

## *CAPS AGREEMENT*

B. Consistent with this Agreement, the rights of the State shall include, but not be limited to, the right to determine the mission of its constituent departments, commissions, and boards; to maintain efficiency of State operation; to set standards of service; to determine, consistent with Article VII of the Constitution, the Civil Service Act and rules pertaining thereto, the procedures and standards of selection for employment and promotion, layoff, assignment, scheduling and training; to determine the methods, means and personnel by which State operations are to be conducted; to take all necessary action to carry out its mission in emergencies; to exercise control and discretion over the merits, necessity, or organization of any service or activity provided by law or executive order. The State has the right to make reasonable rules and regulations pertaining to employees consistent with this Agreement provided that any such rule shall be uniformly applied to all affected employees and those similarly situated.

C. This Article is not intended to, nor may it be construed to, contravene the spirit or intent of the merit principle in State employment, nor limit the entitlement of State Civil Service employees provided by Article VII of the State Constitution or by laws and rules enacted thereto.

## **ARTICLE 13 – GENERAL PROVISIONS**

### **13.1 No Strike**

A. During the term of this Agreement, neither CAPS nor its agents nor any Bargaining Unit 10 employee, for any reason, will authorize, institute, aid, condone or engage in a work slowdown, work stoppage, strike, or any other interference with the work and statutory functions or obligations of the State.

B. CAPS agrees to notify all of its officers, stewards, and staff of their obligation and responsibility for maintaining compliance with this Section, including the responsibility to remain at work during any activity which may be caused or initiated by others, and to encourage employees violating this Section to return to work.

### **13.2 No Lockout**

No lockout of employees shall be instituted by the State during the term of this Agreement.

### **13.3 Individual Agreements**

The State shall not negotiate with or enter into memoranda of understanding or adjust grievances or grant rights or benefits not covered in this Agreement to any employee unless such action is with CAPS concurrence.

### **13.4 Savings Clause**

Should any provision of this Agreement be found unlawful by a court of competent jurisdiction or invalidated by subsequently enacted legislation, the remainder of the Agreement shall continue in force. Upon occurrence of such an event, the parties shall meet-and-confer as soon as practical to renegotiate the invalidated provision(s).

### **13.5 Reprisals**

The State and CAPS shall be prohibited from imposing or threatening to impose reprisals by discriminating or threatening to discriminate against employees, or otherwise interfering with, restraining, or coercing employees because of the exercise of their rights under the Dills Act or any right given by this Agreement. The principles of agency shall be liberally construed.

### **13.6 Supersession**

The following enumerated Government Code Sections and Education Code Sections and all existing rules, regulations, standards, practices and policies which implement the enumerated Government Code Sections and Education Code Sections are hereby incorporated into this Agreement. However, if any other provision of this Agreement alters or is in conflict with any of the Government Code Sections or Education Code Sections enumerated below, the Agreement shall be controlling and supersede said Government Code Sections or Education Code Sections or parts thereof and any rule, regulation, standard,

## CAPS AGREEMENT

practice or policy implementing such provisions. The Government Code Sections listed below are cited in Section 3517.6 of the Dills Act.

### A. Government Code Sections

#### 1. General

- 19824 Establishes monthly pay periods.
- 19839 Provides lump sum payment for unused vacation accrued or compensating time off upon separation.
- 19888 Specifies that service during an emergency is to be credited for vacation, sick leave and Merit Salary Adjustments (MSA).

#### 2. Step Increases

- 19829 Requires CalHR to establish minimum and maximum salaries with intermediate steps.
- 19832 Establishes annual MSAs for employees who meet standards of efficiency.
- 19834 Requires MSA payments to qualifying employees when funds are available.
- 19835 Provides employees with the right to cumulative adjustments for a period not to exceed two years when MSAs are denied due to lack of funds.
- 19836 Provides for hiring at above the minimum salary limit in specified instances.
- 19837 Authorizes rates above the maximum of the salary range when a person's position is downgraded. (Red Circle Rates)

#### 3. Holidays

- 19853 Establishes legal holidays.
- 19854 Provides for personal holiday.

