

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

USC Verdugo Hills Hospital,
Employer,
and

Case 31-RD-228771

SEIU - United Healthcare Workers-West,
Union,
and

Andrew Brown,
Petitioner.

PETITIONER’S REQUEST FOR REVIEW

I. Introduction

The Board’s “contract bar” rules grant decertification petitioners a “window period” to file for an election 60-90 days (or 90-120 days at a healthcare institution) prior to the three year anniversary of the collective bargaining agreement. But, an employee acting *pro se* would never know this by reading the Board’s website, which erroneously states that the window period “begins 90 days and ends 60 days *before the agreement expires* (120 and 90 days if your employer is a healthcare institution).”¹ If an agreement runs slightly longer than three years, as is the case here, the window period is not connected to when the agreement expires, but when the contract was effective. That clarifying information is nowhere found on the Board’s website.

¹<https://www.nlr.gov/rights-we-protect/whats-law/employees/i-am-represented-union/decertification-election> (lasted visited October 21, 2018)

Petitioner Andrew Brown, a buyer of surgical products for USC Verdugo Hills Hospital, was acting *pro se* as he attempted to decertify the union at his workplace. In precise reliance on the Board's website advice, Petitioner calculated his window period from *the end of the expiration of the agreement*. His collective bargaining agreement ran from January 1, 2016 to January 31, 2019—essentially for three years plus one extra month. Based on his erroneous calculation, Petitioner missed the window period by two days. On October 25, 2018, the Regional Director dismissed Petitioner's decertification petition based upon an inflexible interpretation of the outmoded and extra-statutory "contract bar" doctrine. Thus, employee free choice was tossed to the wind, and an unpopular incumbent union unfairly entrenched. (A copy of the Regional Director's dismissal is attached as Ex. 1).

Because (a) this case raises substantial questions of law or policy about the "contract bar" doctrine and its "window periods" and "insulated periods" and (b) there are compelling reasons for reconsideration of important Board policies, this is an appropriate case to review and reconsider the entire concept of "contract bars," narrow "window periods" and "insulated periods," all of which sacrifice employees' free choice rights on the altar of "labor stability." This Request for Review should be granted, pursuant to NLRB Rules and Regulations §§102.67 and/or 102.71(a).

II. Statement of the Facts

USC Verdugo Hills Hospital (Employer) is a health care institution within the meaning of Section 2(14) of the NLRA. The Employer and Service Employees International Union-United Healthcare Workers-West (Union or SEIU) are parties to a collective-bargaining agreement (CBA) which on its face indicates effective dates from January 1, 2016 to January 31, 2019, essentially a three year and one month CBA. (A copy of the CBA is attached as Ex. 2). However, the CBA was actually backdated, as it was not formally signed by the parties until March 28, 2016 and April 5, 2016, respectively. (Ex. 2, pp. 56-57; *see Appalachian Shale Prods. Co.*, 121 NLRB 1160 (1958)). The CBA covers the Petitioner and the other employees encompassed by his petition.

Petitioner is a surgical buyer for the Employer. (Declaration of Andrew Brown, copy attached as Ex. 3). He is not a lawyer and did not have legal representation when he began the process of trying to decertify the SEIU, or when he ultimately filed his petition. (*Id.*)² Being *pro se*, he logically turned to the NLRB's website for information on the decertification process and the Board's arcane and confusing rules for calculating contract bar "window periods" to file election petitions. (*Id.*) The Board's website instructed him as follows:

² Petitioner's sworn Declaration was filed with the Regional Director as part of his response to the Notice to Show Cause, Ex.4. Although Petitioner is now represented by counsel, he was not represented when he calculated his window-period dates, collected signatures, or filed the decertification petition initiating this case, as his Declaration shows.

Decertification election

Have a union, but don't want it anymore, or want a different one?

Under certain circumstances, you can vote out or "decertify" your union, or replace it with a different union. At least 30% of your coworkers must sign cards or a petition asking the NLRB to conduct an election. Unless a majority of the votes cast in the election are in favor of union representation, the union will be decertified. Such elections are barred, however, for one year following the union's certification by the NLRB. Plus, if your employer and union reach a collective-bargaining agreement, you cannot ask for a decertification election (or an election to bring in another union) during the first three years of that agreement, except during a 30-day "window period." *That period begins 90 days and ends 60 days before the agreement expires (120 and 90 days if your employer is a healthcare institution).* After a collective-bargaining agreement passes the three-year mark or expires, you may ask for an election to decertify your union or to vote in another union at any time.

<https://www.nlr.gov/rights-we-protect/whats-law/employees/i-am-represented-union/decertification-election> (lasted visited October 21, 2018) (emphasis added).

Relying on the Board's website quote above, Petitioner calculated that his petition would be timely if filed on October 5, 2018. He did so because he followed the literal words of the website, and counted his 90-120 days backwards from the expiration of the three year and one month long CBA (which was January 31, 2019), rather than from the end of the first three years of that CBA (which was December 31, 2018). This error is completely understandable since the Board's own decertification website counsels the Petitioner and others to calculate the 90-120 days "*before the agreement expires,*" not 90-120 days before the expiration of the first three years of the CBA's life.

Once the Petition was filed on October 5, 2018, the Regional Director held no hearing but issued a Notice to Show Cause on October 15, asking why the Petition should not be

dismissed as untimely under the “contract bar.” (A copy of the Notice to Show Cause is attached as Ex. 4). Each party provided a submission to the Region, with SEIU arguing for and the Employer and Petitioner arguing against application of the contract bar and “window period” rules.

Despite Petitioner’s submission and sworn Declaration (Ex. 3), the Regional Director inflexibly applied the “contract bar” rules and stated that “the window period in which to timely file a petition in this matter ran from September 4, through October 3, 2018. As the petition was filed on October 5, 2018, it is, therefore, untimely.” This Request for Review follows the Regional Director’s dismissal.

III. Reasons to Grant Review

A. Petitioner’s mistake of law is excusable because he relied on erroneous advice from the Board’s website.

Petitioner relied to his detriment on the NLRB’s website when seeking advice about calculating window period dates for his decertification petition, and any error he made in calculating the dates is: (a) excusable under cases like *Vanity Fair Mills*, 256 NLRB 1104 (1981), and (b) de minimus under cases like *LTD Ceramics*, 341 NLRB 86 (2004).

As Petitioner’s sworn Declaration shows (Ex. 3), he was acting *pro se* when he began investigating the decertification process, and he directly relied upon the Board’s website in calculating his 90-120 window period dates based on the expiration of the CBA on January 31, 2019 and not the expiration of first three years of the CBA (which would have been on December 31, 2018). Petitioner’s reliance on the literal words of the

Board's website advice to calculate his window period dates and file his petition on October 5, 2018 is virtually identical to what occurred in *Vanity Fair Mills*. There, a petitioner's calculation error was excused because he relied upon the well-intentioned but erroneous advice of a Board agent in calculating his window period dates.

As in *Vanity Fair Mills*, the Board should excuse any error on the *pro se* Petitioner's part, because that error was directly induced by the Board's own ambiguous and erroneous website advice. In brushing aside the Board's own culpability in causing Petitioner's miscalculation, the Regional Director relied on a boilerplate statement of the website to the effect that "The National Labor Relations Board expressly disclaims any purpose or intent to furnish legal advice." (Ex. 1, at 3). The Regional Director was wrong in finding that boilerplate language can be used to penalize the Petitioner and absolve the Board. When applied to cases like this, where a *pro se* petitioner acted in good faith and relied on the Board's website but missed a deadline by a mere two days, such buried disclaimers on official government websites breed cynicism—if not contempt—for the NLRB in particular and the government in general. The Board's law and policy should not create or condone such results, and review should be granted to address and fix this error and allow an election to move forward.

