which matters shall or shall not be compromised, resisted, defended, tried or appealed.

ARTICLE XIII: NEGOTIATION PROCEDURES

13.1 Negotiations General

No later than one hundred (100) days prior to the expiration of this Agreement, the Association shall present to the Board its initial proposals for inclusion in a successor agreement. The Board and the Association shall then proceed pursuant to the PERB rules and regulations implementing Government Code section 3547. Following the Board's adoption of its initial proposals at a public meeting, the parties shall meet and negotiate regarding matters within the scope of representation.

13.2 Outside Consultants

The negotiating sessions shall be private; however, either party may utilize the service of outside consultants to assist in or be present at negotiations.

13.3 Representatives

Authorized officers, consultants, individual representatives or committees may represent the District and the Association in negotiation sessions.

13.4 Time and Place

Negotiating sessions shall be held at times and places as mutually agreed upon by the parties.

13.5 Number of Representatives

13.5.1 The Association shall be allowed released time for up to five (5) of its members for the purpose of meeting and negotiating at agreed upon meetings with the District representatives on all matters within the scope of representation pursuant to Government Code section 3543.2.

13.5.2 Whenever representatives of the Association are mutually scheduled by the parties to participate during working hours in negotiating sessions, they shall suffer no loss in compensation for such time-spent meeting and negotiating with District representatives.

13.6 Reports

13.6.1 Both parties shall make available to each other, upon reasonable, written request, a copy of documents pertinent to the issues under negotiation, not otherwise privileged by law.

13.6.2 Upon request prior to February 15, the District shall furnish on the respective salary schedules as of January 15 the Association with the placement of unit members of the same year. The Scattergram shall be provided by March 1st.

13.7 Tentative Agreements

Unless the parties agree to the contrary, when tentative agreement has been reached on an item, it shall be reduced to writing and initialed by the parties prior to adjournment of the session. All items remain tentative until both parties approve the entire agreement.

13.8 Final Approval

When the final agreement has been reached on all items, the parties shall have the total agreement ratified by the District and the membership of the Association.

13.9 Distribution of Agreement

Within one (1) month of ratification of the Agreement by both parties, the employer agrees to print sufficient copies of the Agreement for distribution to all unit members.

ARTICLE XIV: ASSOCIATION RIGHTS

14.1 Right to Represent

The Association shall have the right to represent unit members in employment relations with the District.

14.2 Legal Rights

The District agrees not to impose or threaten to impose reprisals on unit members, discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this Agreement, carrying out of this Agreement or filing any grievance hereunder.

14.3 Rights of Access, Communication and Use of Facilities

The Association shall have the right of access at reasonable times to areas in which employees work, the right to use bulletin boards, mail boxes, and other means of communication, subject to regulations and the right to use District facilities at reasonable times for the purposes of meetings concerned with the exercise of rights guaranteed in the Agreement.

14.3.1 Access

Persons not members of the school staff who wish to come on the school site for Association matters during the school day shall notify the site administrator. Such visits shall be scheduled so as not to cause interruption to the school program or unit member's responsibilities.

14.3.2 Communication

The Association shall be entitled to post notices of Association concern on a staff bulletin board in each school complex. The Association shall be entitled to the use of regular inter-school delivery services and mailboxes for communication to employees regarding matters which involve the Association, and they shall be dated and identified as to their origin. An Association representative shall be responsible for intra-school distribution of said communications, and the District for such communication shall impose no cost. A copy of general distribution Association material shall be sent to the Superintendent and each site administrator.

14.3.3 Use of Facilities

The Association may use school facilities for meetings either before or following unit members' workday, subject to prior approval by the principal. Approval shall be granted when such use meets the following criteria:

1. Intended use does not extend beyond the time the school is usually open;
2. Use of such facilities does not conflict with previously scheduled use of such facilities or when the buildings are available for use;
3. The use does not require additional expense for custodial and/or other services;
4. A unit member has been identified as the responsible party;
5. One (1) day's prior notice has been given.

14.3.3.1 Meetings, which are scheduled to go beyond the time when school is open, must comply with the requirements applicable to all recognized organizations.

14.3.3.2 Should special custodial services be required or should there be any damage in excess of normal wear, the District shall make a reasonable charge for such service or damage.

14.3.3.3 The Association shall indicate names of unit members authorized to accept Association responsibility for such use of facilities.

14.4 Board Agendas

The District shall provide to the Association two (2) copies of the Board agenda and unapproved minutes of prior Board meetings in advance of each Board meeting.

