

**COLLECTIVE BARGAINING
AGREEMENT**

between

Navajo Nation Department of Head Start

and

**International Union,
United Mine Workers of America**

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Article 1
Parties to the Agreement

This Agreement is hereby made and entered into on this ____ day of _____, _____, between the Navajo Nation, on behalf of Department of Head Start (hereinafter referred to as “Department of Head Start” or “Employer”), and the International Union, United Mine Workers of America (hereinafter referred to as the “Union”), on behalf of those eligible Executive Branch employees detailed in Article 2 of this Agreement.

Article 2
Recognition

The Employer agrees to recognize the Union as the sole collective bargaining agent with respect to wages, hours, and other terms and conditions of employment for the bargaining unit of the regular status full-time employees of Navajo Head Start. The job classifications included in the bargaining unit will be posted on the Department of Personnel Management website.

All other employees, including managers and supervisors, temporary and seasonal employees and probationary employees and other employees in confidential positions, are expressly excluded, unless such employees are deemed bargaining unit employees by mutual agreement of the parties or by accretion.

The Employer and the Union agree that Head Start has become a part of the Department of Diné Education (“DODE”) such that DODE is bound by this Agreement, provided that Head Start remains a part of DODE.

Article 3
Effect of Laws and Policies

Section A. Conflict Between Laws and Agreement. The parties agree that this Agreement shall be in full conformance with the Navajo Preference in Employment Act (“NPEA”) and that the parties will strictly abide by all requirements of the NPEA. The parties further agree that if a conflict exists between Navajo Nation laws and this Agreement, Navajo Nation laws shall prevail.

Section B. Conflict Between Policies and Agreement. The parties agree that if a conflict exists between the Navajo Nation Personnel Policies Manual, its procedures, and any amendments thereto and this Agreement, this Agreement shall prevail. However, the parties also agree that, except as expressly limited or abridged by this Agreement, the Navajo Nation Personnel Policies Manual shall remain in full force and effect.

Section C. Navajo Nation Sovereign Immunity. In accordance with the Navajo Sovereign Immunity Act, and with respect to 2 N.N.C. § 223, nothing herein shall be construed as a waiver of the Navajo Nation's sovereign immunity from suit.

Article 4
Severability

In the event that a decision of a court of competent jurisdiction or legislative enactment subsequent to the effective date of this Agreement shall have the effect of invalidating or voiding any provision of this Agreement, the Employer and the Union agree to meet solely for the purpose of negotiating with respect to the matters covered by the provision which may have been so declared or rendered invalid or void. However, the parties to this Agreement agree that such judicial decision or legislative enactment shall not affect or invalidate the entire Agreement, and that it is the express intention of the parties that all other provisions, not so declared or rendered invalid or void, shall remain in full force and effect.

Article 5
Union Rights

1. Designation of Committees. The Employer agrees that the Union may designate certain members elected from the bargaining unit for Health and Safety and Grievance Committees. The Union shall notify the Employer, in writing, of the names of all elected committee members and any changes to such committee members in a timely manner.

2. Time Spent on Committee Activities. With the exception of mutually agreed upon meetings with management, an employee must give reasonable prior notification of at least two (2) working days before spending time on any committee activity. Permission to engage in such committee activity shall not be withheld unreasonably. No Navajo Nation or federal government vehicles shall be used for committee activities or local union meetings. Committee members may participate virtually in committee meetings and activities.

3. Grievance Committee.

(1) The parties agree that a Grievance Committee shall exist per this Agreement and the Union will provide a list of bargaining unit members of the Grievance Committee. The authority of the Grievance Committee members elected by the bargaining unit shall be limited to the following duties and activities:

- (a) The processing of grievances in accordance with the provisions of this Agreement, the Navajo Preference in Employment Act and the Navajo Privacy Act; and
- (b) If requested by an employee, the right to be present at and represent, consistent with the provisions of Article 22 of this Agreement, an

employee at an investigatory interview that the employee reasonably believes may result in disciplinary action being taken against him or her.

(2) Grievance Committee members shall make best efforts to communicate with bargaining unit employees regarding the processing of grievances on non-work time and in non-work areas. In no event will discussions be held with bargaining unit employees on actual work time for more than thirty (30) minutes in any one (1) day unless additional time is required to reach a possible settlement and authorized by both the Grievance Committee members and the employee's supervisor or his or her designee.

(3) Should it become necessary for a committee member to confer with unit employees on work time and/or in work areas for the purposes set forth in this Article or to attend meetings with the Employer's representatives which occur during the committee member's work time, the committee member and employee will do so without loss of time or pay. Committee members may not interfere with or interrupt the Employer's operations.

(4) The Grievance Committee may obtain relevant information for processing grievances from the Employer during regular business hours. Any time spent by a committee member in such information gathering will be without pay. Any requested information regarding the grievant employee that is covered by the Navajo Privacy Act will be released either (a) directly to the grievant employee; or (b) to the Grievance Committee, provided that the grievant employee signs a release waiving all claims against the Employer and Navajo Nation related to such disclosure.

4. Health and Safety Committee. The parties agree that a Health and Safety Committee shall exist per this Agreement. The composition and authority of such Health and Safety Committee shall be limited to, and shall not exceed, that detailed in the Health and Safety Article of this Agreement.

5. Access. International or Local Representative(s) of the Union shall have access to the Employer's premises at times mutually agreed upon by the Employer or Union for the purpose of (1) attending meetings with the Employer as provided under this Agreement and/or employees as provided under this Agreement; (2) conferring with management about the terms and conditions of this Agreement; (3) processing grievances; or (4) ensuring compliance with this Agreement. The Union's authorized representative(s) shall, upon arrival and departure, identify himself or herself to the Employer's designated representative.

Upon reasonable advance notice to the relevant program manager, a candidate for Union office may campaign during employees' non-working hours and in the Employer's non-working areas.

The Employer further agrees to provide space, upon mutual agreement and if available, during non-working hours for the purpose of Union meetings solely related to explaining and ratifying this collective bargaining agreement. With respect to such use, (1) the Union agrees to accept all liability and that each Union employee will sign a liability waiver to that effect; and (2)

the Union agrees otherwise to maintain the premises in good condition, clean all areas thoroughly and provide adequate security for the safety of the occupants and the property.

Any visit by the Union's authorized representative(s), and the manner in which such authorized representative(s) conduct themselves during such visit, shall not interfere with the Employer's operations and/or premises.

6. Bulletin Boards. The Employer will provide the Union with space on a bulletin board in each District office and limited space (no more than one notice at a time) at each Department office that has a bulletin board. Such bulletin board space shall be used by the Union for posting notices related to official Union business and meetings. Such bulletin board space will be used only for official Union business and will not be used for personal notices of any nature. Should any posting on such bulletin board violate this Section, the posting will be removed by the Employer.

7. Orientation of New Employees. The Employer agrees to inform all new employees within the bargaining unit of the Union's position as the exclusive representative for all bargaining unit employees.

8. Leaves of Absence.

(1) Employees who have an official request from the International Union of the United Mine Workers of America that they be permitted to take a temporary position with the Union (that may lead to a permanent Union appointment) shall be granted leave and allowed to return to work in the same job classification and rate of pay, should such appointment with the Union not occur within the first three (3) months of the employee's absence. The Union agrees that it shall not make such a request for more than three (3) employees per term year, and that none of the employees shall hold a position with the same District.

(2) Permanent Union appointees and those employees who are elected to international office shall be granted leaves not to exceed their respective terms of office or appointment. Permanent Union appointees and those employees who are elected to international office shall retain their seniority and accrue seniority with the Employer while they are on such leave. Upon expiration of such leave, the Employer shall notify the employee of all vacant positions within the corresponding bargaining unit as defined in Article II of this Agreement. Upon such notification, the employee and Employer will meet to determine those positions for which the employee is qualified, and the employee may select and will be offered one of those positions without regard to such employee's seniority. If the employee does not accept a position with the Employer within one (1) year of the end of his or her employment with the Union, the Employer shall have no further obligations under this Section, and the employee's employment shall be deemed terminated.

(3) Employees desiring to take other Union leave of no more than two (2) weeks in duration shall provide as much advance notice as possible and shall indicate the purpose of such leave to their supervisor. Permission to take such leave shall not be withheld unreasonably, but under no circumstances will an employee's request for time off under this subsection be granted if the employee's absence would adversely affect the District's daily operations.

(4) No more than five (5) bargaining unit members (one (1) per District) shall represent the bargaining unit members in collective bargaining. Employees desiring to take leave for the purpose of collective bargaining shall provide as much advance notice as possible regarding each expected absence and shall indicate the purpose of such leave to their supervisor. Permission to take such leave shall not be withheld unreasonably, but under no circumstances will an employee's request for time off under this subsection be granted if the employee's absence would adversely affect any District's daily operations.

9. Any leave of absence under this Section will be unpaid except for such portion of the leave that the employee takes as paid leave through his or her accrued annual leave.

Article 6 **Management Rights**

Section A. All rights and prerogatives of management, whether exercised before or after the execution of this Agreement, and regardless of the frequency or infrequency of their exercise or the manner in which they are exercised, are retained by the Employer, and the management of the Employer's facilities and the direction of the workforce are vested exclusively in the Employer. Except as limited by specific provisions of this Agreement, the Employer shall continue to have all sole and exclusive rights customarily reserved to management, including: the right to maintain order, discipline and efficiency; the right to make, initiate, alter, and enforce employee work rules, regulations, policies, and practices; the right to select, hire, assign, train, retain, direct, promote, discipline, and discharge employees; the right to transfer, classify, reclassify, layoff, recall, replace, and retrain employees; the right to subcontract; the right to introduce new and or eliminate or change existing equipment, machinery, services, or processes; the right to make studies of workloads and institute changes in workloads and job assignments; the right to plan, schedule, direct, and control operations and productivity; the right to determine the services, educational or otherwise, to be provided; the right to determine the location, relocation and extent of the Employer's operations and their commencement, expansion, curtailment, or discontinuance, in whole or in part; the right to sell, lease or otherwise dispose of all or any part of the Employer's facilities and or equipment; the right to determine the number and qualifications of employees needed by the Employer at any time and the number of employees who shall operate at any given center or location; the right to maintain and establish standards of quality to be maintained; and all governance and management responsibilities listed in 45 C.F.R. § 1304.50, Appendix A.

Section B. It is specifically agreed that any of the rights, powers, or authority vested in the Employer prior to the signing of any union agreement are retained by the Employer, except those specifically abridged or modified by the express terms of this Agreement.

Article 7
Labor/Management Meetings

Section A. In the interest of sound labor/management relations, unless mutually agreed otherwise, quarterly meetings for this Agreement will be held on a mutually agreeable day and time. No more than four (4) authorized representatives of the Employer will meet with no more than three (3) representatives of the Local and one (1) representative from the International Union to discuss those matters addressed in this Article. Additional representatives may attend by mutual agreement of the parties. Such meetings will not exceed two (2) hours in length, unless otherwise agreed upon by the parties.

