AGREEMENT BETWEEN

STATE OF NEBRASKA

THE DEPARTMENT OF EDUCATION

AND

THE NEBRASKA ASSOCIATION OF

PUBLIC EMPLOYEES/AFSCME, LOCAL 61

JULY 1, 2019 – JUNE 30, 2021

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ARTICLE 1

PREAMBLE

1.1 Effective Dates. This Agreement will become effective and will remain in effect from July 1, 2019, when signed by all parties and remain in effect until the thirtieth (30th) day of June, 2021.

1.2 Party Cooperation. Pursuant to the provision of Chapters 48 and 81, Reissue Revised Statutes of Nebraska (R.R.S.), 1943, this Agreement is made and entered into by and between the State of Nebraska Department of Education, hereafter referred to as the "Agency" and the Nebraska Association of Public Employees, Local 61 of the American Federation of State, County, and Municipal Employees, hereafter referred to as "NAPE/AFSCME." It is hereby agreed by the parties signatory hereto that it has been and will continue to be in their mutual interest to promote and encourage areas of understanding and cooperation in labor management relations; to promote procedures and methods to promptly and fairly adjust differences, misunderstandings, and disparities; to promote reasonable and fair working conditions and to encourage an environment of good will and harmony between Agency and employees for the benefit of all. It is the intent of the parties to comply with the provisions of Chapters 48 and 81, R.R.S. adopted by the Nebraska Legislature, and through a system of employee-employer cooperation, to foster and improve the efficient administration of State service, to provide for the well-being of employees and maintain high standards of performance on behalf of the public; and, entering upon this responsibility, the parties wish to declare their intention to cooperate fully in what must be the joint objectives of both bodies in providing for the employees the best working conditions possible consistent with the provision of the best possible service for the people of the State of Nebraska.

1.3 Sole Bargaining Representative. The Agency recognizes NAPE/AFSCME as the sole and exclusive bargaining representative in accordance with the Nebraska State Statutes for the purpose of establishing salaries, wages, hours and other conditions of employment as defined by law, for all regular employees of the Agency, including those on probation, and those occupying fixed-term positions in job classification titles listed in Appendix A of this Agreement.

1.4 Union Representation. NAPE/AFSCME agrees to represent employees in the bargaining unit to the degree required by law.

1.5 Address for Union Notification. When this Agreement requires the Agency to give notice or make any other specified contact with NAPE/AFSCME, such notice of contact will be with the primary business office of NAPE/AFSCME.

1.6 Excluded from Agreement Coverage. Temporary employees, contract employees, and all other employees in the job classification titles not identified in Appendix A of this Agreement are excluded from the terms and conditions of this Agreement.

1.7 Management Rights. The parties hereto are cognizant of certain terms and conditions of employment which exist in and are within the management rights authority of the Agency and affect employees in the bargaining unit, but which may not be addressed in writing either by way of this Agreement or by way of work rules or policies and regulations.

1.8 Voluntary Participation. Employees will have the right to join and participate in, or to refrain from joining and participating in NAPE/AFSCME or other union or association. There will be no inference, restraint, or coercion by the Agency or by NAPE/AFSCME against any employee because of membership or non-membership in NAPE/AFSCME or in any other union or association.

1.9 Non-Discrimination. The provisions of this Agreement will be applied to all employees in the bargaining unit without discrimination as to age, sex, sexual orientation, marital status, race, religion, color, national origin, political affiliation, genetic information or disability. Each of the parties hereto recognize their individual responsibilities under this Article and agree to fulfill those responsibilities. All reference to employees in this Agreement designate both sexes; and wherever the male gender is used, it will be construed to include male and female employees.

1.10 Workplace Environment. The Agency will take all reasonable measures to provide a workplace free of sexual harassment, inappropriate physical conduct and objectively threatening behavior. Employees will promptly report alleged instances of these matters to their direct supervisor, or, if alleged to have been done by the supervisor, to the next level of supervision.

1.11 Prohibited Activity. Neither the Agency nor NAPE/AFSCME will willfully hinder, delay, limit, or suspend the continuity of any government service by lockout, strike, or other means; or coerce, instigate, induce, conspire with, intimidate or encourage any person to participate in any lockout, strike, or other activity which would hinder, delay, limit, or suspend the continuity or efficiency of any governmental service; or aid or assist any such lockout, strike, or other such activity by giving direction or guidance in the conduct of any such activity or provide the funds for the conduct or directions thereof.

1.12 Application of Personnel Rules. In the case of inconsistency, between any rule contained in Title 93, Nebraska Administrative Code, Chapters 1-16, (93 NAC 1-16) or work rules of the Agency and this Agreement, this Agreement will prevail. Chapters 15 and 16 of the Personnel Rules apply to all employees covered by this Agreement. During the term of this Agreement, no changes will be made to Title 93, Nebraska Administrative Code, Chapters 1-16 (93 NAC 1-16) or work rules of the Agency which would conflict with the terms of this Agreement without concurrence of NAPE/AFSCME; however, those provisions of the personnel rules or work rules of the Agency which involve management rights as described in Article 2 of this Agreement may be amended at any time during the Agreement upon notice to NAPE/AFSCME and Agency employees.

1.13 State Laws and Regulations. Any item not specifically covered by the terms of this Agreement as set forth herein will be governed by the statutes and regulations of the State of Nebraska applicable thereto; to this extent, both are made a part hereof and incorporated herein as though fully set forth herein.

1.14 Changes in the Law. In the event that the Legislature will, during the term of this Agreement, specifically mandate benefits for employees covered by this Agreement which are greater than and which conflict with, or are in addition to those benefits provided for by this Agreement, this Agreement will be modified by such changes in the law and employees will be entitled to such benefits from and after the effective date of the law and during its term. Benefits which are currently made a part of this Agreement by statutory references only and then become discretionary will not, during the term of this Agreement, be reduced or otherwise modified.

1.15 State Regulatory Changes. During the term of this Agreement, should an administrative agency other than the Department of Education change in any way a rule or regulation dealing with the subject matter of this Agreement, the Agency will notify NAPE/AFSCME and the parties will meet and negotiate regarding such change.

1.16 Savings Clause. If any provision of the Agreement is subsequently declared by the Nebraska Legislature or proper judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement will remain in full force and effect for the duration of this Agreement.

Should any Article, Section, or portion thereof of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, or caused to be unlawful and unenforceable by an act of the Nebraska Legislature, such decision of the court or act of the Nebraska Legislature will apply only to the specified Article, Section or portion thereof specified in the decision or affected by the act; upon the issuance of such a decision or passage of such act, the parties agree to negotiate a substitute for the invalidated Article, Section, or portion thereof. Should any judicial or legislative action determine that, or cause similar language to that contained in this Agreement to be unlawful or unenforceable, the parties agree to negotiate regarding any affected Article, Section, or portion thereof contained in this Agreement.

1.17 Final and Complete Agreement. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the 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, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Agency and NAPE/AFSCME, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other will not be obligated to bargain collectively with respect to any subject or matter referred to or covered in this Agreement. This Agreement may only be amended during its terms by the Parties' mutual agreement in writing.

1.18 Successor Agreement. The parties may agree to meet at any time prior to the beginning of negotiations to discuss parameters of ensuing negotiations and/or to exchange proposals.

ARTICLE 2

MANAGEMENT RIGHTS

2.1 Agreement. The Agency retains all of its inherent rights, functions, and responsibilities with the right to determine and make decisions, except where those rights may be modified, restricted, or limited by this Agreement. The Agency retains the right to determine the manner in which the operations of the Agency are to be conducted except where those rights may be modified, restricted, or limited by this Agreement. Nothing in this Article is to be construed to extend management rights to areas in which such management rights do not inherently exist.

2.2 Examples of Management Rights. It is recognized that these management rights will be exercised consistent with the provisions of this Agreement and will include, but not be limited to, the following:

2.2A To implement and maintain a job classification system and classify employees pursuant to Article 10. To hire, promote, demote, transfer, assign, train or retain employees in positions within the Agency.

2.2B To maintain order and efficiency by:

2.2B1 Establishing and maintaining Agency mission, goals, and objectives, and reasonable work rules and workplace expectations, the contents of which are not inconsistent with this Agreement.

2.2B2 Suspending, demoting, discharging or taking other appropriate disciplinary action against employees for just cause.

2.2B3 Scheduling work and promoting its accomplishment through managing, directing, and assigning duties and work schedules to employees.

2.2C To determine what charitable and/or social activities may be supported or sponsored.

2.2D To determine the type and number of employees to be employed and, consistent with other provisions of this Agreement, to lay off employees in the event of lack of work or funds or under conditions where the continuation of such work would be inefficient or nonproductive.

2.2E To dismiss an employee from employment in the event the employee is unable to perform the essential functions of the position due to physical or mental impairments even with reasonable accommodations.

2.2F To determine, in accordance with the Constitutional and statutory mandates and goals assigned to the Agency, the personnel, methods, and means necessary to efficiently fulfill the Agency mission, goals, and objectives, including but not limited to, implementing a budget; contracting for the transfer of any goods or services; or altering, curtailing or discontinuing any goods or services. However, the provisions of this Section will not be used for the purpose of undermining NAPE/AFSCME or discriminating against any members of the Bargaining Unit.

2.2G To take all reasonable and necessary steps to comply with the Americans with Disabilities Act (ADA) and/or the Nebraska Fair Employment Practices Act.

2.3 Negotiations. Nothing in this Article will be construed to limit or interfere with, or to extend, the scope of permissible negotiations.

ARTICLE 3

NAPE/AFSCME

NAPE EMPLOYEE REPRESENTATIVE ACTIVITIES

3.1 Acceptable NAPE/AFSCME Representative Activities. The Agency agrees that during work hours, on the Agency's premises, official representatives of NAPE/AFSCME (persons employed by NAPE/AFSCME), provided they first notify the appropriate representative of the Agency, will be allowed with no unreasonable interference to:

3.1A Post NAPE/AFSCME notices as limited by this Article on bulletin board space provided by the Agency.

3.1B Attend grievance meetings.

3.1C Consult with the Agency or employees of the Agency concerning the enforcement of any provisions of this Agreement.

3.2 NAPE/AFSCME Representative Names. NAPE/AFSCME will provide the Agency a list containing the names of NAPE/AFSCME's authorized representatives for the purpose of this Article within fifteen (15) calendar days after the effective date of this Agreement. NAPE/AFSCME will notify the Agency of change to this list a minimum of seven (7) calendar days prior to the effective date of change.

3.3 File Cabinet. NAPE/AFSCME will be permitted to maintain one NAPE/AFSCME provided file cabinet at each major work site (State Office Building and other NDE offices) for use by NAPE/AFSCME representatives, unless the location of such cabinet is not practicable.

3.4 NAPE/AFSCME Employee Representatives. Employees selected by NAPE/AFSCME to act as representatives will be known as "NAPE/AFSCME Employee Representatives." NAPE/AFSCME will provide the Agency, on a yearly basis, a current list of the NAPE/AFSCME Employee Representatives and will update the list as changes occur.

3.4A The NAPE/AFSCME Employee Representative will be an employee who is employed to perform full-time work for the Agency and will be responsible for such full-time work on his or her part except at the time of performing authorized duties as a NAPE/AFSCME Employee Representative. The performance of duties as a NAPE/AFSCME Employee Representative will not relieve the employee of the responsibility to properly accomplish his or her duties as an employee of the Agency.

3.4B The NAPE/AFSCME Employee Representative will function on behalf of the employees within the certified collective bargaining unit in the NAPE/AFSCME Employee Representative's assigned area.

3.5 Employee Representative Distribution. Employees designated as NAPE/AFSCME Employee Representatives will be reasonably distributed throughout the Agency to allow proper support for employees. However, no two (2) NAPE/AFSCME Employee Representatives may actively process the same grievance or any other matter at the same time.

3.6 Employee Representative Hours. A NAPE/AFSCME Employee Representative, upon notification to his or her immediate supervisor or other designated supervisor, will be permitted without unnecessary delay to devote up to a maximum of twelve (12) hours per month to conduct the following activities listed in Sections 3.6A through 3.6C. The twelve (12) hours per month is neither transferable nor cumulative, and will be limited to the NAPE/AFSCME Employee Representative's normal schedule. NAPE/AFSCME Employee Representatives who are working under this Section will be paid their regular hourly rate for such time.

3.6A Investigate any grievance or problem or dispute in his or her jurisdictional area so that the same can be properly presented in accordance with the grievance procedure.

3.6A1 Employees may discuss alleged or actual grievances with NAPE/AFSCME Employee Representatives or NAPE/AFSCME staff for reasonable amounts of time during their regular work shift without loss of pay provided immediate supervisor approval is granted. Such approval will not be unreasonably withheld. If the immediate supervisor's approval is withheld, a stay of the time period for filing the grievance will go into effect until the employee is released to meet with the NAPE/AFSCME Employee Representative or NAPE/AFSCME staff.

3.6B Represent employee members of the bargaining unit in his or her meetings with management or other Agency representatives when such meetings are necessary to address grievances or disputes.

3.6B1 All meetings or hearings relative to grievances will be scheduled from 8 a.m. to 5 p.m., Monday through Friday, excluding those days offices are not open. However, should such hearing or meeting extend past 5 p.m., it will not be considered to have violated said Agreement. Time spent in grievance meetings, hearings, or associated activities, which occur outside the NAPE/AFSCME Employee Representative's normal work hours, will not be considered compensable time.

3.6C Confer, after informing the Agency, with staff members or officers of NAPE/AFSCME and employees on Agency premises, at reasonable times and places in advance of the above designated meetings, under the limits and conditions noted earlier.

3.7 Employee Representative Notice to Supervisors. No NAPE/AFSCME Employee Representative will leave his or her regularly assigned work area to conduct activities under Section 3.6 without first notifying and receiving approval from his or her supervisor, or in the absence of his or her supervisor, the person in charge. Such approval will not be reasonably withheld. Upon returning to work, the supervisor will again be notified.

The NAPE/AFSCME Employee Representative and/or any other NAPE/AFSCME representative or agent, when entering any Agency areas or an office site to conduct NAPE/AFSCME business authorized by other provisions of this Agreement, will notify the supervisor of that area or site of his/her presence and of the nature of the issue.

3.8 Cause for Corrective Action or Discipline. Violation of the Agreement concerning the responsibility of NAPE/AFSCME Employee Representatives by an employee may be cause for application of corrective action or discipline.

INFORMATION DISTRIBUTION

3.9 NAPE/AFSCME Orientation. The Agency agrees to include a NAPE/AFSCME orientation notice in the package of material provided to new employees, such notice to be supplied voluntarily by NAPE/AFSCME. Upon a request from NAPE/AFSCME, the Agency will provide an opportunity for a NAPE/AFSCME representative to meet with new employees for up to twenty (20) minutes at the close of the orientation session, or where orientation is not provided in-person or via video technology supplied by NAPE/AFSCME, to meet with new employees for up to twenty (20) minutes during the workday, in a non-work space normally used for employee meetings. Attendance by new employees at such meetings will be voluntary.

3.10 Information Distribution and Solicitation. The Agency agrees that during the involved employee's nonworking time on the Agency's premises outside of employee office areas, employees or members of NAPE/AFSCME, provided they first notify the appropriate representative of the Agency, will be allowed to distribute NAPE/AFSCME literature and solicit NAPE/AFSCME membership. The term "employees" in the above sentence refers to the employee who is soliciting as well as the employee whose membership is being solicited.

3.11 Prohibition. NAPE/AFSCME agrees that its official representatives or members will not solicit membership in NAPE/AFSCME or otherwise carry on NAPE/AFSCME business or activities in a manner which prevents full attention of all employees to their respective jobs.

3.12 Bulletin Board Space. The Agency agrees to reserve adequate space on bulletin boards for use by NAPE/AFSCME provided the Agency will not be obligated to install any additional bulletin boards.

3.13 Bulletin Board Notices. Material to be placed on the bulletin boards will be limited to notices of NAPE/AFSCME's recreational, educational, and social affairs; notices of NAPE/AFSCME elections, appointments and results of NAPE/AFSCME elections; notices of NAPE/AFSCME meetings and any other notice from NAPE/AFSCME that would be of interest to the unit members. Such notice will indicate both posting and removal date. NAPE/AFSCME will be responsible for the posting and removal of NAPE/AFSCME notices. A copy of such material will be provided to the Human Resources Office of the Agency prior to or at such time as it is posted. All material posted by NAPE/AFSCME on Agency bulletin boards will be on NAPE/AFSCME stationery or otherwise authenticated by NAPE/AFSCME.

3.14 Information for Publication. NAPE/AFSCME will be allowed to submit articles and notices to the Agency for publication in the Agency publication designated for internal communication with employees. Publication will be totally at the discretion of the Agency.

INFORMATION TO BE PROVIDED TO NAPE/AFSCME

3.15 Agency Representative Names. The Agency will, upon request, provide to NAPE/AFSCME a current list containing the names of the Agency's designated representatives who are to receive notice as required by this Article within fifteen (15) calendar days after the effective date of this Agreement. The Agency will notify NAPE/AFSCME of change to the list a minimum of seven (7) calendar days prior to the effective date of change.

3.16 Annual Employee List. At the beginning of each fiscal year, the Agency will, upon request, provide to NAPE/AFSCME electronically a list of all bargaining unit employees. This list will contain the employee's name, home address, job classification title, job classification code, annual salary, date employed and work location. NAPE/AFSCME agrees to be responsible for the cost of this annual report. This list will be held confidential by NAPE/AFSCME.

3.17 Quarterly List Update. The Agency will, upon request, provide quarterly to NAPE/AFSCME an electronic list of names, home addresses, job classification title and job classification code of all newly hired, terminated, transferred, promoted, demoted, or reclassified employees in the unit. NAPE/AFSCME agrees to be responsible for the cost of this quarterly report. This list will be held confidential by NAPE/AFSCME.

3.18 Confidentiality. NAPE/AFSCME will keep the information provided in Sections 3.16 or 3.17 above confidential and will not use the information for any purpose other than record keeping and other official NAPE/AFSCME business. For purposes of this Article, solicitation of employees for membership in NAPE/AFSCME will be considered a part of official NAPE/AFSCME business.

LABOR/MANAGEMENT COMMITTEE

3.19 Establishment. The parties agree to the establishment of Labor/Management Committees.

3.20 Committee Membership. The Committees may be established on a regional, facility, and/or statewide basis with mutual agreement of the parties. The maximum number of employees participating with pay on behalf of NAPE/AFSCME will be three (3), with selection at the discretion of NAPE/AFSCME. If a greater number of participating employees is approved by the Deputy Commissioner, selection of additional representatives will also be at the discretion of NAPE/AFSCME. Labor/Management Committee meetings may only be called with the mutual consent of the Agency and NAPE/AFSCME.

ARTICLE 4

PERSONNEL FILE INFORMATION

4.1 Home Address. All employees are required to provide a current physical home address to the Human Resources Office.

4.2 Content. Personnel records will include all information stored in any form by the Human Resources Office of the Agency, which is personally identifiable with an individual employee. The Agency agrees to maintain one official Agency personnel file per individual for the provisions of this Agreement. The one official Agency personnel file will be maintained at the State Office Building in the Agency's Human Resources Office. It is understood and agreed that copies of materials from the official personnel file on an employee may be maintained at the work site of the particular employee.

4.2A Public Information. Public information contained in personnel records will consist only of the full name of the employee; the employee's job title and date(s) of employment; a statement as to whether the individual is or was an employee of the Agency; the employee's work location and work phone number; and, the gross salary of the employee. Public personnel information will be provided to any party requesting it. Additionally, pursuant to Section 84-712.05(15) R.R.S., all "job application materials," as defined in that subsection, that are submitted by persons who are hired and become employees of the Agency, are public records and are required to be provided upon proper request under the state public records laws.