#### 4. Vacations

- 19858.1 Defines amount earned and methods of accrual by full -time employees.
- 19856 Requires CalHR to establish rules regulating vacation accrual for part -time employees and those transferring from one State agency to another.
- 19856.1 Requires CalHR to define the effect of absence of 10 days or less on vacation accrual.
- 19863 Allows vacation use while on temporary disability

- (due to work -incurred injury) to augment paycheck.
- 19998.3 Requires CalHR to establish rules regarding vacation credit when employees have a break in service over six months.
- 19991.4 Provides that absence of an employee for a work -incurred compensable injury or disease is considered continuous service for the purpose of the right to vacation.
5. Sick Leave
- 19859 Defines amount earned and methods of accrual for full -time and part -time employees.
- 19861 Allows CalHR to define the effect on sick leave credits of absences of 10 days or less in any calendar month.
- 19862 Permits sick leave to be accumulated.
- 19863 Allows sick leave use while on temporary disability (due to work -incurred injury) to augment paycheck.
- 19863.1 Provides sick leave credit while employee is on industrial disability leave and prescribes how it may be used.
- 19864 Allows CalHR to provide by rule for sick leave without pay for employees who have used up their sick leave with pay.
- 19866 Provides sick leave accumulation for non-civil service employees.
- 19991.4 Provides that absence of an employee for a work -incurred compensable injury or disease is considered continuous service for the purpose of the right to sick leave.
6. Paid Leaves of Absence
- 19991.3 Jury duty.
- 19991.5 30 -day educational leave for the medical staff and medical technicians of the Veterans Home.
- 19991.7 Teachers' educational leave and earned credits subject to CalHR rule.
7. Uniforms, Work Clothes and Safety Equipment
- 19850 Definitions.

## CAPS AGREEMENT

- 19850.1 Provides for uniform allowances.
  - 19850.3 Requires CalHR to establish procedures to determine need for uniforms and the amount and frequency of uniform allowances.
  - 19850.4 Provides for work clothes for purposes of sanitation or cleanliness to be maintained and owned by the State.
  - 19850.5 Provides for initial issuance of required safety equipment at State expense.
8. Industrial Disability Leave (IDL)
- 19869 Defines who is covered.
  - 19870 Defines "IDL" and "full pay."
  - 19871 Provides terms of IDL coverage in lieu of workers' compensation temporary disability payment.
  - 19871.1 Provides for continued benefits while on IDL.
  - 19872 Prohibits payment of temporary disability or sick leave pay to employees on IDL.
  - 19873 Inapplicability of retraining and rehabilitation provisions of Labor Code to employees covered by IDL.
  - 19874 Allows employees to receive Workers' Compensation benefits after exhaustion of IDL benefits.
  - 19875 Requires three -day waiting period, unless hospitalized or disability more than 14 days.
  - 19876 Payments contingent on medical certification and vocational rehabilitation.
  - 19877 Authorizes CalHR to adopt rules governing IDL.
  - 19877.1 Sets effective date.
9. Non-industrial Disability Insurance (NDI)
- 19878 Definitions.
  - 19879 Sets the amount of benefits and duration of payment.
  - 19880 Sets standards and procedures.
  - 19880.1 Allows employee option to exhaust vacation prior to NDI.
  - 19881 Bans NDI coverage if employee is receiving unemployment compensation.

- 19882 Bans NDI coverage if employee is receiving other cash payment benefits.
- 19883 Provides for discretionary deductions from benefit check, including employer contributions; employee does not accrue sick leave or vacation credits or service credits for any other purpose.
- 19884 Filing procedures; determination and payment of benefits.
- 19885 Authorizes CalHR to establish rules governing NDI.

10. Life Insurance

- 21600 Establishes group term life insurance benefits.
- 21604 Provides for Death Benefit from PERS.
- 21605 Sets Death Benefit at \$5,000 plus 50 percent of one year's salary.

11. Health Insurance

- 22808 Provides for continuation of health plan coverage during leave of absence without pay.
- 22870 Provides for employee and employer contribution.
- 22871 Sets employer contribution.