Section B. The parties will exchange agendas at least three (3) working days in advance of each scheduled meeting with a list of the matters to be taken up in the meeting. Should matters outside the agendas be raised at a meeting, the responding party shall be given a reasonable amount of time to respond. The parties further agree to provide the names of those representatives who will be attending at least three (3) working days before the meeting.

Section C. The purpose of such meetings shall be to (1) discuss the administration of this Agreement; (2) discuss issues that the Employer or the Union may raise; (3) disseminate and/or discuss general information of interest to the parties; and (4) at the Employer's sole discretion, notify the Union of changes made or anticipated changes to be made by the Employer which may affect the bargaining unit members. The Employer will bear no additional obligations as a result of such meetings.

Section D. Either party may request a special labor/management meeting by submitting a request in writing to the other party indicating the issue(s) to be discussed. If a special labor/management meeting has been requested and mutually agreed upon, such meeting shall be convened as soon as feasible. Union employee representatives shall not suffer any loss of pay during attendance at such meetings.

Article 8
Check-Off/Union Security

Section A. Check-Off. Upon receipt of a written check-off authorization form signed by an employee covered by this Agreement who is a Union member, the Employer shall deduct from the employee's wages each payday while on payroll, starting not earlier than the first pay period following the completion of the employee's introductory period, and remit to the designated Officer of the Union or his or her designee, on a biweekly basis, the regular monthly dues, as certified to the Employer by the Union's designated Officer or his or her designee to be due and owing. Such remittances shall be accompanied by an itemized statement showing the name of each employee, his or her Address Book Number, and the total amount checked off for dues.

Section B. Authorization Forms. The authorizations for the deductions set forth in this Article will be on forms supplied by the Union. The Union will be responsible for obtaining the signatures of the employees on the deduction forms. The Union agrees that such forms will at all times comply with applicable provisions of Navajo Nation law and the current Constitution and

By-laws of the Union. Upon presentation to the Employer of such authorizations and in accordance with Section A, above, the Employer shall make deductions so authorized and deliver the same to the designated Officer of the Union or to such authorized representatives as may be designated by the Union.

Section C. Indemnification and Hold Harmless. The Union shall indemnify and hold the Navajo Nation harmless from and against any and all claims that may arise out of complying with any of the provisions of this Article.

Section D. Union Representation. You must be a member of the Union to be represented by the Union. If you elect not to be a member, the Union cannot represent you either as an individual or in a group.

Section E. Dues and Fees. Monthly dues for Union Members are twelve (\$12) dollars per pay period. There is a ten (\$10) COMPAC assessment once per year.

Article 9 **Non-Discrimination**

Section A. The Employer and the Union agree that there will be no discrimination with respect to any employee as provided in the Navajo Preference in Employment Act and the related provisions set forth in the Navajo Nation Personnel Policies Manual.

Section B. Whenever the masculine gender is used in this Agreement, it shall be understood to include the feminine gender as well, and vice-versa.

Article 10 **Personnel Files**

Section A. Employees are encouraged to keep their personnel file current by submitting to the Navajo Head Start Human Resources Section updated information on their name, address, telephone number, experience, education, and training.

Section B. All employees within the bargaining unit will have the right, upon written request, to review the contents of their personnel files at Department of Personnel Management or Head Start Human Resources Section. The employee must provide evidence of his identity, and such review will take place in the presence of the Human Resources Director of the Department of Personnel Management or the Head Start Human Resources Manager or their authorized representative(s). All employees will have the right to submit a statement concerning any material in the employee's file, and such statement will become part of the employee's personnel file. An employee's personnel file shall not contain adverse records unrelated to employment, unless the employee requests that such records be included in their file. No adverse material related to employment shall be placed in the personnel file without notification to the employee or an opportunity for the employee to read the material and so indicate by signing the material to be

placed in the employee's file. The employee will have the right to respond to any material so filed, and the employee's response shall become part of the employee's personnel file.

Section C. If an employee is disciplined and subsequently, through use of the Grievance and Arbitration Procedure Article of this Agreement, is exonerated and the disciplinary action is rescinded, all material pertaining to the disciplinary action shall be removed from the employee's personnel file.

Article 11 Classification/Temporary Assignments

Section A. Working in Job Classification. An employee shall normally be assigned to duties customarily involved with his or her regular classified position but may be assigned tasks of a temporary nature on an as-needed basis as provided in Section B, below.

Section B. Temporary Assignments. Any employee assigned to a position other than his or her regular position must be approved for such temporary assignment by his or her immediate supervisor prior to commencing work on such assignment. Reasonable efforts will be made to minimize to the extent practicable the amount of temporary assignments of particular individuals to other positions. No temporary assignment to a position of higher than first step regular pay rate will be of longer duration than thirty (30) days without the express written approval of the NHS Assistant Superintendent. If the employee works in the temporary assignment for more than thirty (30) days, the employee shall be compensated for the entire duration of the temporary assignment at the higher of his or her regular pay rate or the first step of the assigned grade for the position to which he or she is temporarily assigned.

If an employee expresses a desire to gain experience in the duties of a certain position or improve his or her ability to work in a position to which he or she wishes to be promoted, such interest shall be given consideration in filling a position on a temporary basis, assuming such employee has the minimum qualifications to perform the position in question. If more than one employee expresses interest in the same position and the Employer determines that the employees are equally qualified, the seniority of the employees shall be the determining factor.

Section C. Acting Supervisor. Acting Supervisor position to be detailed as far as scope of duties and responsibilities. In any case an employee who serves as an acting supervisor for a period of one hundred and eighty (180) calendar days shall give up his/her position in the bargaining unit.

Section D. Protection Against Discrimination. The Employer shall not make a temporary assignment for the purpose of disciplining or discriminating against an employee.

Article 12

Performance Of Bargaining Unit Work By Non-Bargaining Unit Personnel

Section A. The parties agree that work normally assigned to bargaining unit employees will not be performed by employees outside the bargaining unit, except in instances involving: (1) the necessary instruction or training of employees; (2) assistance to employees in situations involving a potential safety hazard or property damage; (3) situations in which available personnel are not capable of performing the required work; and (4) emergency situations. Emergency situations shall include, but not be limited to, coverage for an employee's unanticipated absence (for whatever reason) or any unforeseen situation in which assistance is needed to comply with the mandates imposed upon the Employer.

The parties agree that supervisory and management personnel may perform bargaining unit work under the circumstances listed in the first paragraph of this Section but may not perform the duties of the employees covered under this Agreement in order to avoid the employment of additional full-time bargaining unit personnel. The Union agrees that the provision of Executive Branch services, and all tasks related thereto, fall within the circumstances listed in the first paragraph of this Section.

Section B. Temporary and Casual Employees and Interns. The Employer shall, in its discretion, have the right to hire temporary and casual employees and interns pursuant to the Navajo Nation Personnel Policies Manual to perform a specific project or coverage assignment for a definitive period of time. Such period of time may be from the date upon which such employee or intern begins work in a specific position to the date upon which a regular status employee is hired for the position.

Temporary and casual employees and interns will not be considered bargaining unit personnel or covered under any provision of this Agreement. At any time during the period of such employee's or intern's employment, the Employer may lay off, discipline, or discharge such employee or intern. Such actions by the Employer shall not constitute a violation(s) of this Agreement and shall not be subject to the Grievance and Arbitration Procedure Article of this Agreement. Further, the decision to use such employees and/or interns and/or the effects of the Employer's decision to use such employees and/or interns under this Article shall not be subject to the Grievance and Arbitration Procedure Article of this Agreement.

Section C. Volunteers. Volunteers, including, but not limited to, representatives of community, interdepartmental and intergovernmental agencies, provide services that may or may not include bargaining unit work for the Employer on a compensated and non-compensated basis. Their participation in the Employer's programs and functions shall not be affected by this Article, nor shall their participation be deemed a violation of this Article.

Section D. Subcontracting. The Employer shall have the right to subcontract so long as the work being subcontracted is not (1) the primary function presently being performed by the collective bargaining unit personnel or involving the primary subject matter of the bargaining unit personnel's work; or (2) during the term of this Agreement, hereafter assigned to be the primary function performed by collective bargaining unit personnel or involving the primary subject matter of the bargaining unit personnel's work. The Employer may not subcontract work in any

classification if any employee who normally performs such work is on layoff. The parties understand and agree that "layoff" for purposes of this Agreement does not include those employees on furlough. The decision to subcontract and/or the effects of the Employer's decision to subcontract under this Article shall not constitute a violation(s) of this Article and shall not be reviewable under the Grievance and Arbitration Procedure Article of this Agreement.

Section E. The parties agree that temporary and casual employees, interns, and volunteers may perform bargaining unit work but may not perform the duties of the employees covered under this Agreement for the purpose of reducing the size of the bargaining unit or avoiding the employment of additional full-time bargaining unit personnel.

Article 13

Seniority, Layoff, Recall, and Job Vacancies

Section A. Definition of Seniority. The term "seniority" as used in this Article and Agreement has the same meaning and application as the phrase "length of continuous service." For purposes of this Agreement, calculation of continuous service shall begin from the date of first employment with Head Start or re-employment with Head Start (i.e., following a break of continuous service) in a bargaining unit position, provided the employee successfully completes his introductory period with Head Start. Subject to Section B, below, if re-employment occurs following a break of continuous service due to a layoff: calculation of the employee's seniority shall not be affected if the period of layoff is two (2) years or less.

The calculation of seniority under this Article is not affected by periods of furlough or layoff, except as noted above. Seniority with Head Start shall in no way affect an employee's total years of service with the Navajo Nation as a whole.

Section B. Termination of Seniority. An employee's seniority shall be terminated and his rights under this Article and Agreement forfeited for the following reasons:

1. Resignation by the employee, job abandonment, retirement or termination for just cause by the Employer, unless otherwise agreed upon by the Union and the Employer or ordered by an arbitrator pursuant to the Grievance and Arbitration Procedure Article of this Agreement;
2. The employee's rejection of a position listed on his layoff form, failure to give notice of intent to return to work after recall from layoff within the time period specified in this Article, or failure to return to work on the date specified for recall, as set forth in the written notice of recall; or
3. Acceptance of a non-bargaining unit position with the Employer for a period of more than three (3) consecutive months. Such a situation would not cause the employee to lose non-union years of service with the Navajo Nation.

An employee whose seniority is lost for any of the foregoing reasons shall be considered a new employee if he is re-employed by the Employer in a bargaining unit position. Such employee shall be considered a probationary employee and will be subject to another introductory period if re-employed by the Head Start. In addition, a laid off employee who is later re-employed by Head Start in a bargaining unit position will be subject to another introductory period if such re-employment occurs over two (2) years after the employee's layoff.

Upon successful completion of the most recent introductory period, seniority shall count from the most recent date of hire.