Moreover, even if a contract bar and "window periods" apply in this case, Petitioner, who is unschooled in labor law and NLRB minutiae and was acting *pro se* at the time he filed, missed the alleged deadline by at most two days, a de minimus period of time. Thus, there should be a good faith exception to the normal contract bar and window period rules

for *pro se* petitioners, who struggle to meet the Board's sometimes byzantine election rules. This situation is analogous to *LTD Ceramics*, 341 NLRB 86 (2004), where the Board recognized a de minimus exception to a bar related to the collection of signatures for a withdrawal of recognition petition. Such a de minimis exception makes sense here because the entire purpose of the NLRA is employee free choice, not union gamesmanship against employees who are acting *pro se* to protect their rights. This is especially true in the health care context, where election rules are even more convoluted than in normal industrial settings, see *Trinity Lutheran Hospital*, 218 NLRB 199 (1975), which leaves individual employees at a great disadvantage and at the mercy of incumbent unions desperately clinging to power.

B. The petition was timely filed because the window period in the health care industry is 90-120 days prior to the terminal date of any contract.

The petition was timely filed in accordance with *Trinity Lutheran Hospital*, 218 NLRB 199 (1975). That case set election rules in health care settings, directing that election petitions be filed between 90 and 120 days from the *terminal date* of any contract. The Union and Regional Director rely on *Union Carbide Corp.*, 190 NLRB 191 (1971), which ostensibly holds that petitions (in a non-health care setting) can only be filed within 60-90 days from the third anniversary of a contract's effective date, if the contract's term exceeds three years. However, *Union Carbide* was not decided in a health care setting, and Petitioner has found no Board case law applying it in the health care industry. *Trinity Lutheran Hospital*, which was decided four years after *Union Carbide*

and explicitly covers health care institutions, states that “*all petitions* filed more than 90 days but not over 120 days *before the terminal date* of any contract involving a health care institution will hereafter be found timely.” 218 NLRB at 199 (emphasis added). By stating that this rule applies to “all petitions” involving health care institutions, the Board recognized that such institutions are treated differently from regular industrial entities in this and many other contexts. *See, e.g., The Health Care Rule*, 29 C.F.R. § 103.30.

Accepting the Union’s argument in this case would result in two “open periods” for election petitions in the final 150 days of the contract, one between September 3 and October 3, 2018, and one between January 1 and 31, 2019. This anomalous result creates confusion for individual employees and diminishes their rights under NLRA Sections 7 and 9. The NLRA exists to promote employee free choice, not to entrench unpopular incumbent unions and shield them from accountability.

C. The Board should take this as an opportunity to review “insulated periods.”

The notion of an “insulated period” when petitions cannot be filed is found nowhere in the text of the NLRA. The insulated period was first established in *Deluxe Metal Furniture Co.*, 121 NLRB 995 (1958). There, the Board established that a petition could be filed during a 150-60 day period prior to the expiration of a CBA, but the final 60 days of the CBA was established as an “insulated period” to “give rival unions a definite time-guide as to when to organize, and employees will know when to seek a change in representatives if they so desire.” *Id.* at 1001. The Board believed such insulated periods would “prevent the threat of overhanging rivalry and uncertainty during the bargaining

period, and will eliminate the possibility for employees to wait and see how bargaining is proceeding and use another union as a threat to force their current representative into unreasonable demands.” *Id.* Ultimately, the Board’s goal was to “avoid as much disruption of labor relations as possible during a contract term.” *Id.* The Board ultimately shortened this period to the 90-60 day window period in *Leonard Wholesale Meats, Inc.*, 136 NLRB 1000 (1962).

In *Trinity Lutheran Hosp.*, 218 NLRB 199 (1975) the Board created a 120-90 day window period for health care institutions, with the final 90 days being “insulated.” The Board justified this change based on the 1974 amendments to the Act, which require health care institutions to give at least 90 days’ notice to the Union prior to bargaining. *Id.*

There are four principle reasons why the alleged “stability” of an insulated period should not outweigh employee free choice. *First*, the insulated period has no basis in the text of the NLRA, and it undermines the statute’s cornerstone—voluntary unionism and employee free choice to select or remove a union as the collective bargaining representative. “[U]nder Section 9(a), the rule is that the employees pick the union; the union does not pick the employees.” *Colorado Fire Sprinkler, Inc._v. NLRB*, 891 F.3d 1031, 1038 (D.C. Cir. 2018). Were it Congress’ intent to limit employees’ “full freedom of association” beyond the statutory text, Congress would have included language to that effect. That it did not do so is evidence that the insulated period is inconsistent with the statute and that Congress did not intend to restrict employee free choice in that manner. This is bolstered by the fact that an insulated period was not adopted until nearly 20 years

after the Act was passed. See *Deluxe Metal Furniture Co.*, 121 NLRB 995 (1958).

Second, the insulated period helps entrench unions in perpetuity by keeping them in power unless healthcare employees file for an election during the short thirty-day “window period” that falls three to four months before the end of a three year contract (and unless non-health care employees file for an election during the short thirty-day “window period” that falls two to three months before the end of a three year contract). Under this regime, *pro se* employees must have the foresight and legal knowledge to plan their decertification far in advance of the contract’s expiration. Otherwise, they may have no opportunity to file for an election if their employer and union agree to a successor contract during the Board-created insulated period. The narrow thirty-day window does not adequately protect employees’ right to choose their own representative. Indeed, by the time employees learn of their right to decertify, or even begin to contemplate it, the thirty-day window period may already have passed and another contract executed. This window period is neither intuitive nor widely known among employees, and many of them struggle with either computing or understanding its significance.

To make matters worse, the Board’s case law fails to properly explain why health care institutions deserve a longer insulated period. If the basis of the insulated period is to foster stable collective bargaining relations, how is the threat of “rivalry and uncertainty” any greater in the healthcare context than in other contexts such that a different insulated period is warranted? Indeed, if stability is promoted by an insulated period, then why not apply the 120-90 day window period to *all* private sector employers? The Board has never

attempted to justify its reasoning on that point.

Third, the Board has never justified why *any* insulated period is rationally related to the Board's stated interests. The Board's main justification is that an insulated period "prevent[s] the threat of overhanging rivalry and uncertainty" during the final days of the collective bargaining agreement. *Deluxe Metal Furniture Co.*, 121 NLRB at 1001. Yet, there is no guarantee that the parties will be bargaining during this time frame and the insulated period blocks petitions even when a union has not attempted to negotiate a successor agreement.

Similarly, the Board has never provided a reasoned explanation as to why either 60 or 90 day insulated periods adequately protect a union from rivalry and uncertainty, given that petitions may be filed immediately after the insulated period during a hiatus period. The Board does not (and cannot) claim that labor relations devolve into rivalry and uncertainty simply because a petition may be processed at any time during a hiatus period. Giving employees a longer window period (i.e., 90 days) to file a petition and hold an election could not lead to "rivalry" and "uncertainty" any more than a petition filed during the current 30-day open window period, or at any time during a hiatus. Yet, any slight and theoretical interest in "labor stability" is allowed to completely foreclose employees' Section 7 and 9 rights to decertify an unwanted union for many months at a time, even though "[b]y its plain terms . . . the NLRA confers rights only on *employees*, not on unions or their nonemployee organizers. *Lechmere, Inc. v. N.L.R.B.*, 502 U.S. 527, 532 (1992).