14.5 Mondays, following the workday, are reserved for Association activity. No required District or school site functions shall be scheduled on Mondays.

14.5.1 Members of FMEA's Board of Directors and Representative Council shall be released on Monday meeting days after students have been dismissed for the instructional day. Such time shall be made up at a time(s) mutually agreed between the unit member and the site administrator. (See Appendix F)

14.6 Employee Names

The District shall provide the Association with names and assignments of all bargaining unit personnel no later than July 30 of each school year and all bargaining unit personnel employed after September 30 of each year within thirty (30) days of employment.

ARTICLE XV: MANAGEMENT RIGHTS

- 15.1 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.
 - 15.1.1 Included in, but not limited to, those duties and powers are the exclusive rights to: determine its organization; direct the work of its employees; determine the kinds and levels of services to be provided, and the methods and means of providing them; establish its educational policies, goals and objectives; determine staffing patterns; determine the number and kinds of personnel required; maintain the efficiency of District operations; determine the curriculum; build, move or modify facilities; establish budget procedures and determine budgetary allocation; determine the methods of raising revenue; contract out work; and take action on any matter in the event of an emergency. The Board retains the right to hire, classify, assign, evaluate, transfer, promote, and terminate unit members. In addition, the Board retains the right to discipline unit members consistent with the provisions of the California Education Code.
 - 15.1.2 The exercise of the foregoing powers, rights, authority, duties and responsibilities by the District, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this Agreement, and then only to the extent such specific and express terms are in conformance with the law.
 - 15.1.3 The District retains its right to amend, modify or rescind policies and practices referred to in this Agreement in cases of emergency.
 - 15.1.4 "Emergency" as used in this section refers to conflagrations; earthquake; flood; pestilence; plague; war; famine; civil unrest; national or state proclaimed days of mourning; observances or holidays; or other occurrences which interrupt normal operation of the schools and over which the Governing Board has no control.
 - 15.1.5 Tuesdays are reserved for District activity. No Association functions shall be scheduled on this day. The Association shall not hold any local school meetings on Tuesday until the end of the work day as specified by each on-site administrator;

however, if the Association meeting shall conflict with a school or District activity, no Association meeting shall be held on Tuesday.

ARTICLE XVI: NO STRIKE, NO LOCKOUT

16.1 The Franklin-McKinley Education Association and the District agree that differences between the parties hereto shall be settled by peaceful means as provided in this Agreement. During the term of this Agreement, the Franklin-McKinley Education Association, in consideration of the terms and conditions of this Agreement, shall not engage in, instigate, or condone any strike, work stoppage or any concerted refusal to perform work duties as required in this Agreement, and shall undertake to exert its best efforts to discourage any such acts by any employees in the bargaining unit. During the term of this Agreement, the District, in consideration of the terms and conditions of this Agreement, shall not authorize or permit any lockout of Franklin-McKinley Education Association members or other persons covered by this Agreement.

ARTICLE XVII: EFFECT OF AGREEMENT

17.1 Support of Agreement

The District and the Association agree that it is to their mutual benefit to encourage the resolution of differences through the meet and negotiation process. Therefore, it is agreed that the Association shall support this Agreement for its terms and shall not seek change or improvement in any matter subject to the meet and negotiation process except by mutual agreement of the District and the Association.

- 17.1.1 A pilot program may deviate from the provisions of the Agreement on an annual basis with the approval of the Board of Education, FMEA, and all unit members directly involved.

17.2 Complete Understanding

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

17.3 Completion of Agreement

During the term of this Agreement, except when negotiating a successor agreement, the Association expressly waives and relinquishes the right to meet and negotiate. The Association agrees that the District shall not be obligated to meet and negotiate with respect to any subject or matter whether or not referred to or covered in this Agreement. This is true even though each subject or matter may not have been within the knowledge or contemplation of either or both the District or the Association at the time they met and negotiated on and executed this Agreement, and even though such subjects or matters were proposed and later withdrawn.

17.4 Individual Contracts

Any individual contract between the employer and an individual member shall be subject to and consistent with the terms and conditions of this contract. If an individual contract contains any language inconsistent with this Agreement, this contract, during its duration, shall be controlling.

17.5 Savings

- 17.5.1 If any provisions of the Agreement are held to be contrary to law by a court of competent jurisdiction, such provisions shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions shall continue in full force and effect.
- 17.5.2 Should a provision or application be deemed invalid, the parties shall meet not later than ten (10) days after such court decision to renegotiate the provision or provisions affected.