4.2B Confidential Information. Confidential information contained in personnel records will include all information that is not considered public information. Confidential information will be released only to the employee; the Board; any Agency administrator or supervisor in the line of authority to the employee; staff from the Human Resources Office or the Legal Services Office; any governmental law enforcement or investigative agency or representative upon presentation of proper identification to the Human Resources Office; a subpoena or court order; anyone who presents a document signed by the employee granting access to confidential information or as reasonably needed for the Agency to defend itself in any legal or administrative proceeding brought against the Agency or any of its officials or employees in their professional capacities, or as reasonably needed by the Agency to prosecute legal or administrative actions brought by the Agency.

4.3 Inspection and Copies. An employee of the Agency will be allowed to inspect and/or obtain a copy of their own personnel file maintained by Human Resources at any time during work hours. Upon an employee's specific request to the Human Resources Office the Agency will, within ten (10) workdays, provide electronic access or copies of the specific documents requested.

4.4 Cost. The cost of any copies of the files will be assumed by the Agency unless said copies are of material which had been previously provided to the employee, in which case the cost of such copies will be assessed to the employee at the rate per copy charged for public records per the Agency's administrative policies regarding Public Access to Records and Reproduction Costs.

4.5 Notice. Employees will be notified by the Agency in writing within ten (10) workdays of any information being placed in their personnel file by persons other than the employee which information bears upon the character of the employee or the employee's job performance. The Agency will be required to reproduce the information for the employee in accordance with Section 4.4.

4.6 Release of Information. All third party inquiries requesting information regarding the employment record of an employee will be directed to the Human Resources Office. Upon receipt of a completed release of information form, the Human Resources Office will provide the requested information. When the employee does not specify on the release form the information to be disclosed, Human Resources will disclose to the authorized third party the information described in Section 48-201 R.R.S. When a request for other than public information is received, and a completed release form is not on file to allow release of the requested information, the Human Resources Office will forward an Authorization for Release of Employment Records form to the employee or the requestor. If no written authorization is received, the Human Resources Office will release only public information. The release form will be retained in the employee's personnel file. Documented employment information from a current or former employee's personnel file will be shared with other state agency human resources staff or hiring supervisors, upon request, when the current or former employee has applied for a position in another department/division/agency on the basis of the release on the state job application.

4.7 Medical Records. Employee records of medical examination and other miscellaneous medical records will be maintained electronically by Human Resources separate from personnel file documents. Access to medical records will be provided only to personnel who require them to carry out an assigned responsibility.

4.8 Post-employment. This Agreement does not cover the inclusion of information in any employee's personnel file following termination of the employee. Such being the case, NAPE/AFSCME takes no responsibility or liability for the manner or method by which the personnel files are utilized by management after termination. Former employees will have reasonable rights of access to their Agency personnel file, subject to the provisions in the NDE Personnel Rules (Title 93, Nebraska Administrative Code, Chapters 1-16).

ARTICLE 5

PERFORMANCE APPRAISALS

5.1 Appraisal Schedule. Written performance appraisals will be prepared at prescribed intervals during the probationary period and annually thereafter as described in Section 5.1C. The absence of any required appraisals does not prohibit nor delay the ending of a successful probationary period and the establishment of a regular appointment. If a performance appraisal was not completed during the previous twelve (12) months, an employee's performance will be considered as meeting expectations for salary purposes until such time as a performance appraisal is completed. Employees will be provided with either electronic access to, or a paper or electronic copy of, the completed performance appraisal.

5.1A Six-Month Probationary Period. For employees with a six-month probationary period the following schedule of appraisals will be maintained:

5.1A1 Prior to the end of ninety (90) calendar days of employment; and,

5.1A2 Prior to the end of the 6th month of employment.

5.1A3 Additional appraisals may be scheduled at the discretion of the employee's supervisor.

5.1B Twelve-Month Probationary Period. For employees with a twelve-month probationary period, the following schedule of appraisals will be maintained:

5.1B1 Prior to the end of the 6th month of employment; and,

5.1B2 Prior to the end of the 12th month of employment.

5.1B3 Additional appraisals may be scheduled at the discretion of the employee's supervisor.

5.1C Annual Appraisals. Annual appraisals will be conducted on an annual basis covering the previous calendar year. Additional appraisals may be scheduled at the discretion of the employee's supervisor.

5.2 Discrimination. An employee may grieve the performance appraisal following procedures prescribed in Article 17 only if:

5.2A The employee alleges discrimination by reason of sex, race, color, age, national origin, marital status, religion, or disability; or,

5.2B The individual completing the appraisal:

5.2B1 Is not the immediate supervisor or next level supervisor or management position covering the daily work of the employee rated; or

5.2B2 Provided false information on the appraisal instrument. A supervisor's subjective assessment of a matter of performance is not false information for purposes of this subsection.

5.3 Special Appraisals. A special performance appraisal may be submitted whenever the supervisor desires to record instances of performance worthy of recognition either favorable or unfavorable. Reasons for submission of this type of appraisal will be explained in the comments section of the appraisal.

5.4 Rebuttal. The employee may, within seven (7) calendar days of the appraisal conference, make written comments within the employee signature area or submit a separate written statement to the Human Resources Office that will become a permanent part of the personnel file. No additional written observation will be made on the appraisal after the appraisal conference has been held without notification to the employee.

ARTICLE 6

PROBATIONARY PERIODS

6.1 Purpose. Every person in a position covered by the bargaining unit will be required to serve a probationary period, which will be of sufficient length to enable the employee's supervisor to observe the employee. Employees may have their probationary period extended according to the provisions in this Article in order for the supervisor to have additional opportunities to observe the employee. Probationary periods may also be extended to allow for adequate observation opportunities in cases where employees have been absent for significant periods of time.

6.2 Period of Time. Each employee will serve an appropriate probationary period based on the job classification occupied. The probationary period for new or revised classifications created after the effective date of this Title will be determined by the Agency per the provisions of Sections 2.2A and 10.1.

6.2A Six-Month Probationary Periods. Employees occupying the following jobs (including various levels within the job family), or successor job titles, will serve a probationary period of six (6) months:

Administrative Associate
IT Infrastructure Support Technician
IT Help Desk Specialist
Office Associate
Office Associate Executive
Paralegal
Program Associate
VR Associate and Senior Associate

6.2B Twelve-Month Probationary Periods. Employees occupying the following jobs (including various levels within the job family), or successor job titles, will serve a probationary period of twelve months:

Administrative Specialist
Administrator
Disability Adjudicator
Disability Determination Section Hearing Officer
Education Specialist
General Counsel
IT Applications Developer
IT Data/Database Analyst
IT Infrastructure Support Analyst
IT Help Desk Specialist
Legal Counsel
Officer
Program Specialist
Project Manager
Psychometrician
VR Service Specialist
VR Rehabilitation Specialist
VR Office Director
VR Program Director

6.2C Extensions. Employees with original probationary periods of six (6) months may be extended by up to six (6) months not to exceed a total of twelve (12) months upon written notification to the affected employee, which includes reasons for such extension. Employees with original probationary periods of twelve (12) months may be extended by up to six (6) months not to exceed a total of eighteen (18) months upon written notification to the affected employee, which includes reasons for such extension. Secondary probation periods may not be extended.

6.3 Discrimination Prohibition. An employee serving an original probationary period may be terminated without recourse under this Agreement, including terminations for not successfully passing the applicable background screens. This provision does not allow for terminations based on unlawful discrimination (race/ethnicity, color, sex, religion, age, disability, genetic information or national origin), nor does it limit any legal remedies such an employee may have outside of this Agreement.

6.4 End of Probation. If the supervisor determined that the services of an employee have been acceptable, the employee will move from probationary to regular employee status. An employee will move to regular employee status on the day following the day ending the probationary period, unless notice of extension has been given prior to such time. In the event of an extension of the probationary period, an employee will move to regular employee status on the day following the day ending the extension of the probationary period.

6.5 Termination of Employment. If at any time during the original probationary period it is determined that the services of the employee have not been acceptable or the employee does not successfully pass applicable background screens, the Office Administrator and supervisor will notify the employee in writing of the date services are to be terminated. There is no recourse for such terminations under this Agreement.

6.6 Change of Position During Probationary Period. Employees who move to another position during their original probationary period are required to serve a complete new probationary period in the new position and will not be credited with probationary service completed in the previous position. However, employees who move to positions that are under the same Office Administrator, and are of the same pay grade, will be credited with all probationary service in the previous position.

6.7 Secondary Probationary Periods. Employees who have previously completed an original probationary period in their current position, and accept a new position as described in Section 11.1B, or who are demoted as the result of a disciplinary demotion, will be placed on a secondary probation for a period of time as set forth in Article 6 to determine his or her ability to perform the job. The supervisor and Office Administrator may request approval from the Human Resources Office to waive or end the secondary probationary period early.

If the employee is, in the opinion of the Agency, not performing satisfactorily in the new position during the secondary probationary period, the employee may be reverted to the employee's previous position and pay rate (secondary probation following promotions only) or may be placed in a vacant position of a similar classification with the same pay rate as the employee received prior to the new position. If no such vacancy is available, the Agency may place the employee in a vacant position in a lower classification according to the provisions in Section 11.3B or may terminate the employee in the manner described in Article 6. Notice of such change in position must be provided to the employee within the secondary probation period and the change effective within thirty (30) calendar days of the end of the secondary probation period. The Agency will not be required to utilize the disciplinary process to revert an employee back to the employee's former position or a vacant position in the same geographical area (thirty [30] miles from the current work site) equivalent to the former position's pay grade. Any of the Agency actions described above are grievable only if and to the extent that the employee is alleging that (i) such action was based upon unlawful discrimination by reason of sex, race, color, age, national origin, marital status, religion, disability or genetic information; or (ii) their previous position was vacant and available or a vacant position of similar job level was available but they were not placed in such a position.

The Agency will document efforts to provide the promoted employee with performance improvement counseling when utilizing this provision.

6.7A During the secondary probationary period for the new position, probationary performance appraisals may be conducted according to the schedule as set forth in Article 5.

ARTICLE 7

SCHEDULED WORKWEEK AND HOURS

7.1 Work Schedule. The Agency will establish for each employee a normal workweek schedule of seven (7) consecutive days. Regular pay and overtime pay will be calculated based on the workweek.

7.2 Workdays and Hours. Except as otherwise authorized by the Office Administrator and the immediate supervisor, each full-time employee will be scheduled to work at least eight (8) hours per workday and forty (40) hours per workweek. For purposes of calculating and reporting leave, a workday will be considered to be eight (8) hours for a full-time employee or the corresponding percentage of FTE for part-time employees.

7.2A Regular Work Hours. Work hours will fall between the hours of 7:00 a.m. and 6:00 p.m.; however, exceptions outside those hours may be allowed if approved by both the Office Administrator and the immediate supervisor. Permission will not be unreasonably denied. Job-related travel may cause exceptions to these work hours.

7.2B Consistency. Employees will work the same period each workday, unless otherwise agreed upon with their supervisor in advance. In addition, monthly adjustments may be made by the employee with prior approval of the supervisor.

7.2C Lunch. Each day, employees will have an unpaid lunch break of at least thirty (30) minutes and no more than sixty (60) minutes unless they are: (1) scheduled to work six (6) hours or less that day; or (2) required to attend a working lunch that is considered compensable time. If an employee is working six (6) hours or less and would like to forgo the lunch break, the supervisor can approve the request. Scheduling the time of the lunch break is subject to the approval of the immediate supervisor. Schedule requests will not be unreasonably denied by the supervisor. Employees may not take a lunch break for a shorter period of time than one-half (1/2) hour. A lunch break may not be saved for use in shortening the workday.

7.2D Breaks. All employees' work schedules will provide for a paid fifteen (15) minute break during each four (4) hours an employee is on the job. The rest periods will be scheduled at the middle of each such four (4) hour period whenever this is feasible. In the event that pressing work requirements exist, rest breaks will be provided as soon as practicable following the normal schedule during the same workday. Employees will not receive additional compensation or compensatory time off in lieu of rest periods. Break time may not be saved for use in shortening the workday or in extending the lunch break.

7.2E Management Rights. The Agency may establish schedules of employee's work hours in order to insure proper staffing in such units between the hours of 8 a.m. and 5 p.m. The Agency retains the right to specify work hours for specific employees or groups of employees due to ongoing work requirements or in emergency situations.

7.2E1 The Agency will provide ten (10) workdays' written notice to the affected employees prior to making changes in their permanent work schedules. The Agency may temporarily change an employee's work schedule for cause without the ten (10) workdays' notice.

7.3 Overtime. Nothing contained in this Article will be construed as limiting the Agency's right to require overtime work by employees, subject to the provisions of Article 8.

7.4 Job Sharing. Job sharing may be allowed by mutual agreement of the Deputy Commissioner, the Office Administrator and the immediate supervisor. The Agency will attempt to maintain job sharing arrangements in effect as of the effective date of this Agreement for as long as is practical and both involved employees remain employed in their current positions.

ARTICLE 8

OVERTIME

8.1 FLSA Status Determination. The Human Resources Office will determine the Fair Labor Standards Act (exempt or nonexempt) status of each existing, new or restructured position.

8.2 Nonexempt. All employees working in positions classified as "nonexempt" from overtime requirements under the FLSA, Title 29, United States Code, Chapter 8, who are required to work in excess of forty (40) hours in any workweek will be paid at the rate of one and one-half (1½) times the employee's current hourly rate or granted compensatory time off at the rate of one and one-half (1½) times each one tenth (1/10) hour worked in excess of forty (40) in any workweek. This Section will in no way limit any rights or powers of the employees as provided by law.

8.2A Whether payment for overtime work is in the form of cash or compensatory time off will be at the discretion of the Office Administrator and the immediate supervisor. Payment for overtime hours will be calculated at the hourly rate that was in effect for overtime at the time excess hours were actually worked.

8.2B Compensatory time off when taken in lieu of pay will be used in the subsequent sixty (60) calendar day period following the date the hours were worked, unless such period is extended, in writing, by the Agency. Employees who worked overtime hours between July 1, 2019 and June 30, 2020, will either be provided time off by July 31, 2020 or be paid by August 31, 2020 at the June 2020 pay rate. Employees who worked overtime hours between July 1, 2020 and June 30, 2021, will either be provided time off by July 31, 2021 or be paid by August 31, 2021 at the June 2021 pay rate.

8.2C Upon termination, employees covered by Section 8.2 will be compensated for accumulated unused compensatory time off at the rate provided for by the FLSA.

8.2D For all employees other than those in the Disability Determination Section (DDS), no overtime is to be worked by an employee covered by Section 8.2 without the prior approval in writing by the immediate supervisor, the Office Administrator, and the Commissioner or Deputy Commissioner. No overtime is to be worked by a DDS employee covered by Section 8.2 unless authorized by the Social Security Administration and approved by the DDS administrator.

8.2E Holidays will be considered as work hours for overtime purposes. Hours worked by an overtime-eligible employee on a holiday will be compensated at one and one-half (1½) times the employee's normal hourly rate of pay. All hours worked on a holiday in excess of employee's normally scheduled workday will be compensated at two (2) times the employee's normal hourly rate of pay.

8.2F Paid leave (e.g., sick, vacation, bereavement) will not be considered as work hours for overtime purposes.

8.3 Exempt. Employees not eligible for one and one-half (1½) times compensation for overtime, who, in fulfilling their job responsibilities (which may include travel time) extend their accountable work hours beyond the expected eight (8) hour workday or approved work schedule, may deviate from their usual work hours upon advance approval and agreement between the employee and immediate supervisor as to the number of hours of deviation and when the deviation from their usual work hours will take place.

ARTICLE 9

TRAVEL

9.1 Nonexempt Employee Travel Time. Required travel for nonexempt employees will be considered work time per the requirements as set forth in the Fair Labor Standards Act (29 CFR §785).

9.1A Under this federal regulation, the Agency does not consider time spent in overnight travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus or automobile to be "work time."

9.2 Defensive Driving. The Agency will allow the use of state-owned vehicles for business use to employees who have successfully completed, within six (6) months of their hire date, a Defensive Driving course approved by the State and who currently hold a valid driver's license for State business.

9.3 Personal Vehicles. When reasonably requested by the Agency, or when requested by the employee and approved by the Agency, employees may use their own automobile for work-related travel at a rate of reimbursement per the Agency's policies regarding employee expense reimbursement.

9.4 Lodging and Meal Reimbursement. The Agency will reimburse lodging and meal expenses per the Agency's policies regarding employee expense reimbursement.

9.5 Lodging Arrangements. Single occupancy lodging will be made available to any employee traveling on Agency business unless the employee(s): waives the option, prefers multiple accommodation lodging, or lodging availability in the town precludes single occupancy.

ARTICLE 10

JOB CLASSIFICATION PLAN

10.1 Job Classification Specifications. The Human Resources Office will maintain a master set of all approved job specifications used by the Agency, which will be available on the Agency's intranet website.

10.2 Notice Regarding New Job Classification or Series. In the event that any new job classifications or series are developed or revised, by way of content or title during the term of this Agreement, the Agency will notify NAPE/AFSCME as to whether such job classification or series is considered to be included or excluded from the bargaining unit. If NAPE/AFSCME disagrees with the determination, the parties will meet to discuss and resolve the issue. If the parties are unable to resolve the issue, the matter will be settled by the Commission of Industrial Relations.

10.2A If a specific position's designation relative to inclusion in the bargaining unit changes, NAPE/AFSCME will be notified in writing.

10.3 Process for Job Classification Review. Regular employees may request a review of their job classification at any time providing the position has not been reviewed within the previous twelve (12) months. The employee's supervisor may request a review of the classification of an employee's position at any time providing the position has not been reviewed within the previous twelve (12) months. The employee's supervisor(s) may request of Human Resources a waiver of the twelve (12) month interval requirement.

10.3A Following such request by an employee, which will be made through but not impeded by the supervisor(s), or following such request by an employee's supervisor(s), the Human Resources Office will review the placement of such employee. Such review by the Human Resources Office will include the review of a Position Description Questionnaire completed by the employee and reviewed by the employee's supervisor(s) and the Office Administrator. The Position Description Questionnaire will be provided to the employee and supervisor by the Human Resources Office within five (5) workdays of such request.

10.3B The employee or supervisor will have fifteen (15) workdays to complete the Position Description Questionnaire, including the supervisor's and Office Administrator's review, and return it to the Human Resources Office. The Human Resources Office will have twenty (20) workdays from the receipt of the completed Position Description Questionnaire to complete the review of the job reclassification request and make a decision.

10.3C A copy of the Human Resources Office decision will be forwarded to the supervisor(s), the Office Administrator and the employee. If the decision of the Human Resources Office is to retain the employee's classification or reclassify the employee to a higher job specification, the decision is final. If the decision of the Human Resources Office is to reclassify the employee to a lower job specification, the supervisor(s), the Office Administrator, and the employee will then have an opportunity to provide comments and/or documentation to the Deputy Commissioner to appeal Human Resources' decision within ten (10) workdays.

10.3D The Deputy Commissioner will have fifteen (15) workdays after receiving the appeal to make a final decision. The Deputy Commissioner will communicate the final decision to the Human Resources Office, supervisor(s), the Office Administrator, and the employee within five (5) workdays of the decision.

10.3E If the decision of the Human Resources Office to reclassify the employee to a higher job specification is made, and a pay adjustment is warranted, the pay adjustment will be effective the next pay period.

10.4 Time Requirements. The time requirements in this Article may be extended by written agreement between the employee and the Human Resources Office in cases where additional time is needed in order to conduct the review process. Retroactive pay adjustments under Section 10.3E may be made.

ARTICLE 11

VACANCIES, RECLASSIFICATIONS AND DEMOTIONS

11.1 Vacancies. Whenever a position opening occurs in any existing job classification within the NAPE/AFSCME bargaining unit, or as a result of the development or establishment of a new job classification within the bargaining unit, a notice of such opening will be e-mailed to employees and posted on appropriate websites. Upon posting, the position will be subject to application by qualified employees of the Agency for a period of not less than ten (10) calendar days. The Agency will foster the filling of such vacancies by qualified employees of the bargaining unit, provided, however, nothing herein will preclude the Agency from accepting applications from, or hiring the most qualified persons whether or not they are such employees. The determination of qualifications will be made by the Agency.

