

CAPS Counter Proposal

Side Letter of Agreement between California Association of Professional Scientists and the State of California

BU 10

October 14, 2020

Contact Tracing Side Letter of Agreement between California Association of Professional Scientists and the State of California

CAPS and the State enter into this Side Letter Agreement to recognize the importance of contact tracing including in slowing the spread of SARS-Cov-2, which causes COVID-19, and the impact contact tracing assignments have on State Scientists. This Side Letter is intended to inform State Scientists of some additional rights surrounding these assignments. This Side Letter is effective upon ratification by the parties and continues until June 30, 2022.

With respect to contact tracing for all departments, the Union and the State do hereby agree as follows:

1. The parties agree to the additional information regarding contact tracing redirection and assignments, attached hereto as Section 19.13 (new).
2. The parties agree upon the increase to Pay Differential 14 (Bilingual Pay Differential) for Unit 10 to recognize the importance of contact tracing assignments and the need for bilingual employees, in general. The components of which are attached in Article 2, Salaries, as Section 2.4.

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Article: 19.13 (new)

Subject: COVID-19 Contact Tracing Redirection

CONTACT TRACING ASSIGNMENTS

1. Duty Statements

California Department of Public Health (CDPH) shall provide the name, classification and originating department for all Unit 10 state scientists assigned to the COVID-19 Contact Tracing Program, including copies of all duty statements and any updates, to CAPS within thirty (30) days of creation/update.

2. Return Rights to Original Assignment

Employees selected for contact tracing assignments shall be returned to their original assignment at the conclusion of their contact tracing assignment. An employee may request to end or suspend their contact tracing assignment and return to their original assignment; however, the request will only be considered for the following reasons:

- a. Medical needs/caregiver needs of the employee or employee's grandparent, parent, parent-in-law, spouse, domestic partner that has been defined and certified with the Secretary of State's office in accordance with Family Code Section 297, grandchild, child, sibling, or any person residing in the immediate household when an accommodation cannot be made on the contact tracing assignment;
- b. To accommodate employees who have children distance learning when an accommodation cannot be made on the contact tracing assignment; or
- c. The contact tracing supervisor and/or the contact tracer believes the contact tracing assignment is not a good fit and should end.

Requests made before being assigned to a local health agency shall be sent to the employee's originating department. Requests made after being assigned to a local health agency shall be sent to CDPH.

Requests shall receive a response within ten (10) working days, and if denied, shall be in writing stating the reason for the denial. If the employee disagrees with the decision for the reasons above, the employee may file a grievance as described in the Resolution Process below.

It shall not be a negative reflection for the employees who are returned to the original assignment.

3. Refresher Training

Upon request, and with contact tracing supervisor's concurrence, an employee on a contact tracing assignment shall be allowed to retake any portion of training.

4. State Equipment

Upon request, the State shall provide equipment that is necessary for the contact tracing assignment.

While on contact tracing assignment, employees will be subject to their original department's policy regarding use of state equipment and CDPH's policy for contact tracing software programs.

5. Ergonomic Evaluations

Upon request, an employee selected for contact tracing shall be given an ergonomic evaluation of their designated work station.

6. Performance Appraisal

Upon request, an employee shall be given a performance appraisal by CDPH upon completion of their contact tracing assignment, regardless of the length of the contact tracing assignment.

7. Continuation of Accruals

Employees on contact tracing assignments shall continue to accrue departmental seniority. Assignment as a contact tracer will not impact State employee salary, benefits, or service credits.

8. No Additional Work from Originating Department

Notwithstanding minor and incidental communication, once assigned to a local health agency, employees shall not be responsible for any duties from their originating department nor shall their duties unduly burden other Unit 10 colleagues within their originating department programs.

9. No Loss of Compensation

Except for PLP 2020, no employee on contact tracing assignment shall suffer any financial loss due to their selection for contact tracing duties, including but not limited to, loss of any differential, bonus, incentive, or commission.

10. Bilingual Pay Differential for Contract Tracing Assignments

Those employees assigned to CDPH's Contact Tracing Program will be eligible for the monthly Bilingual Pay differential (PD 14) in accordance with the following criteria:

- a. CDPH identifies a need for bilingual skills.
- b. An employee self-certifies that they are proficient in conversational language.

- c. Upon CDPH approval, the bilingual skills can be utilized by the employee (without testing).
- d. CDPH will provide sufficient documentation to the original department of the employee to process the pay.
- e. If CDPH receives complaints about the proficiency of the bilingual skills being utilized, CDPH can determine if the employee continues in the bilingual role or tests the employee (through CDPH's regular bilingual testing process).
 - i. The employee will continue to receive the pay differential throughout the testing process if CDPH requires the use of the skill.
 - ii. If employee does not pass the test, the bilingual pay will immediately cease.
- f. If CDPH no longer needs the bilingual skills, the employee will be provided a 14-calendar day notice that the bilingual skills will be discontinued with the beginning of the next pay period.
- g. For existing Contact Tracing employees as of the date of this agreement, this provision is retroactive to July 1, 2020. Employees who have been utilizing their bilingual skills, and CDPH has authorized the use of those skills, upon receipt of the self-certification, the employee will be approved for retroactive payment. CDPH will coordinate the bilingual approval and payment activity with the original department.
- h. Employees assigned contact tracing duties after this agreement takes effect shall be eligible for bilingual pay in accordance with the criteria above and retroactive pay may not exceed 30 calendar days from date of self-certification and management approval.