17.6 Miscellaneous

- 17.6.1 The Association agrees that it shall not take any reprisals against any management employee or Board member regarding the administration of this Agreement, or any grievance filed hereunder.
- 17.6.2 There shall be two (2) signed copies of the final Agreement for record-keeping purposes. One (1) shall be retained by the District and one (1) by the Association.

ARTICLE XVIII: TEACHER RIGHTS

18.1 Personal and Academic Freedom

18.1.1 Academic freedom shall be guaranteed to staff members in the study, investigation, representation and interpretation of facts or ideas concerning mankind, human society, the physical and biological world, and other branches of learning subject to accepted standards of professional responsibility with due regard to maturity level of the student, community expectations, District rules and policies, and the laws of the State of California.

18.1.2 This District recognizes that the personal life of a staff member is not an appropriate concern of the District, except as it may affect work performance.

18.2 Sexual Harassment/Harassment

A unit member who alleges sexual harassment/harassment shall follow procedures in District Policy 4119.11 (see Appendix E)

18.3 The District shall establish and regularly update a Telephone Job Line, which shall provide employment-related information including certificated and classified vacancies.

18.4 Participation in Teacher Training

Unit members who wish to participate in teacher training opportunities shall be released, at no loss in pay and benefits, to attend such opportunities upon written approval of the site administrator and the administrator covering the cost of the substitute and other costs related to attendance at these training opportunities. Such approval shall be submitted on a form developed by the Human Resources Office. A copy is to be returned by the unit member, a copy to be returned to site and the site administrator to forward a copy to the Human Resources Office.

18.4.1 Unit members who are not assigned to work on a given day(s) and are requested to attend training opportunities shall have the option to attend and to receive professional growth (or, if offered, college credit) or be paid at the rate as specified in Section 3.3 for attendance at such workshops. If the unit member chooses the college credit option then he/she shall pay the expense for tuition.

18.4.2 Consideration shall be given by the site administrator to a unit member's request to be excused from participation in a staff development offering if he/she has attended an equivalent session in the past.

18.5 Before a class is split, the principal shall consider utilizing the following available personnel:

Principal
Vice Principal
Project Specialist
Credentialed non-classroom assigned personnel

(The above list of personnel is not in any order of priority.)

When classes are split between two (2) or more unit members, because all of the above-referenced personnel are not available, said unit members shall receive the rate specified in Section 3.3 on a pro rata basis.

ARTICLE XIX: SITE-BASED DECISION MAKING

19.1 Site-based decision making is a joint planning and problem solving process that seeks to improve the quality of working life and education.

At this time, the District does not have a formal site-based decision making process implemented. All parties need a more clearly defined model of site-based decision making.

Therefore, by July 15, 1999, a joint committee shall be formed, composed-of four (4) District designated members and four (4) FMEA designated members with joint chairpersons. The committee shall meet over the next school year to explore the concept of site-based decision making. Any specific written agreements for the key issues that are reached shall be forwarded to the District's and FMEA's negotiating teams for consideration 45 days prior to the end of the 1999-2000 school year.

The committee shall consider, but not be limited to, the following critical issues:

1. Philosophy, goals and objectives
2. Scope of decisions/recommendations
3. Methods for initiation within a school site
4. Who the participants in the process shall be
5. Participant's roles
6. Responsibilities of site committees
7. Relationship to collective bargaining
8. Which decisions are site level and which are District Level
9. Training and release time
10. Funding
11. Communication vehicles-both internal and external
12. Rotation and roving issues at individual school sites

- 19.2 Unit members shall have input into District-wide or school-level staff development.
- 19.3 The Association and District agree to study educational reform to create an atmosphere of innovation and experimentation to improve student learning within a climate that does not violate the rights of either party (including, but not limited to Charter Schools), and to form a partnership for the implementation of agreed-upon District Board of Education goals. Prior to implementation, any program of significant educational reform (including a Charter School proposal) shall be discussed with the Association.

ARTICLE XX PEER ASSISTANCE AND REVIEW

20.1 Principles: GOAL – to improve the quality of teaching by assisting all teachers to expand and grow in their ability to:

- A. engage and support all students in learning
- B. create and maintain effective environments for student learning
- C. understand and organize subject matter for student learning
- D. plan instruction and design learning experiences for all students
- E. assess student learning
- F. develop as a professional educator

PAR is not to be punitive nor provide a means to terminate employment.

20.2 Definitions

20.2.1 Peer assistance and review (PAR) – The peer assistance and review program is a critical feedback mechanism that allows exemplary teachers to assist other teachers.