Section C. Reduction and Realignment. All employment decisions contemplated by this Article, including reduction, realignment, hiring, training, and transfer decisions, are subject to the requirements of the Navajo Preference in Employment Act.

1. **Reduction in Workforce.** In deciding the employees to be laid off in a reduction in workforce, the Employer shall consider the employees' seniority and job-related qualifications as outlined in the relevant job classifications. Employees with the greatest seniority shall be retained, provided that they possess all such job-related qualifications for the positions in which they are retained.

2. **Realignment.** When the Employer decides to realign employees, such as due to a restructuring, the following procedure shall apply:

a. The senior employees in each job classification shall be retained in their respective job classifications, provided that they possess all job-related qualifications as outlined in the relevant job classifications for the positions in which they are retained, up to the number of employees needed in those job classifications.

b. Those employees displaced from their job classifications shall be assigned available jobs on the basis of seniority and provided that the employees possess all job-related qualifications as outlined in the relevant job classifications.

Section D. Layoff Procedure. Whenever the Employer determines that layoffs are necessary, the Employer shall immediately notify the Human Resources Director of the Department of Personnel Management of the proposed layoffs and provide a list of affected employees. Any employee whose position is eliminated while he is on leave shall be placed on layoff status immediately. In all cases where employees of the bargaining unit are to be reduced or realigned, the Employer shall meet with the Union Representatives at least three (3) weeks in advance of such reduction or realignment or as soon as the issues related to such reduction or realignment are identified, whichever is later, to discuss the effects of management's reduction or realignment decisions. Layoffs are not grievable under the Grievance and Arbitration Procedure Article, but an alleged violation of the layoff procedure under this Article may be grieved.

Any employee laid off by the Employer due to lack of work shall be mailed written notice by certified mail fifteen (15) calendar days prior to being laid off. At the time of layoff, the Employer will inform employees to be laid off that it is the responsibility of such employees to

keep the Employer aware of their current mailing address and telephone number and up-to-date with respect to the employee's certifications and educational credentials.

Within fifteen (15) working days after an employee is notified that he is to be laid off, he must fill out a standardized form and submit it to Head Start Human Resources Manager. On this form, the employee shall list: (1) his seniority with Head Start; and (2) the job(s) that he is qualified to perform and to which he wishes to be recalled. Upon receipt of the form, Head Start Human Resources Manager shall, within seven (7) calendar days, forward a copy of the completed form to the local union Recording Secretary. An employee who fails to submit the layoff form forfeits his recall rights.

Section E. Panel. Employees who are on layoff status shall be placed on a panel for a period of two (2) years. During that period of time, the employee will be returned to employment with the Employer in accordance with Section C, above. A panel member shall be considered for every job listed on his layoff form for which he is qualified. For purposes of this Section, an eligible panel member shall be presumed to have applied for each job he has listed on his layoff form as one to which he wishes to be recalled. Each panel member may revise his panel form once per year dating from the date of layoff. If a position becomes available that has not been listed by any panel member, the Employer is free to fill the position in its sole discretion.

Employees may reject a position not listed on their layoff form without losing their recall rights. However, if an employee accepts a position not listed on his form, the employee's recall rights are terminated as of the time of such acceptance. Panel members shall be given re-employment preference over non-panel members.

Section F. Panel Custodians and Notice of Recall. The Head Start Human Resources Manager and the Recording Secretary of the local union shall be joint custodians of the panel records, including the layoff forms. It shall be the obligation of the employee on layoff status to keep the custodians informed by certified mail, return receipt requested, of any change of address and/or telephone number where he may be regularly reached and up-to-date with respect to the employee's certifications and educational credentials. Notice to the last known address of the laid-off employee by certified mail shall be sufficient notice of recall.

The employee notified of an available position listed on his layoff form may either accept or reject the position, but if the employee (1) rejects the position; (2) fails to respond within seven (7) working days after receipt of such notice; or (3) accepts but fails to report for work on the date specified in the notice of recall, the employee's name shall be removed from the panel, and the employee shall forfeit his seniority rights.

Section G. Effect of Outside Employment During Layoff on Recall Rights. Any person on the panel list who secures casual or intermittent employment during the period when no position listed on the person's panel form is available shall in no way jeopardize his seniority rights while engaged in such temporary employment. However, any person on the panel list who secures regular employment and does not return to work upon notice of recall shall forfeit his seniority rights and shall have his name removed from the panel.

Section H. Job Vacancies. The Employer will fill job vacancies and new jobs created during the term of this Agreement in accordance with the following procedure:

1. The Employer will post any job vacancy on Navajo Head Start's website for a period of seven (7) calendar days, and such posting will include job title, wage rate and location.

2. Any employee who believes that he has the necessary qualifications for such vacancy (i.e., those job-related qualifications which are essential to the performance of the basic responsibilities designated for such position), including any eligible panel members, shall be entitled to apply for transfer during the seven-day posting period or, assuming the position has not been filled, may apply after the seven-day posting period.

3. Within five (5) calendar days of the close of the posting period, the most senior employee who possesses the job-related qualifications outlined in the relevant job classification shall be selected from the applicants.

4. During the posting and selection periods, the Employer shall have the right to fill job vacancies with individuals of its choosing. However, the experience that such an individual gains during the posting and selection periods shall not be considered as evidence of his ability to perform the job.

5. No claim shall be recognized by the Union related to any job vacancy after the posting period has closed, provided that subsections (1) and (3) of this Section H have been followed by the Employer.

Section I. Training for Unfilled Job Vacancies. If no qualified applicant has been identified to fill a job vacancy, the Employer may, within its sole discretion, post a training opportunity for such position for a period of at least seven (7) calendar days, including at least five (5) working days. Applicants' seniority and job-related qualifications as outlined in the relevant job classification will be the sole factors considered. The successful applicant shall be offered such on-the-job training or other more formal training opportunities and instruction as determined by management, taking into consideration such factors as the job's complexity and the skill and knowledge required for successful performance of the position.

Section J. Related Issues.

1. Head Start shall qualify employees based upon its own background check procedures performed in accordance with the federal Head Start Act requirements at 42 U.S.C. Section 648(A)(g)(3), and conditionally hire employees based upon a favorable adjudication by a certified adjudicator.
2. No employee shall quit the Employer without giving the Employer two (2) weeks' notice in writing, unless the reason for the quit is a personal emergency. An employee who does not return to work on time following the defined period of furlough shall be considered to have abandoned his job.
3. The Employer will have no obligation to pay wages to a departing employee beyond the actual time worked.

Article 14 **Health and Safety**

Section A. Purpose. The Employer and the Union agree that the health and safety of the employees is of the highest priority. The Employer agrees to comply with all applicable Navajo Nation laws and health and safety regulations governing the employees' health and safety, and the Union agrees that the bargaining unit employees will make every effort to comply with management and Navajo Nation laws and health and safety regulations. Further, the Union agrees to cooperate to the fullest extent possible in complying with those laws and regulations covering health and safety.

Section B. Health and Safety Committee. A Health and Safety Committee made up of no more than two (2) bargaining unit employees selected by the Union shall be established for this agreement. The Union shall inform the Employer of the names of the committee members and any changes to the committee's members in a timely manner.

Section C. Authority of Committee. The authority of the Health and Safety Committee extends to the following activities and duties:

(1) The committee, or members thereof, may accompany the Office of Environmental Health ("OEH") in its annual inspection of the Employer's facilities; and

(2) The committee, or members thereof, may request a meeting with the Employer for the purpose of reviewing accident prevention efforts and discussing accidents and/or any health and safety issues on the Employer's premises and/or involving the Employer's vehicles or equipment. Any written recommendations of the Health and Safety Committee, which shall be based on applicable Navajo Nation laws and health and safety regulations, shall be submitted to the Employer for its consideration. The Employer will bear no additional obligations under this Agreement as a result of any understanding reached at such meetings that contemplates action by the Employer above and beyond that required by Navajo Nation laws and health and safety regulations.

Section D. Committee Member Pay. The Employer shall pay committee members for the performance of their duties as Health and Safety Committee members during the regular workday. Such amount shall not exceed sixteen (16) hours per calendar year at a committee member's regular straight time rate of pay.

Section E. Health and Safety Rules and Regulations. The Employer and the Union, on behalf of the bargaining unit employees, agree that the employees are obligated to comply with applicable laws, rules and regulations that govern the Employer's premises, vehicles, and equipment and that failure to do so may result in disciplinary action. Such obligations include, but are not limited to, the requirement that employees must immediately bring any work-related injury or potentially hazardous working condition to the attention of their supervisor and complete all necessary reports, including those required by the Department of Insurance Services.

Section F. Additional Access to the Employer's Facilities. No more than two (2) officers of the International Union or the Union's Department of Occupational Health and Safety (or any combination thereof, so long as such individuals number no more than two (2)) shall be allowed to attend the inspections and meetings detailed in Section C, above. The Union agrees that attendance by such individuals shall not interfere with the Employer's operations or the performance of the Health and Safety Committee's duties.

During any such inspections or meetings, management has the right to include any individuals of its choosing.

Section G. Reports. The Employer shall provide all reports concerning health and safety, including any copies of accident reports and reports compiled by OEH and Navajo Occupational Safety and Health Administration ("NOSHA"), to the Health and Safety Committee members of the affected District or Districts in a timely manner.

Section H. Employees' Physical and Mental Capabilities. Medical examinations required by the Employer due to a concern as to whether an employee has the physical and/or mental capability to perform the duties of his or her position shall be conducted in accordance with the Navajo Nation Personnel Policies Manual. When the Employer requires a medical examination, the necessity of which is disputed by the employee, the Employer shall refer the employee to Indian Health Services ("IHS") or a physician of its choosing, and the employee shall take sick or annual leave for any lost work time related to such examination. When the employee has available both sick and annual leave, the employee will take sick leave, and will take annual leave only if no sick leave is available. If the employee has neither sick nor annual leave available, the employee shall take such time off without pay. If IHS or the physician, or any specialist to whom the employee is referred by IHS or the physician, confirms that the employee does not have a physical or mental condition that prevents the employee from performing any duty of his or her position, the employee's sick or annual leave bank will be adjusted, or, for any employee who took time off without pay, such employee shall be given back pay.

The Employer shall not discharge employees because of their physical condition for the purpose of effecting discrimination based on such physical condition. However, such prohibition does not preclude the Employer from discharging an employee based on his or her physical or mental condition if such condition prevents the employee from performing any duty of his or her

position, even with reasonable accommodation, or constitutes a potential hazard to the employee or others.

This Section does not apply to routine medical examinations necessary for compliance with the Navajo Nation's performance standards.

Article 15 **Leaves of Absence**

I. General Leave Policies.

Section A. Use of Leave. Employees will earn annual and sick leave; however, when and how these leave benefits are used is subject to supervisory approval. Leave is granted to employees at such times as they can be conveniently spared from work. Use of leave may be subject to verification, and improper use of leave may be denied.