Nor is it true the insulated period completely guards unions from the threat of rivalry and uncertainty during the final days of a collective bargaining agreement. If an employee presents a majority decertification petition to the employer during the insulated period, the employer and union are bound to cease bargaining. *Dura Art Stone*, 346 NLRB 149 (2005).

In *Dura Art Stone*, the Board rejected arguments that the insulated period allowed an employer to keep bargaining with a union it knew had lost majority support based on a rival union's majority petition that was presented during the insulated period. *Id.* at 149 n.2. Requiring the parties to cease bargaining on the basis of a majority petition is far more disruptive and creates more uncertainty than simply processing an election petition. This makes the insulated period even more of an anomaly given the Board and courts' consistent holding that elections are the preferred method of gauging whether employees desire union representation. *Linden Lumber Div., Summer & Co. v. NLRB*, 419 U.S. 301, 304, 307 (1974); *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 602 (1969) ("secret elections are generally the most satisfactory—indeed the preferred—method of ascertaining whether a union has majority support"). Instead, the current insulated period rules create an incentive for employees to disrupt bargaining completely by demanding an end to bargaining as opposed to an election. If employees can end bargaining on the basis of a majority petition during the insulated period, they should be able to call for a secret ballot election at the same time.

Lastly, the Board adopted the insulated period to avoid labor disruptions during the

term of the collective bargaining agreement. But, unions currently working under a CBA already have nearly three insulated years to operate without facing a challenge to their presumption of majority support. Granting employees a longer “window period” (and a shorter “insulated period”) to file a petition will not undermine labor relations. Indeed, giving employees a longer window period is reasonable considering that the Board’s claimed interest in stability has already been fulfilled through a nearly three year contract bar. Employees should not suffer additional curtailment of their rights simply because they miss a small and arbitrary “window” at the end of three years. Employees deserve more of an opportunity to file for an election than they have currently, as the facts of this case amply demonstrate.

In short, the Board should grant review here and use this case to lengthen the “window periods” under the contract bar rules to 60, 90 or even 120 days, and shorten the “insulated period” at the same time.

D. Alternatively, the Board should reevaluate and curtail or overrule the contract bar doctrine.

Finally, if the “contract bar” does apply here, the Board should use this case to reevaluate, overrule or dramatically change it. Indeed, this case highlights two fundamental problems with the “contract bar.” First, the bar appears nowhere in the statutory language of the NLRA and is an arbitrary and non-statutory creation that entrenches incumbent unions against employees’ will. Second, it sacrifices employee free choice at the altar of a narrow view of “labor stability” and union convenience. But labor

stability is not and cannot be achieved by forcing employees to accept a union no one in the unit wants—as a result of arbitrary and shifting deadlines created from non-statutory bars.

The contract bar turns the fundamental principle of labor law on its head—by making the union the master of the employees and the employees “prisoners of the union.” *Emporium Capwell Co. v. W. Addition Cmty. Org.*, 420 U.S. 50, 73 (1975) (Douglas, J., dissenting); *Int’l Ladies Garment Workers v. NLRB*, 366 U.S. 731, 737 (1961) (holding that “there could be no clearer abridgment of § 7 of the Act” than for a union and employer to enter into a collective bargaining relationship when a majority of employees do not support the union).

Originally, the Board rejected the concept of a contract bar, presumably recognizing that nothing in the text of the NLRA permitted it. In *New England Transportation Co.*, 1 NLRB 130 (1936), a contract was asserted as a bar to an election. The Board held that employees should be free to change their representative and that the new representative could assume the existing agreement. The principle was that “a change in representation does not alter or cancel any existing agreement made in behalf of the employees by [their] . . . exclusive representatives. The only effect of a certification by the Board is that the employees have chosen other agents to represent them in dealing with management under the existing agreement.” *Id.* at 139. Of course, the new representative was free to demand changes to the current contract, as “parties may bargain with respect to the termination of existing contracts.” *Id.*

The contract bar was first developed in *National Sugar Refining Co.*, 10 NLRB 1410 (1939). There, the Board stated that it would not conduct an election because the duration of the contract—one year—was not “contrary to the purposes and policies of the Act,” *id.* at 1415. Eventually, the Board extended the contract bar to agreements lasting at least two years. *Pacific Coast Ass’n of Pulp & Paper Mfg.*, 121 NLRB 990 (1958). In 1962, the Board again extended the contract bar’s duration, this time to three years. *General Cable Corp.*, 139 NLRB 1123 (1962). Not surprisingly, the Board in *General Cable* barely considered employees’ free choice interests. “In adopting a 3-year rule we have heeded the appeals for a more extended contract-bar period presented in oral arguments, letters, telegrams, memorandums, and briefs by *the overwhelming majority of labor and management representatives.*” 139 NLRB at 1125 (emphasis added). Employees were barely on the Board’s radar screen in 1962.

But times have changed since then. In many contexts the Supreme Court’s case law and American labor law have evolved to recognize that unions do *not* speak for all employees, and that individual employee free choice, not union and management convenience, is the paramount principle of the labor law. *See generally Vaca v. Sipes*, 386 U.S. 171 (1967) (holding that unions owe individual employees a duty of fair representation under the NLRA); *Pattern Makers’ League v. NLRB*, 473 U.S. 95 (1985) (holding that employees have a right to resign at will from union membership); *CWA v. Beck*, 487 U.S. 735 (1988) (holding that employees cannot be required to fund union political, ideological and non-representational activities); *Local 58, IBEW (Paramount*

Indus., Inc.), 365 NLRB No. 30 (Feb. 10, 2017), *enforced*, 888 F.3d 1313 (D.C. Cir. 2018) (holding that unions cannot hinder employees who seek to resign their memberships or revoke dues check-offs); *Janus v. AFSCME Council 31*, 138 S. Ct. 2448 (2018) (holding that public employees have a First Amendment right to refrain from funding any union activities). Petitioner asserts that the contract bar should be reevaluated—and reduced or ended—for five principal reasons.

First, the contract bar has no basis in the text of the NLRA, and actually undermines its core purpose—employee free choice. This anti-textual “bar” to an election was concocted despite the fact that NLRA Section 9(c)(1)(B) repeatedly uses the word “shall” to instruct the Board to *conduct*, not block, elections when there is a sufficient showing of interest. Were it Congress’ intent to limit employees’ “full freedom of association” beyond the one-year “election bar” period that is explicitly provided for in the statutory text, Congress would have included language to that effect. That it did not do so is evidence that the contract bar is inconsistent with the statute, and that Congress did not intend to restrict employee free choice in this manner. This is bolstered by the fact that the Board’s earliest interpretation of the Act, in *New England Transportation Co.*, rejected the contract bar altogether.

Second, the contract bar helps entrench incumbent unions by keeping them in power unless and until individual employees jump through arbitrary hoops and file for an election during a short “window period” that falls many months before the end of the contract. The election rules are even more convoluted in the health care industry than in

normal industrial settings, *see Trinity Lutheran Hospital*, 218 NLRB 199 (1975), which leaves individual decertification petitioners at a great disadvantage.

Under the current contract bar regime, *pro se* employees must have the foresight and legal knowledge to plan their decertification efforts far in advance of the contract's expiration. Otherwise, they may have no opportunity to file for an election if their employer and union agree to a successor contract during the insulated period. The narrow thirty-day window, months before contract expiration, does not adequately protect employees' right to choose their own representative. Indeed, by the time employees learn of their right to decertify, or even begin to contemplate it, the thirty-day window period may already have passed and another contract executed.