11.1A For purposes of Section 11.1, a job will not be considered to have been open, or a position to have been vacant, if a qualified employee of the Agency is placed in the position, when such placement is the result of any of the following situations:

11.1A1 The employee so placed has (i) assisted the employee who previously occupied the position for a period of at least three (3) calendar months, and has been in training for that particular position during such period, and is by virtue of such previous assignment uniquely suited for such position; or (ii) been or was satisfactorily performing the majority of the essential duties of the position while in his or her current position, as determined by the Agency, for a period of at least three (3) months.

11.1A2 The employee so placed has been contracted by the Agency (e.g., third party or employee-employer contractor, temporary employee) and has been satisfactorily performing the majority of the duties of the position, for a period of at least three (3) months.

11.1A3 The employee so placed has had such action taken as a result of disciplinary action, or the placement is accomplished to prevent the necessity of such action.

11.1A4 The placement of said employee is for the purpose of protecting, or otherwise related to, the health of the employee. In such instances, the action must be voluntary. This includes, but is not limited to, placement of employees for the purpose of reasonable accommodation under the Americans with Disabilities Act (ADA) or the Nebraska Fair Employment Practices Act.

11.1A5 The placement is the result of Agency organizational changes, which did not result in the establishment of new positions.

11.1A6 Nothing herein will be construed as preventing the Agency, in emergency situations, from filling a position on a temporary basis without posting the position. Such temporary assignment will not exist for a longer period than the emergency situation.

11.1A7 The position is filled by an employee displaced by other personnel action (i.e., layoff, non-disciplinary demotion).

11.1A8 Voluntary transfers that maintain the employee's same job classification and pay grade.

11.1A9 The vacant position is filled as the result of a grievance or litigation settlement, reversion to a previous position or placement in a vacant position per Section 6.7, court order, Board order, or order of a governmental agency with proper jurisdiction and authority.

11.1B Employees who apply for and are selected as the successful applicant to fill a vacant position opening that was posted pursuant to Section 11.1, except as provided below, will be subject to the same salary range that was identified on the posting for all applicants. Employees are not entitled to retain their current salary level if they accept the offer to fill the vacancy. The salary provisions contained in Sections 11.2C and 11.3B do not apply to such a situation.

11.1B1 The Commissioner or Deputy Commissioner may authorize a higher salary than was identified in the posting in cases where it is determined that the current NDE employee selected possesses superior or unique experience or qualifications that will provide added benefit to NDE in the job.

11.2 Reclassifications. In situations where the employee's job duties have changed significantly, the employee may be reclassified to a new job classification at a higher pay grade as a result of the job classification review process identified in Article 10, or as provided in Article 11, Sections 11.2A and 11.2B, as long as minimum qualifications are met.

11.2A Within the Disability Determination Job Classification Series, employees will not be required to go through the Job Classification Review Process described in Article 10 in order to be reclassified from DDS Trainee to DDS Adjudicator I, from DDS Adjudicator I to II, or from DDS Adjudicator II to III. Within the Vocational Rehabilitation Job Classification Series, employees will not be required to go through the Job Classification Review Process described in Article 10 in order to be reclassified from VR Associate to VR Senior Associate, VR Service Specialist to VR Senior Service Specialist, VR Rehabilitation Specialist to VR Senior Rehabilitation Specialist, and VR Service Specialist or VR Senior Service Specialist to VR Rehabilitation Specialist.

11.2B The Agency will provide NAPE/AFSCME advance notice of a job reclassification of an employee subject to this Agreement to a job classification not subject to this Agreement without the use of the Job Classification Review process described in Article 10. NAPE/AFSCME will have five (5) workdays to respond to the notice.

11.2C Reclassification Rates. An employee who is reclassified to another job classification at a higher pay grade will receive a five percent (5%) salary increase for moving up one pay grade, a seven and one-half percent (7.5%) salary increase for moving up two pay grades or a ten percent (10%) salary increase for moving up three or more pay grades. In no case will the employee receive a salary that is less than the minimum or more than the maximum of the new pay grade.

11.2C1 The Office Administrator may request approval from the Deputy Commissioner to award a salary increase greater than that which would be provided for above. The Deputy Commissioner's decision will be final.

11.2C2 The Office Administrator may request approval from the Deputy Commissioner to award a salary increase less than would be provided in Section 11.2C if the employee has already received a salary increase for the same duties, which resulted in the reclassification.

11.2C3 An employee's job classification modified by Human Resources outside of the Job Classification Review Process in Article 10 is not subject to the salary increases in Section 11.2C.

11.3 Demotions. An employee may receive a disciplinary demotion per Section 18.8 or be demoted due to unsatisfactory performance during a secondary probation period per Section 6.7. In cases in which the employee accepts a demotion to avoid being laid off, voluntarily requests a demotion, or, is reclassified to a lower pay grade pursuant to the review process in Article 10, a non-disciplinary demotion may result. The employee will have the right to elect demotion as the alternative to a layoff. The right to elect will be granted to employees in accordance with the provisions of Article 16.

11.3A In all cases involving demotion, the employee must meet the requirements of the position to which he/she is demoted, and except as provided in layoff procedure, no employees in a lower-level position will be laid off by reason of a demotion action involving another employee.

11.3B Demotion Rates. An employee who is reclassified to another job classification at a lower pay grade will receive a five percent (5%) salary decrease for moving down one pay grade, a seven and one-half percent (7.5%) salary decrease for moving down two pay grades, or a ten percent (10%) salary decrease for moving down three or more pay grades. In no case will the employee receive less than the minimum or more than the maximum of the new pay grade.

11.3B1 The Office Administrator may recommend to the Deputy Commissioner a pay reduction less than that which would be provided for above. The Deputy Commissioner's decision will be final.

11.4 Service Dates. Promotion, demotion and transfer of employees will not change the employees' service date.

11.5 Loss in Pay. No employee will, as a result of Agency action, suffer a loss in pay through a promotion or transfer to a position of the same job classification or through a transfer to a different job classification in the same pay grade. This provision will not apply in layoff situations.

11.6 Moving Expense Reimbursement. Employees who are involuntarily relocated to another geographical location for the benefit of the Agency, and newly hired employees excluding temporary employees, may be reimbursed for certain ordinary, necessary and reasonable moving expenses subject to the requirements of the Department of Administrative Services Accounting Manual and the prior written approval of the Commissioner. For the purposes of this section, the exercise of any bumping option will be considered as a voluntary transfer. Reimbursement must be submitted to the Agency's Accounting Section within sixty (60) days of the final day on which the expenses were incurred in accordance with 81-1174 R.R.S. and Agency procedures.

ARTICLE 12

EMPLOYEE EDUCATION OPPORTUNITIES

12.1 Postsecondary Coursework During Work Time. Employees may request approval to use work time to take up to seven (7) credit hours each calendar year from postsecondary institutions that award credit on the semester schedule or nine (9) credit hours each calendar year from postsecondary institutions that award credit on the quarter schedule. However, no more than four (4) credit hours may be taken in any one (1) semester, or no more than four and one-half (4.5) credit hours in any one (1) quarter, during work time without loss of pay. All summer sessions combined are considered equivalent to a one-semester period. If a class crosses calendar years, eligibility to take a course will be determined based on the start date of the class. Approval under this section is intended to allow employees to use work time to attend courses that have a regular meeting schedule as opposed to self-paced, online courses or credits for activities such as thesis or doctoral work. Depending on the distance and location, travel time may also be considered regular work time. Prior approval for coursework and related travel on work time must be obtained from the immediate supervisor, Office Administrator, and Deputy Commissioner. Management may limit the amount of work release time granted. Requests and subsequent documentation must be submitted on a form provided by the Agency. Requests will be directed through the employee's immediate supervisor to the Human Resources Office. Any additional credit hours may be scheduled outside the normal workday. Approval under this Article will not be unreasonably denied; however, approval is discretionary and may be made on bases such as, but not limited to, fiscal considerations, workload, and documented evidence of employee performance concerns in the prior two-year period. For purposes of this Article, the term "postsecondary institution" means an institution of higher learning accredited by an accrediting body that is recognized by the United States Secretary of Education and is authorized to grant associate, baccalaureate or post-baccalaureate degrees.

12.2 Reimbursement When Employee Elects to Take Postsecondary Coursework. As an alternative to Section 12.1, employees may be eligible to receive not more than seven (7) credit hours each calendar year of tuition reimbursement for coursework at postsecondary institutions that award credit on the semester schedule or nine (9) credit hours each calendar year of tuition reimbursement for coursework at postsecondary institutions that award credit on the quarter schedule for job-related courses. If a class crosses calendar years, eligibility to take a course will be determined based on the start date of the class. Job-relatedness will be determined by the Deputy Commissioner, whose decision will be final. Reimbursement may be for any portion of the tuition cost, required course fees, and books, with the employee being notified of the amount of reimbursement, prior to the beginning of the course. Reimbursement for course-related expenses will be prorated based on the number of credit hours reimbursed. Approval for reimbursement will not be unreasonably denied; however, approval is discretionary and may be made on bases such as, but not limited to, fiscal considerations, workload, and documented evidence of employee performance concerns in the prior two-year period. Eligibility for reimbursement requires a course grade of "C" or better for undergraduate courses, or a "pass" for pass/fail courses, or a course grade of "B" or better for graduate courses, and proof of payment or a deferred payment agreement with the postsecondary institution and/or federal student aid loan servicing entity. Requests for reimbursement and substantiating documentation must be submitted in writing prior to the beginning of the course on a form provided by the Agency. Requests will be directed through the employee's immediate supervisor to the Human Resources Office. Employees who receive tuition reimbursement will be required to reimburse the Agency if they voluntarily leave their employment with the Agency within one year of the course completion date.

12.3 Employee Directed to Take Postsecondary Coursework. If an employee is directed by the Agency to take a job-related course at a postsecondary institution, the Agency will pay for all costs of said course including tuition, books, other required instructional materials, mandatory fees, and associated travel costs. Job-relatedness will be determined by the Deputy Commissioner, whose decision will be final. The employee so directed will be considered to be working for the Agency during classroom time and any travel incurred to attend such courses will be treated as travel for the Agency. The employee so directed will be considered to be on work time while participating in said course. The Agency will require written documentation to verify the employee's enrollment, course completion and the grade earned.

12.4 Online Coursework. Online postsecondary coursework may be taken, and reimbursement for any portion of the tuition cost, required course fees and books may be allowed, if the course is job-related and prior approval to take the course is granted by the immediate supervisor, Office Administrator and Deputy Commissioner. Online courses may not be taken on work time unless dedicated online sessions with the instructor, or related to the class, are required as specified by a course catalog and only occur during the employee's regular work time. Employees may use Agency computers, Internet access, printers, and office supplies for online courses and related homework if the employee has been directed to take a job-related course for professional development per Section 12.3, or if an employee elects and receives supervisory approval to take an online course available through the State's learning management system. If employees voluntarily take an online postsecondary or other educational or vocational course, the Agency's computers, Internet access, printers, and office supplies may not be used.

12.5 Conference or Meeting Participation. In addition to the assigned activities of each employee, the Office Administrator may approve reasonable requests from employees to participate in meetings, conferences or in-service activities related to the employee's job. Determination of reasonable requests and job-relatedness will rest with the Office Administrator. Upon approval of such a request, the employee may attend such meeting, conference, or in-service activity without loss of pay and at the expense of the Agency. Additionally, an employee may be permitted to participate in at least one (1) meeting, conference, or in-service activity per year relating to the employee's job consisting of a total of not more than five (5) workdays at the expense of said staff member without loss of pay.

12.6 Decisions made by management pursuant to the provisions of this entire Article may be grieved by the employee by proceeding directly to Step 3 of the grievance procedure as described in Section 17.10C of Article 17. The decision of the Deputy Commissioner pursuant to that Section will be final and is not subject to further grievance or appeal.

ARTICLE 13

SALARY

13.1 New Job Classification Systems or Salary Structures. The parties recognize that classification of jobs and assignment of job classifications to pay grades are not negotiable items under this Agreement. However, prior to implementation of any new salary structure or job classification system, the Agency will meet with NAPE/AFSCME to discuss and negotiate those factors relating to conversion to the new job classification system or salary structure which affect employees that are negotiable. Such negotiations will not be construed a reopening of negotiations for this Agreement, but will be intended to reach a separate agreement between NAPE/AFSCME and the Agency.

13.2 Pay Plan Requirements.

13.2A Within three (3) months of the end of the fiscal year, the Agency, through DAS, will transmit to NAPE/AFSCME information containing the wage and salary budget and expenditures for the previous fiscal year.

13.2B Pay increases for promotions and pay decreases for demotions are addressed in Article 11.

13.3 Pay Plan. The pay plan is based on a structure that contains multiple pay grades. The range for each pay grade begins with the minimum salary, is anchored by the midpoint, and ends with a maximum salary.

13.3A The pay structure for this Agreement is contained in Appendix B.

13.4 Pay Structure Adjustment. The NDE pay structure effective January 1, 2019 will be retained for the agreement period of July 1, 2019 through June 30, 2021.

13.5 Salary Increases. On July 1, 2019, the salary for each employee will be adjusted upward by two percent (2%). An additional salary increase of three-tenths percent (0.3%) shall be available to those whose performance has been scored satisfactory by their agency for the past calendar year. These increases, where applicable, will be calculated concurrently for a total of two and three-tenths percent (2.3%) salary increase to the annual full-time equivalent salary base. On July 1, 2020, the salary for each employee will be adjusted upward by two percent (2%). An additional salary increase of three-tenths percent (0.3%) will be available to those whose performance has been scored satisfactory by their agency for the past calendar year. These increases, where applicable, shall be calculated concurrently for a total two and three-tenths percent (2.3%) salary increase to the annual full-time equivalent salary base.

13.5A Employees on administrative probation, disciplinary suspension without pay, or suspension with pay as of July 1, 2019, or July 1, 2020, will remain at their current salary until satisfactory completion of all of the requirements of their employment condition.

13.5B If a suspension is for investigative purposes and the employee is subsequently determined not to be subject to disciplinary action, the actions described in Section 13.5 will be effective retroactive to the date any pay increases would have been granted had the suspension not been in effect.

13.5C In the event that the Master Contract negotiations result in annual salary increases that differ from those provided for in Section 13.5, the parties agree to meet and discuss salary issues notwithstanding the provisions of Article 1, Section 1.16.

13.5D In no case will employees receive salaries that are less than the minimum of their pay grade.

13.6 Horizontal Movement. The Deputy Commissioner may distribute salary increases to employees who meet established criteria as necessary to address internal/external inequities and/or recognize noteworthy performance. The salary increases will be included in the employee's regular rate of pay and base salary. NAPE/AFSCME will be provided written notice of such salary increase identifying the employee, the amount, and justification for the payment.

13.7 Merit Stipends. Upon receiving a recommendation from the Office Administrator, the Deputy Commissioner may distribute merit stipends to recognize employees, with at least two (2) years of service with NDE, who have demonstrated exemplary performance or who have completed temporary assignments that required time, skill and effort beyond the normal scope of the employee's position. The stipend will be a one-time payment, above and beyond the regular rate of pay. The stipend will not become part of the employee's base salary. NAPE/AFSCME will be provided written notice of such stipends identifying the employee, the amount and justification for the payment.

13.8 Recruitment and Retention. The Parties agree to negotiate over the implementation of a compensation model designed to enhance the Agency's ability to recruit and retain quality employees by way of additional compensation for performance-based progression within the employee's job classification series.

13.9 Temporary Pay Increase for Performing Higher Job Classification Duties. When any employee performs, in whole or part, the duties of a position in a higher pay grade than the job classification pay grade currently held by the employee, the employee will receive a temporary pay increase to the minimum salary of the higher pay grade or an increase in accordance with Section 11.2C, whichever is higher, but in no case will the employee receive a pay reduction. Such temporary pay increase will apply only when the employee has been requested by the Agency to perform the duties of someone at a higher pay grade, and when the period of time in which the employee is performing the duties exceeds ten (10) workdays. Any such pay increase will begin on the eleventh (11th) workday, will be retroactive to the date of the temporary transfer, and will end when the employee reverts to his/her previous job classification. If the employee devotes less than 1.0 FTE to the higher pay grade duties, the work will be time certified at the differential rates. A temporary pay increase for performing the duties of a higher job classification may not exceed one (1) year, without written approval of the Deputy Commissioner.

PAYCHECKS

13.10 Timing. The Agency will attempt to ensure that all employees have their pay deposited in their designated accounts on the same day, as applicable. Salary payments may be made outside of regular payroll timelines and procedures due to special circumstances.

13.11 Release to Immediate Relatives. Payroll and expense warrants will be released to employees named on the warrant or to the person designated by the employee in writing. In case of employee illness or injury, warrants may be released to immediate relatives who do not have a note of authorization but have proof of identification. Immediate relatives will be considered as: spouse; children including step, adopted, and foster children; parents; and, parents of the spouse.

13.12 Lost Warrants. In the event a payroll warrant is lost, the provisions of Section 77-2215 R.R.S. and applicable Department of Administrative Services (DAS) Payroll procedures will be complied within the preparation of another payroll warrant.

NAPE/AFSCME DUES DEDUCTIONS

13.13 NAPE/AFSCME Charges and Services. The parties acknowledge and agree that the Agency does not require NAPE/AFSCME to make any charges for membership or service by NAPE/AFSCME and if such dues or charges are made by NAPE/AFSCME, it will be considered to be beyond the scope of this Agreement and the amount of such charge, if any, will be a matter between NAPE/AFSCME and particular individual outside the terms of this Agreement. Nothing contained in this Article will require the Agency to arbitrate disputes between NAPE/AFSCME and an employee concerning dues.

13.14A NAPE/AFSCME agrees to notify the Agency of any change in its dues.

13.14 Payroll Deductions Free of Charge. The parties agree to the provision of payroll deduction for membership in a labor organization free of charge.

13.15 Written Authorization. Upon receipt of a lawfully executed written authorization from a bargaining unit employee, the Agency agrees to deduct NAPE/AFSCME dues of such employee from the employee's pay no later than the succeeding biweekly pay period after receipt of the payroll deduction authorization. The remittance of such deduction, to the official designated by NAPE/AFSCME in writing to receive such deductions, will be no later than two succeeding biweekly pay periods after receipt of the payroll deduction authorization. The Agency agrees to accept payroll deduction cards previously obtained by NAPE/AFSCME on behalf of its employees and delivered to the Agency as complying with the provision of this Article. This Section will in no way be construed as limiting the right of employees regarding other payroll deduction programs under State statute or Department of Administrative Services (DAS) regulations.

13.16 Form. The authorization for payroll deduction may be provided by NAPE/AFSCME in the following form. Any change in the form will be brought to the attention of the Deputy Commissioner prior to implementation.

NAPE/AFSCME Membership Form
NEBRASKA ASSOCIATION OF PUBLIC EMPLOYEES (NAPE)
LOCAL 61 OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) AUTHORIZATION FOR PAYROLL DEDUCTIONS
(Per Section 48-224 R.R.S. 1967)

TO _____
Name of Employing Agency Work Location & City

_____
Social Security Number (last 4 digits only) NIS Employee Number (if known)

BY _____
(PRINT) First Name Last Name Middle Name

_____
Address (Work) Division Address Book Number (ABN)

Effective (Today's Date) _____. I hereby request and authorize you to deduct from my earnings an amount sufficient to provide for the regular payment of the current rate of monthly association fees established by NAPE/AFSCME. The amount shall be certified by NAPE/AFSCME; any change in such amount shall require a membership vote and shall be certified. The amount deducted shall be paid to the Treasurer of NAPE/AFSCME. This authorization may be terminated by written notice to NAPE/AFSCME during June's open withdrawal period and at no other time during the year.