20.2.2 Consulting Teachers (CT) – A teacher who provides assistance to a participating teacher (PT) in the PAR Program.

20.2.3 Joint Committee (JC) – The governing body that administers the PAR Program and determines program guidelines that are consistent with the terms of the Collective Bargaining Agreement (CBA) and related legislation.

20.2.4 Referred Participating Teacher (RPT) – A permanent teacher referred by the evaluator to receive assistance as a result of an unsatisfactory evaluation in subject matter knowledge and/or teaching strategies.

20.2.5 Voluntary Participating Teacher (VPT) – A teacher who volunteers to participate in the PAR Program because s/he would like to receive assistance.

- 20.3 PAR money may be used for the following purposes:
 - 20.3.1 Stipends for CTs
 - 20.3.1.1 \$2,000.00 on selection as a CT.
 - 20.3.1.2 \$1,200.00 per VPT, prorated on a 12 month basis.
 - 20.3.1.3 \$3,600.00 per RPT, prorated on a 12 month basis.
 - 20.3.2 Annual stipends for JC teacher members of \$3,000.00 in the initial year of their terms; \$2,000.00 thereafter.
 - 20.3.3 Training for CTs and JC.
 - 20.3.4 Release time for JC, CTs, and PTs.
 - 20.3.5 Materials/supplies necessary to implement the program.
 - 20.3.6 Administrative support (5% maximum).
 - 20.3.7 Staff development.
 - 20.3.8 To allow veteran teachers to participate in monthly District New Teacher Project workshops and any other program that supports the training and development of new teachers with the approval of the Joint Committee.
 - 20.3.9 Franklin-McKinley New Teacher Project.
- 20.4 Joint Committee – serves as a governing body for the program and determines program guidelines that are consistent with the terms of the collective bargaining agreement and related legislation.
 - 20.4.1 The Joint Committee shall be composed of:
 - 20.4.1.1 Three permanent certificated classroom teachers and two administrators, all of whom shall serve staggered three years terms.
 - 20.4.1.2 Teacher members shall be selected through an election conducted by FMEA.
 - 20.4.2 Responsibilities of the Joint Committee
 - 20.4.2.1 Establish its own rules and procedures.

- 20.4.2.2 Establish and administer the budget for the program, subject to Board approval.
- 20.4.2.3 Provide annual training for the CTs and JC members. If the annual training is while a unit member is off track, the unit member is entitled to sub pay, pursuant to the collective bargaining agreement,
- 20.4.2.4 Select the panel of CTs.
- 20.4.2.5 Select VPTs from among the applicants.
- 20.4.2.6 Annually determine number of CTs and create a pool of no more than ten CTs with representation from, but not limited to, Special Ed., K, 1-3, 4-6, and middle school based on:

Number of RPTs Number of VPTs Training needs of the CTs and JC. Release time needed by CTs, JC and PTs. Stipends for CTs and JC teacher members Administrative cost
- 20.4.2.7 Determine timeline for application and selection of CTs.
- 20.4.2.8 Select trainers and/or training providers.
- 20.4.2.9 Provide training for CTs prior to CTs' participation in the program.
- 20.4.2.10 Send written notification of participation in the PAR Program to the PT, the CT and the site principal.
- 20.4.2.11 Make every effort to match the PTs with their selected CTs with the joint Committee making the final appointments of all CTs.
- 20.4.2.12 Review documentation submitted by the CTs, including peer review reports prepared by CTs, and make recommendations to the Board regarding RPTs, including but not limited to, identifying RPTs who, after sustained assistance, are unable to demonstrate satisfactory improvement based on the PAR assistance plan developed by the CT and the RPT.

- 20.4.2.13 Analyze the semi-annual report of expenditures from the Business Office.
 - 20.4.2.14 Evaluate annually the impact of the program and make recommendations to improve the program.
 - 20.4.2.15 Identify appropriate staff development opportunities.
 - 20.4.2.16 Insure that the RPT has top priority, VPT second, and all others only after these two obligations have been met.
- 20.5 Consulting Teacher – A teacher who provides assistance to teachers participating in the PAR program.
- 20.5.1 Eligibility requirements for CTs at time of application for selection:
 - 20.5.1.1 Permanent credentialed classroom teacher.
 - 20.5.1.2 Must have five years of teaching experience with at least three of the last five years in the classroom.
 - 20.5.1.3 May not simultaneously be a new teacher project advisor.
 - 20.5.1.4 Shall have demonstrated exemplary teaching ability as deemed by the JC and as indicated by:
 - Effective communication skills
 - Subject matter knowledge
 - Mastery of a range of teaching strategies
 - 20.5.2 Selection Process for CTs:
 - 20.5.2.1 Majority vote of the JC.
 - 20.5.2.2 At least two JC members (one teacher and one administrator) shall observe CT applicant simultaneously at a mutually agreeable time.
 - 20.5.2.3 Applicant shall complete a written application form and submit two references, one from a peer and one from a current or former administrator supervisor.