11. Duration of Contact Tracing Assignment

Employee assignments to the Contact Tracing Program shall not exceed nine (9) months, unless otherwise approved in writing by the employee and their originating department.

12. Resolution Process

Any grievances concerning the terms of this Side Letter shall be initiated at the department level and addressed to the CDPH Labor Relations Office, in accordance with Article 9.

Upon request of either party, the Union and the State agree to meet within thirty (30) calendar days to resolve any additional issues arising out of the Contact Tracing Program.

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ARTICLE 2 – SALARIES

2.4 Bilingual Differential Pay

Bilingual Differential Pay applies to those positions designated by the employing agency as eligible to receive bilingual pay according both to its Exceptional Allocation Delegation Agreement with the Department of Human Resources and to the following standards:

A. Definition of Bilingual Position for Bilingual Differential Pay

1. A bilingual position for salary differential purposes requires the use of a bilingual skill on a continuing basis averaging ten percent (10%) of the time. Anyone using their bilingual skills ten percent (10%) or more of the time will be eligible whether they are using them in a conversational, interpretation, or translation setting. In order to receive bilingual differential pay, the employee must be certified under the authority of the Department of Human Resources as a qualified bilingual employee, and the position must be designated bilingual by the employing agency. (Estimated time spent on bilingual activities should be based on the average during a given fiscal year.)

The position must be in a work setting that requires the use of bilingual skills to meet the needs of the public in either:

- a. A direct public contact position;
 - b. A hospital or institutional setting dealing with patient or inmate needs;
 - c. An educational facility dealing with student needs;
 - d. A position utilized to perform interpretation, translation or specialized bilingual activities for the department and its clients.
2. Position(s) must be in a setting where there is a demonstrated client or correspondence flow where bilingual skills are clearly needed.
 3. Actual time spent conversing or interpreting in a second language and closely related activities performed directly in conjunction with the specific bilingual transaction will count toward the ten percent (10%) standard.

B. Rate:

1. An employee meeting the bilingual differential pay criteria during the entire monthly pay period would receive a maximum \$1200.00 per monthly pay period, including holidays.
2. A monthly employee, meeting the bilingual differential pay criteria less than the entire pay period, would receive the differential on a pro rata basis. Where use of bilingual skill is necessary to comply with Federal regulations to implement Title VI of the Civil Rights Act of

1964, neither advanced Bilingual Position designation nor meeting the 10% usage standard is required for pro rata bilingual differential compensation so long as the employee has been certified bilingual.

3. A fractional-month employee, meeting the bilingual differential pay criteria, would receive the differential on a pro rata basis.
 4. An employee paid by the hour, meeting the bilingual differential pay criteria, would receive a differential of ~~58 cents~~ \$1.15 per hour.
 5. An employee paid by the day, meeting the bilingual differential pay criteria, would receive a differential of ~~\$4.61~~ \$9.22 per day.
- C. Employees, regardless of the time base or tenure, who use their bilingual skills more than ten percent (10%) of the time on a continuing basis and are approved by the employing agency will receive the bilingual differential pay on a regular basis.
- D. Bilingual differential payments will become earnings and subject to contributions to the State Retirement System, OASDI, levies, garnishments, Federal and State taxes.
- E. Employees working in positions which qualify for regular bilingual differential pay as authorized by the employing agency may receive the appropriate pay during periods of paid time off and absences (e.g., sick leave, vacation, annual leave, holidays, etc.)
- F. Employees will be eligible to receive the bilingual differential payments on the date the employing agency approves the pay request. The effective date shall be retroactive to the date of appointment, not to exceed one (1) year, and may be retroactive up to two (2) years, to a position requiring bilingual skills when the appointment documentation has been delayed. The effective date for bilingual pay differential shall coincide with the date qualified employees begin using their bilingual skills on a continuing basis averaging (10%) of the time, consistent with the other provisions of this section.
- G. Bilingual salary payments will be included in the calculation of lump sum vacation, sick leave and extra hour payments to employees terminating their State service appointment while on bilingual status.
- H. Employees will not receive bilingual salary compensation for overtime hours worked, except upon separation from State service, regardless of total hours during the pay period. Agencies may not include bilingual salary compensation when computing overtime rates.
- I. Employees receiving regular bilingual differential pay will have their transfer rights determined from the maximum step of the salary range for their class. Incumbents receiving bilingual pay will have the same transfer opportunities that other class incumbents are provided.
- J. The bilingual differential pay shall be included in the rate used to calculate temporary disability; industrial disability and non-industrial disability leave benefits.