AGREEMENT
BETWEEN
STATE OF MONTANA
MONTANA DEVELOPMENTAL CENTER
AND
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO LOCAL 971

2013-2015

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STATE OF MONTANA
MONTANA DEVELOPMENTAL CENTER
AND THE
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES
AFL-CIO LOCAL 971

This Agreement is made and entered into this first day of July 2013, by and between the State of Montana, in behalf of the Montana Developmental Center, hereinafter referred to as the Employer, and American Federation of State, County and Municipal Employees, AFL-CIO Local 971, hereinafter referred to as the Union, for the purposes of promoting and improving understanding between the Employer, its employees, and the Union, relative to: Employer-employee relations, conditions of employment, and to provide a means of amicable and equitable adjustment of any and all differences or grievances which may arise.

ARTICLE 1.
RECOGNITION

Section 1. The Employer recognizes the Union as the sole bargaining agent for employees covered by this Agreement working at the Montana Developmental Center, as listed in Addendum A attached.

Section 2. When new classifications or reclassifications of positions are created at Montana Developmental Center, the Union will be notified so that any additions or deletions to the classifications listed in Addendum A can be mutually agreed upon prior to their adoption. Disagreements over modifications to the bargaining unit which may result from such notice will be addressed through the unit clarification procedure administered by the Board of Personnel Appeals.

Section 3. Any employee covered by this Agreement who is not a Union member and who does not make application for membership shall, as a condition of continued employment, pay to the Union a service charge as a contribution toward the administration of this Agreement. Employees who fail to comply with this requirement shall be discharged by the Employer within 30 days after receipt of written notice from the Union. Employees shall not be required to become members of the Union but must pay the established service charge.

Section 4. The Employer agrees to accept and honor voluntary written assignments from employees for wages or salaries due and owing for initiation, reinstatement and dues, providing such assignments can be grouped and the total made payable to one assignee. It is agreed that neither the employee nor the Union shall make claim against the Employer for any deductions made or not made.

ARTICLE 2.
UNION RIGHTS

Section 1. Visits by Union Representatives. The Employer agrees that accredited representatives of the American Federation of State, County and Municipal Employees, AFL-CIO shall have full and free access to the premises of the Employer at any time during working hours to conduct Union business so long as the duty function of the employee(s) is not impaired. Prior to entering premises, Union Representatives must check with the Employer to make their presence known.

Section 2. Union Bulletin Boards. The Employer shall continue to provide bulletin boards in sizes and at locations agreed upon for use by the local Union to enable employees of the bargaining unit to see notices posted thereon when reporting or leaving their workstations or during their rest periods. All notices shall be posted by the President of the Local Union or his/her designee and shall relate to the matters listed below:

Subsection A Union recreational and/or social affairs.

Subsection B Union appointments.

Subsection C Union elections.

Subsection D Results of Union elections.

Subsection E Union meetings.

Subsection F Rulings and policies of Union organizations of which the Union is a member or affiliate.

Subsection G Any other material authorized by the Employer and the President of the Local Union or his/her designee.

Subsection H No political campaign literature shall be posted.

Section 3. Monthly Roster of New and Terminated Employees. The Employer agrees to furnish the Union with a list of all newly hired or terminated personnel covered by this Agreement included in Addendum A, not later than 10 working days after the end of the last payroll period in each month. The following information shall be furnished:

Subsection A Name and mailing address of each newly hired or reclassified employee.

Subsection B Classification assigned.

Subsection C Assigned rate of pay.

Subsection D Names of employees terminated.

Section 4. Seniority Roster. Within 30 calendar days after November 1, of each calendar year, the Employer shall prepare and furnish to the Union copies of a seniority roster as of November 1 of all employees covered by Addendum A in sufficient numbers to be posted in all work areas and to be provided to all Union officers.

Subsection A Such roster shall include the following: The list shall be prepared in numerical rank according to date of hire and shall state the employee's name, present classification title, and date of assumption of present classification.

Subsection B Employees may protest their seniority designation through the usual grievance procedure if they have cause to believe an error has been made.

Section 5. The Employer agrees to inform the Union of contemplated increases and/or decreases in present services or in new services to be added and normal attrition of the work force.

Section 6. The Employer will notify the Union as soon as possible if they undertake a study to, or to contract-out any services that may affect the employment of members in the bargaining unit. At the time of notice management will notify the Union of any known time lines for the study. It is a right of the bargaining unit to submit to the Employer any data, studies, expert testimony and other such material that is relevant to this undertaking.

Section 7. Union-Employer Relations.

Subsection A The purpose of this section is to establish an orderly procedure for the review of matters involving hours and working conditions affecting employees covered by the Agreement.

Subsection B There is hereby established a Joint Union-Employer Committee. This Committee shall be composed of staff representative for the Employer not to exceed five such representatives and the field representative of Montana State Council #9, AFSCME, and/or his/her designee(s) for the Union, not to exceed five employee representatives.

Subsection C The Union-Employer Committee will meet at least once a month on a date and time mutually agreed upon between the parties hereto; however, either party may request a special meeting at a time mutually agreeable to both parties.

Subsection D Each party hereto must submit to the other party, at least five working days prior to a scheduled meeting, its agenda and a list of probable representatives who will act in its behalf. These requirements may be waived by mutual consent.

Subsection E The agenda shall be limited to items which (a) are of a group rather than individual interest and concern, and (b) cannot easily be solved or answered through established supervisory channels.

Subsection F Disposition of matters covered in the Union-Employer meeting shall not contradict, add to, or otherwise modify the terms and conditions of the "Master Agreement."

Subsection G The parties will jointly select persons to chair the meeting, alternating between the Union and the Employer. The parties will use consensus in making decisions and will periodically establish, review and distribute rules of conduct for these meetings.

Subsection H Minutes will be taken by the Administrative Services Director or his/her designee. The minutes shall consist of the topics discussed and the disposition of each. Copies of the minutes shall be reviewed and signed jointly by the Chairperson and the President of the Local Union before said minutes become official and are distributed. A copy of the approved minutes will be furnished to each party hereto within three working days after being signed.

Section 8. Past Practice. It is understood and agreed that no employee shall suffer a reduction in wages, working conditions, or other benefits previously enjoyed because of the adoption of this Agreement.

Section 9. The Employer shall make a good faith effort to provide the Union with a meeting place on grounds.

ARTICLE 3.
EMPLOYEE RIGHTS

Section 1. Seniority shall be computed from the date the employee began regular service with the Employer in an Addendum A position. The seniority date of an employee will be adjusted as follows:

Subsection A Seniority shall be forfeited by discharge for cause, voluntary termination, promotion or demotion into a non-Addendum A position.

Subsection B Workers' Compensation leave, Maternity Leave and Military Leave, shall not affect a bargaining unit employee's seniority.

Subsection C All other approved leaves of absence without pay exceeding 15 working days shall be considered lost time for purposes of seniority.

Subsection D Employees whose seniority dates are the same shall have their respective seniority dates determined by drawings with Union representatives present.

Subsection E The above determination of seniority dates shall become effective upon the signing of this Agreement. Seniority dates which have been previously established will not be readjusted per the provisions of this section, but shall remain as

established prior to the signing of this Agreement. Seniority dates which are incorrect because of administrative error shall be adjusted.

Section 2. Promotions. The Employer shall recognize seniority, experience, ability, and qualifications in awarding promotions to employees when filling newly created or vacated positions listed in Addendum A. Where a high school education is a job requisite into promotional positions, current employees who possess applicable experience for the posted position may use such service to satisfy the high school requisite. However, all other requirements must be met and the use of such experience is not to be duplicated in the selection process.

Section 3. Layoffs. Layoffs caused by reduction in force shall be in order of seniority within the series in which employed; that is, the employee last hired into the series shall be the first released. Employees who are scheduled to be released shall be given at least 10 working days notice. All recalls to employment shall likewise be in order of seniority within the series in which employed; that is the last employee released as a result of reduction in force shall be the first rehired when the Employer needs additional employees. The Employer shall notify such employees to return to work and furnish the Union a copy of such notification; and if the employee fails to notify the Employer within 10 calendar days of his or her intention to return to work, such employee shall be considered as having forfeited his or her right to re-employment.

Subsection A No permanent employee shall be separated while there are temporary employees serving in the same series.

Subsection B An employee who is scheduled to be laid off who has advanced to his/her present position from another series in which he/she held permanent status shall have the right to displace the least senior employee in his/her formerly held classification, providing his/her seniority accrued within the series to which he/she is returning is greater.