_____
Employee's Signature

13.17 Discontinuation of Dues Deductions. Upon receipt of a list of employees for whom dues deductions are to stop, certified to the Agency in writing by an authorized representative of NAPE/AFSCME, the Agency will discontinue the automatic payroll dues deduction from such employees.

13.17A Additions to the list received at least seven (7) calendar days before the next payroll posting will be processed in that payroll. Lists received less than seven (7) calendar days before the next payroll posting will be processed in the next available payroll.

13.17B NAPE/AFSCME will indemnify the Agency and hold it harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any action taken by the Agency for the purpose of complying with the provisions of this Article.

13.18 Withdrawing Membership. Employees may withdraw membership from NAPE/AFSCME only during the month of June each year by notifying NAPE/AFSCME in writing of their withdrawal. NAPE/AFSCME will place the names of those withdrawing on the list of employees as described in Section 13.17 above.

ARTICLE 14

INSURANCE AND BENEFITS

14.1 Insurance Coverage Consistency with Master Contract. The Agency agrees to provide employees with the same health, dental and vision insurance plans at the same cost-sharing ratio as the State will provide other NAPE/AFSCME represented bargaining units for the 2019-2021 Agreement period as identified in the Master Contract between the State of Nebraska and NAPE/AFSCME. In the event that such insurance programs grant to the employee various options, the Agency's obligation will apply only to the mandatory portion to be paid by the Agency under the program. The Agency further agrees to provide all employees all other insurance plans that are made available in the Master Contract at the same cost.

14.2 Voluntary Coverage. Insurance benefits are not mandatory and may be disclaimed.

14.3 Part-Time Employees. Part-time, regular employees of the Agency who work twenty (20) hours or more per week are eligible to participate in group health, life insurance and other benefits as administered by the State of Nebraska while they are employed by the Agency. State contributions to health and life insurance benefits for part-time, regular employees will be prorated based on their FTE.

14.4 COBRA. Pursuant to the procedures developed in accordance with the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA), the Agency will within three (3) workdays, submit a COBRA Qualifying Event Notice to the State Personnel Office for any employee or dependent who becomes ineligible for health insurance coverage. Qualifying events include, but are not necessarily limited to, termination or death of an employee and ineligibility of dependents due to age or change in student status and legal divorce or legal separation from spouse. Employees will notify the Agency of those qualifying events.

14.5 Flexible Spending Plans. Employees may participate in the Internal Revenue Service Section 125 flexible spending plans that are made available by the State.

14.6 EAP. The Agency agrees to provide to each employee the same Employee Assistance Program (EAP) as is provided by the State to the other NAPE/AFSCME represented bargaining units, or a program determined by the Agency to be substantially similar.

14.6A Records concerning an employee's treatment for alcoholism, drug abuse or psychological conditions will be kept in a file separate from the employee's official personnel file per Article 4.

14.6B All Employee Assistance Program records will remain confidential unless their release is required by law or court order, or if their release is authorized by the employee in writing.

ARTICLE 15

LEAVE AND HOLIDAYS

15.1 Leave of Absence. Employees of the Agency with at least three (3) years of service are eligible for leaves of absence without pay. Leave of twelve (12) months or less for professional advancement, special training, or other good and sufficient reasons, may be granted by the Commissioner. Leaves of more than twelve (12) months are subject to approval by the Board, which will review the request and the recommendation of the Commissioner of Education. Such leave of absence will be requested in writing to the Commissioner through the Office Administrator.

15.1A At the expiration of leave approved under Section 15.1, the employee will return to a position of a similar job classification or pay grade as the position he/she held prior to leave, if available and the employee is otherwise qualified. If no such position is available, the employee will be considered "laid off" and eligible to exercise transfer and bumping rights under the provisions of Sections 16.5 and 16.6. In the alternative, an employee may also accept demotion in accordance with Article 11, Section 11.3, if available. Failure on the part of an employee to return to work on the agreed upon date, except for satisfactory reasons submitted to and approved by the Commissioner prior to the agreed upon return date, may be cause for dismissal.

15.1B Vacation and sick leave will not accrue while on leave of absence without pay; however, vacation and sick leave earned, but not used prior to leave of absence, will be carried forward upon employee's return to duty.

If the State or Federal program from which the employee was paid prior to the leave is terminated during the leave, the Agency may choose to pay the employee on leave for his/her unused vacation leave balance.

15.2 Sick Leave. Employees will, in accordance with the provisions of this Agreement, during each year of continuous employment, accrue sick leave with full pay at a rate based on the schedule below. Hours accrue on a biweekly basis but are not available to the employee prior to the start of the following pay period except as provided by Section 15.2G2. Employees who work less than a full year, or less than full-time, will accrue sick leave on a prorated, biweekly basis. Employees who have worked less than one (1) full calendar year will earn sick leave in an amount proportionate to time worked in the calendar year. Accrual of sick leave while off work and being compensated under workers' compensation is as described in Sections 15.2E and 15.3C. There will be no maximum limit on accumulation of sick leave except as provided for in Section 15.2I.

Years of Service	Hours Per Year	Days Per Year
First through Fifth Year	96	12
Sixth through Fifteenth Year	112	14
Sixteenth and Following Years	144	18

15.2A The following conditions are valid reasons that sick leave may be used:

15.2A1 Employee. When an employee is unable to perform his/her duties because of:

15.2A1(i) Illness,
15.2A1(ii) Absence due to psychological treatment (see definition in Section 19.48) or counseling,
15.2A1(iii) Disability,
15.2A1(iv) Injury,
15.2A1(v) Employee's presence at work jeopardizes the health of others by exposing them to a contagious disease,

15.2A1(vi) Pregnancy complications, post-natal recovery, or miscarriage,

15.2A1(vii) Absence due to treatment for alcoholism or drug addiction, if medically diagnosed by a licensed physician, and if the employee is receiving assistance or has agreed to an approved course of treatment,

15.2A1(viii) Medical, surgical, dental, audiological or optical examinations or treatment, or

152A1(ix) Emergency medical treatment.

15.2A2 Employee's immediate family member(s). When the illness, disability, injury, surgery, medical examination, procedure, or treatment of an immediate family member requires the employee's presence. The seriousness of the illness, disability, injury, or surgery will be considered by the immediate supervisor when determining the number of days of sick leave to be granted. For the purposes of this Section, immediate family means spouse, children, including step, adopted and foster children, daughter/son-in-law, mother, father, and mother or father of the spouse. At the discretion of the Office Administrator, sick leave benefits may be extended for the care of other individuals with a similar personal relationship (e.g., acted as a mother, father, etc.) to the employee as that of an immediate family member.

15.2A2(i) After the birth of a baby, the employee who is not the biological mother or primary caregiver of the baby may use up to five (5) days of sick leave. If more than five (5) days of sick leave is necessary and required, for medical reasons, to care for the new baby or the mother, a note from the medical provider will be required to establish the medical necessity.

15.2A2(ii) After the birth of a baby, an employee, other than a parent, who is an immediate family member, may use sick leave if his or her presence is necessary and required, for medical reasons, to care for the mother (if the mother meets the definition of immediate family). A note from the medical provider will be required to establish the medical necessity.

15.2A2(iii) Under this Section, employees may use sick leave to attend school appointments for an immediate family member with a disability.

15.2B Sick leave will be requested by the employee in writing and in advance whenever possible, for anticipated health reasons such as medical treatment, physical examinations, and meetings with school personnel described in Section 15.2A2(iii). In cases of sickness, injury, emergencies, or any other absence not approved in advance, the employee will advise appropriate Agency personnel of the circumstances as soon as possible. An employee may be required to submit substantiating evidence and/or documentation when the reason for the leave request was for medical or dental treatment, a meeting with school personnel described in Section 15.2A2(iii), or when the immediate supervisor suspects sick leave abuse. Substantiating evidence may also be required if the sick leave absence exceeds five (5) consecutive workdays.

15.2B1 If an employee has been absent on sick leave exceeding five (5) consecutive workdays, the employee may be required to produce written verification from a medical provider to document fitness to return to work, including notice of any necessary work restrictions.

15.2B2 Independent of an employee's use of sick leave and exceeding the five (5) consecutive workday requirement noted above, if an immediate supervisor has reason to believe that an employee's presence at work poses a significant health or safety risk, the employee may be required to produce medical verification regarding fitness for work.

15.2C Sick leave will not be used as vacation leave.

15.2D Sick leave will be taken and reported in increments of not less than one-tenth (1/10) of an hour. Holidays falling within a period of sick leave will not be counted as hours worked for overtime purposes.

15.2E Sick leave will not accrue to any employee on leave of absence without pay, leaves without pay, including Family and Medical Leave, suspension without pay, layoff, or during time off of work that is compensated under workers' compensation, except as provided in Section 15.3C.

15.2F Probationary employees will be entitled to sick leave at the same rate as regular employees. Sick leave may be granted during the probationary period up to the number of accrued hours available to the employee. When a probationary employee takes sick leave in excess of accrued hours available, the provisions of Section 15.2G will apply.

15.2G If an absence extends beyond the sick leave accrued to the credit of the employee:

15.2G1 Except in cases of worker's compensation, such employee will be required to utilize (1) accumulated unused compensatory time off if the employee is subject to Section 8.2 and (2) accrued vacation leave, in that order. For the purposes of this subsection, accrued sick and vacation leave does not include advanced sick and vacation leave. After all accrued sick leave, compensatory time off, and vacation leave have been exhausted, the employee, upon written request, may be granted leave without pay (outside FMLA) at the discretion of the Office Administrator. However, granting such leave without pay is discouraged and should not be done on a regular basis. Written notice regarding the leave without pay must be provided to the Human Resources Office.

15.2G2 Sick leave may, at the discretion of the immediate supervisor and Office Administrator, be advanced to employees with six (6) months of service with the Agency, in an amount not to exceed that which the employee would earn in the following three (3) month period. Employees will reimburse the Agency for all used, unearned sick leave upon termination either from a deduction in their final check or by separate payment on a schedule agreed to by the Agency. Employees may not request more than one advancement in a three (3) month period. If at the end of the advancement period the employee has not earned back the advanced sick leave used, another request for advancement cannot be approved until the employee has earned back the advanced sick leave used. Written notice of advancement must be provided to the Human Resources Office.

15.2G3 Should an employee require medical treatment while on vacation, vacation leave may be changed to sick leave under the following circumstances:

15.2G3(i) For the period of time medical treatment was required and for reasonable periods of bed-rest thereafter that were required and that occurred within the otherwise normally scheduled work hours of the employee;

15.2G3(ii) Upon submission of a physician's statement substantiating treatment and probable duration of illness; and,

15.2G3(iii) Upon approval of the immediate supervisor and Office Administrator.

15.2H Sick leave, both as to earned unused hours and as to years of service for accumulation purposes, may be transferred when the employee transfers between another Nebraska State agency, Nebraska State University or college and the Agency without a break in service by mutual agreement between employers.

15.2I Upon separation of employment, if the employee is at least fifty-five (55) years of age, the employee will be paid one-fourth (1/4) of the accumulated unused sick leave paid at the hourly rate in effect upon separation. In the event of death, the employee's beneficiary will be paid one-fourth (1/4) of the accumulated unused sick leave computed at the rate of pay earned by the employee at the time of death. Employees may only receive this payout once no matter how many times they are re-employed with the State of Nebraska. Payment for one-fourth (1/4) of the accumulated unused sick leave balance in the case of separation or death will not exceed four hundred and eighty (480) hours.

15.2I1 Employees who are at least fifty-five (55) years of age, who are laid off, will have the option to defer the payment of one-quarter (1/4) of their sick leave account for up to twelve (12) months. Should the laid off employee return to NDE employment within twelve (12) months, the employee's sick leave balance and service date will be reinstated (minus time in a non-pay status). Should the laid off employee not obtain further NDE employment at the end of the twelve (12) month period, NDE will pay them one-quarter (1/4) of their sick leave account, not to exceed four hundred and eighty (480) hours.

15.2J Employees returning to work with the Agency on or after July 1, 2001, after a break in service of less than five (5) calendar years, will have their accumulated unpaid sick leave balance reinstated. The employee's service date will be adjusted for the period of absence. The employee's vacation leave and sick leave earning rate will also be adjusted, and the new rate of earning will be based on the adjusted service date. Employees returning to work after a break in service of more than five (5) calendar years will start with a zero (0) sick and vacation leave balance and will be considered to be new employees for service date purposes, and will earn vacation and sick leave at the beginning earning rate of a newly hired employee.

15.3 Injury Leave. Employees who are subject to the provisions of the Workers' Compensation Act are entitled to the benefits of that law due to injury or occupational disease arising out of and in the course of their employment.

15.3A Injury or occupational disease arising out of and in the course of employment will be reported to the Agency as soon as possible.

15.3B Employees entitled to be paid workers' compensation have the option of being granted injury leave with full pay for the first five (5) workdays they are unable to work due to injury or due to treatments for such injury, including the day of injury (if inability to work began on that day). At the expiration of injury leave, provisions of the Workers' Compensation Act will apply. Injury leave may not be charged to vacation or sick leave.

15.3C An employee who is receiving workers' compensation for injury or occupational disease occurring out of and in the course of employment, has the option of electing to use accumulated unused sick and/or vacation leave and accumulated unused compensatory time (if applicable) to supplement workers' compensation up to but not exceeding the regular rate of pay. Employees electing this option will be charged sick or vacation leave or compensatory time, and earn sick and vacation leave in proportion to the percentage of gross wages paid by the Agency. The Agency's share of the health insurance premium will be paid during an absence under workers' compensation after all accrued leave and compensatory time have been depleted. Employees on workers' compensation will be treated as part-time employees for purposes of leave earnings. They will earn prorated sick and vacation leave based on the number of hours worked and/or accrued leave time hours used to supplement the workers' compensation payment. If employees do not have, or choose not to use, accrued leave time to supplement the workers' compensation payment they will earn leave time only on the number of hours worked, if any.

15.3D Holidays occurring during a pay period during which workers' compensation benefits are received will be paid at a rate proportionate to the number of hours worked and/or accrued leave time hours used during the pay period.

15.4 Adoption. The primary caregiver of a newly adopted child will, upon a request that is within thirty (30) calendar days of such adoption, receive up to six (6) weeks of leave, which is the generally accepted medical standard leave period for new mothers by natural birth. The leave will be taken first as sick leave, and if and when sick leave is exhausted, then as vacation leave, or compensatory time, if available. FMLA leave is also available in accordance with the provisions of Section 15.16.

An employee is not eligible for adoption leave if the child being adopted is a special needs child over eighteen (18) years of age, a child who is over eight (8) years of age and is not a special needs child, a stepchild being adopted by his or her stepparent, a foster child being adopted by his or her foster parent, or a child who was originally under a voluntary placement for purposes other than adoption without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child by the person with whom the voluntary placement was made.

15.5 Vacation Leave. Employees will, in accordance with the provisions of this Agreement, during each year of continuous employment accrue vacation leave with full pay at a rate based on the schedule below. Hours accrue on a biweekly basis but are not available to the employee prior to the start of the following pay period except as provided by Section 15.5C. Employees who work less than full-time, will accrue vacation on a prorated, monthly basis. Employees who have worked less than one (1) full calendar year will earn vacation leave in amount proportionate to the time worked during the calendar year. The following schedule establishes the accrual rate for vacation leave:

Years of Service	Hours Per Year	Days Per Year
First through Fifth Year	96	12
Sixth Year	120	15
Seventh Year	128	16
Eighth Year	136	17
Ninth Year	144	18
Tenth Year	152	19
Eleventh Year	160	20
Twelfth Year	168	21
Thirteenth Year	176	22
Fourteenth Year	184	23
Fifteenth Year	192	24
Sixteenth Year and Following Years	200	25

See Section 15.2J for accrual rates for employees returning to employment with the Agency after a break of less than five (5) calendar years.

15.5A Vacation leave must be requested in advance by the employee. Vacation leave may be used when approved by the employee's supervisor. Denial of vacation leave requests must not be arbitrary and the taking of vacation leave by employees may not unreasonably be deferred.

15.5A1 If the nature of the work makes it necessary to limit the number of employees on vacation at the same time, the employee with the greater seniority will be given the preference in the selection of vacation. The seniority preference herein identified will not apply where such preference would create an unusual hardship for a less senior employee who had been granted the vacation leave prior to the request of the more senior employee where the more senior employee would incur no unusual hardship.

15.5B Vacation leave will be taken and reported in increments of not less than one-tenth (1/10) of an hour.

15.5C The Office Administrator may at his/her discretion advance vacation leave to employees with six (6) months of service with the Agency in an amount not to exceed that which the employee would earn in the succeeding three (3) month period. For employees with more than five (5) continuous years of service and with no record of leave abuse, request for vacation leave advancement of thirty (30) hours or less will not unreasonably be denied. Employees will reimburse the Agency for all used unearned vacation leave upon termination either from a deduction in their final check or by separate payment. Employees may not request more than one advancement in a twelve (12) week period. If at the end of the advancement period the employee has not earned back the advanced vacation leave used, another request for advancement of vacation cannot be approved until the employee has earned back the advanced vacation leave used. Written notice of advancement must be provided to the Human Resources Office.

15.5D Employees may carry over a balance of two hundred and eighty (280) hours of vacation leave from one (1) calendar year to the next. In the event an unforeseen work-related emergency prohibits an employee from taking planned vacation leave before December 31 and causes them to lose that vacation leave, additional carryover vacation leave may be requested of and approved in advance of calendar-year-end by the Deputy Commissioner. In such cases, the hours above two hundred and eighty (280) hours that are carried over must be used within the next six (6) months.

15.5E Vacation leave will not accrue to any employee on leave of absence without pay, leave without pay, suspension without pay, layoff, or during time off of work that is compensated under workers' compensation, except as provided in Section 15.3C.

15.5F All earned accrued vacation leave, which does not include advanced vacation leave, will be used by an employee before granting leave without pay. Employees may request leave without pay in writing from the Office Administrator; however, granting leave without pay is discouraged and should not be done on a regular basis. Written notice of leave without pay must be provided to the Human Resources Office.

15.5G Holidays falling within a period of vacation leave will not be counted as work hours for purposes of overtime.

15.5H Vacation leave, both as to earned unused hours and as to years of service for accumulation purposes, may be transferred when employees transfer between another Nebraska State agency, Nebraska State University or college and the Agency without a break in service upon mutual agreement of the employers. Absent an agreement, the Agency will pay for the leave balance per Section 15.5I.

15.5I Upon termination of employment of any employee for any reason, except as provided in Section 15.5H, the employee will be paid in full for any accumulated unused vacation leave. Such payment will be calculated at the hourly rate in effect at the time of termination.

15.6 Bereavement Leave

15.6A For a death in the immediate family, up to forty (40) hours leave with pay may be granted. For a death not in the immediate family, up to eight (8) hours leave with pay may be granted.

15.6B The hours of bereavement leave that may be granted to part-time employees will be proportionate to the percentage of FTE that they work.

15.6C Bereavement leave may not be charged to sick leave or vacation leave.

15.6D Immediate Family: Spouse, children, step children, foster children, parents, children-in-law, grandchildren, grandparents, brothers, sisters, brother-in-law, sister-in-law, or persons bearing the same relation to the spouse. At the discretion of the Office Administrator, bereavement leave benefits may be extended for other individuals with a similar personal relationship (e.g., acted as a mother, father, etc.) to the employee as that of an immediate family member.

15.6E Bereavement leave will be available for a period of thirty (30) calendar days after the death, or first notice of the death, of an immediate family member, and for a period of fifteen (15) calendar days after the death or first notice of the death of persons not immediate family members. Exceptions due to extenuating circumstances may be approved by the Office Administrator.

15.6F No employee will be unreasonably denied the granting or advancement of up to an additional eighty (80) hours of vacation leave (prorated for less than full-time employees) when such additional time is available and necessary to settle personal matters related to a death in the immediate family. The granting of leave under this Section will not prohibit or interfere with the granting of leave under any other section or provision of this Agreement.