12. Work Week

- 19851 Sets 40 -hour work week and 8 -hour day.
- 19843 Directs CalHR to establish and adjust Work Week Groups.

13. Overtime

- 19844 Directs CalHR to establish rules regarding cash compensation and compensating time off.
- 19848 Permits the granting of compensating time off in lieu of cash compensation within 12 calendar months after overtime worked.
- 19849 Requires CalHR to adopt rules governing overtime and the appointing power to administer and enforce them.
- 19863 Allows use of accumulated compensable over-time while on temporary disability (due to work -incurred injury) to augment paycheck.

## CAPS AGREEMENT

### 14. Callback Time

19849.1 Allows CalHR to set rules and standards for callback time based on prevailing practices and the needs of State service.

### 15. Deferred Compensation

19993 Allows employees to deduct a portion of their salary to participate in a deferred compensation plan.

### 16. Relocation Expenses

19841 Provides relocation expenses for involuntary transfer or promotion requiring a change in residence.

### 17. Travel Expenses

19820 Provides reimbursement of travel expenses for officers and employees of the State on State business.

19822 Provides reimbursement to State for housing, maintenance and other services provided to employees.

### 18. Unpaid Leaves of Absence

19991.1 Allows the appointing power to grant a one -year leave of absence; assures the employee a right of return.

19991.2 Allows the appointing power to grant a two -year leave for service in a technical cooperation program.

19991.4 Provides that absence of an employee for work -incurred compensable injury or disease is considered as continuous service for purposes of salary adjustments, sick leave, vacation or seniority.

19991.6 Provides one year of pregnancy leave or less as required by a permanent female employee.

### 19. Performance Reports

19992 Provides for establishment of performance standards by State agencies.

19992.1 Provides for a system of performance reports and allows CalHR to enforce adherence to appropriate standards.

19992.2 Requires the appointing power to prepare

performance reports and show them to the employee.

- 19992.3 Requires performance reports to be considered in salary increases and decreases, layoffs, transfers, demotions, dismissals and promotional examinations as prescribed by CalHR rule.
- 19992.4 Allows CalHR to establish rules leading to reduction in class and compensation or dismissal for unsatisfactory service.

## 20. Involuntary Transfers

- 19841 Provides relocation expenses for involuntary transfer or promotion requiring a change in residence.
- 19994.1 Authorizes involuntary transfers. Requires 60-day prior written notice when transfer requires change in residence.
- 19994.2 Allows seniority to be considered when two or more employees are in a class affected by involuntary transfers which require a change in residence.

## 21. Demotion and Layoff

- 19997.2 Provides for subdivisional layoffs in a State agency subject to CalHR approval. Subdivisional reemployment lists take priority over others.
- 19997.3 Requires layoffs according to seniority in a class, except for certain classes in which employee efficiency is combined with seniority to determine order of layoff.
- 19997.8 Allows demotion in lieu of layoff.
- 19997.9 Provides for salary at maximum step on displacement by another employee's demotion, provided such salary does not exceed salary received when demoted.
- 19997.10 An employee displaced by an employee with return rights may demote in lieu of layoff.
- 19997.11 Establishes reemployment lists for laid -off or demoted employees.
- 19997.12 Guarantees same step of salary range upon recertification after layoff or demotion.
- 19997.13 Requires 30 -day written notice prior to layoff and



## CAPS AGREEMENT

- not more than 60 days after seniority is computed.
- 19998 Employees affected by layoff due to management-initiated changes should receive assistance in finding other placement in State service.

### 22. Incompatible Activities

- 19990 Requires each appointment power to deter mine activities which are incompatible, in conflict with, or inimical to their employees' duties; provides for identification of and prohibits such activities.

### 23. Use of State Time

- 19991 Provides State time for taking civil service examinations including employment interviews for eligibles on employment lists, or attending a meeting of CalHR or SPB on certain matters.

### 24. Training

- 19995.2 Provides for counseling and training programs for employees whose positions are to be eliminated by automation, technological or management-initiated changes.
- 19995.3 Provides for Department of Rehabilitation to retrain and refer disabled State employees to positions in State service.