Subsection C A layoff is defined as the release of employees from duties because of lack of work or funds or under conditions where continuation of such would be inefficient and non-productive.

Subsection D Employees who are laid off are eligible to receive benefits under the State Employees Protection Act.

Section 4. Job Posting

Subsection A When a new position is created or a vacancy occurs in any existing position covered in Addendum A, the Employer shall prepare and furnish the Union Secretary and post in places previously agreed upon a job posting notice stating among other things:

Location and title of position to be filled; a listing of the principal duties of the position; minimum qualifications; assigned hours of service; assigned days of rest;

salary range of the position; whether the position is permanent or temporary; if temporary, how long it is probable the position will continue; the starting date of the assignment; last date when applications of employees covered by this Agreement will be received and accepted; and with whom the applications shall be filed. Entry-level Custodian, Resident Care Aide, LPNs and Food Service Worker positions need not be posted at the Montana Developmental Center per the provisions of this Article, but will continue to be available to employees covered by this Agreement. The selection of employees for Addendum A positions will be in accordance with Section 2 of this Article.

The Union and Employer will review changes in job posting notices during regularly scheduled Labor/Management meetings.

In the instance of a non-anticipated vacancy in an entry-level position, the Employer may fill that position on a temporary basis when the vacancy is expected to extend over a period of 60 days or less. At the conclusion of that period or before, the position will be posted as per this Article.

Whenever possible, temporary employees will be notified of the availability of other temporary positions by providing a list of temporary vacancies in a designated place.

Subsection B The Employer shall designate no less than five working days in which positions will be posted for bid and advertised weekends excluded.

Subsection C Applicants shall be appointed in accordance with Section 2 of this Article.

Subsection D When a senior employee to the applicant selected, who has applied for a posted position, is not assigned thereto, he/she shall, upon written request, be entitled to be advised in writing of the reason he/she did not receive the assignment within 10 working days from the receipt of their request. The employee must make written request for such information within two working days from receipt date of rejection notice. If not satisfied with the reason stated for not receiving the assignment, he/she may invoke the grievance procedure as outlined in Article 11 of this Agreement.

Section 5. Definitions.

Subsection A Position means a group of duties and responsibilities as defined by job descriptions and assigned to one employee covered by this Agreement.

Subsection B Series means a group of classifications which are all engaged in the same kind of work but are at different levels of difficulty and responsibility.

Subsection C Class means a group of positions sufficiently similar in the duties performed, degree of supervision exercised or required, minimum requirements of

training, experience, or skill, and such other characteristics that the same title and the same schedule of compensation may be applied to each position in the group.

Subsection D Temporary position means a position created for a period of time not to exceed six months.

Subsection E Experience means time served in performing relevant work.

Subsection F Abilities means a measurement of the individual's capacity to perform the duties of the posted position based upon his/her employment history and demonstrated performance.

Section 6. Personnel Files.

Subsection A Employees covered by this Agreement shall have the right to inspect their permanent personnel files during regular office hours and to receive a copy of any contents therein. Union representatives shall also have the right to inspect an employee's personnel file after receiving written permission from the employee.

Subsection B An employee shall be informed of any documented allegations or accusations made against him/her, which may be made a part of the employee's permanent file. This action shall be taken as soon as is reasonable after the allegation or accusation is made and without regard to whether or not further investigation is pending. The employee shall be notified within 10 working days of the completion of any investigation resulting from documented allegations or accusations, which may be made a part of the employee's file.

Subsection C The Employer shall manage the personnel files of employees judiciously in accordance with applicable state law and attorney general opinion.

Subsection D An employee shall within 10 working days have the right to submit rebuttal comments to discipline and/or evaluations. Written rebuttal, if submitted, will be attached to discipline and/or evaluations by the Employer.

Subsection E Letters of warning or suspension shall be removed from the employee's personnel file after 18 months unless: 1) the employee is formally disciplined within the 18-month period; 2) the letter is applicable to a pending legal or quasi-legal proceeding, or 3) the basis for the letter of warning or suspension is client abuse, neglect, or exploitation or inappropriate interactions with a client.

In cases involving a pending legal or quasi-legal proceeding, any letters of warning or suspension shall remain in the employee's personnel file beyond the 18-month period until the resolution of the pending legal or quasi-legal proceeding. In cases involving client abuse, neglect, or exploitation or inappropriate interactions with a client, the letter of warning or suspension shall remain in the employee's personnel file permanently.

Section 7. Unfair Treatment. The Employer agrees to investigate and respond to any employee's allegation of unfair treatment by the supervisor.

Section 8. Right to Representation. Employees called to an investigatory interview with the Employer which may result in punitive disciplinary action taken against that employee, may request representation of a Union officer during such meeting.

Subsection A If a determination is made for disciplinary action following the investigatory interview, such action shall be implemented within the employee's next five regularly scheduled days of work. The Union shall be notified in writing of such action.

Section 9. If the Montana Human Rights Commission determines that employee gender is a bona fide occupational qualification (BFOQ) as it relates to client privacy and/or training needs, nothing in this Agreement precludes the Employer from considering such a qualification when filling positions or making work assignments.

Section 10. The Employer will reimburse employees for the cost of a CDL-required physical, up to $100, if they are required to hold a commercial driver's license.

Section 11. The Employer will provide one pair of winter coveralls for full-time employees classified as maintenance workers, work skills trainers, food service driver aides, and warehouse workers, and will provide replacements as needed and as determined by the Employer.

Section 12. Uniforms. New employees will be issued three new shirts and have the option of being issued two recycled shirts. Shirts will be replaced for normal wear & tear. An employee may request and will be issued one new shirt on or after the employee's first anniversary date and each year thereafter.

ARTICLE 4.
NON-DISCRIMINATION

Section 1. No employee shall be discharged or discriminated against by the Employer for upholding Union principles or Union activities as long as such activity does not interfere with the efficient operation of the institution. The Employer shall grant leave of absence without pay or leave of employee's earned time except sick leave, subject to the efficient operation of the institution to Union officers and duly authorized representative for executive board meetings, Union meetings and other pure Union business. A reasonable amount of release time shall be granted for the conduct of joint labor/Employer meetings or process. A list of duly constituted officers or representatives shall be provided to the Employer once each year and within 10 working days upon each change.

Section 2. All employees shall be protected by all rights guaranteed to them under the United States Constitution, the Civil Rights Act of 1964, as amended, the Montana State

Constitution, the Governmental Code of Fair Practices, the Montana Collective Bargaining Act, the Montana Classification Plan and any Montana State Statute that protects Public Employees.

Section 3. In accordance with the provisions of Chapter 3, Title 49, Montana Code Annotated, "Governmental Code of Fair Practices", the Employer shall recruit, appoint, assign, train, evaluate and promote its employees on the basis of merit and qualification, without regard to race, color, religious creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry.

Section 4. Grievances related to this section are excluded from the grievance and arbitration procedures included in Article 11.

ARTICLE 5.
HOLIDAY LEAVES

Section 1. Holidays.

Subsection A Employees shall be granted the following holidays without loss of pay provided the employee is in a pay status on his/her last regularly scheduled working day immediately before the holiday or on his/her first regularly scheduled working day immediately after the holiday.

New Year's Day.....January 1
Martin Luther King Jr. Day .....Third Monday in January
Washington's & Lincoln's Birthdays ..... Third Monday in February
Memorial Day..... Last Monday in May
Independence Day.....July 4
Labor Day ..... First Monday in September
Columbus Day .....Second Monday in October
Veterans' Day.....November 11
Thanksgiving Day.....Fourth Thursday in November
Christmas Day.....December 25
Every day in which a general election is held through the State of Montana

Subsection B The above-enumerated holiday(s) shall be the recognized holiday(s) for pay purposes.

Subsection C Eligible part-time employees will receive holiday benefits in accordance with state law.

Subsection D Full-time employees required to work on a holiday will for their first shift worked be paid one and one-half times their regular rate of pay and eight hours of regular pay or eight hours of accumulation. Regardless of the number of hours worked on a holiday, the number of hours of accrual for the holiday benefit shall not exceed eight hours. Part-time employees required to work on a holiday shall receive one and one-half times their regular rate of pay for all hours worked.

1. Within the first payroll period from the signing of this Agreement or upon employment, all employees shall opt for either pay or accumulation. Until such time as a change in the option is received in writing on the form provided for this purpose, the previous option shall continue. Such option shall be made by giving written notice to Management that he/she desires pay at two and one-half times for the first shift worked on a holiday or pay at one and one-half times for the first shift worked plus an accumulation of eight hours to be used or paid later at the straight time rate. If an employee does not express an option in accordance with the above, he/she shall receive two and one-half times pay.