Section B. Application for Leave. Except in emergency circumstances or as provided below, application for leave of any kind or duration must be initiated by the employee in writing and presented to the authorized supervisor for approval prior to taking leave. If an employee is incapacitated, the supervisor may place the employee on appropriate leave.

Section C. Years of Service for Leave Benefits. Years of service shall include all periods of continuous employment with the Navajo Nation Government. Years of service shall not include employment with entities, enterprises, or chapters of the Navajo Nation. In addition, service prior to a break in service will not be included unless the break in service was the result of a reduction in force and the employee was reinstated within twenty-four (24) months of the layoff.

II. Paid Leaves.

Section A. Annual Leave.

(1) Eligibility. All bargaining unit employees are eligible to accrue annual leave hours. Employees on any type of leave without pay, except bereavement leave, are not eligible to accrue annual leave hours.

(2) Limitations.

(a) Employees serving a new employee introductory period can accrue annual leave but cannot use accrued annual leave until after they have been converted to regular status.

(b) Termination within the new employee introductory period voids all accrued annual leave hours.

(3) Accrual Rate.

(a) Bargaining unit employees will accrue annual leave at the following rates.

Years of Service	Hours Accrued Per Pay Period
Less than 3 years	4 hours
3 years to 12 years	6 hours
More than 12 years	8 hours

(b) An employee covered by this Agreement shall accrue annual leave while on authorized sick leave, bereavement leave, annual leave, and paid administrative leave. An employee on sick leave resulting from a job-related injury or illness shall continue to accrue annual leave while receiving workers' compensation benefits.

(4) Scheduling Annual Leave. All requests for annual leave must be made at least 48 hours prior to the commencement of the requested leave. If two employees request to take annual leave at the same time, management will assess the requests in terms of operational needs and, if less than all of the requests can be granted, leave will be granted on the basis of the employees' seniority.

(5) Extension of Sick Leave. Annual leave may be approved as an extension of sick leave upon exhaustion of accrued sick leave.

(6) Carryover. At the end of each leave year, all hours in excess of 320 hours shall be forfeited and shall not be paid.

(7) Change of Employment Status. An employee who transfers to another regular status position shall have all accrued annual leave hours transferred.

(8) Liquidation of Annual Leave. Upon separation from employment, an employee shall be paid for all accrued annual leave hours. Payment will be included in the final paycheck subject to deductions for any indebtedness owed to the Navajo Nation.

Section B. Sick Leave.

Sick leave is authorized time off from work granted an eligible employee due to his or her own illness, injury, or disability, or that of a spouse, children, or parents, or a death in the employee's immediate family. This includes, but is not limited to, incapacitating, contagious, or chronic illness, disability caused by pregnancy, childbirth or related medical circumstances, illness or injury that requires examination, treatment or visits to a licensed practitioner, medicine man or health-related counselor. Employees referred by EAP for treatment, counseling, or other resources may also be eligible for sick leave.

(1) Eligibility. All bargaining unit employees are eligible to accrue sick leave hours. Employees on any type of leave without pay are not eligible to accrue sick leave hours.

(2) Limitations.

(a) Employees serving a new introductory period can accrue sick leave but cannot use accrued sick leave until after they have been converted to regular status.

(b) Illness or other medical conditions which exhaust an employee's sick leave may require that annual leave and leave without pay be used.

(3) Accrual Rate. All bargaining unit employees shall accrue sick leave from the date of employment at the rate of four (4) hours per pay period.

(4) Physician's Statement. An employee is required to submit written proof of illness or disability from a physician for absences of three (3) or more consecutive workdays. If an employee's sick leave record warrants, a statement may be required for less than three (3) days.

(5) Traditional Healing Ceremonies. An employee must request and obtain prior approval for the absence. The employee may be required to submit a written statement from the medicine man performing the ceremony if the employee's absence due to traditional healing ceremonies warrants verification or if the ceremony is three (3) or more consecutive workdays.

(6) Carryover. Eligible employees may carry over an unlimited number of unused sick leave hours from leave year to leave year. However, no employee shall be paid for unused sick leave hours upon termination.

(7) Change in Employment Status. An employee who transfers to another regular status position shall have all accrued sick leave hours transferred.

(8) Reinstatement of Sick Leave. Sick leave hours shall only be restored when a former employee with re-employment preference is rehired within twenty-four (24) months of separation from employment.

Section C. Administrative Leave. Administrative leave is leave with pay and may be granted by an appropriate authority of the Navajo Nation or Employer in the following situations:

(1) Early Release. Early release of employees due to extreme weather conditions or any other reason determined by the President of the Navajo Nation or his designee to be appropriate. Advance notice of early release shall be in writing and signed by the President or his designee. Early release shall not apply to employees on leave, travel or whose tour of duty does not cover the period of the early release.

(2) Temporary Closure of Employee Work Sites or Facilities Due to Environmental Health Hazards or Other Safety or Health Reasons. Administrative leave shall not be granted when affected employees can reasonably be assigned to alternative work sites.

(3) Investigations. A supervisor, by direct line or by delegation, may place an employee on administrative leave to investigate alleged misconduct sufficiently serious to bar an employee from the premises to protect persons or Nation resources. Such leave may not exceed five (5) consecutive working days. Extensions may be granted by the Department of Personnel

Management by recommendation of the supervisor, but total administrative leave for investigatory purposes shall not exceed 20 working days.

(a) Immediate written notice shall be given to the employee of the leave, its purpose and duration, and specific reasons therefore. The employee shall be required to leave the premises immediately.

(b) Upon conclusion of the investigation or the end of the administrative leave, whichever occurs first, if no disciplinary action is taken, the employee shall be allowed to return to work in their position with no loss of pay or benefits.

(c) When disciplinary action is deemed necessary, it shall be taken in conformance with the Discipline and Discharge Article of this Agreement.

(4) Witness Summons.

(a) An employee summoned or subpoenaed by any party or tribunal, including the grievance hearing officer, to be a witness in an official capacity, shall not be required to take leave since the employee will be representing the Navajo Nation. However, the employee must immediately inform the supervisor of the proposed absence.

(b) If an employee is summoned to be a witness as a private citizen, or as a witness for the aggrieved party in a grievance hearing, the employee may choose to take annual leave. If annual leave is exhausted, leave without pay will be used.

(5) Jury Duty. Employees are required to notify their supervisor promptly upon receipt of a jury summons and subsequent notice to serve as a juror. Employees summoned for jury duty, including military jury duty, will receive their regular rate of pay for normal work hours, provided the employee submits evidence of the summons and selection notice. Fees received as compensation for jury duty shall be paid to the Navajo Nation, except when an employee voluntarily requests annual leave for the period of absence. Employees will be allowed to retain any reimbursements for transportation, lodging, meals, etc. paid by the respective court jurisdiction.

(6) Time Off for Voting.

(a) Registered voters may receive authorization for up to two (2) hours paid absence from work to vote in a Navajo Nation, local, state or federal election. The length of absence will be granted at the discretion of the immediate supervisor.

(7) Employees required to vote at a poll remote from their workstations may request an extension of the two-hour limit. The extension, if granted, will be charged to the employee's annual leave. This extension includes travel time to the poll but may not exceed eight (8) hours.

Section D. Pandemic Leave. The Navajo Nation recognizes that an employee may have a need to be absent from work due to health issues that arise from a Pandemic. Pandemic Leave may be approved for employees who are in need of personal leave due to a Pandemic to care for

themselves or a family member, or to be away from the work place as required by his or her employer. Such leave will not require an employee to utilize his or her accrued sick or annual leave. The maximum amount of leave allowed under this policy is 120 work hours per calendar year. For any additional leave, the employee must request to use his or her accrued annual or sick leave, be approved for Leave Without Pay, or seek Family Medical Leave under Section III.B of this Article. This leave will remain available through the duration of any Declaration of Emergency by the Department of Emergency Management or the Navajo Nation President concerning a Pandemic. Such leave is available to employees required to be on duty during the Pandemic, and not to employees already on Administrative Leave under Section II. C of this Article.

1. An employee may request Pandemic Leave under the following circumstances:
 - a. When a family member has tested positive for the pandemic disease and requires assistance from the employee,
 - b. When the employee has tested positive for the pandemic disease,
 - c. When the employee is required by his or her supervisor to be away from the workplace due to 1) exposure to an individual who has tested positive or is suspected to be positive for any pandemic disease, or 2) if the employee shows symptoms consistent with any pandemic disease.
2. All employees, regardless of length of service with the Navajo Nation, are eligible for leave that meets any of the pandemic circumstances listed in Subsection 1). Such approved leave will be paid.
3. A request for special Pandemic Leave must be made in writing, which includes email, for a specified period of time, and submitted to the employee's supervisor. The employee shall submit the request, or, if incapacitated due to illness, an authorized family member may do so.
4. If proper documentation required by Subsection 5) is submitted, the supervisor cannot deny the leave if within the maximum 120 work hours. The supervisor may limit the duration of the leave to less than the 120-hour maximum, in consultation with the employee and the employee's medical provider, and as consistent with Center for Disease Control pandemic guidelines. If Pandemic Leave is granted, an employee may not return to work without a doctor's statement, official medical document, or photograph of a home test, showing a negative result for a test for the pandemic disease.
5. All leave requests shall be accompanied by appropriate documentation.
 - a. For categories under Subsection 1a. &b., above, the employee must submit official medical documents from a medical provider showing a positive test for any pandemic-related disease for the employee or a family member, which may include a doctor's note or document from a hospital or other testing facility, or a photograph of a home test.

- b. For category under Subsection 1a., above, the employee must also submit a written document describing the assistance needed by the family member, and why that assistance cannot be provided by others.
 - c. For category under Subsection 1c., above, the employee must submit a written memorandum from his or her supervisor or program manager that requires the employee to be away from the work place and identifies the amount of time the employee must be away.
6. To verify the employee's eligibility for Pandemic Leave, it may become necessary to request information from the employee and/or his/her medical provider. The employee's supervisor can request additional medical information to confirm the employee's need to be absent, to show whether and how an absence relates to the pandemic disease, and to know that it is appropriate for the employee to return to work. When requesting Pandemic Leave, the employee must sign a release to allow the supervisor to make such requests to the employee's medical provider or a testing center.
 7. All requests for leave and all supporting documentation submitted by an employee must be kept strictly confidential, and information related to the reason for the leave will be restricted to other Navajo Nation employees with a need to know to process the leave, including the employee's supervisor, the Program Manager, the Department of Personnel Management, and Payroll. Violation of this confidentiality requirement by those employees, or any other employee of the Navajo Nation, is a violation of the Navajo Privacy Act, 2 N.N.C. §§ 91 and 92, and can result in civil and criminal penalties. Such violation may also result in discipline of those employees by his or her supervisor under the Navajo Nation Personnel Policies Manual's Table of Penalties.