Third, the vast majority of union-represented employees in this country—an astonishing 94%—have never voted for the union that exclusively represents them.³ This shocking figure warrants adjusting the Board's election bar policies to provide employees with more opportunities to vote on whether they truly desire union representation, not fewer. With so few elections testing incumbent unions' popularity, the NLRA election process often calls to mind the way many dictatorships are run—one man, one vote, one time.

Fourth, barring employees from voting on union representation because a contract is

³James Sherk, "Unelected Representatives: 94 percent of Union Members Never Voted for a Union," Heritage Foundation Backgrounder No. 3126 (Aug. 30, 2016), <http://www.heritage.org/research/reports/2016/08/unelected-representatives-94-percent-of-union-members-never-voted-for-a-union>.

in place does not aid industrial stability, contrary to the discussion in *General Cable Corp.*, 139 NLRB 1123 (1962). Employees saddled with an unpopular union are not likely to comprise a stable workforce. Indeed, if a union and employer agree to an unpopular contract, the employees have little recourse against the union for up to three long years, leading to employee turnover, workplace dissension, loss of morale, deauthorization elections, etc. These facts necessitate overturning the contract bar or, at the very least, creating a modified contract bar of a significantly shorter duration, such as one year. This would allow employees to more freely express their representational preferences with full knowledge of the collective agreement's terms and the union's effectiveness.

Lastly, one of the most ancient and cherished principles in law is the idea that an agent serves at the pleasure of the principal, and can be removed by the principal at any time. *See generally Hollingsworth v. Perry*, 570 U.S. 693, 713 (2013) (“An essential element of agency is the principal’s right to control the agent’s actions.” 1 Restatement (Third) of Agency § 1.01, Comment *f* (2005)”; *Teamsters Local No. 391 v. Terry*, 494 U.S. 558, 569 (1990) (“the duty of fair representation issue is analogous to a claim against a trustee for breach of fiduciary duty.”). American law grants few agents a government-granted privilege to remain in power and serve as forced “agents” over the objections of their principals. The contract bar does just this, holding employees (the principal) hostage to a union (the agent) they oppose—for up to three long years.

IV. Conclusion

The “contract bar” is a misplaced creation of the Board, with no basis in the statutory language of NLRA Section 9 or in the Act’s legislative history. It should be discarded on these grounds alone, as the Board correctly held in *New England Transportation Co.*, 1 NLRB at 138-39. This Request for Review should be granted to reconsider the contract bar and the attendant window periods and insulated periods. The contract bar should either be overruled entirely or altered to enhance employee free choice, such as by lengthening any “window periods” or shortening “insulated periods.” In any event, an election should be ordered in this case due to, inter alia, Petitioner’s reliance on the Board’s erroneous website advice.

Respectfully submitted,

/s/ Glenn M. Taubman

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 15, 2018, he electronically filed with the Board's Executive Secretary a true and correct copy of the foregoing Petitioner's Request for Review using the NLRB's e-filing system, and also served a copy of this document on the following counsel via email the same day:

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Exhibit 1



UNITED STATES GOVERNMENT
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October 25, 2018

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Re: USC Verdugo Hills Hospital
Case 31-RD-228771

DEAR MR. TAUBMAN:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

Decision to Dismiss: As a result of the investigation, I find that further proceedings are unwarranted. In the course of investigating this matter, on October 15, 2018, the Acting Regional Director issued an Order to Show Cause. After having considered information disclosed during the investigation as well as considering the responses filed to the Order to Show Cause by all parties, I conclude that the petition filed on October 5, 2018, is untimely because it was filed after the expiration of the relevant “window period” and during the relevant insulated period.

The investigation disclosed that USC Verdugo Hills Hospital (Employer) is a health care institution within the meaning of Section 2(14) of the Act. The Employer and Service Employees International Union - United Healthcare Workers-West (Union), are parties to a collective-bargaining agreement (Agreement), which indicates on its face that it is effective from January 1, 2016 and January 31, 2019. The Agreement covers the employees encompassed by the petition in this matter.

The parties to an agreement which is approaching its expiration date are provided with a 60-day “insulated period” during which petitions may not be filed in order to afford the parties to an expiring contract an opportunity to negotiate without the disruption of a rival petition. *Deluxe Metal Furniture*, 121 NLRB 995, 1000 (1958); *Crompton Co.*, 260 NLRB 417, 418 (1981). There is a “window period,” during which petitions may be filed prior to the commencement of the insulated period. The window period is generally 60-90 days prior to the expiration of the contract. *Crompton*, at 418. However, with respect to health care institutions, the open period during which a petition may be filed is more than 90 days but not over 120 days before the terminal date of any agreement, which is followed by an insulated period during which no petition can be timely filed. *Trinity Lutheran Hospital*, 218 NLRB 199 (1975).

It also is important to note, however, that a contract having a fixed term of more than 3 years “is treated for contract bar purposes as expiring on its third anniversary date.” *Coca-Cola Enterprises*, 352 NLRB 1044, 1045 (2008), citing *General Cable Corp.*, 139 NLRB 1159 (1962). Since contracts with a duration in excess of 3 years are treated as if they expired on the third anniversary date for the purpose of the Board’s contract bar rules, a petition is dismissed where it is not filed during the “window period” of more than 60 but no more than 90 days prior to the third anniversary date, rather than from the expiration date designated in the contract. *Union Carbide Corp.*, 190 NLRB 191, 192 (1971). In this case, since the Agreement is effective for more than 3 years, the contract is treated as expiring on its third anniversary date for contract bar purposes and it is the third anniversary from the effective date that determines the window period. Since the Employer is in the health care industry, the window period when petitions could be filed would be 90-120 days prior to the third year anniversary date. The third year anniversary date is January 1, 2019. Thus, the window period in which to timely file a petition in this matter ran from September 4, through October 3, 2018. As the petition was filed on October 5, 2018, it is, therefore, untimely.

The Petitioner and Employer argue that because the “window period” in the health care setting is different, and *Trinity Lutheran* was decided after *Union Carbide*, the 90-120 day period from the expiration date established in *Trinity Lutheran* should be applied here and the petition processed. I am not persuaded by this argument. In essence, the Petitioner and Employer argue that the contract bar limitation to three years described in *General Cable* should not be applied to the health care industry. However, neither Petitioner nor the Employer have provided case support that establishes the non-applicability of a three-year limitation on contract bars to the healthcare industry. Furthermore, although *General Cable* was decided prior to *Trinity Lutheran*, it is noteworthy that when the Board extended the reasonable period of a contract bar to three years in *General Cable*, the Board stated that all other contract-bar rules, whether related or unrelated to the subject of contract term, remain unaltered and the 3-year rule is intended to be read in harmony with them. Applying the policies of *Trinity Lutheran* and *General Cable* in an harmonious manner, I conclude that when a collective-bargaining agreement involving an employer in the healthcare industry is in effect for more than three years, as is the case here, the open period and insulated period should be determined from the three year anniversary of the effective date of the agreement, not the expiration of the agreement.