2. Accumulated holidays shall be taken prior to vacation usage.

3. Employees may opt to accumulate up to six holidays per year. Accumulated holidays not taken before June 30th of each fiscal year in which earned shall be compensated for at the employee's regular rate of pay.

Subsection E Observed holidays which fall on an employee's regularly scheduled day off shall be compensated on a straight time basis; either by accumulation, another day off, or a regular day of pay.

Subsection F If a holiday occurs during the period in which vacation is taken by an employee, the holiday(s) shall not be charged against the employee's annual leave.

Section 2. Holiday leave will be measured and charged to the nearest one-tenth of an hour. However, this provision shall have no effect on the crediting of holiday leave time or upon the procedures governing usage of holiday leave.

ARTICLE 6.
SICK LEAVES

Section 1. Sick Leave. Sick leave policy shall be in accordance with State Policy MOM 3-0310, dated 06/03/04, included as Addendum B attached, and this Article.

Subsection A Controversial use of sick leave should be thoroughly discussed by the employee covered by this Agreement and his/her immediate supervisor and reduced to writing before disciplinary actions are instituted.

Subsection B Abuse of sick leave is defined as any unauthorized usage arising out of, but not limited to, misrepresentation of need, excessive, controversial or patterned use of sick leave.

1. The Employer must be able to substantiate any charges of sick leave abuse which result in dismissal and forfeiture of the lump sum payment. Such charges will be in writing and a copy provided to the employee.

2. Abuse of sick leave is subject to disciplinary procedures up to and including termination and forfeiture of the lump sum payment.

Subsection C

1. a. To apply for sick leave an employee shall complete a standard request form and submit it to the employee's immediate supervisor or appropriate authority.

   b. When the need for sick leave is known in advance, the standard request form shall be submitted as early as practical but prior to the date of absence.

   c. When an advance request is not possible, an employee shall inform the person's immediate supervisor or appropriate authority of the absence as soon as practical, and not wait until return to work.

   d. Medical, dental, and eye examination appointments shall be authorized in advance.

2. a. The employee's immediate supervisor and/or appropriate authority shall review and approve the use of accrued sick leave credits if not at the time the employee submits the request, then at least at the end of each pay period.

   b. The employee's immediate supervisor or appropriate authority may require medical certification of sick leave charged against any sick leave credits in the form of a statement from a physician or practitioner licensed in Montana to treat and diagnose the particular injury or condition.

   c. Employees shall be informed in advance of return to work if a physician's statement is required.

   d. Certification or maternity-related disabilities will be obtained in the same manner and under the same conditions as certification for other disabilities.

3. When the Employer doubts the validity of the certification, the Employer may require, at its expense that the employee obtain the opinion of a second health care provider designated or approved by the Employer.

Subsection D An employee must notify the designated supervisor of his/her inability to report to work as soon as possible and prior to the commencement of his/her shift. However, an employee is required to provide a minimum of one hour notification. The Employer shall designate the supervisory chain of command.

Subsection E Whenever an employee whose work areas has more than one shift will be absent without prior approval, he/she will call off or request time off from his/her supervisor/designee at least one hour prior to the beginning of the scheduled shift. Whenever an employee whose work area has a single shift will be absent without prior approval, he/she calls off or requests time off from his/her supervisor/

designee within 30 minutes of the start time of that shift. In all cases, the employee is required to speak to his/her supervisor/designee or the next individual up in his/her chain of command.

Section 2. Sick leave will be measured and charged to the nearest one-tenth of an hour. However, this provision shall have no effect on the crediting of sick leave time or upon the procedures governing usage of sick leave.

ARTICLE 7.
ANNUAL VACATION LEAVES

Section 1. Annual Vacation Leave.

Subsection A Each full-time employee is entitled to and shall earn annual vacation leave credits from the first pay period of employment. For calculating vacation leave credits, 2080 hours (52 weeks x 40 hours) shall equal one year. Proportionate vacation leave credits shall be earned and credited at the end of each biweekly pay period.

However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of six calendar months. Persons regularly employed nine or more months each year, but whose continuous employment is interrupted by the seasonal nature of the position, shall earn vacation credits. However, such persons must be employed six qualifying months before they can use the vacation credits. In order to qualify, such employees must immediately report back for work when operations resume in order to avoid a break in service. Vacation leave credits shall be earned in accordance with the following schedule:

1. From one full pay period through 10 years of employment at the rate of 15 working days per year;

2. After 10 years through 15 years of employment at the rate of 18 working days per year;

3. After 15 years through 20 years of employment at the rate of 21 working days per year;

4. After 20 years of employment at the rate of 24 working days per year.

Permanent part-time employees are entitled to pro-rated annual vacation benefits based on actual time worked.

Vacation leave will be measured and charged to the nearest one-tenth of an hour. However, this provision shall have no effect on the crediting of vacation leave time or upon the procedures governing usage of vacation leave.

Subsection B It shall be unlawful for an Employer to terminate or separate an employee from his/her employment in an attempt to circumvent the provisions of this Article.

Subsection C

1. Accumulation of Leave. Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the last day of any calendar year.

2. Vacation days which exceed the maximum number are forfeited if not taken within 90 days from the last day of the calendar year in which the excess was accrued.

3. Vacation time may be taken on a split-vacation basis

Subsection D Absence. Because of Illness Not Chargeable Against Vacation Unless Approved by Employee. Absence from employment by reason of illness shall not be chargeable against unused vacation leave credits unless approved by the employee.

Subsection E Annual vacation leaves shall be granted on the basis of seniority for all requests made in writing to the Employer during the month of October for annual vacation periods between December 1 and May 31 of the following year at the time of request insofar as possible, subject to requirements of service. Annual vacation leaves shall be granted on the basis of seniority for all requests made in writing to the Employer during the month of April for vacation periods between June 1 and November 30 of the current year at the time of request insofar as possible, subject to the requirements of service. If requests for vacation time are made after October 31, for the period December 1 through May 31st or after April 30 for the period June 1 through November 30th, such vacations will be scheduled as the workload permits and order or priority shall be based on date of application. Except in unusual circumstances subject to approval by management and labor, no employee will be granted more than 15 consecutive days of annual leave during the period between June 1 and Labor Day. The Employer shall, by November 21st and May 21st of each year, post schedules of annual vacation leaves in the appropriate work areas. Supervisors will update this list as applications are submitted and approved after April 30th and October 31st. Changes in position for any reason (i.e.; promotion, transfer, demotion), may result in forfeiture of the affected employee's annual leave schedule. An employee who has been noticed of selection for an interview for a new position must determine in conjunction with the supervisor of the new position that his/her annual leave is acceptable to the new assignment or not. Such determination shall be made prior to or during the interview process.

Subsection F Previously scheduled and approved annual leave may not be cancelled within 15 calendar days from the intended starting date except in cases of emergency. This provision may be waived through mutual agreement of the employee and the Employer.

ARTICLE 8.
OTHER LEAVES

Section 1. Military leave shall be granted in accordance with 10-1-604, M.C.A.

10-1-604. Paid military leave for public employees. A state, city, or county employee who is a member of the organized militia of this state or who is a member of the organized or unorganized reserve corps or military forces of the United States and who has been an employee for a period of at least six months must be given leave of absence with pay accruing at a rate of 15 working days in a calendar year for performing military service. Military leave may not be charged against the employee's annual vacation time. Unused military leave must be carried over to the next calendar year, but may not exceed a total of 30 days in any calendar year.

Employees who are members of the U.S. Armed Forces/National Guard component are required to submit their schedule of weekend drills, training and summer encampment dates to the Employer 10 days after receiving their military notification and provide a copy of the military orders immediately upon receipt.

Section 2. Jury duty leave shall be granted in accordance with 2-18-619, M.C.A.

2-18-619. Jury duty - service as witness.

1. Each employee who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees shall be applied against the amount due the employee from his Employer. However, if an employee elects to charge his juror time off against his annual leave, he shall not be required to remit his juror fees to his Employer. In no instance is an employee required to remit to his Employer any expense or mileage allowance paid him by the court.

2. An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Witness fees shall be applied against the amount due the employee from his Employer. However, if an employee elects to charge his witness time off against his annual leave, he shall not be required to remit his witness fees to his Employer. In no instance is an employee required to remit to his Employer any expense or mileage allowances paid him by the court.

3. Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government.