III. Unpaid Leaves.

Approved Leave Without Pay. Leave without pay not to exceed 15 working days may be granted by the supervisor. Requests for leave without pay exceeding 15 working days must be supported by a written recommendation of the supervisor and approved by an authorized supervisor. Except for family and medical leave, annual or sick leave, if applicable, must be exhausted before entering approved leave without pay status. Consideration shall be given to the merits and circumstances together with the programmatic operations.

Unauthorized Absence. When an employee is absent without authorization, the employee will be charged with leave without pay and may be subject to disciplinary action. If the absence is later approved, the charge to leave without pay may be changed to the appropriate leave.

Disciplinary Actions. An employee placed on suspension is considered to be on leave without pay status. Annual and sick leave do not have to be exhausted.

Section A. Educational Leave. Educational leave may be granted when an employee enrolls as a full-time student in an accredited educational institution.

(1) The purpose of educational leave is to enhance an employee's job performance and therefore must be job-related. All requests must be approved by the supervisor prior to taking educational leave.

(2) Educational leave shall be without pay unless the supervisor and employee agree that annual leave may be used.

(3) Regular full-time employees are eligible for educational leave up to one (1) semester (or equivalent) per academic year provided they have three (3) years of continuous employment with the Navajo Nation Government.

(4) An employee on approved educational leave shall maintain regular full-time status.

(5) Upon completion of educational leave, an employee shall return to his or her position.

Section B. Family and Medical Leave. Family and medical leave of absence is approved unpaid leave available to eligible employees for up to six (6) months per year under particular circumstances that are critical to the life of a family.

(1) Family and medical leave may be taken only in the following situations:

(a) Upon the birth of the employee's child:

(b) Upon the placement of a child with the employee for adoption or foster care;

(c) When the employee is needed to care for his/her child, spouse, or parent who has a serious health condition; or

(d) When the employee is unable to perform the functions of his/her position because of a serious health condition.

(2) Limitations.

(a) The first three (3) months of leave are non-discretionary; if the leave is requested consistent with these policies, the supervisor must approve the leave.

(b) The second three-month period is discretionary. The supervisor has the authority to approve/disapprove the leave. Reason(s) for the additional leave requested must meet the criteria herein and be based on (1)(a)-(d), above.

(3) Eligibility. Regular status employees who have been employed for one (1) year are eligible for family and medical leave.

(4) Basic Regulations and Conditions.

(a) Employees are required to submit medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, or parent.

(b) Spouses who are both employed by the Navajo Nation may take a total of six (6) months of leave (rather than six (6) months each) for the birth or adoption of a child or the care of a sick parent, subject to the limitations noted in (2), above.

(c) When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide notice, with reasonable verification and supporting documentation, if available, as far in advance as practicable, and make efforts to schedule leave so as not to disrupt program operations.

(d) In cases of illness, the employee will be required to report periodically to the immediate supervisor on his or her leave status and intention to return to work. A medical certification is required to resume work.

(e) Upon return from family and medical leave, an employee shall return to the same position.

(f) During the employee's absence, his or her position may be filled on a temporary basis.

(g) An employee's failure to return to work after the duration of approved family and medical leave shall be deemed a resignation.

(h) Department of Personnel Management is responsible for developing and issuing procedures on family and medical leave.

(5) Status of Employee Benefits During Leave of Absence.

(a) Any employee who is granted an approved leave of absence under this Section shall provide for the retention of group insurance coverage by arranging to pay his/her premium contributions during the period of unpaid absence.

(b) An employee will not lose service credit with the Navajo Nation as a result of the family and medical leave, but he or she will not accrue annual or sick leave and is not eligible for paid holidays.

Section C. Bereavement Leave. When a death occurs in an employee's immediate family, the employee will be excused for up to four (4) days off from work with pay. The employee may be requested to furnish proof of the family relationship and/or death. For purposes of this Section, "immediate family" shall be defined as spouse, mother, mother-in-law, father, father-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, stepfather, stepmother, stepchildren, grandfather, grandmother, and grandchildren.

Section D. Furlough. Furlough is the placement of an employee into temporary non-duty non-pay (leave without pay) status due to lack of work, closure of facilities for a specific period or time, or closure due to circumstances beyond the control of the Employer.

(1) Employees may be eligible for furlough status upon verification of continued funding for the next season or intermittent employment.

(2) Employees will be provided written notice from an authorized supervisor of the furlough 15 calendar days prior to the beginning of the furlough period. The notice will include the effective date of the furlough, the date to return to duty, and pay status.

(3) An authorized supervisor shall also provide written notification to each employee on furlough status of the date to return to duty 15 calendar days prior to the effective date of return.

(4) Each employee shall be provided a record of his/her accrued annual and sick leave hours before going on furlough status. This accrued leave will be maintained until the employee returns to active duty and pay status or is separated from employment.

(5) To retain his or her regular status, an employee on furlough may only obtain temporary employment with the Navajo Nation during the furlough period. If the employee does not wish to return to work for Head Start, a resignation must be submitted and processed to clear the employee to obtain other full-time employment.

(6) Employees provided written notification to return to work and who fail to report by the established return to duty and pay status date may be subject to termination.

(7) Insurance premiums must be paid for the furlough period. Upon notification of furlough, the Employer and affected employees can make arrangements for payment of premiums with the Employee Benefits Office.

(8) The period of furlough cannot exceed six (6) months from the date of furlough.

IV. Military Leave.

Section A. Activation for Military Service.

(1) A regular status employee who is an active member of the Army National Guard or Air National Guard, and/or member of the Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, and Reserves, including retired and inactive reserve members, shall be granted the appropriate military leave as described below, but only upon a request following the below requirements.

(2) When a member is ordered to active-duty status, he/she shall provide a copy of activation orders from their unit being activated when requesting military leave.

(3) When a member is deactivated and discharged, he/she shall request for reemployment within time allowed in B.1 below, submit to the Employer a copy of orders, and

shall return to the same position he/she was assigned to before going on leave with the same employer. At no time shall the Veteran be displaced in violation of applicable laws regarding returning Veterans.

(4) If his/her position was eliminated or transferred to another worksite location, he/she shall be offered an equivalent position within the same worksite location with the same seniority, status and pay as before he/she went on military leave.

Section B. State Activation and/or Orders for Training for National Guard and Reserve, or as an Intermittent Disaster Response Appointment.

(1) A regular status employee who is an active member of the Army National Guard or Air National Guard, and/or member of the Army, Marine Corps, Navy, Air Force, Space Force, Coast Guard, and Reserves shall be granted military leave upon request.

(2) When the Governor of the State activates a National Guard unit where member is serving for State emergency, an intermittent disaster response appointment, and/or unit commander orders unit or individual training, the member shall provide a copy of orders when requesting military leave.

(3) When the Reserve Branch or unit commander orders unit or individual training, the member shall provide a copy of orders when requesting military leave.

(4) Employees requesting military leave are entitled to 15 calendar days a year with pay. Military leave shall be 15 calendar days in duration. All other leave requests longer than 15 calendar days for basic training, technical/tactical, advanced training, or other specialized training in their career field, shall also be granted, but without pay, and Section A(2), above, shall apply.

(5) An employee who is a member of the Reserves or National Guard serving an active military duty which extends into a second or succeeding leave year may accrue and use the 15 calendar days of military leave that accrue at the beginning of the second leave year and each succeeding leave year without return to civilian status.

(6) Monthly weekend training (drill) shall not be considered military leave. When a member has to make up their drill during weekdays, he/she shall request for annual leave or other form of leave, not military leave.

(7) There are two conditions under which an employee is entitled to an additional 22 workdays of military leave.

(a) Reservist or National Guard members who perform military duty in support of civil authorities in the protection of life and property are eligible for an additional 22 workdays of military leave.

(b) Employees who perform full-time military service as a result of an order to active duty in support of a contingency operation are entitled to 22 workdays of military leave.

Section C. Reemployment.

(1) Eligible National Guard and Reserve members shall be granted reemployment rights as follows:

(a) Service of less than 31 calendar days. Employee must report to work on the next regularly scheduled work period after discharge from active military duty.

(b) Service of more than 30 calendar days but less than 181 calendar days. Employee must make a request for reemployment no later than 14 calendar days after he/she is discharged from active military duty.

(c) Service of more than 180 calendar days. Employee must submit a request for reemployment no later than 90 calendar days from date of discharge from active military duty or within one (1) year of service-related hospitalization.

(2) Failure to meet deadlines for reporting back to work.

(a) An employee who fails to report back to work or submit a written application for reemployment is subject to the Personnel Policies Manual offense that states an employee shall be separated from employment if absent without excuse for three (3) consecutive working days, except in instances where returning to work is unreasonable or impossible due to no fault of the employee.

(b) Upon release from active military duty, an employee with service as outlined in 1.b. and c. above must provide written notice to their immediate supervisor of their intention to return to work within five (5) working days.

(c) The employee must inform their immediate supervisor of extended active military duty within five (5) calendar days of receiving military orders.

(3) The employee must not have been released with a dishonorable or less than honorable discharge.

(4) The cumulative time an employee may be absent from work for active military duty and retain eligibility for reemployment rights is five (5) years (with some exceptions).

(5) The reporting deadline may be extended up to two (2) years when a Veteran or service member is hospitalized or is convalescing from injuries received during military service or training, or an existing disability aggravated during military service or training.

(6) Returning Veterans and service members shall be reemployed in the same job as if they had remained continuously employed, with the same seniority, status and pay as before he/she went on military leave, subject to the restrictions in this Article.

Section D. Necessary Documentation.

(1) When an employee has been absent for more than 31 calendar days, the employer has a right to request documentation to prove that:

- (a) the employee's application is timely;
- (b) the employee has not exceeded the service limitation; and
- (c) that the employee did not leave the service for any disqualifying reason, such as dishonorable discharge.

(2) The employer may not deny reemployment if the necessary documentation is not readily available. However, if reemployment documentation becomes available proving that the employee has not met the reemployment qualifications, the employee shall be terminated.

Section E. Job Protection and Reduction-In-Force.

(1) An employee who performed active military duty is protected from reduction-in-force (RIF) and may not be discharged from employment, except for just cause. The length of protection is based on the length of military service.

(a) If the employee's military service was more than 180 calendar days, the employee cannot be discharged within one (1) year after the date of reemployment.

(b) If the employee's service was between 30 and 180 calendar days, the employee cannot be discharged within 180 calendar days after the date of reemployment.

Section F. Employees Voluntarily Enlisting or Re-enlisting in Military Service.

(1) A regular status employee who voluntarily enlists or re-enlists in the U.S. Armed Forces shall resign from Nation employment. If the employee does not submit a written resignation to the direct supervisor within three working days of his or her last day at work, the employee's Personnel Action Form may indicate that the employee resigned.

(2) Enlistment in the U.S. Armed Forces is considered full-time employment. Military leave does not apply and shall not be granted.