20.5.2.4 Applicants shall be notified as to status of application in a timely manner once a selection has been made.

20.5.3 CTs shall receive a stipend and be given priority for release time, if requested.

20.5.4 Duties of CT – CTs shall assist PTs by demonstrating, observing, coaching, conferencing, referring or by other activities, which, in their professional judgment, will assist the PT.

20.5.4.1 Recommended caseload: 1:1 (CT: RPT), with a maximum of four PTs, of which only one can be an RPT.

20.5.4.2 CT shall meet with evaluator and RPT together to discuss evaluator's specific action plan for improvement of RPT.

20.5.4.3 The CT shall meet with the PT to discuss the PAR program, and develop the assistance plan, which shall address the evaluator's action plan for the RPT.

20.5.4.4 The CT shall conduct multiple observations of the RPT during classroom instruction and provide specific, immediate feedback after each visit.

20.5.4.5 The CT shall document all observations, visitations and meetings by maintaining a written log of contacts, visitations and meetings, and specific support given to each PT.

20.5.4.6 The CT shall meet regularly with RPT for observations/discussions.

20.5.4.7 The CT shall continue to provide assistance to the RPT until the CT concludes that further assistance is not necessary, but in no event longer than 12 months.

20.5.4.8 A copy of the CT's report(s) shall be submitted to and discussed with the RPT to receive his or her signature before it is submitted to the JC.

20.5.4.9 The CT shall submit a peer review report to the JC.

20.5.4.9.1 The report shall be confidential.

- 20.5.4.9.2 Shall contain time, dates and topics regarding the RPT's participation in the program.
 - 20.5.4.9.3 Shall not be evaluative.
 - 20.5.4.9.4 Shall be written by CT.
 - 20.5.4.9.5 Shall be submitted to RPT and JC.
 - 20.5.4.9.6 Shall be made available as part of the summative evaluation and shall be made available to be placed in the personnel file by the JC.
- 20.5.5 Term
- 20.5.5.1 Three years subject to annual review and renewal by JC.
 - 20.5.5.2 CT may reapply
- 20.6 Voluntary participating teacher (VPT) – A teacher who volunteers to participate in the PAR program because s/he would like to receive assistance.
- 20.6.1 Any bargaining unit member.
 - 20.6.2 May indicate a preference for a CT from available pool.
 - 20.6.3 Application must include specific reason(s) for participation in PAR.
 - 20.6.4 May have access to staff development release time/cost of offerings) as determined by the JC.
 - 20.6.5 No report shall be required except CT's documentation.
 - 20.6.6 VPT can opt out of PAR program at any time.
 - 20.6.7 The CT shall meet with the VPT to discuss the PAR program and develop the assistance plan.
- 20.7 Referred Participating Teacher (RPT) – A permanent classroom teacher referred by the Evaluator to receive assistance as a result of an unsatisfactory evaluation in areas of subject matter knowledge and/or teaching strategies.

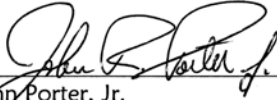
- 20.7.1 RPT shall have a plan developed by his or her evaluator that specifies the behaviors within the performance areas which need improvement and what is required to satisfy the plan's requirements. (evaluator's specific action plan)
- 20.7.2 Areas of need that do not constitute subject matter knowledge or teaching strategies, shall not qualify a teacher to be referred to the PAR program. (Ex. –habitual tardiness or excessive absence)
- 20.7.3 May indicate a preference for a CT from the available pool.
- 20.7.4 RPT shall have access to staff development (release time and cost of offerings).
- 20.7.5 RPT shall have the right to attach a written response to the CT's report and shall be entitled to meet with the JC to discuss the report.
- 20.8 Staff development – Training for JC and CTs may include, but not be limited to:
- Team Building
 - Developmental Stages of Teaching Verbal Skills
 - Classroom Management
 - Adult Learning Theory
 - Mentoring and Coaching Skills
 - Budget Development
 - Conferencing Strategies
 - Intervention Strategies
 - Observation Techniques
 - Multiple Intelligence and Modalities
 - The Language of Report Writing
- Staff Development –Training for participating teachers will be aligned with the California Standards for the Teaching Profession
- 20.9 Protection from lawsuits - The District agrees to indemnify and provide a defense for CTs and all members of the JC against any claims, causes of action, damages, administrative proceedings or any other litigation arising from the JC and CT's participation in PAR.