Section 3. Maternity leave shall be granted in accordance with 49-2-310, M.C.A.

49-2-310. Maternity leave - unlawful acts of employers. It shall be unlawful for an Employer or his agent to:

1. terminate a woman's employment because of her pregnancy;

2. refuse to grant to the employee a reasonable leave of absence for such pregnancy;

3. deny to the employee who is disabled as a result of pregnancy any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her Employer, provided that the Employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform her employment duties; or

4. require that an employee take a mandatory maternity leave for an unreasonable length of time.

Section 4. Leave Without Pay. Employees who have completed their probationary period of six months may be entitled to take a leave of absence without pay for good and sufficient reason such as, but not limited to, extended illness, personal injury or serious family injury requiring the employee's presence. Requests for leave of absence must be in writing on the standard state form and are subject to Employer approval which may include requiring a doctor's certificate or other satisfactory proof of need. Under extraordinary circumstance the Superintendent may waive the requirement for completion of the six months probation before granting such leave.

Section 5. Education Leave. Any employee who gives evidence of being able to become more useful to the Department of Public Health and Human Services, if he/she obtains further professional training, may be granted an education leave without pay with the approval of the Superintendent. The granting of this leave will be determined by such factors as:

1. Benefit to the institution or field of service.
2. Benefit to resident training and treatment.
3. Will it increase the value of programs in use?

Section 6. Emergency Leave. In emergencies declared by the Governor of the State of Montana or his/her authorized designee the policy promulgated for that emergency shall prevail except when in conflict with provisions of this Agreement.

Section 7. Parental Leave. Parental Leave shall be granted as outlined in M.O.M. Policy number 3-0312.

Section 8. Absenteeism. The Union and the Employer recognize absenteeism as being seriously counterproductive to the mission of MDC. The Union agrees to assist management in this problem by encouraging Union membership to cooperate in programs designed to reduce absence from work.

ARTICLE 9.
WORKING CONDITIONS

Section 1. Probationary Period.

Subsection A The Employer shall have six months after employing an individual to determine the individual's competency in any position covered by this Agreement. This six-month period may be extended up to an additional three months by mutual agreement between the Employer and the Union.

Subsection B Probationary employee may be separated from employment at any time during the probationary period without recourse to the grievance process in Article 11.

Subsection C At any time during the probationary period an employee may be separated from the service without recourse to the grievance procedure unless in conflict or violation with Subsection B above.

Subsection D Reason for dismissal shall be in writing and a copy given to the employee.

Subsection E Trial Periods.

1. Employees shall serve a three month trial period upon change of job, such as promotion or transfer, however pay shall not be impacted by such trial. During this trial period, the Employer will conduct counseling sessions and evaluate the employee prior to the 90th day. Should the employee be unable to fulfill the duties of the new position satisfactorily, said employee shall return to his/her formerly held classification providing there is an available vacant position.

2. When a like position is not available, the Employer shall assign the employee into an available position of lower classification. In such instance, the employee shall return to his/her same market ratio as held just previous to being promoted within the demoted grade. The employee while in the demoted position shall have bidding opportunity per contract, but shall automatically be placed into the first available vacant position in his/her former classification in which instance both Union and Employer agree that the position into which the employee is placed need not be bid.

3. Should a position be unavailable, the most recently hired employee in the lowest classification of the series from which the demoted employee was working directly prior to the promotion or transfer, shall be laid off and said employee who was demoted placed into that position providing his/her seniority is greater than the seniority of the most recently hired employee who is scheduled for lay off.

Section 2. Performance Evaluations.

Subsection A Each bargaining unit employee's job performance will be evaluated on the recognized evaluation form as provided by the Department of Public Health and Human Services. Prior to a change in the form the Union will be notified.

Subsection B If requested, each employee will be provided a copy of their completed evaluation and any attachments.

Subsection C Employees shall have the right to attach their comments to all copies of their performance evaluation.

Section 3. Hours of Work.

Subsection A Work Day. A standard work day shall not exceed eight hours of work in any 24-hour period. A standard work day of eight hours in a 24-hour period may be increased or decreased if the Employer and the Union mutually agree on an alternate work schedule for a specific work unit.

Subsection B Work Period. An employee's 40-hour work period shall consist of a fixed and regularly recurring five consecutive days of employment. An employee's 40-hour work period need not coincide with the seven-day work week. The recurring five consecutive days of employment can be changed to accommodate an alternate work schedule through mutual agreement of the Employer and the Union.

Subsection C Work Week. A standard work week shall consist of seven regularly recurring consecutive days as established by the Employer.

Subsection D Both parties understand that the Employer has the right to schedule. It is also understood that the parties are bound by law in the duty to bargain collectively over hours and other conditions of employment.

Subsection E The following procedures are hereunder set forth which described the intent of Subsection D above as agreeable to the parties to this Agreement:

1. Prior to any permanent change in a bargaining unit employee's hours of work or days off, the Employer shall notify the affected employee and the Union. The parties shall meet within five working days and discuss the justification for the proposed change and alternatives. The Employer agrees that such change shall be based upon need and recognizes that employees have the right to expect continuity in shift and days off unless the Employer provides substantive basis for change. If no agreement is reached after discussion, the Employer will assign the least senior employee within the class to the needed duty, but shall provide 10 working days notice to allow the affected employee to make necessary personal arrangements.

2. Prior to any reorganization affecting a significant number of employees, the parties to this Agreement will meet and discuss resultant changes and alternatives before implementation. After such time if no agreement is reached by the parties, the Employer will implement a general bid posting of positions affected by the reorganization. In such instance, only bids from affected employees shall be accepted. Bidding shall further be limited to the affected class and employees within a class shall have first option on the basis of seniority for placement into any like classification resulting from the reorganization.

3. Temporary changes in a bargaining unit employee's hours of work and days off may be initiated by the Employer. Changes will not normally exceed eight hours in any standard work period. Said changes shall be by written agreement between the employee and the Employer. Such change shall be limited to the employee and shall not adversely affect any other employee.

4. Temporary changes in a bargaining unit employee's hours of work and days off may be implemented in the event of any emergency. Emergency is defined as a sudden unexpected event which occurs infrequently and requires immediate action.

5. Two or more members of the bargaining unit may request to exchange shifts provided such requests are submitted in writing to each employee's supervisor and the scheduling office. Each such request must be signed by the requesting employees and must contain a statement specifying any penalties or premium pay, including overtime that may be incurred under this Agreement or state/federal law/regulation should the requested shift exchange be permitted. Management's consideration of requests on a case-by-case basis will not establish practice or precedent affecting consideration of other similar or identical requests.

Section 5. Mandatory Meetings. The Employer may not require employees to attend mandatory meetings on the employees' own time.

Section 6. Separation. Employees who terminate their service with the Employer shall be furnished, upon request, a letter stating their classification, length of service and reason for leaving.

Section 7. Definitions.

Subsection A Employee means any person, in a position covered by this Agreement, in the employment of an agency paid a salary or a wage.

Subsection B Permanent employee means an employee who is designated by an agency as permanent and who has attained or is eligible to attain permanent status.

Subsection C Permanent status means the state an employee attains after satisfactorily completing an appropriate probationary period.

Subsection D Probationary employee means a newly hired employee scheduled to work 40 hours a week in regular schedule and is placed on probation for six months so the Employer may determine his/her competency.

Subsection E Part-time employee means a permanent employee who works less than 40 hours a week in a regular schedule with an understanding of continuing employment within the foreseeable future.

Subsection F Temporary employee means an employee who:

1. is designated as temporary by an agency for a definite period of time not to exceed 12 months;

2. performs temporary duties or permanent duties on a temporary basis;

3. is not eligible for permanent status;

4. is terminated at the end of the employment period; and

5. is not eligible to become a permanent employee without a competitive selection process.

Subsection G Seasonal employee means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

Subsection H "Short-term worker" means a person who:

1. is hired by an agency for an hourly wage established by the agency;

2. may not work for the agency for more than 90 days in a continuous 12-month period;

3. is not eligible for permanent status;

4. may not be hired into another position by the agency without a competitive selection process; and

5. is not eligible to earn the leave and holiday benefits provided in part 6 or the group insurance benefits provided in Article 10, Section 2.

Section 8. Work Rules.

Subsection A The Employer agrees to make available a copy of all existing work rules 30 calendar days after the signing of this Agreement and also agrees to include additions or changes within 20 calendar days after they become effective.

Subsection B Changes not of an emergency nature in existing work rules will be discussed with the Union before implementation.