15.7 Civil Leave. Time in court or at an administrative hearing as a plaintiff, defendant or witness on a non-work-related matter will be charged to vacation leave or compensatory time, if available. If the employee does not have vacation or compensatory time available, the employee may be granted leave without pay. In the event the employee is subpoenaed for non-work related matters and does not have vacation leave or compensatory time, the Office Administrator will grant leave without pay. Any witness fee paid to the employee for such appearances may be retained by the employee. The employee will provide the Agency with documentation to verify eligibility for civil leave.

15.7A An employee will be given necessary time off without loss of pay when performing jury duty, performing emergency civilian duty in connection with national defense or national disaster, and two (2) hours for the purpose of voting as provided in subsection 15.7A1 below. Civil leave does not include leave for military duty in connection with national defense, national disaster or civil disturbances.

15.7A1 An employee who is a registered voter and does not have two (2) consecutive hours in the period between the time of the opening and closing of the polls during which he or she is not required to be present at work for the Agency is entitled on election day to be absent from employment for such a period of time as will, in addition the employee's nonworking time, total two (2) consecutive hours between the time of the opening and closing of the polls. If the employee applies for such leave of absence prior to or on election day, paid civil leave of two (2) hours will be granted. The Agency may specify the hours during which the employee may be absent. The two (2) hours authorized for voting does not apply to those employees who choose to vote by the use of an absentee ballot or who by reason of their employment must vote by use of an absentee ballot.

15.7B When an employee serves as a juror, clerk, election inspector, or judge of an election board or a counting board, civil leave without loss of pay will be granted during the time when the employee's physical presence is required by the court or the election or counting board. The employee will also retain all fees paid them for their civil service.

15.7C While serving as a witness under a work-related subpoena or voluntarily at the request of the Agency, the employee will be excused from work with pay during the time that the employee's presence is required by the court or administrative body which issued the subpoena, or as required to testify when requested by the Agency. At all other times during the employee's regular workday, the employee who is subject to a work-related subpoena will be on the job and working. Any witness fee received under such subpoena will be remitted to the funding source from which the employee's salary is paid.

15.8 Administrative Leave. Administrative leave with pay may be granted by the Commissioner or Deputy Commissioner due to natural disasters, public health emergencies, inclement weather or local work-related emergencies.

15.8A When state offices, located in a building not owned or operated by the State, are closed by other than State officials due to inclement weather or other local work-related emergencies, employees have the following options, subject to advance approval by their immediate supervisor:

15.8A1 Report to work at a pre-arranged alternate worksite;

15.8A2 Telecommute from home if practicable due to the nature of the work, as determined by the Office Administrator;

15.8A3 Use accrued vacation leave, earned compensatory time, or leave without pay as a last resort;

15.8A4 Make up the missed work time within the workweek;

15.8A5 Absent the ability to exercise any of the above options, employees may be placed on ready to work status. This means they are ready and available to be called back to a work location at any time. Employees in ready to work status will be compensated and will perform any state work possible during this status. Ready to work status is intended for office closures that are due to clearly unanticipated occurrences such as flooding, fire or other building damage. It is not intended for when the circumstances that resulted in the office closure were reasonably predictable in advance by the Agency and the employee, such as a snowstorm predicted in advance. In such cases, the employee and his or her supervisor or other designee are to communicate and make arrangements in advance in regard to possible alternate work locations.

15.8B If State offices remain open during inclement weather or other work-related emergencies, employees are expected to make a reasonable effort to report for work or make alternative arrangements for work with their supervisor. Employees who fail to report for work will be charged compensatory time, vacation leave, or leave without pay. The Office Administrator, or the immediate supervisor, if authorized by the Office Administrator, may grant permission to both exempt and nonexempt employees to make up missed hours during the same week rather than requiring them to use compensatory time, vacation leave or leave without pay.

15.8C Nonexempt and exempt employees who report for and remain at work in periods during which administrative leave was authorized will be granted compensatory time off, to be used at a later date.

15.9 Military Leave. Military leave will be granted in accordance with applicable federal and state laws, and is limited to one hundred and twenty (120) hours a year, with no accumulation of unused leave carried over to the following calendar year. Such military leave may be taken in hourly increments.

15.10 Interviews. Interviews with employees for positions within the Agency will be performed during work hours. Time spent for interviews and travel to attend such interviews, which occur during the employee's regular workday, will be compensable.

15.11 Disaster Relief Leave. Employees who provide proof of their disaster relief volunteer certification with the American Red Cross may, with appropriate supervisory authorization, be granted paid civil leave not to exceed fifteen (15) workdays in each calendar year to participate in specialized disaster relief services in Nebraska for the American Red Cross, upon the request of the American Red Cross.

15.12 Employee Assistance Program. Employees attending Employee Assistance Program (EAP) sessions at the Agency's direction will do so at the Agency's expense and may attend during work time. If an employee wishes to voluntarily attend EAP sessions in order to address personal issues that are affecting work performance, supervisors may authorize the employee to do so during work time without being charged sick or vacation leave. Employees attending EAP sessions on their own initiative will do so at their own expense and will use approved sick or vacation leave, compensatory time, or leave without pay.

15.13 Attendance at Legislative Hearings. Employees may be allowed to utilize vacation leave or compensatory time off (or modified work schedule for those employees who do not earn compensatory time) for the purpose of attending legislative hearings of their own choosing. Upon notification to the employee's supervisor of the purpose of such request for time off, said request may not be unreasonably denied. Any employee of the Agency who is a registered lobbyist for NAPE/AFSCME may be permitted leave without pay during the legislative session for that time necessary to carry out the lobbying function. Such employee's supervisor will be given as much prior notice as possible under the circumstances as to when such leave is proposed. Said request may not be unreasonably denied.

15.14 Leave to Donate Blood. With the advance approval of their immediate supervisor, employees may be allowed paid time away from the job to donate blood in State-sponsored drives held in State offices, or to donate blood at the request of blood banks or centers facing a blood supply emergency. The amount of leave time granted will be at the discretion of the immediate supervisor. Donating blood under circumstances unrelated to State-sponsored drives or supply emergencies will require employees to obtain advance approval to use vacation leave or to adjust their work hours to complete a full workday.

15.15 Retirement Seminars. Leave with pay will be provided to eligible employees to attend up to two (2) planning seminars and two (2) pre-retirement planning programs presented by the Nebraska Public Employees Retirement Systems.

15.16 Family and Medical Leave (FML)

15.16A Family and Medical Leave (FML) is unpaid time off from work, and is subject to the provisions of 29 CFR 825. An employee must have at least twelve (12) total months of State service and have worked at least 1,250 hours in the previous twelve (12) month period to be eligible for FML. Employees may request that accrued paid leave (e.g., vacation, sick), and compensatory time if the employee is subject to Section 8.2, be applied along with the unpaid FML entitlement. In this case, any paid leave will run concurrently with the FML entitlement.

Employees who are absent and receiving workers' compensation benefits, or using any paid leave exceeding 40 hours for full-time employees or exceeding the number of hours proportionate to the percentage of FTE for part-time employees, taken for any of the reasons listed in Section 15.16B, will have such leave credited against the twelve (12) week FML entitlement beginning with the first date of absence. Unpaid FML not charged to sick or vacation is subject to service date adjustments under Section 15.19.

If FML exceeds 40 hours during a twelve (12) month period starting with the date FML is first used for full-time employees, or exceeds the number of hours proportionate to the percentage of FTE for part-time employees, sick leave must be used concurrently if the reason for the FML is also a reason sick leave may be used under Section 15.2. If the reason for FML is not also a reason sick leave may be used, or if and when accumulated sick leave is exhausted, such employee will be required to utilize (1) accumulated unused compensatory time off if the employee is subject to Section 8.2 and (2) accrued vacation leave, in that order until exhausted; however, vacation leave may be reserved in an amount up to forty (40) for full-time employees, or proportionate to the percentage of FTE for part-time employees, unless Catastrophic Leave is requested per Section 15.18.

15.16B Conditions for Using Family and Medical Leave. Family and Medical Leave may be used for the following reasons:

15.16B1 Because of the birth of a child of the employee and in order to care for such newborn child.

15.16B2 Because of the placement of a child with the employee for adoption or foster care.

15.16B3 In order to care for the employee's spouse, child, or parent, if such spouse, child or parent has a serious health condition.

15.16B4 Because of the serious health condition that makes the employee unable to perform the functions of the employee's job.

NOTE: Spouse means a husband or wife as defined or recognized under law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized. Child may include a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is under eighteen (18) years of age or is eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability. Care for mother-in-law or father-in-law is not included. However, parent may include individuals other than natural or adoptive parents who served in a long-term parental role for the employee.

NOTE: Serious health conditions are defined as illness, injury, impairment, or physical or mental conditions that involve: (1) in-patient care in a hospital, hospice, or residential medical care facility including any period of incapacity, or any subsequent treatment in connection with such in-patient care; or, (2) continuing treatment by a health care provider as provided for in 29 C.F.R. §825.115. Examples of serious health conditions include: heart attack, heart by-pass or valve operations, most cancers, back conditions requiring extensive therapy or surgery, strokes, severe respiratory conditions, spinal conditions, severe arthritis, severe nervous disorders, mental illness, need for prenatal care, severe morning sickness, childbirth, and recovery from childbirth. This does not include voluntary or cosmetic treatments, unless inpatient hospitalization is required.

15.16C Certification of Serious Health Conditions. Except as provided in Section 15.16C7, when requesting Family and Medical Leave for serious health conditions, an employee must provide certification from a health care provider, which includes:

15.16C1 The date on which the serious health condition commenced;

15.16C2 The probable duration of the condition;

15.16C3 Any appropriate medical facts;

15.16C4 A statement that the employee is needed to care for the child, spouse, or parent and estimate of the amount of time that such employee is needed to care for the child, spouse, or parent; or, a statement that the employee is unable to perform the functions of the job;

15.16C5 If the leave is to be intermittent, or on a reduced leave schedule, a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; or, a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the child, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule. In the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment should be included.

15.16C5(i) Medical Second Opinions. The Agency may require a second opinion (the Agency's choice of health care provider) and must pay for the cost of the second opinion. If the second opinion differs from the first, a third opinion may be sought (from a mutually agreed upon health care provider, again, at the Agency's expense). The results of the third opinion are final.

15.16C6 In the event the employee is requesting leave due to more than one serious health condition, the certification must specifically address each individual condition. Separate forms will be submitted as appropriate. Regardless of whether a single or multiple health condition(s) are involved, the limit in Section 15.16E applies.

15.16C7 When paid leave will be used for an absence, which may qualify as Family/Medical Leave, medical certification may be requested at the Agency's discretion.

15.16D Notice of Intent to Use Family and Medical Leave. A minimum of thirty (30) calendar days' notice to the Agency must be provided by the employee before he or she may use Family and Medical Leave. Where thirty (30) calendar days' notice is not foreseeable, notice must be given as early as possible. If certification of a serious health condition is required, FMLA forms should be obtained from the Agency's Human Resources Office.

15.16E Family and Medical Leave Duration. Unpaid Family and Medical Leave is limited to a total of twelve (12) weeks within a twelve (12) month period, starting with the date the Family and Medical Leave is first credited against the twelve (12) week entitlement pursuant to Section 15.16A.

15.16F Family and Medical Leave Not Cumulative. Family and Medical Leave cannot be carried forward beyond the twelve (12) month period and banked for future use.

15.16G Incremental Use of Family and Medical Leave. With approval of the Agency, Family and Medical Leave may be taken in increments with proper medical certification (federal law allows employees not eligible for overtime [e.g., exempt employees] to make incremental use of unpaid Family and Medical Leave without affecting their "salaried" status).

15.16H Health Insurance while on Family and Medical Leave. Employer health insurance contributions will continue during an employee's unpaid Family and Medical Leave absence, provided the employee makes his/her required contribution. Employer contributions will be based as if the employee had continued to work his/her normal schedule.

15.17 Family Military Leave. Family Military Leave is available to employees in accordance with the terms and conditions of the Nebraska Family Military Leave Act, Sections 55-501 through 55-507 R.R.S. and the amendments to the Family Medical Leave Act made by the National Defense Authorization Act (NDAA) of 2008 (29 U.S.C. §2612 et seq.).

15.17A Requesting employees will provide the Agency with certification from the proper military authority to verify eligibility for the leave taken under Sections 55-501 through 55-507 R.R.S.

15.17B Requesting employees will provide the Agency with certification by the covered service member's health care provider for leave requested to care for a service member under the provisions of the National Defense Authorization Act amendments to the Family Medical Leave Act.

15.17C Requesting employees will provide the Agency with such certification as may be provided for through regulations issued by the United States Secretary of Labor for leave requested for a "qualifying exigency" arising out of the fact that an employee's spouse, son, daughter or parent is on active duty, or has been notified of impending call for active duty, in the Armed Forces in support of a contingency operation under the provisions of the National Defense Authorization Act amendments to the Family Medical Leave Act.

15.18 Catastrophic Illness Donation. The provisions of this Section are non-grievable. Employees may contribute accrued vacation leave to benefit another employee in the Agency who is personally experiencing a catastrophic illness. The recipient must initiate a request by completing and signing a donation request form provided by the Agency. The contributing employee must complete and sign a donation authorization form provided by the Agency and identify the number of hours of vacation leave being donated and the recipient. Vacation leave donated to, and used by, another employee pursuant to this provision cannot be returned to the credit of the donor's vacation leave account. Catastrophic Leave will be available only to employees who have exhausted their own paid leave through bona fide serious illness or accident.

Leave donated will be converted to a dollar value and then converted to hours based on the recipient's hourly rate. No more than 800 converted hours of donated leave may be received by an employee during a twelve (12) month period.

15.18A Eligibility of Recipient:

15.18A1 Must be experiencing a serious illness or injury that requires a prolonged absence of at least thirty (30) consecutive calendar days during the past six (6) months;

15.18A2 Must produce satisfactory medical verification of the requirements of Section 15.18A1;

15.18A3 Must have one (1) year of service to the Agency;

15.18A4 Must have exhausted all earned paid leave time including compensatory time, sick leave, and vacation leave; and

15.18A5 Must not have offered anything of value in exchange for the donation.

15.18B Eligibility of Donor Employee:

15.18B1 Only four (4) hour increments may be donated;

15.18B2 Must not have solicited nor accepted anything of value in exchange for the donation; and

15.18B3 Must have remaining to his/her credit at least forty (40) hours of accrued vacation leave after the donation has been made.

15.18C Donation Period. Donations cannot be retroactively applied to the thirty (30) consecutive calendar day qualifying period required in Section 15.18A1.

15.19 Service Date Adjustments. The employee's service date will be adjusted when an unpaid absence exceeds fourteen (14) consecutive calendar days except when an employee is still eligible for workers' compensation payments. The adjustment will correspond to the number of days the employee is on unpaid leave.

HOLIDAYS

15.20 Holiday Schedule. The following will be paid holidays:

DAY	DATE
New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Arbor Day	Last Friday in April
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
The Day After Thanksgiving	Friday following Thanksgiving
Christmas Day	December 25

Others when declared by law or proclaimed by the Governor or President of the United States as provided in Section 84-1001(3) R.R.S.

15.20A Whenever any of the above holidays fall on Saturday, the preceding Friday will be observed as the holiday; and whenever any of the above holidays fall on Sunday, the succeeding Monday will be observed as the holiday.

15.20B In the case of Veterans Day, whenever the holiday falls on Saturday or Sunday, the Governor may declare the preceding Friday or the following Monday as the holiday on which date the holiday will be observed.

15.21 Eligibility for Holiday Pay. Pursuant to Section 84-1001 R.R.S., in order to receive pay for such holiday, an employee, whether part-time or full-time, must be in paid work status on both the regularly scheduled workday immediately preceding and immediately following the holiday unless excused by his or her supervisor.

15.22 Working on Holidays. An employee may be directed to work on a holiday or may request advance approval from the immediate supervisor to voluntarily work on a holiday. Any work on a day that is defined as a paid holiday by Section 84-1001 R.R.S. will be compensated for by granting the employee compensatory time off or by paying the employee. Nonexempt employees will be compensated per Section 8.2E. Exempt employees will be compensated at straight time. The method of compensation for the holiday worked will be at the discretion of the Agency. If compensatory time off is granted, the employee will determine when such time will be taken, subject to Section 8.2B.

15.23 Maternity Leave Donation (MLD) Program. An employee may participate in the MLD program with the approval of the Human Resources Office.

15.23A Eligibility of Recipient. Employees must submit a written request on the form provided by the Human Resources Office and:

15.23A1 Be the expectant mother of a newborn baby or be the adoptive mother;

15.23A2 Have an agency-approved FML request;

15.23A3 Have exhausted all earned sick leave for eligible sick leave reasons; and,

15.23A4 Have not offered anything of value in exchange for the donation.

15.23B Contributing Maternity Leave Donations. Employees may contribute accrued vacation leave or earned compensatory time to benefit another employee in the Agency who requests MLD. Vacation leave and earned compensatory time will be donated in no less than 4-hour increments. The contributing employee must identify the specific amount of time donated and the name of the recipient of the donated time on the appropriate forms for that purpose. Vacation leave and compensatory time donated and transferred to another employee pursuant to this provision will be irrevocably credited to the recipient's MLD account.

15.23B1 Vacation leave and compensatory time transferred will be converted to a dollar value and then converted to hours based on the recipient's hourly rate. No more than an equivalent of 480 hours of MLD may be received by an employee during the approved FML period. The Agency will transfer donated leave to the recipient's MLD account from the donor's accruals in chronological order based on the date the form was received and on an as-needed basis.

15.23C Eligibility of the Donor. Before donating vacation leave or earned compensatory time employees will meet the following criteria:

15.23C1 Only increments of four (4) hours may be donated;

15.23C2 Have not solicited nor accepted anything of value in exchange for the donation; and,

15.23C3 Have remaining to his/her credit at least 40 hours of accrued vacation leave (earned compensatory time can be donated completely, leaving a zero balance).

ARTICLE 16

LAYOFF, RECALL, AND RESIGNATION

16.1 Management Rights. NAPE/AFSCME recognizes the right of the Agency to layoff, furlough or to reduce hours of employment at the Agency's sole discretion so long as such layoff takes place in accordance with procedures set forth in this Article and observes all rights of the employees protected by this Agreement. Such procedures will not apply to temporary layoff of less than thirty (30) calendar days within a twelve (12) month period.

16.1A The Agency agrees to provide to NAPE/AFSCME a copy of any request for contract proposals (RFP) which would result in the loss of one (1) or more regular position(s) in the Agency. This RFP copy is to be provided to NAPE/AFSCME at the same time it is distributed to the media and/or vendor(s).

16.2 Layoff General Rules. When a layoff of employees holding positions in Appendix A occurs the following general rules will apply:

16.2A Layoffs will be identified by the budget and program areas within a specific locality. The Agency will identify the job classification(s) for layoff to provide the most efficient and productive operation of the Agency. Within the identified job classifications, the order of layoff will be based on seniority (based on the employee's company service date with the Agency). For the purposes of bumping rights, only the employee's agency service date or agency adjusted service date is considered as opposed to any adjusted service date that is calculated due to prior state service at another state agency.

16.3 Layoff Plan. Prior to a layoff notice being issued per Section 16.4, NAPE/AFSCME and the Agency will meet to discuss and assure compliance with procedures outlined herein, protection of the rights of employees affected by such layoffs, and possible alternative means of dealing with the problem which gave rise to the layoff. The layoff plan will be provided to NAPE/AFSCME at least ten (10) workdays prior to the meeting between the Agency and NAPE/AFSCME, unless such time period is waived in writing by NAPE/AFSCME.

16.3A The layoff plan will at a minimum include the following:

16.3A1 The employees to be laid off and positions eliminated, including names, job classifications and work sites of the affected employees;

16.3A2 The reason for the layoff (i.e., reduction in work load, reduction in funding);

16.3A3 Whether the layoff is geographical, organizational (a particular team), functional (a particular job classification or program), financial, or other;

16.3A4 The effective date of the layoff; and,

16.3A5 Specific relocation alternatives available to laid off employees within the Agency.