- 20.10 Non-grievable – A unit member shall not have access to the grievance procedure in the collective bargaining agreement in regard to any action taken by another unit member, or the JC, in connection with this Article.
- 20.11 Complaints – A participating teacher or a CT shall be entitled to address complaints or concerns regarding PAR to the JC.

ARTICLE XXI DISCIPLINARY PROCEDURES AND DISMISSAL

- 21.1 A unit member shall not be disciplined except for just cause.
- 21.2 A unit member may be dismissed only according to the provisions of the California Education Code.
- 21.3 Suspensions without pay, which exceed fifteen (15) days in length, shall be implemented according to the provisions of the California Education Code.
- 21.4 Disciplinary action (other than dismissal) taken pursuant to this Article, including suspension without pay which are less than fifteen (15) days in length shall be grievable under Article X of this Agreement.
- 21.5 Arbitration of reprimands shall be limited to one day. The parties agree that no briefs or court reporters will be required.


Signature Page



John Porter, Jr.
Superintendent

3/3/09


Date



Rudy Herrera
Deputy Superintendent

3/3/09

Date



Scott Shulimson
FMEA President

3/3/09

Date



Bevon Martinez
Lead Negotiator

3/3/09

Date

FMEA Members

Thomas Blackman
Kris Clarke
Lynette Irvine
Jana McKinley
Charles Nave

District Members

Paula Boling
Tim McClary
Cesar Torrico
Donna Williamson

APPENDIX A

**Franklin-McKinley School District
2009/2010 Catastrophic Leave Form (Article 5.4.3)
Donations/Withdrawal Request**

Date: _____

Name: _____

School Site: _____

DEPOSITS (1 Day Per Year)

Current amount of accrued sick leave: _____ days (minimum 10)

Date of Deposit: _____

(Between July 1st and October 1st or 30 calendar days from the 1st day of resuming or beginning work)

This contribution shall be authorized and continued from year to year until cancelled by the unit member.
(5.4.3.2.4)

WITHDRAWALS

Withdrawal Request Date: _____

Number of days requesting to withdraw: _____
(30 day maximum)

Reason for Withdrawal Request (5.4.3.3): _____

Do you qualify for workers compensation benefits? ____ YES ____ NO

Are you eligible for a Disability Award, Retirement under STRS or Social Security? ____ YES ____ NO

Doctor's note attached/received? ____ YES ____ NO

(Must be received within twenty calendar days of the request. Failure to submit within the allocated time shall disqualify the unit member from further Catastrophic Leave payments.) (5.4.3.3.7)

FOR HUMAN RESOURCES USE ONLY

Withdrawal Request: _____ Approved
_____ Denied

Signature: _____

Reason for denial: _____

APPENDIX B

Franklin-McKinley ESD

BP 4156.3

Page 1

Certificated Personnel
Employee Property Reimbursement

The Governing Board authorizes the Superintendent or designee to pay the cost of replacing or repairing employee personal property, except cash, which has been stolen or intentionally destroyed or damaged while being used for work-related purposes, not to exceed \$500 per occurrence.

No reimbursement shall be made for accidental damage or for any loss due to lack of personal supervision or failure to keep property in a secured area.

The maximum payment shall be the amount specified by the district's insurance carrier for such loss or the amount specified in the applicable collective bargaining agreement, whichever is less.

(cf. 3515.4 – Recovery for Property loss or Damage)

(cf. 5131.5 – Vandalism, Theft and Graffiti)

Reimbursement for personal items used for work-related purposes shall be made only if: (Education Code 35213)

1. Use of the personal property was approved by the principal, site supervisor or designee before the property was brought to school or district premises
2. At that time, the employee and district representative agreed on the value of the property

Legal Reference:

EDUCATION CODE

35213 Reimbursement for loss, destruction or damage of personal property

48904 Liability of parent/guardian for willful misconduct; withholding of grades, diplomas and transcripts

CIVIL CODE

1714.1 Liability of parent or guardian for act of willful misconduct by a minor

Policy FRANKLIN-McKINLEY UNIFIED SCHOOL DISTRICT

ADOPTED: April 28, 1998 San Jose, California



FRANKLIN—McKINLEY SCHOOL DISTRICT

PROGRESS/SUMMARY EVALUATION REPORT

NAME _____ DATE _____ SCHOOL/DEPT. _____

PROBATIONARY _____ TENURED _____ PRESENT ASSIGNMENT _____

Table with 4 columns: ITEM, COMPETENT, IMPROVEMENT NEEDED, UNSATISFACTORY. Rows include categories like ENGAGING AND SUPPORTING ALL STUDENTS IN LEARNING, UNDERSTANDING AND ORGANIZING SUBJECT MATTER FOR STUDENT LEARNING, etc.