Section 9. All employees shall be granted a 15-minute rest break during the first four hours of the shift and another 15 minute rest break during the second four hours of the shift. There will be a designated area for rest breaks where such is available.

Section 10. Training Programs.

Subsection A The Union shall be contacted by the Employer before any new training program or changes in the present training program are implemented for bargaining unit employees.

Subsection B The Employer will hold in-service and upgrade classes at a time and place that is both beneficial to the Montana Developmental Center and its employees.

Subsection C The Employer shall provide necessary job related training as determined by the Employer and within the fiscal ability of the Employer.

Subsection D If an employee is placed on a training assignment, as set forth in Section 4 of the Pay Addendum, the training assignment shall be in writing and shall include: (1) the duration of the training assignment, (2) the knowledge, skills, abilities, training or experience the employee must acquire during the training assignment, and (3) the standards that will be used to measure the employee's successful attainment of the required knowledge, skills, abilities, training or experience.

If the written training assignment contains a scheduled pay increase that is contingent upon completion of training provided by the Employer, and the Employer fails to provide such training, the employee will not be penalized, either by termination for failure to complete the training, or by withholding the scheduled pay increase, unless the employee is at fault.

Providing that the Employer continues to use the Psychiatric Aide classification, employees placed in an Psychiatric Aide training assignment will be paid according to the pay addendum's Job Code 311153 Band 3 pay range for that class after completing: (1) the training requirements set forth in paragraph 1 of this Subsection, (2) one year of uninterrupted service since the most recent date of hire, and (3) the probationary period set forth in Article 9.

If an employee has worked for at least one continuous year in the Psychiatric Aide, pay addendum's Job Code 311153, Band 3 classification immediately prior to terminating, and subsequently returns to employment at MDC within one year after termination, the employee shall only be required to serve the six-month probationary period to receive the upgrade, however, the Employer shall be responsible for providing such training within the employee's six-month probationary period.

Section 11. Pre-service orientation. A Union designee shall be granted necessary time, not to exceed 30 minutes, during pre-service orientation to acquaint new employees to the contents of the Agreement. Such time shall not be used for purposes of interpreting clauses of the Agreement, but only to advise new employees of the subject matter therein. The Union designee shall receive release time if he or she is on duty at the time of the pre-service orientation.

ARTICLE 10.
HEALTH, SAFETY, AND WELFARE

Section 1. Industrial Accident Insurance. The Employer shall carry Industrial Accident Insurance on all employees. Employees must, within 24 hours, report in writing all personal injuries received in the course of employment to their supervisor. The Employer will insure that first aid supplies are maintained in each work area.

Section 2. Employer Health Insurance Contribution. The Employer's share of the health insurance contribution for each employee shall increase by 10% ($73 per month to $806) effective January 1, 2014 and an additional 10% increase ($81 per month to $887) effective January 1, 2015. The employee's contribution for employee coverage shall not be subject to an increase until January 1, 2015.

Section 3. For employees on Workers' Compensation and/or extended non-paid approved sick leave, the Employer shall continue the Employer's contributions to their group health and accident insurance plan for such period up to and including three months of such leave.

Section 4. If serious injury or health conditions are incurred, an additional three months job protection can be requested and granted on a case by case basis with a physician's certification and agreement by the Employer and Union.

Section 5. Workers' Compensation payments administered by State Fund are for the purpose of offsetting the loss of income suffered by an employee who is injured on the job.

Section 6. Employees have the right to refuse to work under conditions which, through consensus arrived at in a Joint Union-Employer Committee meeting, are unsafe for employees and which continue to pose a threat of physical harm to employees in spite of Committee recommendations as to remedial action to be taken to correct the hazardous conditions. Where fiscal requirements for remedial action is beyond the ability of the Employer to address through current budget allocation the Union recognizes that this right

must be subordinated to the right of residents/patients to care and treatment. Should an unsafe situation arise which requires immediate attention, an employee or the Union shall be given immediate access to the Superintendent to discuss the problem.

Section 7. Personal Property. When loss or damage is caused as a result of employment, the Employer will provide just compensation for destruction of prosthetic devices and Employer approved, required items upon the incident having been reported to the employee's supervisor prior to the end of the shift during which the incident occurred and claim being made to the Employer within 72 hours. The Employer will not be liable in the event that such is paid for by coverage paid or participated in by the Employer.

ARTICLE 11.
GRIEVANCE AND ARBITRATION PROCEDURE

Section 1. Having a desire to create and maintain labor relations harmony between them, the parties hereto agree that they will promptly attempt to resolve any employee grievance. A grievance is any dispute, which may arise between an employee and the Employer and having reference and arising out of the application, meaning or interpretation of this Agreement. Grievance Committee members may process grievances during working hours without loss of pay, however must notify the Employer prior to conducting such business during their scheduled shift.

At least three employees selected by the Union as Union Representatives shall be known as "Stewards". The names of employees selected as Stewards and the names of other employees selected as the Grievance Committee shall be certified in writing to the Employer by the Local Union.

Section 2. Grievance Procedure.

Step 1. Any grievance shall be taken up with the employee's immediate supervisor within fourteen (14) calendar days of the event leading to the grievance. Whenever an employee receives advance notice of a formal disciplinary action, the grievance shall be filed within fourteen (14) calendar days from receipt of the notice. The immediate supervisor shall have fourteen (14) calendar days to respond to the grievance. A complaint will not be considered a grievance until the Employee(s) and Steward(s) bringing forth the complaint have submitted the completed Grievance Form to their immediate Supervisor.

Step 2. If the grievance is not resolved at Step 1, the grievance may be presented in writing within fourteen (14) calendar days from the receipt of the immediate supervisor's response of Step 1 to the Superintendent or his/her designee. The Superintendent or his/her designee at the second step shall have fourteen (14) calendar days from receipt of the grievance to respond in writing.

Step 3. If the grievance is not resolved at Step 2, it may be presented to the department director or his/her designee within fourteen (14) calendar days of the

receipt of the Step 2 response. The department director shall have twenty-one (21) calendar days to respond to the grievance in writing. Step 4. Should the aggrieved employee and the Union considers the decision of the Director unsatisfactory, the Union may, within twenty-one (21) calendar days of receipt of such decision, notify the department director and the Chief of the State Office of Labor Relations of its decision to take the grievance to final and binding arbitration. It is understood the parties may, by mutual agreement, at any time enter into mediation.

Section 3. Rules of Grievance Processing.

A. The parties may waive steps and extend the timelines in this article by mutual agreement.

B. A grievance not filed or advanced by the grievant within the time limits provided shall be deemed permanently withdrawn as having been settled on the basis of the decision most recently received. Failure on the part of the Employer's representative to answer within the time limit set forth in any step will entitle the grievant to proceed to the next step within time limits provided.

C. An appointed authority may choose a designee to replace any titled position in the grievance procedure, provided that such appointee has full authority to act in the capacity of the person being replaced.

D. The grievance shall be presented in writing using the AFSCME Grievance Form and submitted to the employee(s) immediate Supervisor at Step 1. The written grievance shall contain the following:

1. The name of the grievant (s).

2. The specific contract violation.

3. A complete statement of the grievance and facts upon which it is based.

4. The remedy or correction requested.

E. Those employees desiring to use alternative grievance procedures, legal or quasi-legal processes may not pursue the same complaint under the provisions of this contractual procedure. Similarly, an employee pursuing a grievance under the provisions of this contract may not pursue the same grievance issue under another procedure.

F. In the event of a classification related grievance, the statutory classification appeal route shall be followed wherein the grievance may be submitted to the Board of Personnel Appeals for final resolution. Where a question arises as to whether the matter falls under the jurisdiction of the Board or could possibly be arbitrated, the matter may be referred to the Board for a decision.

Section 4. Rules of Arbitration.

A. Within fourteen (14) calendar days of receipt of the Union's notice of its intent to arbitrate a grievance, the Union shall call upon the Board of Personnel Appeals for a list of five (5) potential arbitrators. The Union will provide the Employer with a simultaneous copy of the arbitration panel request.

B. Each party shall be entitled to strike two (2) names from the list in alternate order and the name so remaining shall be the arbitrator. A coin toss shall determine which party strikes the first name.

C. The arbitrator shall render a decision and that decision shall be final and binding. By mutual agreement, the parties may request a bench decision from the arbitrator, provided the arbitrator is notified at time of selection.

D. Each party shall share equally the cost of the arbitrator. In the event one of the parties wants transcripts from the proceedings of the arbitration, the party requesting the transcripts shall pay all costs. If each party requests a transcript, they shall share equally the cost.