16.4 Layoff Notice to Employees. The Agency will notify the affected employee(s) holding positions in Appendix A in writing as soon as they are formally identified for layoff, but not less than thirty (30) workdays in advance of the layoff date. Upon being identified for layoff, affected employees will have the right to schedule and take up to ten (10) workdays of leave without pay during the notice period for interviews, traveling, resume preparation, and other activities associated with securing new employment.

16.4A The Agency agrees that it will:

16.4A1 Provide electronic job vacancy information from DAS State Personnel and Nebraska state college and university offices.

16.4A2 Provide information on sources of employment seeking skills upon request.

16.5 Transfer Rights – Vacant Positions. Subsequent to providing layoff notice per Section 16.4, the Agency will provide all laid off employees occupying positions identified in Appendix A with all necessary information for the employee to determine what positions are available in order for the employee to exercise the transfer rights under this Section. If there is a vacant bargaining unit position in the Agency, for which the employee satisfies the qualification requirements as determined by the Agency, the employee may elect to transfer to such vacant position.

16.5A Within eight (8) calendar days of a laid off employee being provided such information, the employee must notify the Agency in writing of any intentions to transfer in accordance with this Section.

16.5B If more than one laid off employee elects to transfer into a vacant position, the selection will be made based on seniority.

16.5C In determining the priority of transfers identified in this Section, transfers to vacant positions in the same geographical area (i.e., within sixty [60] miles) will be given priority over transfers to positions in a different geographical area.

16.5D An employee who transfers to another position in the same job classification or pay grade will be transferred so as to effectuate no loss in pay.

16.6 Bumping Rights. Subsequent to providing the layoff notice per Section 16.4, the Agency will provide all laid off employees occupying positions identified in Appendix A with all necessary information for the employee to determine what bargaining unit positions are available in order for the employee to exercise the rights under this Section. Based on seniority, those employees may bump into the non-vacant position held by the least senior employee in the same job classification, for which that employee satisfied the qualification requirements, as determined by the Agency, if no transfer positions were available per Section 16.5. However, if the least senior employee's permanent duty station is not in the same geographical area (i.e., within sixty [60] miles) of the laid off employee's permanent duty station, the laid off employee may elect to bump into the non-vacant position held by the least senior employee in the job classification within the laid off employee's geographical area.

16.6A Within eight (8) calendar days of a laid off employee being provided such information, the employee must notify the Agency in writing of any intentions to bump in accordance with this Section.

16.6B If more than one laid off employee elects to bump into a position, the employee with the most seniority will be allowed to take the position.

16.6C An employee who is laid off because another laid off employee has bumped into his or her position under Section 16.6 will have all the rights of a laid off employee including transfer in lieu of layoff.

16.7 Emergency Layoff Provisions. In the event (i.e., Special Session of the State Legislature, permanent impoundment or reduction of funds by the federal government or similar circumstances) the Agency receives official notice of a pending funding reduction from a particular funding authority, which imposes the funding reduction in less time than is required to meet the notice requirements in Sections 16.3 and 16.4, the following emergency layoff provisions will govern the layoff.

16.7A In lieu of the provisions in Section 16.3, the Agency and NAPE/AFSCME will meet within five (5) workdays after the date the Agency mails the reduction in force notices to discuss the layoff plan and to discuss and assure compliance with the procedures outlined herein, protection of the rights of employees affected by such layoffs, and possible alternative means of dealing with the emergency that gave rise to the layoff. In addition to the requirements specified in Section 16.3A, the layoff plan will establish the date the Agency received notice of a funding reduction.

16.7B Upon being given notice for layoff under this Section, affected employees will be allowed to schedule and take up to ten (10) workdays of leave without pay during the notice period for interviews, traveling, resume preparation, and other activities associated with securing new employment.

16.7C The Agency agrees that it will:

16.7C1 Provide electronic job vacancy and placement information from DAS State Personnel and Nebraska state college and university offices.

16.7C2 Provide information on sources of employment seeking skills.

16.7D Official notice for all funding sources means the final official action which determines that the provisions of a bill will become effective. Official notice for Cash and Revolving Funds may also be notice from the external funding source that funds are or will be terminated. Official notice for federal fund sources may also be written notice by the Federal funding agency of intent not to fund a discretionary grant program.

16.8 Layoff Requirements – Limitation of Application. The requirements and procedures of Sections 16.2 through 16.7 apply only to layoffs.

16.9 Recall and Re-employment. This Section specifies how laid off employees will be either recalled or given re-employment opportunities for vacancies created following a layoff.

16.9A Recall to Previously Eliminated Position. Following a layoff, when a position previously eliminated is restored, the employee occupying the position at the time of reduction in force will have first recall priority subject to Sections 16.9B1 through 16.9B2. The recall salary will be based on the salary rate in effect at the time of layoff.

16.9B Recall to Vacancy in the Same Job Series. Following a layoff, when a vacancy is created in the same job series, employees who satisfy the required qualifications as determined by the Agency will be recalled in reverse order of a layoff or transfer in lieu of layoff as follows:

16.9B1 At the time the vacancy occurs, the Agency will notify the first five (5) qualified employees in line for recall of the vacancy.

16.9B2 Such employee(s) will then have ten (10) workdays following date of notification to accept or refuse the recall by providing written notice to the Agency. The recall vacancy will be offered to the employee with the most seniority who provides written acceptance within ten (10) workdays.

16.9C Failure to Respond. Employees who fail to respond by either accepting or refusing the recall vacancy on two (2) successive notifications will forfeit further recall rights per Sections 16.9A and 16.9B.

16.9D Re-employment Opportunities. In the event that a vacancy occurs and there are no persons laid off or transferred in lieu of layoff who held a position in the job series at the time layoff began as provided in Section 16.9B, the Agency will notify all laid off employees of the vacancy and the qualifications required to hold the position. Such employees will then have ten (10) calendar days following receipt of such notice to apply for said position. The Agency has the right to hire the most qualified applicant. The pay rate of an employee who occupies a position of a lower classification as a result of recall from layoff or re-employment will be set in accordance with Section 11.3B.

16.10 Financial Assistance for Relocating. In cases in which employees have received state financial assistance in geographically relocating to avoid layoff, there will be no requirement for such assistance if recalled to their previous position.

16.11 Waive Rights. Employees may waive their rights to receive recall and re-employment notices by providing a written statement to the Human Resources Office.

16.12 Time Period for Recall and Re-employment. During the twelve (12) month period following layoff or transfer in lieu of layoff of the employee, no new employees will be hired to fill vacant positions until all employees on layoff or transfer in lieu of layoff who desire to return to work and who are qualified for the vacant position(s) have had the opportunity to be recalled per Sections 16.9A and 16.9B or re-employed per Section 16.9D. It will be the responsibility of the employee who was laid off or transferred in lieu of layoff to be available for recall or re-employment during such time, and such employee will be responsible for providing the Agency with a current address. It will be the responsibility of the employee who was laid off or transferred in lieu of layoff to update and/or supplement the written documentation in their personnel file regarding their employment qualifications so as to allow the Agency to evaluate their eligibility for recall or re-employment under Sections 16.9A, 16.9B and 16.9D.

16.13 Accumulated Leave Payoff. Employees who are laid off will be paid at the time of layoff for all accumulated and unused vacation leave, sick leave if eligible under Section 15.2I, compensatory time, and overtime.

16.14 Agreement Coverage. In cases in which reductions in force procedures extend from one Agreement period to another, the terms of the Agreement in effect when notification of layoff is given will govern.

16.15 Notification. "Notification," as used in Article 16 will mean Certified Mail to the employee's last known address, or personal delivery or deposit at the last known residence. Notifications issued to an individual employed by the Agency may be made by e-mail or personal delivery to the employee's office. In the event of personal delivery, a receipt acknowledging delivery will be signed by the laid off employee.

16.16 Resignation. A resignation is effective when accepted in writing or orally by a supervisor or any member of the Agency's Human Resources Office or the Agency's Legal Services Office.

16.16A Absent extenuating circumstances, an employee will be considered as abandoning his/her job if absent from their designated work site more than two (2) consecutive workdays without giving notice. Abandonment is considered a voluntary resignation.

ARTICLE 17

GRIEVANCE PROCEDURE

17.1 Purpose. The purpose of this procedure is to reduce potential areas of conflict and to secure, at the lowest possible administrative level, equitable and timely resolutions to problems which may arise. Through resolution of problems affecting the welfare or working conditions of employees in the Agency, morale is improved and staff effectiveness is increased.

17.2 Definition. A grievance is defined as a contention of misapplication or violation of any of the following: Agency policies, rules or regulations not in conflict with this Agreement, articles of this Agreement, written administrative policies, other written operating procedures or laws, or written instructions pertaining to employees.

17.3 Non-Grievable Matters. The following issues, when done in compliance with established law, rule or Agency policy, are examples of non-grievable matters. The list below is not to be considered all inclusive:

17.3A Performance appraisals.

17.3B Involuntary transfers not requiring the employee to relocate.

17.3C Approval of leave of absence requests.

17.3D Suspension with pay for investigatory purposes.

17.3E Job classifications including, but not limited to, Article 10 job reclassifications.

17.3F Salary adjustments per Sections 13.5, 13.6, and 13.7.

17.3G Fair Labor Standards Act (FLSA) overtime exempt and nonexempt determinations.

17.3H Placement on suspension without pay or other action of the Commissioner following a decision recommending an employee's dismissal to the Board as described in Section 18.10.

17.3I Regardless of compliance with laws, rules, regulations or Agency policies, an employee may not grieve actions or inactions that were alleged to have been done to or concern another employee.

17.3J Employees may contest disciplinary dismissals according to the terms in Section 18.10B.

17.3K An employee laid off may grieve layoff (and/or transfer, bumping, recall and re-employment rights) only on the grounds of unlawful discrimination or failure to follow the terms of this Agreement.

17.3L Maternity Leave Donation Program participation.

17.3M Corrective action.

17.4 Effective Dates of Management Actions. Filing of a grievance does not delay the effective date of any management action. In the event that a suspension without pay or demotion is not supported through the grievance procedures, the employee will be returned to his or her position as though said suspension without pay or demotion had not taken place.

17.5 Employees Without Grievance Rights. Applicants, temporary employees, contract employees, and employees on original probation have no grievance rights under this Agreement except as expressly provided elsewhere in this Agreement. An employee who has successfully completed an original probation period will retain grievance rights during secondary probationary periods per Section 6.7.

17.6 Forms. A grievance form will be provided by the Agency and made available to each and every employee upon request. Said form will be as prescribed by the Agency. Said form will specifically include the following statement:

"Since you are a member of a bargaining unit certified by the Commission of Industrial Relations for the State of Nebraska, your bargaining agent, the Nebraska Association of Public Employees/American Federation of State, County, and Municipal Employees, will be notified immediately upon your filing of this grievance. This does not prevent you, whether you are a NAPE/AFSCME member or not, from bringing matters to the attention of your supervisor or other officials, or from choosing your own representative in any grievance or legal action." Any attachments to the grievance "form" provided as a part of the written grievance response will be considered an integral part of the "form" and will be forwarded in the grievance process in the same manner as the grievance "form."

17.6A Upon the filing of a formal written grievance form by an employee, NAPE/AFSCME will be notified. NAPE/AFSCME will, if requested, be given notice of the time and the place of each grievance step through the grievance procedure. To the extent such participation does not interfere with the employee's right to select or utilize such representative or pursue such grievance, NAPE/AFSCME will be permitted to participate in the grievance on matters in which such grievance involves interpretation of this Agreement regardless of whether NAPE/AFSCME is the selected representative of the employee. NAPE/AFSCME taking a position contrary to that of the grievant will not be deemed an interference under this Section.

17.6B No employee will be denied the right to a grievance hearing by reason of the employee's failure to properly fill out or fully complete the grievance form. However, a signed grievance form must be utilized in order to file a grievance.

17.7 Number of Days. The number of days indicated in each step of the procedure will be the maximum. Failure of the grievant to proceed to the next step within the maximum time limit will be considered as termination of the grievance. Failure of the Agency in any step to render a decision to the aggrieved employee(s) within the maximum time limit will automatically allow the aggrieved person(s) to proceed to the next step.

17.7A "Days" will mean regularly scheduled workdays when the State Department of Education, Nebraska State Office Building offices, are open, excluding, however, such regularly scheduled workdays during which employees involved in the procedure are absent from the work site on approved leave or travel status. For all employees who are permanently located at work sites other than 301 Centennial Mall South, Lincoln, Nebraska, days as defined above will be counted from the date of receipt. The day in which an item is received is not counted as a day for the receiving party.

17.7B Any time period established herein may be extended upon the written consent of the employee and the Deputy Commissioner.

17.8 Grievance Process Waiver. Except as otherwise required by law, the parties may mutually agree, in writing, after obtaining consent from the Attorney General, to waive all further steps in the grievance procedure and proceed to institute a civil action in an appropriate court of competent jurisdiction.

17.9 Requests for Documentation and Information. Upon the filing of any grievance, following the procedures herein noted, the employee will have a right to request from his or her supervisor and the supervisor must produce copies of personnel files regarding the grievance, the supervisor's personal records regarding the grievance, and any notes regarding the grievance maintained by the employee's supervisor. These same rights will be held by the Agency to request such notes and records kept by the employee and require the employee to produce the same. At any stage following step one during the grievance of a suspension without pay or demotion, the employee and the Agency will have the right to request the other party to provide answers to questions and to produce specified documents pertaining to the grievance. Further, either party may take the deposition of any witness or the other party upon ten (10) workdays' notice to the other party. Any such request and/or notice will be addressed to the party from which the information or documents are requested with a copy supplied to the person or body responsible for making or recommending a decision at that stage of the grievance. For any information requested under this Section, only information and documents which are relevant or would lead to relevant evidence for the grievance may be required to be produced; however, in no case must information and documents be produced which are recognized by the courts of the State as privileged. Personal records and notes of an employee's supervisors are specifically identified as not being privileged information for purposes of this Article.

17.9A Answers and documents will be provided within ten (10) workdays of receipt of request. Objections to such requests will be made to the person or body responsible for making or recommending a decision at that stage of the grievance within five (5) workdays of receipt of the request. Such person or body will, after an informal hearing, confirm or deny such objections within five (5) workdays of receipt of the objection. Within five (5) workdays of receipt of the answers or documents, the requesting party will notify the answering party of any failure on the part of the answering party to respond to the request. Unless the objection is entered, the responding party will supply such answers or documents within five (5) workdays of being so notified.

17.9B The failure to respond to any discovery request, except where objections to such requests are sustained, may result in the responding party being denied the right to introduce the evidence requested. Any person desiring the Commissioner to take action concerning a failure to respond to a discovery request may request such action by applying for such relief to the Commissioner. The Commissioner's decision will be rendered at least five (5) workdays prior to the hearing to which the discovery request relates.

17.9C Copies of any documents required to be produced under Section 17.9 will be paid for by the requesting party. In the event such copies are made on state-owned copying machines, the charge established under Section 4.4 will be assessed.

17.10 Grievance Procedure. The employee may be accompanied at any step of the grievance procedure by a representative of the employee's selection. Management may also be accompanied by a representative at any step. The Grievance Procedure will be as follows:

17.10A **Step 1** - Within fifteen (15) workdays of the employee's knowledge of the event or condition which caused the grievance, the grievant will first request a meeting with the immediate supervisor and the next level of supervision. If an employee is placed on suspension with pay, the workdays within that period are not counted against the fifteen (15) workday time frame. In cases where the next level of supervision is the Deputy Commissioner, then the Office Administrator of Human Resources will attend the meeting as the Deputy Commissioner's designee. At the time the request is made, the employee will notify the supervisors in writing that the meeting will constitute Step 1 in the grievance procedure. Within five (5) workdays of the request, the immediate supervisor, next level supervisor, or designee if applicable, and grievant will meet. The supervisors will arrive at a response and communicate the same to the grievant, in writing, within four (4) workdays of the meeting.

If the response is not satisfactory to the grievant, Step 1 of the grievance will be reduced to writing by the employee on the approved form within three (3) workdays of receipt of the supervisor's response and the supervisors will have five (5) workdays upon receipt of the written grievance to provide the grievant with a written answer. The grievant will specifically identify the rules, procedures, policies, or sections of the Agreement as defined in Section 17.2 that are contended to be misapplied.

17.10A1 In cases of disciplinary demotion or suspension without pay the grievant will proceed as specified in Step 4 of this procedure by filing an appeal to the Board without having to convene the meeting described in Section 17.10A. The appeal to the Board referred to in Step 4 below must be filed with the Commissioner in writing on the appropriate form within fifteen (15) workdays of the grievant's receipt of the Deputy Commissioner's suspension order or disciplinary demotion approval.

17.10A2 In cases of administrative probation, the grievant will submit the grievance to the Deputy Commissioner in writing on the appropriate form within ten (10) workdays of the date of the receipt of the notice described in Section 18.9A without having to convene the meeting described in Section 17.10A. The Deputy Commissioner will give a written answer within ten (10) workdays of receipt of the grievance. If a resolution to the grievance is not reached, the employee may proceed as specified in Step 4 of this procedure within fifteen (15) workdays of the receipt of the Deputy Commissioner's answer.

17.10A3 In cases where an Office Administrator other than the Office Administrator of Human Resources was one of the supervisors that was party to the meeting at Step 1, Section 17.10A, then the grievant will skip Step 2 below and proceed directly to Step 3 within five (5) workdays of the employee's receipt of the written answer to the employee's written grievance described in Section 17.10A.

17.10B **Step 2** – When the written answer in the preceding step is not satisfactory to the grievant, the grievant may, within five (5) workdays of the receipt of the supervisor's written answer, present the completed grievance form to the Office Administrator who will give a written response to the grievant within five (5) workdays thereafter. If the next level of supervision above the grievant's supervisor is the Deputy Commissioner, Step 2 will be skipped and the grievant may proceed directly to Step 3 by presenting the completed grievance form to the Deputy Commissioner within five (5) workdays of the employee's receipt of the supervisor's written answer in Step 1 above.

17.10C **Step 3** – When the response in the preceding step is not satisfactory to the grievant, the grievant may, within five (5) workdays of receipt of the Office Administrator's response, present the grievance to the Deputy Commissioner by submitting the completed grievance form. The Deputy Commissioner will give a written answer to the grievant within five (5) workdays thereafter.

17.10D **Step 4.**

17.10D1 If a resolution to the grievance is not reached, the employee may, within fifteen (15) workdays after receipt of the Deputy Commissioner's decision, appeal the grievance to the Board. The appeal at this level will be directed to the Commissioner as Secretary of the Board. This appeal will include the filing of the grievance form as described in Sections 17.6 through 17.6B.

17.10D2 Within ninety (90) calendar days after receiving the appeal, the Commissioner will place the matter on the agenda of a meeting of the Board for a determination on if the Board or a hearing officer will conduct the hearing in accordance with Section 17.10D3.

17.10D3 The Board may elect to conduct the hearing or may designate that a hearing officer, not an employee of the Agency, conduct a hearing and recommend a decision to the Board. The employee will be notified of the Board's determination on the conduct of the hearing and the time and place of the hearing. In cases in which the Board elects to have a hearing officer conduct the hearing, the hearing officer will cause a complete record to be made of all evidence offered at the time of the hearing. The hearing officer will prepare written findings of fact and recommend a decision to the Board. The hearing officer will deliver these findings of fact and recommendation to the Board together with a complete transcript of all evidence offered at the time of the hearing. Hearings will be conducted in accordance with Title 92, Nebraska Administrative Code, Chapter 61. The hearing will take place within ninety (90) calendar days of the Board meeting at which the matter appeared on the agenda under Section 17.10D2.

17.10D4 Both parties in a hearing pursuant to Step 4 may present witnesses, and these witnesses will be subject to cross-examination. If the witness is an employee of the Agency, he/she will be paid for those hours outside his/her normal hours of work.

17.10D5 The Board may affirm, modify, or reverse the decision of the Deputy Commissioner. The Board will notify the aggrieved employee within a reasonable time period in writing of the Board's decision.

17.11 Arbitration. At the time said appeal is filed pursuant to **Step 4**, the employee and/or representative and the Commissioner may mutually agree to submit the dispute to voluntary binding arbitration. Otherwise, the dispute will be submitted to the Board.

17.11A If both parties choose to submit the appeal to voluntary binding arbitration, they will sign a waiver within ten (10) workdays indicating they acknowledge that the decision of the arbitrator is final, except as provided in the Uniform Arbitration Act, and cannot be appealed.

17.11B The arbitrator's scope of review will be to determine whether or not term(s) of this Agreement has/have been violated, and whether the Agency's action was taken in good faith and for cause. Arbitration hearings will be informal and the rules of evidence will not apply. The parties may be represented by attorneys in arbitration hearings. In cases involving discipline, the Agency will present its case first, and in all other cases the employee will present his/her case first. The decision of the arbitrator will be final and may not be appealed. The arbitrator will decide the grievance in question based upon the issues presented in the written grievance filed pursuant to the grievance procedure. The arbitrator may interpret relevant provisions of this Agreement and apply them to the particular case presented to him/her, but the arbitrator will have no authority to add to, subtract from, or in any way modify the terms of this Agreement or any agreements made supplementary hereto. The fee and expenses of an arbitrator will be borne equally by all parties. Arbitrators will be selected from lists developed and mutually agreed upon by the parties. If the parties cannot agree upon an arbitrator, a method of alternate striking of names will be employed.

17.11C The Commissioner or Deputy Commissioner will have the authority to set time limitations for: the length of time within which an arbitrator must be chosen; the amount of time the parties will have to present their case (each party will receive the same amount of time); the time within which a case must be heard after an arbitrator is appointed; the length of time that will be allowed for the parties to submit post-hearing briefs; and the period of time after a hearing within which the arbitrator must enter his/her decision. Post-hearing briefs will not be allowed in any case unless the parties and the arbitrator are all in agreement as to the need for such briefs.

17.11D The decision of the arbitrator will be made in writing within sixty (60) calendar days of the hearing and will include findings of fact and conclusions of law. The findings of fact will consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding and the Human Resources Office will receive a copy of the decision by first class U.S. mail. The arbitrator's decision will become public record upon submittal to the parties. If the arbitrator does not render a decision within ninety (90) calendar days from the date the arbitration hearing was held, a penalty of fifty dollars ($50) per day will be imposed and deducted from the arbitrator's fee for each day over ninety (90) calendar days the decision is late, until the decision is received. This penalty may only be waived upon mutual agreement of the parties.

17.11E Both parties must provide the other party and the arbitrator with a listing of all exhibits to be introduced at the hearing, a copy of each exhibit, and a listing of individuals that the party plans to call as witness(es) in the arbitration/hearing at least five (5) calendar days prior to the hearing. Such requests and/or notice will be addressed to the party from which the discovery is sought. Only discovery requests which are relevant or would lead to relevant evidence for the grievance will be granted; however, in no case will discovery be granted which seeks evidence which is recognized as privileged by the Courts of this State. Discovery requests must be provided within ten (10) workdays of the receipt of the request, unless objections are entered. Objections to discovery will be made to the arbitrator, and the arbitrator will consider the matter and issue a decision.

17.12 Reprisals. No reprisal of any kind, including a loss in pay, will be taken by the Board, the Commissioner, or by any employee of the Agency against any participant in the grievance procedure by reason of such participation.

17.13 Civil Rights. Nothing contained in this procedure will be construed so as to abridge, limit, or restrict the civil rights of persons.

17.14 Confidentiality. Proceedings will be kept confidential by any and all parties involved, insofar as such confidentiality is reasonable, except as provided for elsewhere in this Agreement. Unless specifically otherwise requested by a grievant in writing at the time a grievant appeals under Step 4, the grievant's name will appear on Board agenda items where matters concerning the grievance are before that Board.

ARTICLE 18

CORRECTIVE AND DISCIPLINARY ACTIONS

18.1 Purpose. Corrective actions are those actions which do not affect pay or status and are imposed to correct and improve an employee's job performance. Disciplinary actions are those actions which may affect pay or status and are imposed to discipline an employee for actions which are harmful to the best interests of the State, the Agency, or the employee workforce, or for failure of performance or conduct following imposition of corrective action. Unless otherwise agreed to, the employees are not entitled to representation at routine supervisory and/or corrective action conferences, meetings that are for the purposes of presenting a disciplinary action or corrective action decision or notification to the employee, or meetings that are only part of an investigation concerning another employee or other employees. Employees are entitled to, upon request, representation at (i) investigatory meetings with supervisors or management when that meeting is for the purpose of investigating potential or suspected grounds for corrective or disciplinary action under Section 18.4 regarding that employee; and (ii) when the meeting is for the purpose of the employee responding verbally to verified information under Section 18.2A. However, the Agency may require that meetings described in (i) or (ii) take place within two (2) workdays of the first request for such meetings regardless of whether or not the employee has secured or arranged for representation.

18.1A Two (2) forms of corrective action exist:

Oral counseling; and,
Written warning.

18.1B Four (4) forms of disciplinary action exist:

Suspension without pay;
Administrative probation;
Disciplinary demotion; and,
Dismissal.

18.1C Corrective actions are not grievable. Disciplinary actions are grievable.

18.2 Decision Criteria. The decision to impose either corrective or disciplinary action and which type of action to impose will be governed by the nature, severity, and effect of the offense; the type and frequency of previous offenses; the period of time elapsed since a prior offensive act; the record and the length of service to the Agency; and consideration of extenuating circumstances. The Agency will ensure that all employees are equally treated with respect and dignity and are afforded the right of privacy when being counseled on performance issues. Disciplinary action may be imposed whether or not corrective action has preceded it. The employee against whom any disciplinary action is brought will be notified of such action as soon as it is initiated and will be kept informed of all processes during the disciplinary action. Not more than one (1) form of disciplinary action may be in effect against an employee at any one (1) time for the same infraction, except in the case of a suspension pending a dismissal action.

18.2A The Commissioner, Deputy Commissioner, or the employee's immediate supervisor or next level supervisor, upon obtaining information that would indicate the possibility of administering any disciplinary action, or upon completion of preliminary investigation, if such is felt to be required, will within thirty (30) workdays of obtaining such information or completing such investigation, present the employee with notice of the alleged facts and afford the employee the opportunity to refute the information or present mitigating evidence. The employee may respond verbally or in writing, whichever is designated by the Agency. The employee will respond within the timeline designated by the Agency,

which will not exceed five (5) workdays. The notice will specifically identify the rules, procedures, policies, or sections of the Agreement for which disciplinary action is being considered. Failure of the employee to respond will not be construed as indicating the truth or accuracy of the allegations. If action has not been taken within two (2) calendar months of the date of such verification, barring new evidence, no action may be taken on that set of allegations or circumstances.

18.2B Based upon information and evidence presented and the individual circumstance of the case, the Commissioner, Deputy Commissioner, or supervisor will determine the appropriate action to be taken.

18.2B1 For oral counseling and written warnings, the employee's opportunity to respond is during the oral conference or as provided in Sections 18.6 and 18.6B. The Commissioner or designated representative has the authority to rescind or modify a written warning after such response if deemed appropriate.

18.3 Suspension With Pay. Suspension with pay is an ordered absence from duty while on full pay status for a prescribed period of time. A suspension with pay may be ordered only upon the approval of the Deputy Commissioner or Commissioner. This action allows for an immediate response to a suspected but not fully substantiated offense or for a period in which an investigation can be thoroughly pursued, or for other reasons at the discretion of the Deputy Commissioner or Commissioner. Suspensions with pay are not grievable.

18.3A The ordered suspension with pay will be in writing and will be signed by the Deputy Commissioner or Commissioner and will become a part of the employee's official personnel file. If a suspension with pay is ordered to allow for an investigation of a suspected offense, and if the offense is not substantiated, then the ordered suspension will be removed from the employee's personnel file.

18.3B If an employee is absent when a suspension with pay is ordered, the written notice will be directed to the employee either by Certified Mail with instructions to "Deliver to Addressee Only, Return Receipt Requested," by personal delivery or deposit to the employee's last known address, or by email to the employee's personal email address with agreement of the employee.

18.3C In the absence of the Commissioner or Deputy Commissioner, the Office Administrator may order an employee's suspension with pay for up to ten (10) calendar days. Upon the Deputy Commissioner's return, the Deputy Commissioner will affirm or modify the suspension with pay within five (5) calendar days.

18.4 Corrective or Disciplinary Action Grounds.

18.4A Violation of or failure to comply with, the State Constitution, any statute, an executive order, published rules and regulations of the Agency; policies or procedures including work rules, this Agreement; or administrative memoranda.

18.4B Failure or refusal to comply with a lawful directive or to accept a reasonable or proper assignment from an authorized supervisor.

18.4C Inefficiency, incompetence, or negligence in the performance of duties.

18.4D Careless, negligent, improper, or unsafe use of state property, equipment, or funds, or conversion of state property. This includes transmitting threatening, obscene, or harassing material through the State's communication systems.

18.4E Use of bribery or undue influence to gain or attempt to gain promotion, leave, favorable assignment, or other individual benefit or advantage.

18.4F Falsification, fraud or willful omission of information when applying for a position, applying for or renewing required credentials, performing the duties of a position, responding to work-related questions or inquiries of any supervisor, or completing records or reports relevant for the Agency.

18.4G Unauthorized or improper use of any type of leave, repeated tardiness, repeated failure to comply with scheduled work hours, including meal or rest periods, or absence without approved leave.

18.4H Failure to maintain satisfactory working relationships with the public, other Agency employees, supervisors or managers, or with persons placed under direct care and responsibility of the employee.

18.4I Failure to obtain and maintain a current license required by law or Agency standards as a condition of employment.

18.4J Violation of any provision of the Agency Code of Ethics, which is located in the Personnel Rules, Title 93 of the Nebraska Administrative Code, Chapter 16.

18.4K Conduct, while on- or off-duty which brings discredit to the Agency, the State or which impairs an employee's services and/or the Agency's performance or function, including criminal charges arising from such conduct.

18.4L Unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcoholic beverage, in the workplace or reporting for duty under the influence of alcohol and/or unlawful drugs, or when prior consumption of same is plainly detected.

18.4M Unlawful work place discrimination (harassment) based, in whole or in part, on race, color, sex, sexual orientation, religion, age, disability, or national origin, which manifests itself in the form of unwelcome comments, jokes, printed material, and/or unwelcomed sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.

18.4N Display of sexually explicit or obscene materials and/or the utterance of offensive comments in the workplace that are derogatory toward a group or individual based upon race, sex, sexual orientation, color, religion, disability, age, or national origin.

18.4O Possession of any type of firearm during the course of performing their job. This prohibition includes transporting firearms into any work site or onto state property or in a state vehicle.

18.5 Oral Counseling. Oral counseling is an informal level of corrective action. It is a warning given by an immediate supervisor in conference with an employee in which the matter that caused the corrective action to be taken is discussed and the employee is advised of what action is expected of him/her to correct the problem. A written record of the oral counseling may be prepared if a copy is provided to the employee; however, no record of it will be placed in the employee's personnel file.

18.6 Written Warning. When, in the opinion of the supervisor, oral counseling is not an adequate measure to correct the deficiency, a written warning, which will be considered a corrective action, may be imposed. The written warning must be fully documented and must include an oral conference between the supervisor and the employee at the time the written warning is presented or as otherwise agreed to by both parties. The written narrative will be consistent with the oral conference. The written warning will be dated, will explain the reason for the warning, and will explain the action expected of the employee to correct the cause or problem. Both the supervisor and the employee will sign the written warning, and the employee will be given a copy of the completed signed warning. The employee's signature thereon does not imply agreement with the contents of the written warning, but documents only that he/she has seen it and the oral conference described above has been held. The written warning will be considered effective on the date that it is issued to and received by the employee.

18.6A A written warning is issued on whatever official form the Agency may designate for this purpose.

18.6B The employee has the opportunity to attach written rebuttal, clarification, or objection to the written warning within five (5) workdays of receipt by the employee.

18.6C The written warning will become inactive ninety (90) calendar days after having been issued to the employee unless the originating supervisor will renew it by additional written commentary on the original form explaining the renewal.

18.6C1 When the written warning is renewed, the employee will again have the opportunity to offer written commentary in response to the renewal and will be provided with a copy of the annotated (renewed) form.

18.6C2 A written warning may be renewed no more than one (1) time.

18.6D All record of the written warning will be removed from the employee's personnel file ninety (90) calendar days after it will become inactive. It may only be retained by the Agency in a separate file of warnings and may be referenced by the Agency or employee in the event of litigation, personnel action (including subsequent disciplinary or corrective action), audit, or other administrative proceeding or complaint, if relevant.

18.7 Suspension Without Pay. An ordered absence from duty for a prescribed period of time for which no pay, vacation time, sick leave or holiday leave is granted, nor is vacation, sick or holiday leave accrued. A suspension without pay may be ordered only upon the written approval of the Deputy Commissioner.

18.7A The length of the suspension will be determined by the Deputy Commissioner in view of the seriousness of the violation and/or continued violation after the employee has been duly warned.

18.7B A suspension without pay will be in writing and will be signed by the Deputy Commissioner and will become a part of the employee's official personnel file.

18.7C If the employee is absent when a suspension without pay is ordered, the Deputy Commissioner will direct written notice to the employee by one of the following methods: Certified Mail with instructions to "Deliver to Addressee Only, Return Receipt Requested," personal delivery or deposit to the employee's last known address; or via email to the employee's personal email address.

18.8 Disciplinary Demotion. The movement of an employee from the present position to one of lesser responsibility and/or authority and at a lower salary, may be ordered only upon the written approval of the Deputy Commissioner, a copy of which is provided to the employee.

18.8A A request for disciplinary demotion will be in writing with full documentation, signed by the supervisor and the Office Administrator. The disciplinary demotion will be signed by the Deputy Commissioner and will become a part of the employee's official personnel file. An employee who is the subject of a disciplinary demotion will also be placed on secondary probation as described in Section 6.7.

18.9 Administrative Probation. For a period of time, not more than six (6) calendar months, administrative probation is imposed for disciplinary reasons during which the employee must rectify the performance or behavior which led to the imposition of the disciplinary action.

18.9A Administrative Probation Status. Administrative probation may be imposed by the Office Administrator for a period of not more than six (6) calendar months. The notice of administrative probation will be in writing, dated, and will inform the employee of the reason for the probation, the action required for improvement, and state that failure to improve may result in further action. The employee will acknowledge receipt of the probation notice by signing the document. The employee's signature on the notice of administrative probation does not imply agreement with the notice of administrative probation.

18.9A1 Employees placed in an administrative probationary status will not be promoted or granted pay increases consistent with the provisions in Article 18.

18.9A2 Employees granted vacation, sick, holiday, bereavement, civil, administrative, or military leave while serving in this status may have their probation extended by the number of days absent on leave.

18.9A3 The administrative probation may be extended by the Deputy Commissioner for a period not to exceed a cumulative total of one (1) calendar year unless extended in accordance with the provisions of Section 18.9A2. Reasons for such extension will be made known to the employee.

18.9A4 The termination of a regular employee on administrative probation does not preclude the filing of a grievance by the employee.

18.9A5 An employee may be placed on administrative probation upon return to work following a suspension.

18.9A6 An employee may be removed from administrative probation at any time.

18.10 Dismissal. An employee may be dismissed from employment with the Agency for failure to respond to previous corrective or disciplinary actions or when circumstances render any preceding steps unnecessary or inappropriate.

18.10A The Office Administrator and the employee's immediate supervisor, if other than the Office Administrator, will recommend dismissal to the Commissioner in writing, and the decision to dismiss or take another action will be made by the Commissioner.

18.10A1 The Commissioner will inform the employee in writing of a time at which the employee may present any additional facts, material, or evidence regarding his/her dismissal to the Commissioner. Failure by the employee to appear before the Commissioner will act as a waiver by the employee to the aforementioned meeting prior to action by the Board.

18.10A2 The employee may be represented by a third party in the meeting with the Commissioner, but the time, date and/or place of said meeting will not be postponed or rescheduled because the representative of the employee is unable to attend unless both the Commissioner and the employee mutually agree to another time, date and/or place.

18.10A3 Within five (5) workdays following the scheduled date of the meeting with the Commissioner, the Commissioner will provide the employee a copy of his/her decision and the action which the Commissioner has decided to impose. This written decision may be hand-delivered, sent by Certified Mail, sent by regular U.S. Mail to the employee, or provided via email to the employee's personal email address with prior agreement of the employee. The five (5) workday period may be extended upon agreement between the Commissioner and the employee.

For purposes of this subsection, the date the written decision is "provided" to the employee is (a) two (2) business days after it was deposited in the regular U.S. Mail; or (b) the date of personal or certified delivery, or the date it was e-mailed.

18.10A4 If the Commissioner's decision is to dismiss the employee, the Commissioner may elect to take whatever action he/she chooses which effects the employee until the dismissal becomes final, including placing the employee on suspension without pay. Such action will be in writing and be included with the written decision provided under Section 18.10A3.

18.10B Within ten (10) workdays of the receipt of the Commissioner's written decision of dismissal, or if applicable, notice to NAPE/AFSCME, with documentation of attempted delivery of the same, the employee may request a hearing before the Board to appeal. The request for a hearing must be in writing.

18.10B1 If the written request for hearing is not received during the time prescribed in Section 18.10B, the Commissioner's dismissal decision becomes final and will appear in the Commissioner's Report for the next regularly scheduled meeting of the Board.

18.10B2 If the employee submits a timely request for a hearing, the matter will be placed on the agenda of a meeting of the Board within the next ninety (90) calendar days.

18.10B3 The Board may elect to conduct the hearing or may designate that a hearing officer, not an employee of the Agency, conduct a hearing and recommend a decision to the Board. The employee will be notified of the Board's determination on the conduct of the hearing and the time and place of the hearing. In cases in which the Board elects to have a hearing officer conduct a hearing, the hearing officer will cause a complete record to be made of all evidence offered at the time of the hearing. The hearing officer will prepare written findings of fact and recommend a decision to the Board.

The hearing officer will deliver his or her findings of fact and recommendation to the Board together with a complete transcript of all evidence offered at the time of the hearing. The Board may accept or reject the recommendations of the hearing officer, but will not impose disciplinary action in excess of that recommended by the hearing officer unless the Board finds, on the basis of an independent review of the record, that grounds exist for imposing a harsher penalty.

18.10B4 Hearings will be conducted in accordance with Title 92, Nebraska Administrative Code, Chapter 61.

18.10B5 The Board may affirm, modify or reverse the dismissal decision of the Commissioner. The Board will notify the employee in writing of its final action within forty-five (45) calendar days of when the action was taken.

18.10C If the Board modifies or reverses the decision of the Commissioner, the employee may be entitled to back pay at the discretion of the Board.

18.10D If the appeal hearing is conducted more than fifty (50) miles from the employee's residence, the Agency may reimburse the employee for mileage at the rate established for travel by employees.

18.10E The dismissal of a probationary employee as defined in Section 6.5 will be final with the decision of the Office Administrator.

18.11 Disciplinary Action Limitations. With the exception of suspensions pending a dismissal action, employees will not be disciplined more than once for a single specific offense; however, they may be disciplined for each additional offense of the same or similar nature occurring after the original notice of the previous disciplinary action.

18.12 Grievance Rights. Employees who are disciplined will have the right to grieve the disciplinary action imposed upon them in accordance with the provisions of Article 17.

18.12A Pursuant to the Grievance Process, if it is determined that disciplinary action imposed is too harsh for the offense committed, the individual or body charged with the making of such determination may modify the disciplinary action imposed and will notify the employee of the modifications and also the employee's supervisors.

18.13 Personnel File. Reports, letters, and documents which reflect unfavorably on an employee will not be placed in his or her personnel file without the employee's knowledge per Section 4.5.

18.13A Records of disciplinary action will be maintained in the employee's personnel file for a period not to exceed three (3) calendar years from the date of the disciplinary action unless an appeal case, litigation, or other administrative proceeding or complaint has been filed. Upon the expiration of the three (3) calendar year period or final resolution of an appeal, litigation, or other administrative proceeding or complaint, whichever is longest, records of disciplinary action will be removed from the employee's personnel file. They may only be retained by the Agency in a separate file of disciplinary actions and may be referenced by the Agency or employee in the event of litigation, personnel action (including corrective or disciplinary action), audit, or other administrative proceeding or complaint, if relevant.

18.13B Employees will have the right to have placed in their personnel files their own statements of rebuttal or clarification concerning written disciplinary measures taken against the employee, as long as the employee's response is received within the prescribed time frame. The rebuttal or clarification will be affixed to the notice of discipline.

18.14 Delivery of Notices. When the Agency determined that immediate disciplinary action is required for an employee not officed in Lincoln, the Commissioner or Deputy Commissioner may designate an individual to sign and deliver the notice of disciplinary action to the employee for the Commissioner or Deputy Commissioner. The disciplinary action will be effective immediately upon such notice. The Commissioner or Deputy Commissioner will subsequently sign and forward a copy of such notice to the disciplined employee.

ARTICLE 19

DEFINITIONS

19.1 Applicability. The definitions contained in the following Sections of this Article will be used throughout this Agreement except where the context would require another definition. All other words will have their normal accepted meaning.

19.2 "Absence Without Leave" means the unauthorized absence of an employee from work or the work station during normal duty hours.

19.3 "Agreement" means the agreement entered into and executed by and between the State of Nebraska, Department of Education and the Nebraska Association of Public Employees Local 61 of the American Federation of State, County, and Municipal Employees Department of Education Bargaining Unit.

19.4 "Agency" means State of Nebraska Department of Education.

19.5 "Appointment" means the act of the Agency filling a position.

19.6 "Assigned Activity" as it relates to determinations on staff travel requests means any activity which is a normal or anticipated part of the sequence of completion of responsibilities of job tasks assigned to the employee, or assignments or approved activities which provide a non-repetitive opportunity for the employee to maintain a level of currency, expertise and leadership in the fields in which the employee has assigned job responsibilities commensurate with management expectations of the employee's capacity to serve the needs of the Agency and the state in those fields.

19.7 "Board" means the State Board of Education.

19.8 "Classification" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required; minimum requirements of training, experience or skill; and such other characteristics that the same title and the same minimum qualifications may be applied to each position in the group, and so that the same salary grade may be assigned.

19.9 "Commissioner" means the Commissioner of Education. The Deputy Commissioner may act as Commissioner in accordance with the provisions of Section 79-321, R.R.S.

19.10 "Company Service Date" means the first day the employee starts work for the Agency. The service date may be revised due to an absence per Section 15.19.

19.11 "Continuous Service" means the period of time during which an individual is in some official paid employee category, and which is interrupted by termination of employment for a period of not more than five (5) years for any single interruption. Periods of approved leave do not break service, but the time the person is not working for the State in a leave of absence without pay status does not count toward seniority. Dismissal will result in an interruption in continuous service, regardless of length of interruption of employment. Upon recall from layoff, employees will resume the same seniority status they had prior to layoff.

19.12 "Continuous Service Date" means a state service date that may have been revised due to employee absence per Section 15.19 or prior state service, and from which an employee's vacation and sick leave is computed.

19.13 "Contract Employee" means an individual with whom the Agency has entered into a contract under the NDE Administrative Policy and Procedure related to contracts, which creates an employer-employee relationship.

19.14 "Demotion" means moving an employee from one job classification to another at a lower pay grade. Demotions may be non-disciplinary as described in Article 11, Section 11.3, or disciplinary as described in Article 18, Section 18.8.

19.15 "Deputy Commissioner" means, unless otherwise indicated, an individual appointed to that position under 79-318(3) R.R.S., and designated by the Commissioner to oversee Human Resources for the Agency. Except in instances where the Deputy Commissioner is taking action as the immediate supervisor of an employee under this Agreement, whenever this Agreement provides that any Deputy Commissioner has the authority to act, the Commissioner likewise has the authority to do the same.

19.16 "Discharge or Dismissal" means the disciplinary termination of employment pursuant to Article 16.

19.17 "Employee" means any person within the employment of the Agency whose job classification title is included in Appendix A.

19.18 "Fixed-Term Employee" means an employee in a fixed-term position.

19.19 "Fixed-Term Position" means a position which, due to the funding source, has a predetermined duration of employment which is designated at the time of hire subject to the continuation and availability of funding. Fixed-term positions may be worked on a full-time or part-time schedule and are subject to all of the terms of this Agreement except for the provisions of Article 16.

19.20 "Full-time Schedule" means a forty (40) hour workweek schedule.

19.21 "Household Goods" means household furniture, including appliances, lawn mowers, bicycles, toys and personal effects such as clothing, professional equipment and books but does not include power vehicles, boats, pets or other animals.

19.22 "Human Resources Office" means the office within the Agency that is responsible for personnel administration in the Agency.

19.23 "Job Family" means groups of job classifications related by shared work.

19.24 "Job Series" means two (2) or more job classifications, similar as to duties and training required but differing primarily in difficulty, responsibility, knowledge and skills, and supervision exercised or received.

19.25 "Job Specification" means the official written description of a classification of work, which summarizes information such as the purpose of the job, distinguishing characteristics, examples of duties, minimum qualifications, supervisory and fiscal authority and physical requirements.

19.26 "Lateral Transfer" means changing an employee from one position to another position in the same pay grade. In the case of VR positions, it means maintaining the same job classification but transferring to a different VR office.

19.27 "Lay Off" means the involuntary termination (reduction in force) of an employee or employees because of a lack of work or lack of funds or under conditions in which the continuation of such work would be inefficient or non-productive.

19.28 "Leave Without Pay" means leave or time off from work for the employee's personal reasons granted by the appointing authority for which period the employee receives no pay.

19.29 "Minimum Qualifications" means the least amount of training and experience and other qualifications required to perform adequately in a specific position or series of positions.

19.30 "Office Administrator" means, unless otherwise indicated, an individual designated by the Commissioner to oversee a subdivision of the Agency. In the event there is no Office Administrator in an individual's chain of command, the pertinent Deputy Commissioner or designee will act on matters otherwise handled by an Office Administrator.

19.31 "Original Hire Date" means the first day the employee starts work for the State.

19.32 "Original Probationary Period" means a period of time during which an employee is required to demonstrate fitness for a particular position as a part of the selection process for regular appointment.

19.33 "Paid Work Status" means time paid for work or any paid leave.

19.34 "Part-time Schedule" means less than a forty (40) hour workweek schedule.

19.35 "Pay Grade" means a specified range of salary or wage, the starting and intermediate rates within such range, and the maximum rate of such range.

19.36 "Personnel Files" means the files retained by the Human Resources Office of the Agency which is personally identifiable with an individual employee or former employee.

19.37 "Position" means a group of specific duties, tasks and responsibilities to be performed by one (1) employee. A position may be part-time or full-time, temporary, fixed-term or regular, or occupied or vacant.

19.38 "Professional Growth" as it relates to determinations on staff travel requests includes approved travel related to activities which are ancillary to the assigned field of responsibility or which will provide opportunities for leadership and expertise in the field(s) of the employee's assigned responsibility which are in excess of management expectations or which serve a professional interest of the employee which is outside the area(s) of assigned responsibility.

19.39 "Promotion" means changing an employee from one job classification to another job classification at a higher pay grade.

19.40 "Reduction in Force" means the same as "lay off."

19.41 "Regular Employee" means an employee in a regular full-time or part-time position who has completed the required probationary period or who had acquired permanent status in accordance with this Agreement.

19.42 "Resignation" means the voluntary termination of employment by an employee.

19.43 "Retirement" means the transfer of an eligible employee from active to retired status.

19.44 "Schedule Deviation" means an adjustment of work hours or length of the workday.

19.45 "Secondary Probation" means an employee on probation under Section 6.7 of this Agreement.

19.46 "Suspension" means an ordered absence for disciplinary, investigatory or other purposes.

19.47 "Temporary Employee" means an employee hired through a temporary agency or via contract for a limited period of time to perform requested job duties on either a full-time or part-time schedule.

19.48 "Transfer of Employee" means the movement of an employee from one (1) position to another position within the Agency. A transfer action does not require termination of the employee.

19.49 "Treatment" means the provision of medical, dental or psychological services or procedures performed on the employee or immediate family member by treating professionals or their staff (including surgery). "Treatment" for purposes of sick leave does not include participating in activities that are, as determined by the Agency, primarily considered recreational activities and engaged in frequently by persons who are not ill or suffering from a medical, dental, or psychological condition or disability, even when such activity is beneficial to the employee's physical or mental health (i.e., trips to a destination to relax or relieve stress, running in a marathon, etc.).

19.50 "Tuition" means the cost per credit hour of instruction at an accredited postsecondary institution.

19.51 "Work Rules" means those practices, policies, and procedures established and adopted by the Agency concerning the employee's terms and conditions of employment.

IN WITNESS WHEREOF, the parties have set their hands

FOR THE NEBRASKA
DEPARTMENT OF EDUCATION

Matthew L. Blomstedt, Commissioner

02/21/19
Date

Joel M. Scherling, Chief Negotiator

2/20/2019
Date

FOR THE NEBRASKA ASSOCIATION
OF PUBLIC EMPLOYEES, LOCAL 61
OF THE AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES

Ted Buri, NAPE/AFSCME

02/20/19
Date

APPENDIX A

NEBRASKA ASSOCIATION OF PUBLIC EMPLOYEES

JOB CLASSIFICATIONS/EMPLOYEES INCLUDED IN THE BARGAINING UNIT

ADMINISTRATION

Job Code	Job Classification
EDB 401	Administrative Associate I
EDB 402	Administrative Associate II
EDB 403	Administrative Associate III
EDB 404	Administrative Associate IV

DISABILITY DETERMINATION SECTION

Job Code	Job Classification
EDB 505	DDS Hearings Officer
EDB 502	Disability Adjudicator I
EDB 503	Disability Adjudicator II
EDB 504	Disability Adjudicator III
EDB 501	Disability Adjudicator Trainee

EDUCATION SERVICES

Job Code	Job Classification
EDB 201	Education Specialist I
EDB 202	Education Specialist II
EDB 203	Education Specialist III
EDB 204	Education Specialist IV

INFORMATION TECHNOLOGY

Job Code	Job Classification
EDB 101	IT Applications Developer
EDB 102	IT Applications Developer Senior
EDB 103	IT Applications Developer Lead
EDB 111	IT Data/Database Analyst
EDB 112	IT Data/Database Analyst Senior
EDB 131	IT Help Desk Specialist
EDB 121	IT Infrastructure Support Technician
EDB 122	IT Infrastructure Support Analyst
EDB 123	IT Infrastructure Support Analyst Senior

OFFICE SERVICES

Job Code	Job Classification
EDB 701	Office Associate I
EDB 702	Office Associate II
EDB 703	Office Associate III
EDB 704	Office Associate IV

PROGRAM SERVICES

Job Code	Job Classification
EDB 301	Program Associate I
EDB 302	Program Associate II
EDB 303	Program Associate III
EDB 304	Program Associate IV
EDB 305	Program Specialist I
EDB 306	Program Specialist II
EDB 307	Program Specialist III

VOCATIONAL REHABILITATION

Job Code	Job Classification
EDB 601	VR Associate
EDB 602	VR Senior Associate
EDB 603	VR Service Specialist
EDB 604	VR Senior Service Specialist
EDB 605	VR Rehabilitation Specialist
EDB 606	VR Senior Rehabilitation Specialist

NOTE: Changes in Appendix A that occur after the Agreement negotiations have been completed will noted on the electronic version of the Agreement found on InsideNDE in legislative format with a date showing when the change was made.

APPENDIX B
NDE PAY STRUCTURE FOR JULY 1, 2019 – JUNE 30, 2021
PERCENT INTO THE PAY GRADE RANGE

PAYGRADE		MIN. SALARY	10%	20%	30%	33.33%	40%	50%	60%	66.67%	70%	80%	90%	MAX SALARY
35	H	$11.848	$12.264	$12.680	$13.096	$13.234	$13.511	$13.927	$14.343	$14.620	$14.758	$15.174	$15.590	$16.005
	Y	$24,643.84	$25,509.12	$26,374.40	$27,239.68	$27,526.72	$28,102.88	$28,968.16	$29,833.44	$30,409.60	$30,696.64	$31,561.92	$32,427.20	$33,290.40
36	H	$12.410	$12.845	$13.280	$13.715	$13.859	$14.149	$14.584	$15.019	$15.309	$15.453	$15.888	$16.323	$16.757
	Y	$25,812.80	$26,717.60	$27,622.40	$28,527.20	$28,826.72	$29,429.92	$30,334.72	$31,239.52	$31,842.72	$32,142.24	$33,047.04	$33,951.84	$34,854.56
37	H	$12.729	$13.238	$13.747	$14.255	$14.425	$14.764	$15.272	$15.781	$16.120	$16.290	$16.798	$17.307	$17.815
	Y	$26,476.32	$27,535.04	$28,593.76	$29,650.40	$30,004.00	$30,709.12	$31,765.76	$32,824.48	$33,529.60	$33,883.20	$34,939.84	$35,998.56	$37,055.20
38	H	$13.390	$13.926	$14.462	$14.998	$15.176	$15.533	$16.069	$16.605	$16.962	$17.140	$17.676	$18.212	$18.747
	Y	$27,851.20	$28,966.08	$30,080.96	$31,195.84	$31,566.08	$32,308.64	$33,423.52	$34,538.40	$35,280.96	$35,651.20	$36,766.08	$37,880.96	$38,993.76
39	H	$14.092	$14.657	$15.222	$15.787	$15.975	$16.352	$16.917	$17.482	$17.859	$18.047	$18.612	$19.177	$19.741
	Y	$29,311.36	$30,486.56	$31,661.76	$32,836.96	$33,228.00	$34,012.16	$35,187.36	$36,362.56	$37,146.72	$37,537.76	$38,712.96	$39,888.16	$41,061.28
40	H	$14.538	$15.193	$15.847	$16.501	$16.719	$17.155	$17.809	$18.464	$18.900	$19.118	$19.772	$20.426	$21.080
	Y	$30,239.04	$31,601.44	$32,961.76	$34,322.08	$34,775.52	$35,682.40	$37,042.72	$38,405.12	$39,312.00	$39,765.44	$41,125.76	$42,486.08	$43,846.40
41	H	$15.304	$15.993	$16.681	$17.370	$17.599	$18.058	$18.747	$19.435	$19.895	$20.124	$20.812	$21.501	$22.189
	Y	$31,832.32	$33,265.44	$34,696.48	$36,129.60	$36,605.92	$37,560.64	$38,993.76	$40,424.80	$41,381.60	$41,857.92	$43,288.96	$44,722.08	$46,153.12
42	H	$16.108	$16.833	$17.557	$18.281	$18.522	$19.005	$19.729	$20.454	$20.937	$21.178	$21.902	$22.626	$23.350
	Y	$33,504.64	$35,012.64	$36,518.56	$38,024.48	$38,525.76	$39,530.40	$41,036.32	$42,544.32	$43,548.96	$44,050.24	$45,556.16	$47,062.08	$48,568.00
43	H	$17.064	$17.917	$18.770	$19.623	$19.908	$20.476	$21.329	$22.182	$22.751	$23.035	$23.888	$24.741	$25.594
	Y	$35,493.12	$37,267.36	$39,041.60	$40,815.84	$41,408.64	$42,590.08	$44,364.32	$46,138.56	$47,322.08	$47,912.80	$49,687.04	$51,461.28	$53,235.52
44	H	$18.453	$19.375	$20.297	$21.219	$21.527	$22.141	$23.063	$23.985	$24.600	$24.907	$25.829	$26.751	$27.673
	Y	$38,382.24	$40,300.00	$42,217.76	$44,135.52	$44,776.16	$46,053.28	$47,971.04	$49,888.80	$51,168.00	$51,806.56	$53,724.32	$55,642.08	$57,559.84
45	H	$19.945	$20.943	$21.940	$22.937	$23.269	$23.934	$24.931	$25.929	$26.594	$26.926	$27.923	$28.920	$29.917
	Y	$41,485.60	$43,561.44	$45,635.20	$47,708.96	$48,399.52	$49,782.72	$51,856.48	$53,932.32	$55,315.52	$56,006.08	$58,079.84	$60,153.60	$62,227.36
46	H	$22.165	$23.274	$24.382	$25.490	$25.859	$26.598	$27.706	$28.814	$29.553	$29.922	$31.030	$32.138	$33.246
	Y	$46,103.20	$48,409.92	$50,714.56	$53,019.20	$53,786.72	$55,323.84	$57,628.48	$59,933.12	$61,470.24	$62,237.76	$64,542.40	$66,847.04	$69,151.68
47	H	$23.680	$25.100	$26.519	$27.939	$28.412	$29.358	$30.778	$32.197	$33.144	$33.617	$35.036	$36.456	$37.875
	Y	$49,254.40	$52,208.00	$55,159.52	$58,113.12	$59,096.96	$61,064.64	$64,018.24	$66,969.76	$68,939.52	$69,923.36	$72,874.88	$75,828.48	$78,780.00
48	H	$25.327	$27.101	$28.875	$30.649	$31.240	$32.423	$34.197	$35.971	$37.154	$37.745	$39.519	$41.293	$43.066
	Y	$52,680.16	$56,370.08	$60,060.00	$63,749.92	$64,979.20	$67,439.84	$71,129.76	$74,819.68	$77,280.32	$78,509.60	$82,199.52	$85,889.44	$89,577.28
49	H	$27.915	$30.148	$32.381	$34.614	$35.358	$36.847	$39.080	$41.313	$42.803	$43.546	$45.779	$48.012	$50.245
	Y	$58,063.20	$62,707.84	$67,352.48	$71,997.12	$73,544.64	$76,641.76	$81,286.40	$85,931.04	$89,030.24	$90,575.68	$95,220.32	$99,864.96	$104,509.60
50	H	$31.716	$34.570	$37.424	$40.278	$41.229	$43.132	$45.986	$48.840	$50.743	$51.694	$54.548	$57.402	$60.255
	Y	$65,969.28	$71,905.60	$77,841.92	$83,778.24	$85,756.32	$89,714.56	$95,650.88	$101,587.20	$105,545.44	$107,523.52	$113,459.84	$119,396.16	$125,330.40
46T	H	$25.795	$27.085	$28.375	$29.665	$30.094	$30.954	$32.244	$33.534	$34.394	$34.823	$36.113	$37.403	$38.692
	Y	$53,653.60	$56,336.80	$59,020.00	$61,703.20	$62,595.52	$64,384.32	$67,067.52	$69,750.72	$71,539.52	$72,431.84	$75,115.04	$77,798.24	$80,479.36
47T	H	$27.561	$29.213	$30.865	$32.517	$33.067	$34.169	$35.820	$37.472	$38.574	$39.124	$40.776	$42.428	$44.079
	Y	$57,326.88	$60,763.04	$64,199.20	$67,635.36	$68,779.36	$71,071.52	$74,505.60	$77,941.76	$80,233.92	$81,377.92	$84,814.08	$88,250.24	$91,684.32
48T	H	$29.475	$31.540	$33.604	$35.669	$36.356	$37.733	$39.797	$41.862	$43.239	$43.926	$45.991	$48.055	$50.119
	Y	$61,308.00	$65,603.20	$69,896.32	$74,191.52	$75,620.48	$78,484.64	$82,777.76	$87,072.96	$89,937.12	$91,366.08	$95,661.28	$99,954.40	$104,247.52

Calculations based on the hourly rate with the annual (2080 hours) calculated relative to the hourly rate.