Section G. Military Funeral Honors Detail.

(1) A Veteran who was discharged under honorable conditions will be granted administrative leave with pay to perform Military Funeral Honors Detail during the workweek.

(2) An employee participating in the Military Funeral Honors Detail must submit an administrative leave request form to the Navajo Nation Department of Veterans Affairs Central Administration and/or Agency Offices for verification of his/her participation. The employee may only take such administrative leave after receiving written approval from his/her immediate supervisor.

(3) The employee shall only be compensated by the program/department for which he/she is employed. He/she shall not accept or be authorized any other compensation.

Article 16
Paid Holidays

Section A. Holidays Observed. The following holidays will be observed during the term of this Agreement.

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Navajo Nation Memorial Day	June 1
Juneteenth Day	June 19
Independence Day	July 4
Navajo Code Talker Day	August 14
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Navajo Nation Family Day	Friday following Thanksgiving Day
Christmas Day	December 25

The Holidays observed during the term of this Agreement will be the same as those in the Personnel Policy Manual. If the date of a holiday is changed or if a holiday is added, this Article will reflect those changes. No reduction of holidays observed will occur.

Section B. Pay for Holidays.

(1) Employees who are scheduled to work and actually work on recognized holidays will be paid at two (2) times their regular rate of pay or will be given compensatory time off for such time, as detailed in the Workweek, Workday and Overtime Article.

(2) Employees who do not work on the foregoing holidays will be paid their regular earnings for the holiday.

(3) Holidays falling on a Saturday will be observed on the preceding Friday. Holidays falling on a Sunday will be observed on the following Monday.

(4) An eligible employee with an unexcused absence on a normal workday prior to or after a designated paid holiday will not be paid for the holiday.

(5) An eligible employee who is on a scheduled day off when a holiday is observed will be paid at his/her regular rate of pay.

(6) An eligible employee required to work on a designated holiday who does not report to work and is not excused will forfeit the holiday pay.

Section C. Holidays During Annual Leave.

Employees who are on scheduled annual leave on a holiday will be paid for the holiday during the relevant pay period, and that day will not be charged to annual leave time.

Article 17
Workweek, Workday and Overtime

Section A. Basic Workweek. The basic workweek is seven (7) days beginning at 12:01 a.m., Saturday through Friday. The standard workweek for all employees is forty (40) hours per week.

Section B. Basic Workday. A workday for Employees generally consists of eight (8) hours, excluding meals. An employee's regular workday may be changed by the Employer in accordance with operational needs and, except in emergency circumstances, employees will be given advance notice of such change.

Section C. Meals and Breaks. Employees will generally have time off for meals and breaks during the course of the workday, not to exceed ninety (90) total minutes. Breaks and meals shall not interfere with the Employer's operational needs. Employees will take no more than two (2) breaks per shift, and breaks shall not exceed fifteen (15) minutes. Employees cannot accumulate break time.

Section D. Alternative Work Schedules.

(1) Exceptions to the basic workday, including with regards to meals and breaks, may be approved by the Department of Personnel Management upon written request from Department or Program Managers or NHS Assistant Superintendent. Any changes to the basic work day shall be discussed with the Union at least ten (10) days prior to any changes.

(2) Alternative work schedules are generally dependent upon the specific working conditions and needs of the requesting program, department, or District.

(3) Department of Personnel Management will be responsible for developing and issuing procedures on the types of alternative work schedules available (flextime, compressed workweek, shift work, job sharing, and telecommuting).

Section E. Overtime Pay.

(1) Non-exempt employees, as defined by the Department of Personnel Management, who are engaged in essential public safety or emergency response activities, will be paid overtime at the rate of one and one-half times their regular rate for hours worked which exceed eighty (80) hours of actual work in a pay period.

(2) All other non-exempt employees, as defined by the Department of Personnel Management, will be paid overtime at the rate of one and one-half times their regular rate, for hours worked which exceed forty (40) hours of actual work in a workweek.

(3) Overtime must be pre-approved by the employee's supervisor. Non-exempt employees shall be notified in advance that the employee is expected to work necessary overtime. To the extent feasible, overtime shall be distributed equally among employees of the same job classification. In assigning overtime, the Employer will attempt to take into account employee preference for overtime assignments. Employees required to remain on duty for an extended period of more than two (2) additional hours will receive rest and meal periods as established in this Article.

(4) Prior to working overtime, employees must agree to the type of compensation preferred (cash payment, compensatory time off, or a combination of the two).

(5) Any hours taken as paid or unpaid leave, including annual and sick leave, will not be included as hours worked for purposes of calculating overtime pay.

(6) All authorized and earned overtime and compensatory time must be recorded on an official time sheet. Only hours reported on the time sheet will be accepted and approved for cash payment or compensatory time off.

(7) Whenever a non-exempt employee works approved overtime and upon receipt of a properly submitted report by the employee, cash payment for the overtime will be processed by the employee's program or District and submitted to the appropriate finance department within the next pay period ending.

(8) Non-exempt employees shall be paid for any accrued and authorized overtime, including accrued compensatory time, by the work unit in which the overtime was worked, upon transfer, change in funding source, or termination.

Section F. Compensatory Time Off. In lieu of cash payment, a non-exempt employee may be eligible to earn compensatory time subject to the following:

(1) Compensatory time shall be calculated in the same manner as cash overtime payment, as detailed in Section E, above.

(2) Compensatory time shall be arranged by the employee and the supervisor. Supervisors shall properly account for compensatory time earned and taken by employees.

(3) Compensatory time off must be taken within ninety (90) days of the time it was earned; otherwise, employees must be compensated under Section E, above.

(4) A non-exempt employee may not accrue more than 120 hours of compensatory time, unless the employee is engaged in essential public safety activities or emergency response activities. These employees may accrue up to 240 hours of compensatory time. Any overtime hours worked in excess of this limit must be compensated by cash payment until the number of accrued hours of compensatory time falls below the limit.

Section G. Reporting Pay. Unless notified in advance not to report, an employee who reports for work at his or her usual starting time will be entitled to one (1) hour's pay, whether or not the employee works his or her full workday. After the first hour, the employee will be paid for each hour's work or fractional part thereof. If, for any reason, the work normally assigned to an employee in his or her regular position is not available, the Employer may assign the employee to other than his or her regular work.

Article 18 Wages

Section A. Policy. It is the policy of the Navajo Nation to pay wages and salaries that are commensurate with the type of work, the level of responsibility and the qualifications required for each job, and that they are comparable, subject to budgetary constraints, to rates being paid for similar work within the Navajo Nation and in other comparable organizations, and to provide for salary adjustments for Navajo Nation employees that are equitable and competitive.

Section B. Applicability. These policies apply to all positions and employees, regardless of the funding source, except employees whose rates of pay are specifically set by legislation.

Section C. Salary and Wage Limits.

1. Each position in the Navajo Nation government is evaluated using a classification system and is assigned a pay grade which establishes the value of the position in relation to other positions within the Navajo Nation government.

2. The official Salary Schedule provides pay grades for all classes. Each class title is assigned a pay grade in the approved salary schedule. For every pay grade, there is a "salary range" progressing from minimum to a maximum.

3. The last step of the pay grade assigned to a position provides the maximum limit employees will be paid for that job.

Section D. Salary and Wage Administration

1. Each position shall be reviewed by Department of Personnel Management, classified, and assigned to a grade within the pay structure that reflects an equitable value relative to other classifications.

2. The Department of Personnel Management will annually establish an appropriate pay structure consistent with Section F herein and any other pay structures necessary to ensure internal and external equity based on the current market average.

3. Certain occupations may command Special Pay Ranges (premium pay) based on prevailing market pay levels. Department of Personnel Management is responsible for evaluating eligibility and determining the adjusted rates, in accordance with the Navajo Nation Personnel Policies Manual.

Section E. Appointment Rate. The Department of Personnel Management is responsible for reviewing appointment rates based on the qualifications of the applicant compared to the established minimum qualifications for the position.

1. New employees will generally be assigned by Department of Personnel Management to Step "A" of the pay grade to which the position is assigned. No employee will be paid below Step "A".

2. Applicants with qualifications greater than those required at the entry level may be hired at a rate not to exceed the midpoint of the pay range assigned.

Section F. General Wage Adjustment. Each year the Department of Personnel Management, other officials designated by the Navajo Nation, and the Union will meet to recommend a General Wage Adjustment subject to Council approval and the availability of funds. The effective date will be determined by the parties to the agreement. All employees will receive the same percentage adjustment or level of increase with the exception of those assigned grade step 99A. The General Wage Adjustment does not impact the eligibility date for employee step increases.

Section G. Step Increases. Subject to Council approval and the availability of funds, a regular status (full-time and part-time) employee who has completed a year of service and whose performance is rated as "Significantly Exceeds Standards" or "Outstanding" will receive a step increase pursuant to the following:

1. An employee must have been in his/her current position for at least six months during the current rating period. Temporary employees are not eligible.

2. The step increase will be effective one year from the date of the last step increase if the employee is at Steps "A", "B", "C", "D", or "E", or two years from the date of the last step increase if the employee is at Steps "F", "G", "H", or "I", or three years from the date of the last step increase if the employee is at Steps "J" and "K". If the employee is at Step "L", no step increase will occur.

Article 19 **Timekeeping and Paydays**

Section A. The Employer will provide the means by which employees may record all hours worked. Where the Employer provides time clocks to employees, employees must punch in and out for work, meals and personal time off during the workday, and must do so in person.

Section B. Employees will be paid on a bi-weekly basis. Each employee shall be provided with a statement of total hours and gross earnings, and an itemized statement related to all deductions. The Employer will maintain time records which include information concerning hours worked, hours absent, hours on approved leave, type of approved leave, and hours of unauthorized absence. If an employee disputes the number of hours worked, he or she must bring the error to the attention of his or her immediate supervisor and request a correction in his or her number of hours worked.

Article 20
Health Care

Section A. Employees will be eligible for the same health care benefits as those offered to non-bargaining unit employees. The Employer may make any changes in the employees' health care plan as long as the terms apply equally to bargaining unit and non-bargaining unit employees.

Section B. The Employer will meet with the Union to discuss any changes in the employees' health care plan prior to implementation of such changes. The Union may submit recommendations to the Employer, but the Employer is under no obligation to consider or adopt such recommendations.

Article 21
Professional Licensure and Certification

Section A. Employees are encouraged to participate in job-related training to enhance job performance, develop and strengthen skills, and keep current on specific developments and trends. Employees are required to comply with all responsibilities and standards applicable to their present job classifications as listed in 45 C.F.R. § 1304.50, Appendix A.

Section B. Employees may be authorized to take paid administrative leave (1) to obtain required job-related professional licensure and/or certification in their present job classifications; or (2) to satisfy continuing education requirements to retain such licensure or certification in their present job classifications. Where possible, the Employer will provide the necessary training for employees to maintain licensing and/or certification within their present job classifications. The Employer, within its discretion, may pay the cost of any outside non- Employer training, the cost of traveling to and from the training site, the cost of room and board related to such training, and/or the cost of the license and/or certificate.