E. The arbitrator may not add to, subtract from, or modify the terms of this Agreement.

ARTICLE 12.
COMPENSATION

Section 1. Salaries and Wages. Conditions relative to and governing wages and salaries and extraordinary pay rates are contained in Addendum A of this Agreement, which is attached and by this reference made a part hereof as though fully set forth herein. Employees shall be compensated in accordance with the Pay Plan Rules as promulgated by the state through the Department of Administration.

Subsection A An employee's anniversary date will not change because of a disciplinary suspension.

Subsection B It shall be clearly understood that variances in wage rates resulting from negotiations shall not constitute grounds for classification appeals.

Subsection C There will be similar pay for similar work in each classification of employment.

Subsection D Work time will be measured and paid to the nearest one-tenth of an hour.

Section 2. Provisional Appointment.

Subsection A Defined. Provisional appointment means a temporary appointment of a permanent employee to fill a position in a classification while the employee assigned to the position is absent (such as sick leave, vacation, leave of absence, etc.).

Subsection B An employee assigned a provisional appointment shall be paid as follows:

1. If the position is in a classification of a higher salary grade, the employee shall be paid according to the rules regarding promotions.

2. If the position is in a classification of the same or a lower salary grade, the employee shall continue to be paid his/her basic salary rate.

Subsection C An employee assigned a provisional appointment shall not achieve permanent status in the higher class and upon completion of six months in the provisional appointment the affected employee(s) shall choose whether to resume his/her/their permanent position(s) and salary or to have his/her/their permanent position(s) put up for bid.

Subsection D Whenever an employee is assigned added responsibilities and duties of a position with a higher salary grade in addition to his/her normal duties, the employee shall be paid for the time actually worked in the higher salary grade in accordance with the rules governing promotions.

Subsection E Provisional appointments must be requested by the employee's supervisor and approved by the department head or one appointed to act in his/her behalf.

Section 3. Overtime. Employees who work in excess of eight hours in any 24-hour period or in excess of 40 hours in any work week will be compensated at the rate of one and one-half times their normal rate of pay for the additional time worked. Overtime rates shall be paid only for actual time worked and in cases where proper approval exists.

Alternate work schedules that are in excess of eight hours in any one 24-hour period will be paid at the regular rate of pay except if hours are in excess of 40 hours in any work week. All hours that are in excess of 40 hours in any workweek shall be compensated at time and one-half.

Subsection A Overtime Defined. Means work authorized and performed in excess of an established workday or workweek.

Subsection B Employees who work in excess of eight hours in a 24-hour period or in excess of 40 hours in any work week will be compensated at the rate of one and one-half times their normal rate of pay for the additional time worked.

Subsection C No overtime shall be worked, except in cases of emergency, without the approval and direction of a designated Employer authority outside the bargaining unit.

Subsection D Overtime shall be segregated and paid to the nearest one-tenth of an hour.

Subsection E The Employer will make a good faith attempt to distribute overtime equally to all employees providing they have indicated a desire to work overtime in writing. A list will be maintained of employees who have so indicated their desire in writing, which the Employer will use when attempting to contact employees to offer overtime. The Employer will maintain records of attempts to contact employees. The Union may have access to these records upon request. It is understood and agreed that, if employees are routinely not available or routinely refuse such overtime offers, they will be dropped from the list at the Employer's discretion.

Subsection F The Union and the Employer are not in favor of overtime and nothing in this section shall be construed as encouraging such procedure.

Subsection G When computing overtime, holidays, sick leave, or vacation time taken during the workweek will be considered as time worked.

Section 4. Hold Over Time. Hold Over Time means time worked by the employee for shifts or partial shifts that immediately follow the employee's regularly scheduled shift and is requested by the Employer either preceding or during the employee's regularly scheduled shift. Such time is not subject to call out provisions.

Section 5. Decedent's Warrant. An employee will complete for his/her personnel file a Form P-3 which legally designates a beneficiary for wages owed and makes possible payment thereof without probate. An employee may revoke and/or change a designation at any time by filing a new designation form or letter.

Section 6. Call-Outs. Each and every call-out will be for a minimum of four hours at one and one-half times pay. For additional time worked, the employee will be compensated for actual time worked at one and one-half times pay.

Section 7.Call-out Pay for Investigative Telephone Interview. Employees will be paid a minimum of one (1) hour overtime when called for an investigative interview while off duty. Should the interview exceed one (1) hour, employees will be compensated at one- and one-half times the base pay rate for actual time engaged in the interview and any required work activity related to the interview.

ARTICLE 13.
EMPLOYER RIGHTS

Section 1. The Employer retains the rights to manage, direct, and control functions in all particulars except as limited by the terms of this Agreement, or State law. Such rights shall include but not be limited to:

Subsection A Select and determine the number and types of employees required.

Subsection B Establish schedules of classification and compensation.

Subsection C Assign work to employees in accordance with the requirements of the institution as determined by the Employer.

Subsection D Establish rules, regulations, and procedures, lay-off, suspension, termination, or other employment action.

Subsection E Make and enforce reasonable rules for the maintenance of discipline.

Subsection F Establish work schedules and assignments.

Subsection G Increase productivity by improving the quality and quantity of work and overall efficiency of the facility.

Subsection H Investigate and discipline violations of the facilities' Resident Abuse, Mistreatment and/or Neglect Policy.

Subsection I Insist upon the rights of each resident or patient to receive the utmost decency and respect possible.

Subsection J Investigate, discipline, and prosecute employees responsible for misappropriating or misusing state or resident property.

Section 2. The retention of these rights does not preclude any employee, or the Union, from filing a grievance or seeking a review of the exercise of this right in a particular case.

ARTICLE 14.
NO STRIKE/LOCKOUT

Section 1. The Union and the Employer agree that there will be no stoppage of work or lockout during the term of this Agreement.

Section 2. The Union shall have the right to engage in a concerted activity after December 31, 2014, for matters pertaining to wages and benefits in the 2016-2017 biennium.

Section 3. However, in the event of any strike or work stoppage the Union shall furnish notice in accordance with 39-32-110, M.C.A.

ARTICLE 15.
SAVINGS

Should any Article, Section, or portion thereof of this Agreement be held unlawful or invalid by any court or board of competent jurisdiction, such decision shall apply only to the specific Article, Section, or portion thereof directly specified in the decision. Upon issuance of such a decision, the Parties agree immediately to negotiate a substitute for the invalidated Article, Section, or portion thereof.

ARTICLE 16.
TERM

Section 1. This Agreement shall be effective as the first day of July 2013 and shall remain in full force and effect through the 30th day of June 2015. Either party shall notify the other in writing at least 60 days prior to the expiration date that they desire to renegotiate this Agreement. If the Union gives such notice, it agrees to notify the Chief, State Office of Labor Relations in writing of such requested negotiations at the same time such notice is given to the agency. In the event such notice is given, negotiations shall begin not later than 30 days prior to the expiration date.

Section 2. In conjunction with this contract, it is hereby agreed that the Parties will reopen negotiations on applicable economic issues sufficiently in advance of Executive Budget Submittal to insure time for adequate negotiations to take place.

Section 3. Budgets. The Union will present to the Superintendent and the Department of Public Health and Human Services a copy of their salary increase recommendations and other recommendations, which would affect the financial program of the Employer not later than the first of July on even numbered years.

Section 4. This Agreement together with Addendums A and B constitutes the full and complete agreement between the parties.

THIS AGREEMENT is signed and dated this 28 day of October 2013.

FOR: MONTANA DEVELOPMENTAL CENTER, MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

State Human Resources Division

FOR: AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AFL-CIO LOCAL 971

Timm Twardoski, Executive Director
AFSCME Montana Council 9

Richard H. Opper, Director
Department of Public Health and
Human Services

Gene Haire, Superintendent
Montana Development Center

PAY SCHEDULE A

JOB CODE	PAY BAND	TITLE	MINIMUM	MIDPOINT	MAXIMUM
292614	4	LPN	$16.66 $34,652.80	$20.83 $43,326.40	$25.00 $52,000.00
311153	3	Psychiatric Aide	$11.92 $24,793.60	$14.90 $30,992.00	$17.88 $37,190.40
352112	2	Cook	$9.66 $20,092.80	$12.07 $25,105.60	$14.48 $30,118.40
352212	2	Food Prep Worker	$8.70 $18,096.00	$10.88 $22,630.40	$13.06 $27,164.80
353412	2	Food Service Worker	$8.70 $18,096.00	$10.88 $22,630.40	$13.06 $27,164.80
372112	2	Custodian	$8.50 $17,680.00	$10.63 $22,110.40	$12.76 $26,540.80
537633	3	Warehouse Worker	$11.14 $23,171.20	$13.93 $28,974.40	$16.72 $34,777.60

ADDENDUM A
BROADBAND PAY PLAN PROVISIONS

This agreement represents the parties' full and complete agreement for all provisions of the Broadband Pay Plan under the term of this contract.