Re-Employment Recommendation: Yes _____ No _____ Yes with qualifications _____

(All areas marked for Improvement must be fully explained in the Recommendations section. If the recommendation is being made for reemployment with qualifications, the evaluator must indicate which area(s) of the evaluation are the basis for this recommendation).

COMMENDATIONS AND RECOMMENDATIONS

I have received a copy of this evaluation. I understand that my signature does not necessarily indicate agreement with its content. I further understand that I may append a statement to this evaluation within ten (10) days.

Employee Signature _____ Evaluator Signature _____

Date _____ Date _____

APPENDIX D

FRANKLIN-MCKINLEY SCHOOL DISTRICT
CERTIFICATED STAFF OBJECTIVE FORM

Evaluatee: _____ Position: _____
Evaluator: _____ Position: _____
School Year: _____ Date: _____

Objective: Be explicit. State desired outcome and method of measuring results.

Action Plan: State steps or activities that will be conducted to achieve the objectives. Indicate approximate date when each will be completed. Also indicate how you will document completion.

ASSESSMENT OF RESULTS (To be completed by evaluatee and reviewed by Evaluator).

Check Objective was:	Reviewed by Evaluator:
<input type="checkbox"/> Fully Achieved	<input type="checkbox"/> Concur with Evaluatee's Assessment
<input type="checkbox"/> Partially Achieved	<input type="checkbox"/> Don't Concur
<input type="checkbox"/> Not Achieved (*)	
<input type="checkbox"/> In Progress (*)	

(*) Explanations required; use separate sheet
Note: Attach to Progress/Summary Evaluation Report

Franklin-McKinley ESD

Board Policy

Sexual Harassment

BP 4119.11

Personnel

The Governing Board prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

(cf. 4030 - Nondiscrimination in Employment)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation and correction of sexual harassment, including but not limited to:

1. Providing periodic training to all staff regarding the district's sexual harassment policy, particularly the procedures for filing complaints and employees' duty to use the district's complaint procedures.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

2. Publicizing and disseminating the district's sexual harassment policy to staff.

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Ensuring prompt, thorough and fair investigation of complaints.

4. Taking timely and appropriate corrective/remedial actions. This may require interim separation of the complainant and the alleged harasser, and subsequent monitoring of developments.

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

Any district employee or job applicant who feels that he/she has been sexually harassed, or who has knowledge of any incident of sexual harassment by or against another employee, a

job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Any district employee who engages or participates in sexual harassment, or who aids, abets, incites, compels or coerces another to commit sexual harassment against a district employee, job applicant or student, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

LABOR CODE

1101 Political activities of employees

1102.1 Discrimination: sexual orientation

CODE OF REGULATIONS, TITLE 2

7287.8 Retaliation

7288.0 Sexual harassment training and education

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

CODE OF FEDERAL REGULATIONS, TITLE 34

106.9 Dissemination of policy

COURT DECISIONS

Department of Health Services v. Superior Court of California, (2003) 31 Cal.4th 1026

Faragher v. City of Boca Raton, (1998) 118 S.Ct. 2275

Burlington Industries v. Ellreth, (1998) 118 S.Ct. 2257

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Oncala v. Sundowner Offshore Serv. Inc., (1998) 118 S.Ct. 998
Juarez v. Ameritech Mobile Systems, (N.D. Ill.) 746 F.Supp. 798
Dornhecker v. Malibu Grand Prix Corp., (5th Cir. 1987) 828 F.2d. 307
Meritor Savings Bank, FSB v. Vinson et al., (1986) 447 U.S. 57

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS
GENERAL

Protecting Students from Harassment and Hate Crime, January, 1999

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

Policy FRANKLIN-MCKINLEY SCHOOL DISTRICT

adopted: June 23, 2004 San Jose, California

APPENDIX F

RELEASE FORM – FMEA BOARD OF DIRECTORS AND REPRESENTATIVE COUNCIL

_____ - _____ SCHOOL YEAR

I am a member of the FMEA

Board of Directors

Representative Council

Attending Monday meetings of this groups require that I leave school _____ minutes before the regular work day ends on days these meetings are held.