Section C. Assuming the continuance of the Head Start Teacher Education Program (the "Program") and an employee's compliance with its requirements, individual employees will in no event receive less compensation for training than that provided for in such Program. In addition, the Employer agrees that it will spend at least twenty-five percent (25%) of the Training and Technical Assistance Plan budget per year over the term of this Agreement for purposes of college-level education for employees as set forth in this Article.

Section D. In those instances, in which administrative leave is granted, an employee will be given up to two (2) opportunities to obtain licensure or certification. Thereafter, he will be required to take annual leave or leave without pay.

Section E. An employee receiving a tuition and stipend grant will be required to sign a contract outlining the employee's specific obligations, including but not limited to the Federal Head Start Act requirement that the employee teach or work in a Head Start program for a minimum of three (3) years after receiving each degree or certification earned with Head Start financial assistance or repay the total or a prorated amount to the financial assistance received based on the length of service completed after receiving the degree or certification.

Article 22 Discipline and Discharge

Section A. Policy. The Employer is to establish and maintain standards of employee conduct and supervisory practices which will support and promote effective program operations. Such practices include the administration of consistent and constructive employee discipline.

Section B. Application of the Navajo Nation Personnel Policies Manual. The parties agree that all aspects of discipline and discharge shall be administered in accordance with the current version of the Navajo Nation Personnel Policies Manual (the "Manual"), including its "Table of Penalties," except as specifically abridged or modified under this Article or with respect to those portions that refer to other Sections of the Personnel Policies Manual that are specifically abridged or modified by the express terms of this Article and Agreement. Changes made to the Manual in the future (the "Changes") shall, without any additional action by the parties, automatically be incorporated into this Agreement. Where sections or terms of the Agreement contradict or impede the Changes, the Changes shall prevail.

Section C. Discipline. Discipline shall be administered in accordance with the Manual and is appealable through the Grievance and Arbitration Procedure of this Agreement.

Section D. Just Cause Required. No employee covered by this Agreement may be disciplined or discharged except for just cause. It is the Employee's burden to establish that Employer lacked just cause for discipline or discharge in all proceedings under this Agreement.

Section E. Investigatory Interviews. The employee shall have the right to request that a Grievance Committee member be present at investigatory interviews which the employee reasonably believes may result in disciplinary action being taken against him or her. Such interview shall not be unreasonably delayed (beyond twenty-four (24) hours) due to the unavailability of a Grievance Committee member. The Grievance Committee member's role is to gather information and advise the employee of his or her rights under the Agreement. The Grievance Committee member's participation shall not be obstructionist in nature.

Section F. Documentation.

(1) All disciplinary actions shall be documented in writing by the supervisor.

(2) Documentation of disciplinary actions will become part of the employee's personnel record subject to Section I (2), below. Supervisors administering disciplinary action shall provide copies of such actions to the Department of Personnel Management.

Section G. Notice. Notice of disciplinary actions should be hand delivered whenever practicable, or sent by certified mail. Notice by certified mail shall be effective upon delivery of notice by the U.S. Postal Service. Notice of disciplinary action shall be concurrently transmitted by either means to the chair of the Grievance Committee.

Section H. Contents of Disciplinary Notice.

The disciplinary notice shall be in writing, directed to the employee, and shall contain:

(1) an appropriate identification of the party, including position title and department; and

(2) the date(s) on which the violation(s) occurred, or where such acts are of a continuing nature and are the basis for the disciplinary action, the period of time when the acts occurred; and

(3) a reference to the Table of Penalties regarding the offense(s) committed and the penalty imposed; and

(4) a clear and concise statement of the facts constituting the alleged violation(s); and

(5) an explanation of the employee's right to appeal the disciplinary action pursuant to the Grievance and Arbitration Procedure of this Agreement; and

(6) if hand delivered, the employee's acknowledgment of receipt of the notice, or if employee refuses to acknowledge, the notation that employee refused to sign and the date.

Section I. Table of Penalties.

Those responsible for the administration of discipline must be firm, impersonal, and free from prejudice. In the interest of administering justice as uniformly as possible in accordance with the policies stated herein,

(1) in cases of less serious performance and/or conduct issues, supervisors are encouraged to discuss such deficiencies with their employees.

(2) A written notice may also be appropriate for less serious offenses prior to taking formal action. Such action may not be grieved under this Agreement, nor will it be included in the employee's personnel file maintained by the Department of Personnel Management. However, a written notice may be included in the internal personnel file maintained by the department or program issuing the notice. Any notice issued under this subsection (2) shall not be used as evidence in a disciplinary hearing that a violation occurred.

(3) Supervisors shall be specific in describing the time period constituting an employee's suspension, and shall include both the dates and hours when the suspension begins and ends. Holidays shall be counted in computing the suspension period.

(4) Suspensions imposed under the Table of Penalties are generally without pay, and require the employee to remain away from the workplace during the period of suspension. At the discretion of the supervisor, an employee may be placed on a working paid suspension. During the period of such suspension, the employee shall continue to carry out his or her regular duties at the workplace. A paid suspension is grievable.

(5) In addition to the penalties listed, employees are reminded that depending upon the offense(s) committed, they may be subject to prosecution under Navajo Nation or other applicable laws and/or be deemed ineligible for future employment with the Navajo Nation.

(6) Employees who violate Navajo Nation or other applicable laws may also be subject to penalties provided for in those laws. Such violations may or may not lead to disciplinary action by the supervisor.

(7) For those employees paid by a contract or grant, where the funding source requires greater disciplinary measures than those outlined in the Table of Penalties, or penalties other than those listed, such disciplinary action may be imposed consistent with the funding source requirement.

(8) Where one set of circumstances warranting disciplinary action violates more than one offense listed in the Table of Penalties, supervisors must allocate the total penalty among each separate offense charged.

For example, if an employee is charged with three separate offenses, and the penalty for each of the three offenses is ten working days of suspension, the supervisor must divide the ten days among all three offenses.

Section J. Employees shall not be penalized for multiple offenses arising from the same conduct or event.

Article 23 **Grievance and Arbitration Procedure**

Section A. Policy. Should differences or disputes arise between the Union and the Employer and/or between an employee and the Employer involving the interpretation and/or application of this Agreement or other conditions of work (a "grievance"), the parties shall make an earnest effort to settle such differences promptly by the grievance procedure set forth below. All grievances shall be settled, determined, adjusted and processed solely and exclusively with the procedures set forth in this Article.

Grievances concerning the discharge of an employee shall be processed like all other grievances, except that Step 1 shall be omitted, and the written grievance shall be signed by the employee and presented to the employee's immediate supervisor within five (5) working days of the effective date of the discharge. The grievant may attend any or all meetings at all steps of the Grievance and Arbitration Procedure. The term "authorized Union representative" as used in this Article shall not include an active member of the bargaining unit covered by this Agreement. The

parties agree that, should the individual designated to act on behalf of the Employer in this Article's Steps not be available, such individual's designee may act in his or her stead.

Any employee having a grievance ("grievant") may withdraw his or her grievance at any point in the grievance process, and a Grievance Committee member shall have the authority on behalf of the grievant to settle or withdraw any grievance at Step 2 or proceed to Step 3. A Grievance Committee member shall not be suspended or discharged for his or her official actions under this Article, so long as such actions are in compliance with this Agreement.

Section B. Grievance Process. Should any grievance (as defined in Section A of this Article) arise, it shall be settled in accordance with the following process (except with respect to grievances related to discharge, which shall go directly to Step 2):

Step 1: The grievant is encouraged to first informally discuss any concerns with his or her immediate supervisor, either alone or, upon request, with a Grievance Committee member.

Step 2: Regardless of whether the grievant seeks to informally resolve the grievance under Step 1, any grievance that proceeds to Step 2 shall be reduced to writing, signed by the grievant, and given to the grievant's immediate supervisor within ten (10) working days of (a) the event(s) giving rise to the grievance; or (b) when the grievant(s) should reasonably have become aware of the event(s) giving rise to the grievance, whichever is later, or the matter shall be considered closed. The written grievance shall indicate the nature of the grievance, the facts upon which it is based, the Article(s) of the Agreement allegedly violated, and the remedy sought. In the case of a discharged employee, a written grievance signed by the employee must be presented to the employee's immediate supervisor within five (5) working days of the discharge. The grievant and/or Grievance Committee member shall meet with the grievant's immediate supervisor within five (5) working days of the date the supervisor receives the written grievance in an effort to resolve the grievance. The supervisor shall have five (5) working days after the date of the meeting described in this Step to respond in writing to the grievant. No response by the supervisor within such five (5) working days shall constitute a denial of the grievance.

Step 3: If the grievance is not resolved in Step 2, it shall next be presented to the Human Resources Director of the Navajo Nation Department of Personnel Management, or DPM's designee ("DPM's designee"), within five (5) working days of (a) the supervisor's written denial in Step 2; or (b) the expiration of the supervisor's five (5) working day response period in Step 2. The grievant and/or Grievance Committee member and/or authorized Union Representative shall meet and discuss the grievance with DPM's Designee. DPM's designee shall respond in writing to the grievant within five (5) working days of the presentation date in an effort to resolve the grievance. No response by DPM's designee within such five (5) working days shall constitute a denial of the grievance.

Step 4: If the grievance is not resolved in Step 3, the Union may choose to send the grievance to arbitration and shall notify DPM's designee in writing of its intention to seek arbitration within five (5) working days of DPM's designee's written denial in Step 3, or the expiration of the five (5) working day response period in Step 3. Prior to sending a grievance to arbitration, an International Representative from the Union and a person assigned by Navajo

Nation Department of Justice shall meet to discuss the resolution of the grievance. Such a meeting may be virtual, including by telephone.

The Employer shall have no obligation to arbitrate a grievance unless it receives a written statement, signed by the grievant, that the grievant agrees to be bound by the results of the arbitration, and that the grievant waives his or her right to pursue a grievance regarding the same disciplinary action under the Navajo Preference in Employment Act. The Employer shall have no obligation to arbitrate a grievance if the grievant does not comply with the above deadlines.

It is the express preference and intention of the Employer and the Union to use the Office of Hearings and Appeals (“OHA”) as the exclusive arbitrator under this Article, and any arbitrations before OHA shall be conducted in accordance with its established procedures.

In the event that OHA is not authorized to hear such grievances, the contents of this Article, insofar as addressing the exclusive arbitrator, shall be reopened for renegotiation. However, in the interim of such renegotiations, the parties agree to utilize the services of the Federal Mediation and Conciliation Services (“FMCS”), provided that FMCS arbitration system costs to the Employer will not exceed \$9,000 in any one budget year, and through requesting a panel of arbitrators from the geographic areas of Arizona, New Mexico, Colorado, and Utah, provided that all panel members are situated within a 350-mile radius of Window Rock, Arizona. The parties agree that all arbitrations shall be held in Window Rock, unless mutually agreed to in writing otherwise.