Section 1. Across the Board Pay Adjustments. All employees covered by this collective bargaining agreement under the Broadband Pay Plan shall receive a 3% across-the-board increase on the base pay rate effective in the pay period that includes July 1, 2013 and a 5% across-the-board increase on the base pay rate effective in the pay period that includes November 15, 2014.

Section 2. Longevity. All of the calculations are base rates and not inclusive of longevity.

Section 3. Hiring rates. Employees new to state government will typically be hired at the entry for the occupation. In determining a new employee's hiring rate above entry, the Supervisor, or designee, shall consider criteria such as: the employee's job-related qualifications and competencies; existing salary relationships within the job class, band and work unit; department affordability; and the competitive labor market.

Section 4. Training Assignments. The Supervisor or designee may establish written training assignments to enable an employee to gain the additional experience and training required for the job for a period of time not to exceed two years. At the completion of the training assignment, the employee's pay will be set no less than the entry rate of pay for the occupational pay band.

Section 5. Market-based pay: Pay awarded to employees based on comparisons to how other employers compensate employees in similar jobs. Market-based comparisons consider not only base pay, but also other types of compensation and benefits having a definable dollar value. The Department may consider market- based pay adjustments on a case-by-case basis.

Section 6. Competency-based pay: Pay based on an assessment of an employee's job-related competence. The Department may consider competency based pay adjustments on a case-by-case basis.

Section 7. Results-based pay: Pay awarded to employees or employee teams based on accomplishments. Results-based pay may be awarded for specific outcomes or outputs. The Department may consider results based pay adjustments on a case-by-case basis.

Section 8. Strategic pay: Pay awarded to attract and retain key employees with competencies critical or vital to achievement of the Department's mission or strategic goals. The Department may consider strategic pay on a case-by-case basis.

Section 9. Situational pay: Pay based on circumstances that occur that are not encountered in either the majority of jobs in state government or jobs used to make market comparisons. It is intended to address difficulties in recruitment and retention. It may be considered when atypical requirements exist in a position, for example, unusual hours, extreme physical demands, or environmental hazards that are causing recruitment and retention problems. The Department may consider situational-based pay on a case-by-case basis.

ADDENDUM B

This policy supersedes the previously published policy on sick leave dated 6/2/97.

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121 SHORT TITLE

(1) This policy may be cited as the sick leave policy.

122 DEFINITIONS

As used in this policy, the following definitions apply:

(1) "Agency" means, as provided in 2-18-601, MCA, any legally constituted department, board, or commission of state government.

(2) "Break in service" means, as provided in 2-18-601, MCA, "a period of time in excess of 5 working days when the person is not employed and that severs continuous employment." A break in service could result from a termination or resignation or could result from an absence of more than 5 working days in a row without an approved leave of absence.

(3) "Continuous employment" means, as provided in 2-18-601, MCA, "working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days. "An approved continuous leave of absence without pay exceeding 15 working days does not constitute a break in service.

(4) "Employee" means, as provided in 2-18-601, MCA, any person employed by an agency except elected state officials and persons contracted as independent contractors or hired under personal services contracts. Under this policy, Short-term

workers and employees participating in the Montana State Fund Personal Leave Plan are not employees.

(5) "Immediate family" means an employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild, or corresponding in-law.

(6) "In a pay status" means the hours an employee is paid at the employee's regular rate up to a maximum of 40 hours in a workweek. This includes hours an employee is paid for annual leave, sick leave, holidays, and the use of compensatory time. For the purposes of this policy, the term does not include hours worked that exceed 40 hours in a work week which are paid as overtime hours or recorded as compensatory time.

(7) "Jurisdiction" means the extent of authority of any state or local government entity within which the limits of authority or control may be exercised. State government is a single jurisdiction.

(8) "Qualifying period" means a 90-calendar day period an employee must be continuously employed to be eligible to use sick leave credits or to be eligible for a lump sum payment upon termination for unused sick leave credits.

(9) "Short term attendance" means a range of hours up to a maximum of 40 hours for each occurrence.

(10) "Sick Leave" means, a leave of absence with pay for any of the reasons defined in Rule 132, Conditions for Use of Sick Leave.

(11) "Sick Leave credits" means the earned number of sick leave hours an employee is eligible to use upon completion of the qualifying period.

(12) "Transfer" means, as provided in 2-18-601, MCA, "a change of employment from one agency to another agency in the same jurisdiction without a break in service."

123 POLICY AND OBJECTIVES

(1) It is the policy of the state of Montana to grant eligible state employees sick leave benefits in accordance with 2-18-618, MCA.

(2) Nothing in this policy guarantees approval of the granting of such leave in any instance. Each request will be judged by the agency in accordance with this policy.

(3) The objectives of this policy are to establish functional uniform procedures for calculating and granting sick leave benefits in accordance with 2-18-618, MCA, and to ensure compliance with the Montana Maternity Leave Act, 49-2-310 and 49-2-311, MCA, the 1978 amendment to the Civil Rights Act of 1964 (42 USC §2000e(k)) banning pregnancy discrimination, the Voluntary Employees' Beneficiary Association Act, as provided in 2-18-1311, MCA, and the Family Medical Leave Act of 1993.

132 CONDITIONS FOR USE OF SICK LEAVE

(1) An employee may use sick leave credits for:

(a) time off when an employee is unable to perform job duties because of physical or mental illness, injury or disability;

(b) maternity-related disability, including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child;

(c) parental leave as provided in 2-18-606, MCA;

(d) quarantine resulting from exposure to contagious disease;

(e) examination or treatment by a licensed health care provider;

(f) short-term attendance to an immediate family member or, at an agency's discretion, another relative due to physical or mental illness, injury, disability, or examination or treatment until other care can reasonably be obtained;

(g) necessary care of a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993;

(h) death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

133 USE OF SICK LEAVE CREDITS - ADDITIONAL CONDITIONS

(1) Sick leave credits are added to an employee's account at the end of each biweekly pay period as provided in Rule 134, Accrual and Calculation of Sick Leave. An employee may not use these sick leave credits until the beginning of the next biweekly pay period.

(2) An employee must be continuously employed for the qualifying period of 90 calendar days to use sick leave.

(a) Unless there is a break in service, an employee only serves the qualifying period once.

(b) After a break in service, an employee must again complete the qualifying period to use sick leave.

(3) When an employee who has not worked the qualifying period for use of sick leave takes an approved continuous leave of absence without pay exceeding 15 working days, the amount of time in a leave without pay status does not count toward completion of the qualifying period. The approved leave of absence exceeding 15 working days is not a break in service and the employee does not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period. An approved continuous leave of absence without pay of 15 working days or less counts as time earned toward the 90-day qualifying period.

(4) A seasonal employee's accrued sick leave credits may be carried over to the next season if management has a continuing need for the employee, or paid out as a lump-sum to the employee when the season ends in accordance with Rule 141, Lump Sum Payment Upon Termination.

(a) If sick leave credits are carried over, employment in two or more seasons is continuous employment. In this case, an agency may count the time the seasonal employee was employed in the previous season toward the 90-calendar day qualifying period, provided a break in service does not occur.

(b) Returning seasonal employees must report for work by the date and time specified by the agency to avoid a break in service.

(5) An employee who works in more than one position typically uses sick leave to cover time off from the position in which the sick leave was accrued. At an agency's discretion, an employee may use sick leave from another position to cover necessary time off.

(6) When an employee who has been laid off elects to maintain sick leave credits according to the Reduction In Work Force Policy, the employee may not use those credits until the employee is reemployed in a permanent position.

134 ACCRUAL AND CALCULATION OF SICK LEAVE CREDITS

(1) Employees earn sick leave credits from the first day of employment as provided in 2-18-618, MCA. Permanent full-time employees earn sick leave credits at the rate of 12 working days for each year of service. Permanent part-time, temporary, and seasonal employees are entitled to sick leave benefits on a prorated basis. Short-term workers are not eligible to earn sick leave credits.

(2) The accrual of sick leave is calculated based on hours the employee is in a pay status.