The Petitioner and Employer also argue that the petition should be considered timely under the holding of *Vanity Fair Mills, Inc.*, 256 NLRB 1104, 1106 (1981). In *Vanity Fair*, the Board allowed an untimely petition to be processed because the petitioner received erroneous advice by the Regional Office on three occasions, including twice in writing. I find the situation here to be distinguishable from the situation in *Vanity Fair Mills*. The Petitioner in this matter, who asserts he did not have legal counsel at the time, states that he relied on the Board’s guidance from its public website to determine the window period to file the petition. The Board website states with respect to decertification petitions that “if your employer and union reach a collective-bargaining agreement, you cannot ask for a decertification election (or an election to bring in another union) during the first three years of that agreement, except during a 30-day ‘window period.’ That period begins 90 days and ends 60 days before the agreement expires (120 and 90 days if your employer is a healthcare institution).” Thus, the language on the

Board's website is given in the context of the first three years of an agreement. Although the Board's website does not cover all possible contingencies, this case is distinguishable from *Vanity Fair*, a situation where Board agents affirmatively provided inaccurate information. Furthermore, the Agency website does not purport to be a complete summation. In fact, the public website contains the following disclosure language and encourages the public to contact the nearest Regional Office for further assistance:

This application may not be cited as legal authority. Particular statements may be subject to unstated exceptions, qualifications, and/or limitations, and may even be rendered unreliable without prior notice by changes in the law. In addition, although we have sought to provide broad general guidance, we do not claim completeness. In other words, you may be subject to prohibitions under the National Labor Relations Act that are not set forth here. The National Labor Relations Board expressly disclaims any purpose or intent to furnish legal advice. You may contact your nearest regional Board office and/or an attorney to discuss your specific situation or to learn more about your rights and obligations under the NLRA.

Here, the Petitioner does not claim to have contacted a Regional office for assistance in determining the open period before filing his petition.

Accordingly, I am dismissing the petition in this matter.

Right to Request Review: Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on **November 8, 2018**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on November 8, 2018.**

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could

not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,



MORI RUBIN
REGIONAL DIRECTOR

cc: Office of the Executive Secretary (by e-mail)

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Exhibit 2



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Quality Healthcare for All

Collective Bargaining Agreement with

USC Verdugo Hills Hospital

January 1, 2016 – January 31, 2019

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PREAMBLE

USC Verdugo Hills Hospital (the "Hospital") and Service Employees International Union United Healthcare Workers West (the "Union") hereby agree to become parties to the following collective bargaining agreement (hereinafter referred to as "Contract" or "Agreement").

ARTICLE 1 RECOGNITION

Pursuant to an election conducted on December 11 and 12, 2014, the Hospital recognizes the Union as the exclusive bargaining representative of the employees employed by the Hospital at its facility located at 1808, 1812, and 1818 Verdugo Blvd, Glendale, California in the following bargaining unit:

Included: All Full-time, regular part-time, and per diem non-professional service employees, including Clerk-Same Day Surgery, Unit Secretary, CT/MRI Patient Coord, Storekeeper/Records Clerk, Buyer, Patient Services Rep, OR Scheduler/ORT, Lab Collection Coordinator, CPD Processing Tech, Surg Scheduler/ORT, CPD Technician, OB Tech, Cert Phlebotomist I, Cert Phleb II, Sr. Cert Phleb II, Lead Spec Diag Tech, Surg Tech, GI Tech, Surgical Materials Coordinator, Unit Sec/MNT Tech, Activity Leader 8HR, Front Office Coordinator/Medical Imaging Radiology Receptionist, LVN, Patient Ambassador, Rad Receptionist, Activity Aid, CNA, Emergency Nurse Assistant, Nurse Assistant, Orderly, Pathology Lab Asst, PT Aide I, ED Tech, and PMR Secretary.

Excluded: All other employees, technical employees, RNs, physicians, professional employees, skilled maintenance employees, business office clerical employees, guards, Registry and Travelers and supervisors as defined in the National Labor Relations Act, as amended.

ARTICLE 2 UNION REPRESENTATION

A. UNION STEWARD

1. The Union shall provide the Hospital with a written list of Union Stewards after their designation, and shall notify the Hospital of changes as they occur. The Union shall designate one steward as Chief Steward. Prior to the Hospital's receipt of such Union designation, the Hospital is not obligated to recognize a Union steward under this Article.
2. The functions of the Union Steward include the authority 1) to settle or assist in settling problems arising in connection with the application or interpretation of

the agreement, 2) to resolve grievances at Step 1 or 2 of the grievance procedure and 3) to serve as a Union representative for Weingarten meetings.

3. Union Stewards shall perform their functions or Union-related activities on their own time except as provided for in paragraph 5, "Paid Release Time for Union Stewards" (below). However, if a meeting is mutually agreed to with the Union Steward and Department Director or designee during the Steward's work shift, that time will be paid for by the Hospital. If a Union Steward wishes to schedule a meeting with employees during the union steward's work shift, unpaid leave time shall not be unreasonably denied.
4. Whenever a bargaining unit employee requests a Steward's presence at a Step 1 grievance meeting with a supervisor, every effort will be made to schedule such meeting a minimum of 24 hours in advance. The Steward will notify his/her supervisor of such meeting and arrange for his/her own release, when possible, to attend. Should the supervisor determine that releasing the requested Steward is not possible, the Union Steward or Field Representative will either reschedule the grievance meeting or select an alternate Steward. Steward release will not affect the grievance procedure timelines as outlined in Article 9-Grievance Procedure. Nothing in this provision overrides the grievance procedure as detailed in Article 9.
5. Paid Release Time for Union Stewards
 - a. The Hospital shall provide a maximum of four (4) hours per month of paid release time for up to six (6) specifically authorized Union Stewards. This paid release time shall not be scheduled in such a way as to create overtime.
 - b. The four (4) hours provided may be utilized for monthly steward meetings, steward education, and steward training, designed to further the relationship between the Hospital and the Union. At least fourteen (14) days prior to the posting of the staffing schedule, the union shall provide written notice to the Employer's designated representative paid release time is requested and the individuals for whom it is being requested. Paid release time is subject to staffing and scheduling needs. Stewards who are specifically authorized for paid release time will be permitted to leave their normal work to utilize these hours. The parties agree to work together on scheduling issues that may arise, including last minute scheduling changes by either party.
6. Union Stewards shall not direct any employee as to how to perform or not perform his/her work, shall not countermand the order of any supervisor, and shall not interfere with the normal operations of the Hospital or any employee.

B. UNION ACCESS

1. One duly authorized Field Representative of the Union shall be permitted to enter the Hospital at reasonable times for the purpose of observing whether this Agreement is being adhered to and/or to check on complaints of bargaining unit employees. The Union will notify the Employer's designated representative or his/her designee who has been selected as the Field Representative. The Union Field Representative shall advise the Employer's designated representative or his/her designee of each visit upon entering the Hospital. If the Employer's designated representative or his/her designee is not on site and/or on duty, the Union Field Representative will call and/or page the Employer's designated or his/her designee. The Union Field Representative will abide by patient confidentiality, infection control, and other Hospital policies applicable to such areas. When at the Hospital the Union Field Representative will wear his/her Union Representative badge issued by the Hospital visibly displayed above the waist, in accordance with policies applicable to all employees.

In the following special circumstances: steward elections, steward meetings, and steward trainings, one (1) additional Union Field Representative will be allowed access to a conference room that has been reserved in accordance with Section D below, provided the Employer's designated representative is given at least one week advance notice.