My plan for making up this on-site time is as follows:

_____ Employee _____ Date

_____ Approved by Site Administrator

Date

APPENDIX G - 1

Franklin-McKinley School District

Certificated Salary Schedule for 2007/2008
12/01/2007 - 06/30/2008

	B.A. + 30	B.A. + 45	B.A. + 60	B.A. + 75
	II	III	IV	V
1	48,789	51,385	-	-
2	51,061	53,655	56,253	58,849
3	53,331	55,928	58,524	61,119
4	55,604	58,198	60,794	63,390
5	57,874	60,470	63,065	65,662
6	60,144	62,740	65,337	67,933
7	62,416	65,010	67,608	70,204
8	64,686	67,283	69,879	72,474
9	66,959	69,553	72,149	74,745
10	69,229	71,825	74,420	77,017
11	71,499	74,095	76,692	79,288
12	73,771	76,365	78,963	81,559

Master's Incentive Increment: \$1000

Second Master's Incentive Increment is added when applicable: \$1000

Doctorate Incentive Increment: \$1000

Longevity Increments: Classification II, III, IV, and V only:

(Based on years of service in the Franklin-McKinley School District)

14th through 17th year: \$1,398

18th through 21st year: \$2,796

22nd through 25th year: \$4,194

26th year and thereafter: \$5,592

Board Approved: 10/28/08

Final Adjustment: 3%

Effective Date: 12/01/07

APPENDIX G-2

Franklin-McKinley School District
Psychologist/Nurse/Speech Therapist Annual Salary Schedule
12/01/2007 - 06/30/2008
(194 Work Days)

Years of Experience	Annual Salary	75+ Units
First	\$62,978	\$66,416
Second	\$66,124	\$69,569
Third	\$69,440	\$72,883
Fourth	\$72,869	\$76,316
Fifth	\$76,502	\$79,935
Sixth	\$80,316	\$83,753
Seventh	\$84,386	\$87,814

Master's Incentive Increment: \$1000

Second Master's Incentive Increment is added when applicable: \$1000

Doctorate Incentive Increment: \$1000

Longevity Increments:

(Based on years of service in the Franklin-McKinley School District.)

14th through 17th year:	\$1,398
18th through 21st year:	\$2,796
22nd through 25th year:	\$4,194
26th year and thereafter:	\$5,592

Board Approved: 10/28/08

Final Adjustment: 3%

Effective Date: 12/01/07

APPENDIX H

SIDE LETTER – OBLIGATION TO BARGAIN

The parties acknowledge an obligation to bargain, upon request, regarding the impact of the Reinvesting in California Schools Act Initiative, if enacted, which affects the terms of this Agreement.

APPENDIX J

EXTRA PAY

1. Hourly pay for extra duty rate shall be paid for services rendered beyond the workday, subject to the following:
 1. Such services must have been assigned/required and pre-approved by the employee's immediate supervisor.
 2. Such services include, but are not limited to the following types of activities; extended day service, after-school tutoring, intersession, homework centers, GATE teachers, the FAST program, inservices, workshops, curriculum development, grant application writing, proposal writing, preparation time for workshop presenters, Target Teach, and the ADD program at Kennedy. The hourly pay for extra duty rate shall be as follows;

2009-2010:	\$35 per hour
2010-2011	\$35 per hour
2011-2012	\$35 per hour

APPENDIX K

EDUCATION CODE SECTION 48900, 48910 and 49079

48900. Grounds for suspension or expulsion, legislative intent

A pupil may not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (q), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing as defined in Section 32050.

(r) A pupil may not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

(s) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(t) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(u) A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(v) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

48910. Suspension by teacher, reports, conferences, referrals

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action.

If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

49079. Notification to teacher of pupils whose actions are grounds for suspension or expulsion, liability for disclosure of information, offense, punishment

(a) A school district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900 or in Section 48900.2, 48900.3, 48900.4, or 48900.7 that the pupil engaged in, or is reasonably suspected to have engaged in, those acts. The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.

(b) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this section unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false, or the information was provided with a reckless disregard for its truth or falsity.

(c) An officer or employee of a school district who knowingly fails to provide information about a pupil who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision (a) is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or both.

(d) For the 1994-95 school year, the information provided shall be from the previous two school years. For the 1996-97 school year and each school year thereafter, the information provided shall be from the previous three school years.

(e) Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher.