

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE EVERGREEN STATE COLLEGE (EVERGREEN)
AND
WASHINGTON FEDERATION OF STATE EMPLOYEES (WFSE)
CLASSIFIED EMPLOYEES BARGAINING AGREEMENT**

SICK LEAVE

Initiative 1433, approved by the citizens of Washington State in 2016, modifies the Minimum Wage Requirements and Labor Standards (RCW 49.46) to include paid sick leave provisions for overtime-eligible employees effective January 1, 2018. The Parties agree to modify Article 5, Temporary Appointment, and Article 12, Sick Leave, of the 2017-2019 classified employees Collective Bargaining Agreement (CBA) to incorporate changes in the law.

The effective date of the changes to the CBA is the date the Parties sign this agreement.

Article 5, Temporary Appointments, is modified as follows:

ARTICLE 5

TEMPORARY APPOINTMENTS

5.1 Temporary Appointments

The Employer may make temporary appointments to fill vacancies caused by the absence of a regular, cyclic, project, or in-training employee; to address fluctuations in workload; to meet needs in situations where there is insufficient work or resources to support a regular, cyclic, project or in-training position; or for business needs. Individuals in temporary appointments are limited to one thousand fifty (1,050) hours of work in any twelve (12) consecutive month period from the individual's original date of hire.

A. Represented Individuals

Excluding students, individuals in temporary appointments who work between three hundred fifty (350) hours and one thousand fifty (1,050) hours during a consecutive twelve (12) month period from the original date of hire who are members of the bargaining units identified in Article 1, Union Recognition, represented by the Union, are governed by the specific terms of this Article. Once the employee works at least three hundred fifty (350) hours the employee remains a represented individual until the end of the first twelve (12) month period in which the employee does not work at least three hundred fifty (350) hours in a twelve (12) consecutive month period from the original date of hire. An employee who has worked sufficient hours to remain a represented individual is excluded from the

bargaining unit until the employee again works at least three hundred fifty (350) hours in a twelve (12) month period from the original date of hire. Unless identified in Section 5.1011, below, no other Articles in this Agreement apply to represented individuals.

- B. If the Employer deducts fees from a temporary employee's paycheck and the employee is later determined to not be a represented individual by a court or an administrative agency of competent jurisdiction, the union will reimburse the employee for the fees deducted. In addition, the union and the employee will indemnify the State of Washington and the Employer for costs associated with grievances, unfair labor practices and/or law suits associated with such actions.

C. Non-Represented Individuals

All other individuals, including students, in temporary appointments who work less than one thousand fifty (1,050) hours during any consecutive twelve (12) month period are not covered by this Agreement.

The Employer may petition State Human Resources for approval of exceptions to the one thousand fifty (1,050) hour threshold specified above. The Employer will provide the Union with a copy of the petition.

5.2 Compensation

- A. The Employer will continue current practices regarding salary assignments for represented individuals.
- B. All represented individuals earning a salary that is equal to the state minimum wage, will have their salaries adjusted each January, in accordance with the state minimum wage act.

5.3 Hours of Work and Overtime

The Employer will assign the hours of work for represented individuals. All hours worked in excess of forty (40) hours in a seven (7) day workweek constitutes overtime. Overtime hours will be compensated at a rate of one and one-half (1-1/2) times the represented individual's regular rate of pay.

5.4 Work on a Holiday

Represented individuals will be paid for the hours actually worked on a holiday at the overtime rate. The holiday for represented individuals whose shifts begin on one calendar day and end on the next calendar day will be determined by the Employer. It will start either at:

- A. The beginning of the shift that begins on the holiday; or

- B. The beginning of the shift that precedes the calendar holiday.

5.5 Paid Sick Leave

Overtime-eligible, represented individuals will accrue and may use paid sick leave in accordance with the Employer's policy.

Accrued paid sick leave will not exceed eight (8) hours per month.

5.6 Release Time for Interviews

Release time will be granted to represented individuals for the purposes of interviewing for positions within the Employer.

5.67 Suspended Operations

If the President or designee of the Employer determines that the public health, property or safety is jeopardized and it is advisable due to emergency conditions to suspend the operation of all or any portion of the Employer, the following will govern represented individuals:

- A. When prior notice has not been given, represented individuals released until further notice after reporting to work will be compensated for hours worked on the first day of suspended operations.
- B. Represented individuals who are not required to work during suspended operations may request and may be granted a schedule change during his or her workweek.
- C. Represented individuals who are required to work during suspended operations will receive their regular hourly rate for work performed and will receive penalty pay of one-half (1/2) of their regular hourly pay during the first day of suspended operations. After the first day of suspended operations, represented individuals required to work during suspended operations will receive one and one-half (1-1/2) times their regular hourly pay for work performed during the remaining period of suspended operations. Overtime worked during suspended operations will be compensated in accordance with Section 5.3, above.

5.78 Remedial Action

- A. If a represented individual has worked more than one thousand fifty (1,050) hours in the twelve (12) month period from the individual's original date of hire, he or she may request remedial action from the Office of the State Human Resources Director in accordance with WAC 357-49. Following the Director's review of the

remedial action request, an individual may file exceptions to the Director's decision in accordance with WAC 357.

~~B.~~ Remedial action is not subject to the provisions of the grievance procedure specified in Section 5.~~1012~~, below.

5.89 Privacy and Off-Duty Conduct

A. Employees have the right to confidentiality related to personal information and personnel issues to the extent provided/allowed by law. The Employer, the Union and the employees will take appropriate steps to maintain such confidentiality.

~~B.~~ An employee will report all arrests and any court-imposed sanctions or conditions that affect his or her ability to perform assigned duties to Human Resource Services or appointing authority within twenty-four (24) hours or prior to his or her scheduled work shift, whichever occurs first.

5.910 Reasonable Accommodation

Sections 34.1 through 34.4 of Article 34, Reasonable Accommodation and Disability Separation, apply to represented individuals.

5.~~1011~~ Other Provisions

The following Articles in this Agreement apply to represented individuals:

Article 2	Non-Discrimination
Article 9.6	New Employee Orientation
Article 20	Safety and Health
Article 21	Uniforms, Tools and Equipment
Article 22	Drug and Alcohol Free Workplace
Article 23	Travel
Article 24	Commute Trip Reduction and Parking
Article 25	Licensure and Certification
Article 31	Legal Defense
Article 32	Employee Assistance Program
Article 33	Employee Files
Article 36	Management Rights
Article 37	Mandatory Subjects
Article 38	Union-Management Communication Committee
Article 40	Union Activities
Article 41	Dues/Fees Deduction and Status Reports
Article 46	Childcare Centers
Article 47	Employee Lounge Facilities

Article 48	Strikes
Article 51	Entire Agreement
Article 52	Savings Clause
Article 53	Printing of Agreement
Article 54	Term of Agreement

5.112 Grievance

For the purposes of this Section, a grievance is defined as an allegation by a represented individual or group of represented individuals that there has been a violation, misapplication, or misinterpretation, of a provision of this Agreement that is applicable to represented individuals.

The provisions of Article 30, Grievance Procedure, apply to represented individuals as follows:

- 30.1 Applies in its entirety.
- 30.2 A, does not apply.
- 30.2 B-O, apply in their entirety.
- 30.3 A, applies in its entirety.
- 30.3 B, does not apply.
- 30.3 C, Step 1 applies in its entirety.
- 30.3 C, Step 2 applies in its entirety.
- 30.3 C, Step 3 applies in its entirety.
- 30.3 C, Step 4 applies only for the Pre-Arbitration Review Meeting and is the final step in the grievance process.
- 30.4 Applies in its entirety.

The remainder of Article 30, Grievance Procedure, does not apply.

Article 12, Sick Leave, is modified as follows:

ARTICLE 12

SICK LEAVE

12.1 Sick Leave Accrual

Full-time employees will accrue eight (8) hours of sick leave per-in a calendar month, under the following conditions:

~~A.~~ ~~Part-time e~~Employees ~~working less than a full-time schedule~~ will accrue sick leave credit on the same proportional basis that their employment schedule bears to a full-time schedule, up to a maximum of eight (8) hours in a calendar month.

~~BA.~~ Employees hired the 1st through the 15th of the month will receive the sick leave accrual credit for that month. Employees hired on the 16th through the end of the month will not receive a sick leave accrual credit for that month.

~~CB.~~ Employees who separate from employment with the Employer between the 1st through the 15th of the month will not receive a sick leave accrual for that month. Employees who separate from employment with the Employer between the 16th through the end of the month will receive the sick leave accrual credit for that month.

~~DC.~~ Sick leave credit will not accrue for full-time employees during leave without pay which exceeds eighty (80) hours in any calendar month. Employees working less than a full-time schedule will not accrue sick leave during leave without pay that exceeds the amount that is the same proportional basis that their appointment bears to a full-time appointment.

~~D.~~ ~~E.~~ Full-time and part-time employees in overtime-eligible positions who are not eligible to receive a sick leave accrual under the provisions of Sections 12.1 A, 12.1 B, and/or 12.1 C, will accrue sick leave at a ratio of one (1) hour of sick leave for every forty (40) hours worked.

E. Sick leave accruals for the calendar month will be credited and available for employee use on the last day of that calendar month.

12.2 Sick Leave Use

Sick leave will be charged in the amount actually used by the employee and may be used for:

A. A personal illness, injury or medical disability that prevents the employee from performing his or her job, or personal medical or dental appointments and for reasons allowed under the Minimum Wage Requirements and Labor Standards, RCW 49.46.210.

B. Care of family members as allowed under RCW 49.46.210 and as required by the Family Care Act, WAC 296 130. Relatives-Family members are defined for this purpose as includes biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; sibling, spouse, significant other, registered domestic partner as defined by RCW 26.60.020 and RCW 26.60.030, -son, daughter, grandparent, grandchild, or child, regardless of age or dependency status, including a biological, adopted or

foster child, step child, or a child to who the employee stands in loco parentis, is a legal guardian, or is a de facto parent-.

- C. A death of any relative that requires the employee's absence from work. Relatives are defined for this purpose as spouse, significant other, registered domestic partner, son, daughter, grandchild, foster child, son-in-law, daughter-in-law, grandparent, parent, brother, sister, aunt, uncle, niece, nephew, first cousin, brother-in-law, sister-in-law, and corresponding relatives of employee's spouse, significant other or registered domestic partner. ~~Relatives are defined for this purpose as spouse, significant other, domestic partner, son, daughter, grandchild, foster child, son in law, daughter in law, grandparent, parent, brother, sister, aunt, uncle, niece, nephew, first cousin, brother in law, sister in law and corresponding relatives of employee's spouse, significant other or domestic partner.~~
- D. In accordance with RCW 49.46.120, when an employee's place of business has been closed by order of a public health official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason. Health-related reason, as defined in WAC 296-128-600(8), means a serious health concern that could result in bodily injury or exposure to an infectious agent, biological toxin, or hazardous material. Health-related reason does not include closure for inclement weather.
- E. Childcare emergencies after the employee has exhausted all of his or her accrued compensatory time. Use of sick leave and vacation leave for emergency childcare is limited to a combined maximum of four (4) days per calendar year.
- FE. To make arrangements for extended care for a child-family member under the age of eighteen (18) with-who has a health condition that requires treatment or supervision, ~~or to make arrangements for extended care.~~
- GF. ~~Illness or preventive health care appointments of relatives, significant others and domestic partners when the presence of the employee is required.~~ Preventive health care appointments of family members, significant others, and registered domestic partners when the presence of the employee is required.
- GH. Leave for Military Family Leave as required by RCW 49.77 and in accordance with Article 19.13.
- HI. Leave for Domestic Violence Leave as required by RCW 49.76.

12.3 Use of Suspended Operations Leave, Compensatory Time, Vacation Leave or Personal Holiday for Sick Leave Purposes

The Employer may allow an employee who has used all of his or her sick leave to use compensatory time, vacation leave or all of a personal holiday for sick leave purposes as provided in Article 12.2 A. An employee who has used all of his or her sick leave may use

suspended operations leave, compensatory time, vacation leave or all of a personal holiday for sick leave purposes as provided in Article 12.2 B – H.

12.4 Restoration of Vacation Leave

In the event an employee is injured or becomes ill while on vacation leave, the employee may submit a written request to use sick leave and have the equivalent amount of vacation leave restored. The supervisor may require a written medical certificate.

12.5 Sick Leave Reporting, Certification and Verification

An employee must promptly notify his or her supervisor on his or her first day of sick leave and each day after, unless there is mutual agreement to do otherwise. If an employee is in a position where a relief replacement is necessary if he or she is absent, he or she will notify his or her supervisor at least two (2) hours prior to his or her scheduled time to report to work (excluding leave taken in accordance with the Domestic Violence Act). If the Employer has reason to suspect abuse, the Employer may require a written medical certificate for any sick leave absence, and will provide a written explanation to the employee of why the medical verification is required. An employee returning to work after any sick leave absence may be required to provide written certification from his or her health care provider that the employee is able to return to work and perform the essential functions of the job with or without reasonable accommodation.

If medical certification or verification is required for employees in overtime-eligible positions, it shall be in accordance with the provisions of RCW 49.46.210, WAC 296-128, and this Agreement.

12.6 Sick Leave Annual Cash Out

Each January an employee is eligible to receive cash on a one (1) hour for four (4) hours basis for ninety-six (96) hours or less of his or her accrued sick leave, if:

- A. His or her sick leave balance at the end of the previous calendar year exceeds four hundred eighty (480) hours;
- B. The converted sick leave hours do not reduce his or her previous calendar year sick leave balance below four hundred eighty (480) hours; and
- C. The employee notifies his or her payroll office by January 31st that he or she would like to convert sick leave hours earned during the previous calendar year, minus any sick leave hours used during the previous year, to cash.

All converted hours will be deducted from the employee's sick leave balance.

12.7 Sick Leave Separation Cash Out

At the time of retirement from state service or at death, an eligible employee or the employee’s estate will receive cash for his or her compensable sick leave balance on a one (1) hour for four (4) hours basis. For the purposes of this Section, retirement will not include “vested out of service” employees who leave funds on deposit with the retirement system.

12.8 Reemployment

Former state employees who are reemployed within five (5) years of leaving state service will be granted all unused and unpaid sick leave credits they had at separation. If an employee is reemployed after retiring from state service, when the employee subsequently retires or dies, only unused sick leave accrued since the date of reemployment minus sick leave taken within the same period will be eligible for sick leave separation cash out, in accordance with 12.7 above.

12.9 Carry Forward and Transfer

Employees will be allowed to carry forward, from year to year of service, any unused sick leave allowed under this provision, and will retain and carry forward any unused sick leave accumulated prior to the effective date of this Agreement. When an employee moves from one state of Washington employer to another, without a break in service, the employee’s accrued sick leave will be transferred to the new employer for the employee’s use.

The effective date of this MOU is the date the Parties sign this agreement.

For the WFSE:

Ron Heley 8/28/18
Ron Heley Date
WFSE Labor Advocate

For The Evergreen State College:

Laurel R. Uznanski 8/28/18
Laurel R. Uznanski Date
AVP for Human Resource Services