2. The Union Field Representative shall not interfere with the work of any employee. This shall not prevent the Union Field Representative from conferring with an employee and his/her supervisor or a Hospital representative on Hospital time in connection with the complaint or problem concerning the employee.
3. During the term of the Agreement, if the Hospital believes that a Union representative is violating the limitations on access as set forth above, the Hospital may request an immediate meeting with representatives of the Union to discuss and attempt to informally resolve the Hospital's concerns. This meeting will be held in person or telephonically within twenty-four (24) hours of the Hospital's request. In the event that the Hospital's concerns are not resolved to the Hospital's satisfaction within forty-eight (48) hours of its request for such a meeting, the Hospital may submit the issue to expedited arbitration. The arbitrator will be selected in the same manner as set forth in Article 9.

C. BULLETIN BOARDS

The Hospital shall provide two (2) glass-enclosed locking bulletin boards in hallway next to the cafeteria entrance and the first floor entrance. The bulletin boards are for posting of notices and announcements regarding Union business, such as meetings,

internal Union election results, education, and social events. No materials which are derogatory of the hospital, management, or the University of Southern California shall be posted. Both the Union and the Hospital shall have a key to the bulletin boards. The Hospital shall not access the bulletin boards until a request has been made to the Union, in writing, and a reasonable time given for discussion.

D. USE OF HOSPITAL CONFERENCE ROOMS

The Hospital shall provide the Union reasonable access to on-site conference rooms upon request, based upon availability, in accordance with scheduling procedures below:

1. The Union must schedule such conference room usage in accordance with the conference room scheduling practice of the Hospital. The Hospital is not required to displace or bump groups or organizations that have scheduled conference room usage or otherwise have established periodic meeting schedules.

E. EMPLOYEE ORIENTATION

1. The Hospital will allow a Union steward or Union representative up to twenty-five (25) minutes during the general part of the Hospital's orientation program for new bargaining unit employees to discuss the Union and the terms of the collective bargaining agreement. Such time will normally be scheduled immediately prior to the lunch break, or as the final item on the orientation program agenda.
2. In connection with Paragraph 1 above, the Union steward shall be released from work without loss of pay to participate provided that patient care permits. Where such orientation program is regularly scheduled such release should normally occur.

F. EMPLOYEE LISTING

On a monthly basis, no later than the tenth (10th) of the month, the Hospital will provide the Union with an updated list of bargaining members. The list will be provided on hard copy or electronically (on Excel or another compatible format) showing the following information for such bargaining members : name, home address, phone numbers, classification, job title, department, cost center, base rate, and date of hire, status (e.g., regular full-time, regular part-time, per diem, temporary).

The Union shall indemnify the Hospital and hold it harmless against any and all suits, claims, demands and liabilities that arise out of, or by reason of, any action taken by the Hospital in providing the Union with the information set forth in this Paragraph or otherwise complying with this paragraph.

ARTICLE 3

CATEGORIES OF EMPLOYEES

A. FULL-TIME EMPLOYEE

Full-Time Employee (F classification): Regularly scheduled to work 36/40 hours per week or 72/80 hours in a 14 day work period (five - 8-hour days, four 10-hour days or three 12-hour days per week.) Eligible for full benefit coverage.

B. PART-TIME EMPLOYEE

Part-Time Employee (PT): Regularly scheduled to work 24/30 hours per week or 48/60 in a 14 day work period (three-8-hour days, three-10-hour days or two-12-hour days per week.)

- PT1: Eligible for pro-rated benefit coverage
- PT2: Eligible for pro-rated PTO and SLR benefits only

C. PER DIEM EMPLOYEES

A Per Diem Employee is an employee who has executed the Hospital's Per Diem Agreement (see attached Appendix C) and who is not a Regular Full-Time or Regular Part-Time Employee. Per Diem Employees do not receive any insurance, retirement or other fringe benefits under this Agreement, including without limitation any vacation or other paid time off, except that they may participate in the applicable 401K retirement plan if they meet the qualification/eligibility requirements of the plan.

D. TEMPORARY EMPLOYEE

Hired into a bargaining unit position on a temporary basis or for completion of a specific task or project generally for a period not to exceed 120 days. The 120 day period may be extended if there are no other reasonable, cost effective alternatives to completing the task or project within the 120 day period. An employee will not automatically change from temporary to another status merely by working in excess of the period originally expected and designated. An employee will change from temporary to regular status only if advised of such a change in writing by the Human Resources Department. Not benefit eligible. Intent of temporary employees is not to be used for core staffing except to cover leaves of absence.

E. RECLASSIFICATION OF HOURS

1. Part-Time or Per Diem Employees who are working a regular full time schedule for ninety (90) days or more, in the same classification and department shall cause a reclassification of the additional hours to Regular hours if he/she is not working such hours as approved in accordance with paragraph 3, below. The

additional regular hours will be posted as a vacancy in accordance with Article 5 (Job Vacancies, Posting and Bidding).

2. A Per Diem Employee working regular hours as described in paragraph 1 above may continue to work in a per diem capacity subject to agreement between the Hospital, the Union and the Per Diem Employee.
3. This section E. does not apply to any hours worked by part time or per diem employees who are filling in for leaves of absence, transitional work time, or similar protected leaves.

F. REGISTRY/TRAVELERS

Consultants and Contractors: Consultants and contractors are defined as individuals who perform services for the employer pursuant to a contractual agreement, including registry and travelers. Unless otherwise stated herein, consultants and contractors will not be subject to the provisions of this Agreement. The use of consultants and contractors is not intended to displace bargaining unit positions. These individuals will not automatically change to employee status merely by working in excess of the period originally expected.

ARTICLE 4A SENIORITY

A. SENIORITY DEFINED

1. **How Calculated** - The Hospital will recognize seniority from the employee's most recent uninterrupted date of hire at the Hospital. An employee's seniority will be interrupted if he/she suffers a loss of seniority under section B below. An employee's hire date is not interrupted if he/she is on an approved leave of absence. No employee shall suffer any reduction in seniority as a result of the execution of this Agreement except as provided for in this Agreement.
2. **Per Diem Employees**- Per Diem Employees shall accrue seniority from their most recent date of employment only for use within the Per Diem Employee pool.
3. **Change of Status** - An employee who changes his/her status from Per Diem status to a regular Full/Part-Time status or a regular Full/Part-Time status to Per Diem status after the effective date of this Agreement retains his/her applicable seniority date.
4. **Return to Unit** - Any bargaining unit employee who accepts a non-bargaining unit position with the Hospital may return to the bargaining unit without a break in seniority, provided that there exists a vacancy to return to and that such return

occurs within ninety (90) days of the acceptance of the non-bargaining unit position.

5. **Seniority List** – The Hospital shall maintain a seniority lists, which will be provided to the Union monthly. In addition, the employee seniority list will be maintained by the Hospital Human Resources Department and available upon request.

B. LOSS OF SENIORITY

Seniority shall be lost by:

1. Termination for cause;
2. Failure to return from a leave of absence;
3. Voluntary resignation;
4. Lay-off with no recall within twelve (12) months;
5. Termination of employment without rehire within twelve (12) months.

ARTICLE 4B REDUCTIONS IN FORCE AND RECALL

1. In a reduction in force and subsequent recall, the principle of seniority, as defined in Article 4A- Seniority, shall govern.
2. A reduction in force shall be defined as the elimination of an employee's position in a department, a reduction in headcount in a department, or a reduction from Full-Time to Part-Time or to Per Diem status. A reduction in hours of a Full-Time or Part-Time employee(s) which results in an employment status change to Per Diem or results in the loss of the Health Plan or Paid Time-Off Coverage is also deemed to be a reduction in force.
3. Reduction in force language outlined in this Article will only apply to Full-Time, Part-Time Employees, except as otherwise specifically referenced
4. In the event of a reduction in force, the following steps will be followed in order to determine placement of the affected employee(s):
 - a. **Step One.** The affected employee(s) will be offered the ability to elect a voluntary layoff status at any step of the reduction in force process and shall be eligible to receive full severance benefits. An affected employee may elect to be placed in per diem status at any time during Steps 1 - 5 of the reduction in force process outlined below. An employee who elects either status will retain his/her recall rights.