In accordance with the Navajo Nation Arbitration Act, and in the event FMCS is chosen as the interim arbitrator, the arbitrator from FMCS shall be selected in the following manner:

The Employer and the Union jointly, within five (5) working days of the date of the Union’s notification to the Employer of its intention to seek arbitration, will request that FMCS supply them with the names of seven (7) arbitrators, all of whom must meet any criteria established under the Navajo Nation Arbitration Act. Within three (3) working days after receipt of the panel of arbitrators, the parties shall confer and strike names alternatively until there remains one (1) person, who shall become the Arbitrator. If that Arbitrator cannot schedule the arbitration to be heard within sixty (60) days, the parties will strike names from the remaining list of six (6) arbitrators. If the process is repeated to the point where only four potential arbitrators remain on the list, the parties will request a second panel of seven (7) arbitrators from the FMCS. The first time that an arbitrator is selected, the parties shall toss a coin to determine who shall proceed first in the striking of names, and thereafter shall alternate.

Whether the arbitration is conducted through OHA or the FMCS, unless it is mutually agreed to otherwise in writing, each grievance that is subject to arbitration shall be handled as a separate case. All matters of arbitrability shall be heard before the same arbitrator who simultaneously shall hear the merits of the case. All arbitrations shall be held in accordance with the Navajo Nation Arbitration Act.

At the earliest possible time, the Arbitrator shall conduct a hearing to receive testimony and evidence and consider the parties' arguments. The hearing shall be recorded by the Arbitrator and shall be closed upon completion of the hearing.

The Arbitrator shall interpret the Agreement in connection with the issues expressly presented to him or her for resolution consistent with the terms of this Agreement. The Arbitrator shall apply Navajo Nation laws and shall be bound by the facts and evidence submitted to him or her in the hearing and may not go beyond the terms of this Agreement in rendering a decision. The Arbitrator shall have no power or authority to add to, subtract from, alter, amend, nullify, disregard or modify any of the terms of this Agreement in any way. When agreed to by the Arbitrator, the decision of the Arbitrator must be rendered within thirty (30) days of the close of the hearing or receipt of the parties' post-hearing briefs, whichever is later. The decision of the Arbitrator shall be final and binding on both the Union and the Employer. The Union and the Employer agree that the arbitration shall be conducted in accordance with the arbitration rules and regulations followed by OHA (or the FMCS, when applicable), and in accordance with Navajo Nation law.

All costs of arbitration, including any fees and expenses of the Arbitrator, and the cost of the transcript where mutually agreed upon, shall be borne equally by the parties. Each party shall pay any fees, wages or expenses of its own representatives and witnesses for time lost, and the cost of the transcript where there is no mutual agreement to order it.

Representation. The parties acknowledge that the application of Navajo Nation law may affect the parties' right of representation by a non-member of the Navajo Nation Bar. In the event that the Union chooses to be represented by counsel in any grievance proceeding, such counsel shall be a licensed attorney or tribal advocate authorized to practice by the Navajo Nation Bar Association.

Section C. Time Periods. The time periods and limits at any of the steps provided in Section B, above, may be extended only by mutual written agreement of the Union and the Employer. For the purposes of this Article, the term "working days" is defined as excluding Saturdays, Sundays and contractual holidays.

Section D. Status of Position/Employee Pending Grievance Outcome. Any changes regarding a position affected by a grievance will be placed on hold by the Employer until such time the grievance is resolved or a final decision is rendered. Notwithstanding such fact, disciplinary actions shall be effective immediately upon notice to the employee.

In addition, notwithstanding an employee's involvement in a current grievance, subsequent violation of the Navajo Nation's personnel policies (or this Agreement, where the Agreement supersedes such policies) by the employee may result in separate disciplinary action(s). An employee that has filed a grievance shall be allowed reasonable use of available annual leave hours for the purpose of participating in the grievance process.

Section E. Settlements and Awards. Settlements reached at any step of the grievance procedure shall be final and binding on both parties and shall not be subject to further proceedings under this Article except by mutual agreement of the parties. Settlements reached at Steps 2 or 3

shall be in writing and signed by authorized representatives of the Union and the Employer. Any resolution of a grievance involving a disciplinary action shall require a written statement, signed by the grievant, that the settlement is a full and final resolution of the grievant's claims under this Agreement, as well as any claims or potential claims under the Navajo Preference in Employment Act. Further, any decision by the Arbitrator shall be final and binding on the Employer and the Union.

With respect to disciplinary grievances, the Arbitrator shall have the authority to uphold or reverse the disciplinary action of the supervisor, award back pay to the grievant and, when required, order that the employee's record be expunged. The Arbitrator may also consider the appropriateness of the penalty imposed and if circumstances warrant, reduce the penalty. However, in no case shall the Arbitrator increase the penalty imposed by the supervisor.

Monetary grievance settlements, if any, shall be paid by separate check to the grievant(s), with a copy of the same sent to the Union for their records. In the case of a discharged or suspended employee, any award of back pay may be offset and reduced by any interim earnings collected by the grievant, if so ruled by the Arbitrator.

Article 24 **Legal Representation**

Section A. Request for Legal Representation. In the event that an action is initiated against a bargaining unit member for conduct arising out of his or her official duties, the Office of the Attorney General (Attorney General) will provide legal representation for said individual insofar as consistent with Navajo Nation law and regulation, which currently provides that:

1. The Attorney General shall defend and initiate all actions, including appeals, in which the Navajo Nation is a party, including any action brought in the name of Navajo Nation government officials for conduct arising out of their official duties, and may compromise or settle any action or claim by or against the Navajo Nation government, including any action brought in the name of Navajo Nation government officials for conduct arising out of their official duties.
2. If the Attorney General determines that he/she is disqualified from providing legal representation or legal services on behalf of any entity of the Navajo Nation government in relation to any matter, the Attorney General shall give written notification to the entity affected. If the entity has received such notification from the Attorney General, the entity is authorized to make expenditures, subject to available appropriations, to employ attorneys to provide the representation or services.
3. The Attorney General, in his or her discretion, is authorized to represent an officer or employee of the Navajo Nation against whom a civil action is brought in his or her individual capacity until such time as it is established as a matter of law that the alleged activity or events which form the basis of the complaint were not performed, or not directed to be performed, within the scope of the employee's employment.

The parties also recognize that neither the Office of the Attorney General, nor the Attorney General himself or herself, are party to this agreement, and therefore are neither bound to compliance with this agreement nor subject to enforcement under this agreement.

Article 25 **Retirement**

Section A. Defined Benefit Plan. Employees will be eligible for the same defined benefit plan as that offered to non-bargaining unit employees. The Employer may make any changes in the employees' defined benefit plan as long as the terms apply equally to bargaining unit and non-bargaining unit employees. The Employer will meet with the Union to discuss any changes in the employees' defined benefit plan prior to implementation of such changes. The Union may submit recommendations to the Employer, but the Employer is under no obligation to consider or adopt such recommendations.

Section B. 401(k) Plan. Employees will be eligible for the same 401(k) plan as that offered to non-bargaining unit employees. The Employer may make any changes in the employees' 401(k) plan as long as the terms apply equally to bargaining unit and non-bargaining unit employees. The Employer will meet with the Union to discuss any changes in the employees' 401(k) plan prior to implementation of such changes. The Union may submit recommendations to the Employer, but the Employer is under no obligation to consider or adopt such recommendations.

Section C. Budget Process. Both parties agree that it is their goal to work to establish the retirement eligibility set forth in Section D below, subject to additional available federal funding. Both parties agree to work together to obtain such funding.

Section D. Retirement Eligibility. Upon receipt of sufficient federal funding to (1) augment the current retirement fund and (2) provide annual increases necessary to sustain this reduction in service and age requirements, all Law Enforcement Officers covered by this agreement will be eligible to receive their normal retirement after they have completed twenty years of service regardless of their age.

Article 26 **Scope of Bargaining**

Section A. The Employer and the Union acknowledge that during the collective bargaining negotiations that resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining. The Employer and the Union further acknowledge that, except as specifically provided herein or in a duly executed written side letter or agreement, this Agreement fully and completely sets forth all existing understandings and obligations between the parties and that it constitutes the sole and entire existing Agreement between the parties. Neither

party shall be required, during the term of this Agreement, to negotiate or bargain with respect to any other matter about which the parties knew or should have known as of the effective date of this Agreement. All such matters not included in this Agreement shall be deemed to have been raised and disposed of as if covered herein.

Section B. Nothing herein shall prohibit the parties from changing the terms of this Agreement by mutual agreement. If this Agreement is modified by such mutual agreement, the modification shall be reduced to writing, signed by authorized representatives of the parties, and attached as an addendum to this Agreement.

Article 27 Term of the Agreement

Section A. Parties to the Agreement. The parties agree that this Agreement will become effective following ratification by the membership covered hereby. The parties agree that the Agreement will not be submitted to the membership for a ratification vote until it has been signed by the Navajo Nation President.

This Agreement shall end five years to the month and date after the effective date of the Agreement.

Section B. Amendment, Modification or Termination of Agreement. If either party desires to amend this Agreement, the party shall mail written notice of such intent (with return receipt requested) to the other party or email the other party. UMWA shall provide notice to the Navajo Nation Attorney General, and the Navajo Nation shall provide notice to the UMWA Region IV Director. Should the parties fail to reach an agreement on proposed changes by the Agreement's expiration date, the Agreement shall terminate unless extended in writing by mutual consent of the parties. This Agreement shall otherwise expire at the end of its term, unless extended in writing by mutual consent of the parties. The parties shall be obligated to bargain in good faith, however, if the Agreement expires.

Section C. Limitation of Liability. As mandated by Navajo Nation law, the liability of the Navajo Nation with respect to its expenditure of funds under this Agreement is contingent upon the availability of appropriations by the Navajo Nation Council to carry out the same.

Section D. Wage/Benefit Re-opener. The parties agree to re-open this Agreement for the purpose of negotiating any reductions or increases to the employees' hourly wage rates and/or benefits if, during the term of this Agreement, any reductions or increases occur either in (1) the appropriation of funds or (2) the availability of private, state or federal grant money that will directly affect the wages and/or benefits of the bargaining unit employees. All other provisions of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, the parties may amend the Agreement as to any provision provided both parties consent in writing.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by their duly authorized representatives and/or officers on the date set forth below their name.

FOR THE NAVAJO NATION,
ON BEHALF OF THE EXECUTIVE BRANCH

By: 

Print Name: Bill Nygren

Title: President

Date: September 12, 2024

FOR THE UNION,
INTERNATIONAL UNION, UNITED MINE WORKERS OF AMERICA

By: 

Print Name: Justin Tsosie

Title: International Representative

Date: September 12, 2024