- B. Applicable Education Codes  
Part 43, Section 70000, et al.  
Part 32, Section 59000, et al.

## 13.7 Non-Discrimination

A. The State and CAPS agree that neither party will discriminate against any employee on the basis of age, sex, race, religious creed, color, national origin, ancestry, marital status, physical handicap, or sexual orientation, and agree to take such action as necessary to assure that this purpose is achieved.

B. Alleged violations of this Section shall not be grievable under the grievance procedure contained in Article 9 of this Agreement.

### **13.8 Sexual Harassment**

A. The State and CAPS agree that no employee shall be subject to sexual harassment and agree to take such actions as necessary to assure that this purpose is achieved. In this spirit, the State agrees to post a statement of this commitment to this principle in all work sites.

B. Complaints alleging harassment shall not be grievable under the grievance procedure contained in Article 9 of this Agreement.

C. If the complaint is resolved in favor of the employee and the employee feels he/she is unable to return to his/her current job assignment, the State shall give consideration to transferring the employee to an equivalent position at the same salary and class, in the same location if a vacancy exists.

### **13.9 State-Owned Housing Rental and Utility Rates**

#### **A. Rent**

Effective July 1, 1992 and annually thereafter for the duration of this contract, current rental rates for all types of State-owned employee housing, including trailers and/or trailer pads, may be increased by the State with 60-day notice as follows:

1. Where employees are currently occupying State-owned housing, the State may raise such rates paid by employees up to 25 percent each year, not to exceed fair market value.

2. During the term of this contract, where no rent is being charged, the State may raise rents up to \$75.00 per month or when an employee vacates State -owned housing, including trailers and/or trailer pads, the State may raise rents for such housing up to the fair market value.

3. Employee rental of State housing shall not ordinarily be a condition of employment. In any instance after July 1, 1992, and annually thereafter, when the rental of State housing is made a condition of employment, the State may charge the employee 10 percent less than the regular rate of rent.

4. Employees renting State-owned housing occupy them at the discretion of the State employer. If the State decides to vacate a State -owned housing unit currently occupied by a State employee, it shall give the employee a minimum of 30 days' advance notice.

#### **B. Utilities**

Effective July 1, 1992, and annually thereafter, current utility

## *CAPS AGREEMENT*

charges for all types of State -owned employee housing, including trailers and/or trailer pads, may be increased by the State as follows:

1. Where employees are currently paying utility rates to the State, the State may raise such rates up to eight (8) percent each year.
2. Where no utilities are being charged, the State may impose such charges consistent with its costs.
3. Where utilities are individually metered to State-owned housing units, the employee shall assume all responsibility for payment of such utility rates, and any increases imposed by the utility company.

## **ARTICLE 14 – HEALTH AND SAFETY**

### **14.1 Health and Safety Committees**

A. The parties agree that Joint CAPS/Management Health and Safety Committees are appropriate in many areas of State employment. At CAPS request, each department shall establish at least one Joint CAPS/Management Health and Safety Committee. Additional Joint CAPS/Management Health and Safety Committees may be established as appropriate for the larger departments.

B. Joint CAPS/Management Health and Safety Committees may consist of no more than one representative in the area served by each Joint CAPS/Management Health and Safety Committee. The State may appoint an equal number of State representatives.

C. The Committee shall meet at least quarterly for the purpose of discussing safety problems and recommending appropriate actions, making recommendations from time to time on the subjects of safety, safety promotion, and how to encourage employees to be more conscious of safety.

D. Employees appointed to serve on the Committee shall serve without loss of compensation.

E. When an employee in good faith believes that he/she is being required to work where a clear and present danger exists, he/she will so notify his/her supervisor. The supervisor will immediately investigate the situation and either direct the employee to temporarily perform some other task or proclaim the situation safe and direct the employee to proceed with his/her assigned duties. If CAPS or the employee still believes the unsafe condition exists, CAPS or the employee may file a grievance alleging a violation of this Section at Step 2 of the grievance procedure contained in Article 9.