(a) If an employee is in a pay status 80 hours or more in a bi-weekly period, the employee accrues a maximum of 3.69 hours of sick leave credits per pay period.

(b) If an employee is in a pay status less than 80 hours in a bi-weekly pay period, the employee accrues .046125 hours of sick leave credits for each hour the employee is in a pay status.

(3) Sick leave does not accrue when an employee works more than 40 hours in a workweek. For example, an employee who regularly works 40 hours in one agency and 10 hours in another agency in the same workweek accrues a maximum of 3.69 hours sick leave per pay period.

(4) Sick leave credits must be credited at the end of each pay period as provided in 2-18-618, MCA. The Department of Administration adds earned sick leave credits to each employee's account when it processes payroll after the pay period has concluded. These sick leave credits may not be advanced or used until the start of the next biweekly pay period.

(5) There is no limit to the number of sick leave credits an employee may accumulate as provided in 2-18-618, MCA.

(6) An employee does not earn sick leave while in a leave without pay status as provided in 2-18-618, MCA.

136 RATE OF SALARY COMPENSATION

(1) An employee using authorized sick leave is entitled to the employee's regular rate of pay.

137 SICK LEAVE REQUESTS

(1) Each agency may establish procedures for the request and approval of sick leave in compliance with requirements of this policy.

(2) An employee's immediate supervisor or appropriate authority may require medical certification to confirm the appropriate use of sick leave. The medical certification must be provided by a licensed physician or another licensed health care provider competent to treat and diagnose the particular illness or condition.

(3) Provisions of the federal Family and Medical Leave Act of 1993 and the Americans with Disabilities Act of 1990 each place limitations on the kinds of information that may be sought when medical certification is required. The information required for medical certification should be job-related and consistent with business necessity. It may indicate a need for the leave, length of the leave and the timing of the leave. Seeking more information than necessary to verify the leave request may violate the ADA. An agency may not inquire into the possible future effects of an employee's "serious health condition," as that term is defined in the FMLA, during the certification process. For example, if a medical certification indicates an employee has cancer, the agency may not ask whether the illness is terminal.

(4) An agency may require a statement from a licensed physician or another licensed health care provider to confirm that an employee needs sick leave to attend to an immediate family member or another relative.

(5) Medical certification of a maternity-related sick leave must be obtained in the same manner and under the same conditions as certification for other sick leave.

(6) The documentation of requests for leave should contain sufficient detail so that improper use of sick leave credits can be discovered and corrected.

(7) An agency may require that an employee be examined by a licensed physician or another licensed health care provider of the agency's choice. A medical examination must be job-related and consistent with business necessity. The agency shall pay the costs of such an examination.

138 SICK LEAVE RECORDS

(1) An employee's sick leave credits earned and used shall be recorded in the statewide human resource information system maintained by the Department Of Administration. Agencies not paid through this system shall maintain their own records of sick leave accrual and use.

(2) Sick leave credits used must be recorded to the nearest one-half hour when fractions of hours are used.

(3) Adjustments to an employee's accrual and use totals should be reported to the agency payroll clerk on a bi-weekly basis.

139 SICK LEAVE ON HOLIDAYS

(1) An agency may not charge an employee's absence to sick leave on a day a legal holiday is observed if the absence is due to illness or another reason described in Rule 134. In this case, the employee is entitled to paid time off provided the employee meets the eligibility requirements for paid time off on a holiday.

(2) If an employee is scheduled to work on a day when a holiday is observed, but is absent due to illness or another reason described in Rule 134, the employee may request sick leave for the hours scheduled to work that exceed the holiday pay benefit provided in the Holiday Policy. An agency may deny this request if it would result in the accrual of compensatory time or overtime.

141 LUMP SUM PAYMENT UPON TERMINATION

(1) Employees are entitled to cash compensation for unused sick leave credits on termination of employment as provided in 2-18-618, MCA. This cash compensation is calculated by multiplying one-fourth of an employee's unused sick leave credits times the employee's regular rate of pay at the time of termination of employment. It is paid by the terminating agency. Employees who have not served the 90-day qualifying period to use sick leave are not eligible for cash compensation of unused sick leave credits at termination of employment.

(2) As required by 2-18-618, MCA, "an employee who received a lump-sum payment and is again employed by any agency may not be credited with any sick leave for which the employee has previously been compensated."

(3) As provided in 2-18-618, MCA, "accrual of sick leave credits for calculating the lump-sum payment begins July 1, 1971."

(a) Employees retain sick leave credits earned before July 1, 1971, if recorded by the agency prior to that date.

(b) Sick leave credits earned prior to July 1, 1971, can be transferred between agencies, but are not eligible for lump-sum payment when an employee terminates.

(c) Sick leave credits earned prior to July 1, 1971, must be used first.

(4) When an employee works in more than one position in different agencies and terminates from one position, the employee may, at the agency's discretion, transfer leave credits to the remaining position. If the employing agency will not accept the transfer of credits, it is the responsibility of the agency from which the employee is terminating to cash out the employee, as provided in this rule.

(5) When an employee works in more than one position in the same agency and terminates from one position, the agency may choose to either cash out credits accrued to the terminated position or transfer credits to the position the employee continues to fill.

(6) When an employee who has been laid off elects to maintain sick leave credits according to the Reduction In Work Force Policy (MOM 3-0155), the agency may not cash out any sick leave credits when the lay off occurs. At a later date, the employee may elect to have the entire sick leave balance cashed out. When the employee's rights under the State Employee Protection Act expire, the agency must cash out the entire sick leave balance.

(7) When employment is terminated and the employee is a member of a Voluntary Employees' Beneficiary Association, as provided in 2-18-1311, MCA, the member's entire unused sick leave balance must be converted to an employer contribution to the member's health care trust account and may not be paid as a lump-sum payment to the employee. The employer contribution is equal to one-fourth of the employee's unused sick leave times the employee's regular rate of pay at the time of termination.

142 TRANSFERS

(1) If an employee transfers between agencies in the same jurisdiction without a break in service, the terminating agency may not cash out the employee's unused sick leave credits.

(2) In such a transfer, the receiving agency shall assume the liability for accrued sick leave credits, which are transferred with the employee.

(3) If a break in service occurs during a change in employment between agencies or the employee moves to another jurisdiction, the employee must begin anew the 90-day qualifying period at the new agency. In this case, the terminating agency, in accordance with applicable policy, shall either:

(a) cash out the employee's sick leave credits earned after July 1, 1971; or

(b) care trust account if the employee is a member of a Voluntary convert the employee's sick leave credits to a contribution to a health Employees' Beneficiary Association provided for in 2-18-1301, et seq., MCA. The employer contribution is equal to one-fourth of the employee's unused sick leave times the employee's regular rate of pay at the time of termination.

143 USE OF SICK LEAVE

(1) Sick leave abuse occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reason for charging an absence to sick leave. As provided in 2-18-618, MCA, sick leave abuse is cause for dismissal and forfeiture of the lump-sum payment.

(2) Abuse also may occur when an employee establishes a pattern of sick leave usage over a period of time. Chronic, persistent, or patterned use of sick leave may be subject to progressive discipline, pursuant to the Discipline Handling Policy (MOM 3-0130).

(3) Absences improperly charged to sick leave may, at the agency's discretion, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the agency.

(4) Any charges of sick leave abuse that result in an employee's dismissal and forfeiture of the lump-sum payment are subject to the appropriate grievance procedure.

144 WORK RELATED ACCIDENT, INJURY, OR ILLNESS

(1) An employee who suffers an on-the-job accident, injury, or work-related illness may be eligible for workers' compensation benefits. As provided in 39-1-736, MCA, an injured worker may not receive wage loss benefits if the worker is receiving sick leave benefits, except:

(a) Sick leave may be used and counted toward the required waiting period, which is the lesser of 32 hours or four days.

(b) Augmentation of workers' compensation temporary total disability benefits with sick leave by an employer pursuant to a collective bargaining agreement may not disqualify a worker from receiving temporary total disability benefits. Agencies should notify the Montana State Fund of sick leave benefits paid in this situation.

145 SICK LEAVE SUBSTITUTED FOR ANNUAL LEAVE

(1) At the agency's discretion, an employee taking approved annual vacation leave may be allowed to substitute accrued sick leave credits for annual leave credits when circumstances warrant approval of sick leave. The employee must make the request to substitute sick leave for annual leave within five business days of reporting back to work.

155 CLOSING

(1) Provisions of this policy not required by statute shall be followed unless they conflict with negotiated labor contracts, which will take precedence to the extent applicable.

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