- b. **Step Two.** The affected employee(s) may apply for and will be given any open position within the bargaining unit for which they are qualified and for which they meet position requirements within the bargaining unit. Affected employees may exercise this option at any time during Steps 1 - 5 of the reduction in force process, which shall supersede the bidding process. An affected full-time employee, at his/her option, may be placed into any vacant part-time position in the above order, provided he/she meets the position requirements.
- c. **Step Three.** The affected employee(s) will be placed into any vacant position of the same employment category, pay, shift and classification provided he/she meets the position requirements within the bargaining unit. Employee(s) placed into a comparable vacant/open position(s) within the bargaining unit will not have recall rights. If an employee rejects an open comparable position offered at this step, then the employee will forfeit all displacement rights. Such refusal would result in the employee being laid off, however, such employee shall be eligible to receive full severance benefits.
- d. **Step Four.** A bargaining member who is subject to layoff may utilize his/her seniority to displace the least senior bargaining member in his/her current classification in the facility with the same category status and shift, provided that the bargaining member is seeking to move to such position: (i) is currently qualified and competent to perform the duties to the Employer's job standards, (ii) possesses all licenses and certifications necessary to perform such duties, (iii) possesses the skill, training, experience and ability (as evidenced by periodic evaluations) that is substantially equal to that of the least senior bargaining member and (iv) is available immediately to assume the work schedule of the bargaining member being displaced.
- e. No recall rights will be given to any employee who rejects to displace another employee in his/her classification, shift, and employment category in their Department or the Hospital. An affected Full-Time Employee, at his/her option and at any time within the Steps above, may elect to displace the least senior benefited Part-Time Employee or an employee on another shift in his/her classification, or return to his/her former classification, provided he/she meets the minimum position requirements.
- f. Definition of Departments for Reduction in Force is established in Appendix A and made a part of this Agreement hereto.

5. Recall

- a. An employee on layoff status or whose status was changed as a result of a reduction in hours, shall have recall rights in accordance with this provision for twelve (12) months from the date the employee was laid off or had his/her employment category reduced. Recall will be by seniority, as defined in Article 4A.
- b. Employees placed into a position on a different shift, employment category, or former classification in Step 3 or Step 4 shall have rights to return to his/her former shift, employment category and classification (within the bargaining unit), under the recall rights provisions for the defined "recall" period. If an employee rejects the open comparable position, then the employee will be taken off the recall list.
- c. A laid off employee may refuse a job offer and retain full recall rights if the job is not comparable in employment category, shift, classification, and pay to his/her former position at the time of layoff. Additionally, a laid off employee who accepts a job that is not comparable shall retain recall rights for the remainder of the "recall" period.
- d. In order to be eligible for recall, the employee must keep the Hospital informed as to his/her current address and current telephone number. Recall notice to employees on layoff shall be sent by certified mail, return receipt requested, to the employee's last known address, with a copy sent to the Union. The employee must return from layoff within ten (10) working days after receipt of notice to return to work, unless there are mitigating circumstances or by mutual agreement with the employee or the Union, or lose all recall privileges.

6. Per Diem Reduction in Force

In the event of a reduction in force, Per Diem positions shall be reduced before any Full-Time or Part-Time positions. The number of Per Diem Employees in the classification(s) in which reductions are needed will be laid off in inverse order, using Per Diem seniority.

7. Reduction in Force Notice

The Hospital agrees to give the Union and each employee as much notice of a reduction in force as possible, and shall provide such notice immediately upon the Hospital's knowledge and/or realization of the need to implement reductions in force which will affect bargaining unit employees. In no event, shall notice be given to the Union and each employee less than two (2) weeks before any implementation of a reduction in force. WARN notices shall be provided if required by State or Federal law.

temporary basis until such position is filled. The hospital may hire a new employee for any vacancy for which no qualified employee has bid within the seven (7) day period.

B. BIDDING ON POSTED VACANCIES

Any current employee who has completed his/her probationary period may apply for a posted vacancy by submitting a written transfer form to Human Resources and applying via the electronic intranet kiosk located in the lobby of the Human Resources Department, from another work station on premises or from a personal computer via the internet. Probationary Employees may apply for posted vacancies only within the same department, and only with hospital approval, which shall not be unreasonably withheld.

C. RESTRICTIONS IN BIDDING

A bargaining member who applies for and is selected to fill a posted vacancy may not apply for another posted vacancy within the next six (6) months. By mutual agreement between the bargaining member, the Employer, and the Union, this provision may be waived.

This rule shall not apply:

1. If the posted vacancy arises in the same department which would result in a lateral transfer and not a promotion, including a change in the number of pre-scheduled hours of the bidding employee, or the scheduled start and end times, or the days of work and days off, or the employee's shift or would change the employee's classification.
2. If the bidding employee is in his/her current position as a direct result of a job change or layoff.

D. PREFERENCE ORDER

1. Preference among those applying for posted vacancies shall be given in the preference levels as set forth in this subsection. Among applicants from the same preference level, seniority as defined in Article 4a shall govern, provided that 1) the applicant must meet all reasonable qualifications of the job established by the Employer and the University (the Association has the burden of establishing that the Employer's qualifications are unreasonable), 2) the applicant's skills, abilities, training, experience, competencies and job performance (as evidenced by periodic evaluations or a written warning or greater discipline in the last 6 months) must meet minimum standards in the Employer's reasonable judgment and, if such judgment is disputed, the Employer has the burden of establishing that its judgment was reasonable, and 3) the applicant must be physically available to fill the vacancy.

- a. Qualified Full time or Part time bargaining members from within the unit/department
 - b. Qualified Full Time or Part Time bargaining members from within the bargaining unit
 - c. Per Diem bargaining members from within the unit department. For purposes of this section, date of hire shall be substituted for seniority for per Diem bargaining members.
 - d. Other applicants from outside the bargaining unit.
2. Notification of Selection: Employees submitting a written bid for a posted vacancy under this subsection shall be timely informed by the Hospital whether or not they are awarded the position.
3. Seniority Application: The seniority of bidding employees shall be determined by the employee's most recent uninterrupted date of employment, as defined in Article 4A, within the preference order in this Article, rather than in the particular classification or employee category.
4. Limitation: It is understood that any bid under this Section is limited to vacancies in bargaining unit positions and not day to day assignments arising from rotation of personnel, paid time off, or sickness relief.
5. Potential Vacancies: Employees expected to be on vacation for a period of more than seven (7) days may submit an Application for Promotion and Transfer Form for a potentially available position. Such request must be submitted in writing to the Human Resources Department. Such written request shall constitute an automatic bid for thirty (30) days or for the period of vacation, whichever is less. It is understood that any written request under this Section is limited to vacancies or potential vacancies subject to this Agreement. When completing the Hospital transfer form, the employee shall be responsible for providing contact information. Should the employee qualify for the position during this period, the Hospital shall contact the employee and the employee must be available for an interview in person or by telephone within seven (7) business days of notification.
6. Evaluation Period after Promotion or Transfer: Employees who are promoted to a new position or who transfer to another department as described in Appendix A and through the bidding process, shall have orientation as necessary, and such employees shall have up to thirty (30) days of evaluation of their performance. During the evaluation, at the option of the employee or employer, the employee may be return to his/her former position or a nearly comparable position and shift as possible, provided a vacancy exists.

ARTICLE 6

NON DISCRIMINATION AND HARRASSMENT

A. DISCRIMINATION

The Hospital and the Union agree that there shall be no discrimination against any employee or applicant because of race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, Union status, or any other characteristic protected by applicable state and federal laws including, the California Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, the Age Discrimination in Employment Act, and the Americans With Disabilities Act.

B. HARASSMENT

1. The Hospital and the Union are committed to providing a work environment free from unlawful harassment. The Hospital will not tolerate actions, words, jokes, or comments based on an individual's sex, race, ethnicity, age, religion, sexual orientation, gender identity, or any other legally protected characteristic.
2. The Hospital will take all reasonable steps to protect any employee who, in good faith, reports harassment from continuing harassment and from retaliation because of having reported the harassment. The Hospital will also take all reasonable steps to protect witnesses who cooperate in any investigation of alleged harassment from retaliation. If the investigation reveals that the complaint is valid, appropriate remedial steps will be taken in an effort to stop the harassment and prevent its recurrence.

C. REMEDIES

1. Any employee who believes him or herself to have experienced unlawful harassment, discrimination, or retaliation or to have been unfairly accused of engaging in discrimination or harassment must, as a prerequisite to any relief, make use of the complaint and investigation procedures provided by the Office of Equity and Diversity of the University of Southern California ("OED").
2. After OED has issued its final decision as to the outcome of the complaint and the Hospital has taken final action pursuant to that decision, an employee who is not satisfied with the results of that investigation, or any actions taken or not taken by the Hospital pursuant to that investigation, may either pursue the grievance procedures set forth in Article 9 of this Agreement or, in the alternative, a civil action under state or federal law, but not both.

ARTICLE 7

UNION NON DISCRIMINATION

There shall be no discrimination by the Hospital or the Union against any Employee because of membership in or activity on behalf of the Union. Union Representatives shall not be transferred or reassigned to another area of work as a result of Union activities.

ARTICLE 8

QUALITY PATIENT CARE

A. ADEQUATE STAFFING LEVELS

The Hospital reaffirms its commitment to maintain adequate staffing levels based on patient census and patient acuity, as required by law. Should an employee believe staffing levels are insufficient to permit the delivery of adequate patient care, he/she shall undertake work assignments but may do so under oral or written protest. In an emergency situation where there is a potential danger to patient, the employee shall immediately notify the supervisor/manager/designee who will physically visit the unit to assess the situation. Corrective action will be implemented if necessary. The Hospital shall not require an employee in any case to perform a work assignment outside the lawful scope of his/her license.

The parties agree there shall be total compliance with Title 22, Section 70217, "Nursing Service Staff" in California to the extent it is applicable to bargaining unit employees.

B. QUALITY OF CARE COMMITTEE

1. Committee Composition

The Employer and the Union agree that quality patient care and an appropriate working environment require adequate staffing and that staffing levels within all departments vary with census, acuity, shift, the specialization of various areas, changes in the specialization of the units, and structural changes in delivery of patient services. In recognition of the foregoing, the Employer will establish a committee comprised of four (4) bargaining unit employees (no more than one (1) from any department) selected by the Union and comprised of four (4) management employees selected by the Employer. In addition to these committee members one (1) designated Union Field Representative may participate in the meeting. The parties may mutually agree to expand the number of representatives to this committee as the need arises. The Union shall use its best efforts to recruit Committee members from various departments or units. No more than one employee from any department shall be a committee member at any given time.

requirement must be satisfied before the Hospital submits the grievance to arbitration in Step 3.

3. If the grievance is the result of a suspension or termination, the grievance may begin at Step 2.

STEP 2

If the dispute cannot be resolved informally, it shall be reduced to writing. The written grievance shall be submitted to the Employer's designated representative within fifteen (15) calendar days after the event on which the grievance is based. The written grievance form must (1) allege the violation of a specific provision or provisions of this Agreement and (2) state the desired remedy. Within fifteen (15) business days after receipt of the written grievance, a meeting shall be held with the Employer's designated representative to discuss the grievance. In the case of any employee grievance both the grievant and the union Steward or Field Representative may be present at the meeting. Within ten (10) business days after the meeting, the designated representative of the party charged with the violation shall respond to the grievance in writing.

STEP 3

If the response of the party charged with the violation in Step 2 is not satisfactory to the other party, the other party may submit the grievance to arbitration by providing notice in writing of its intent to do so. In order to be timely, the notice to the charged party must be received within twenty-one (21) calendar days after the receipt of the Step 2 response. All notices are deemed received five (5) days after the date of mailing.

C. ARBITRATION

1. An impartial arbitrator shall be selected from the following panel of arbitrators:

Fred Horowitz, Barry Winograd, Michael Prihar, Doug Collins
2. The arbitrator will be selected by going to the first arbitrator on the list. The arbitrator must be notified of his selection by a joint letter signed by both parties. Once the selection letter has been sent, the arbitrator's name goes to the bottom of the list, even if the arbitration is never commenced and/or completed. The next arbitration will go to the arbitrator next in order on the list. The selection of the arbitrator must be completed no later than thirty (30) calendar days from receipt by the non-grieving party of the appeal to arbitration.
3. A hearing on the grievance shall be held at a time and place designated by the arbitrator, at which the Hospital and the Union shall present their respective positions, evidence and arguments. The sole parties to the arbitration proceeding shall be the Hospital and the Union. The arbitrator's decision shall be rendered in writing and shall be final and binding on the parties and on all

affected bargaining unit employees. It shall be issued not more than thirty (30) calendar days after the close of the hearing.

4. The arbitrator's authority is derived from this Agreement and his/her jurisdiction is limited to the interpretation and application thereof. He/She shall not have authority to (a) amend or modify any provision of this Agreement; or (b) render an award on any grievance arising before the effective date, or after the termination date.
5. The fee and expenses of the arbitrator, the court reporter's appearance fee, and the cost of neutral facilities shall be borne equally by the Hospital and the Union.

D. TIME LIMITS

The time limits and other procedural requirements set forth in this Article must be strictly adhered to unless mutually extended by the express agreement of the Association and the Employer. Such agreement need not be in writing. If the Employer fails to respond to a grievance within the time limits set forth in this Article, the grievance may be appealed immediately to the next step. In the event of a failure by the grievant or the Association to adhere to any of such requirements, the grievance shall be resolved on the basis of the Employer's last response. In the event of a dispute over whether the grievant or the Association has failed to adhere to any of such requirements, the arbitrator shall make the determination.

ARTICLE 10 DISCIPLINE

A. JUST CAUSE

The Hospital may only discipline or terminate an employee for just cause. Any discipline or discharge may be subject to the grievance procedure in Article 9.

B. PROGRESSIVE DISCIPLINE

Unless circumstances warrant more severe actions, the Hospital will attempt to utilize a system of progressive discipline. Progressive steps may include verbal counseling, written counseling and/or warnings, disciplinary suspensions without pay, and termination of employment.

C. INVESTIGATORY SUSPENSION

No employee shall be held in unpaid investigatory suspension for more than 7 calendar days.

D. WRITTEN DISCIPLINARY ACTION

A written warning is a document designated as such by the Hospital. An employee who receives a written warning shall be given a copy of the warning and shall sign a receipt to acknowledge having received the document. Acknowledging receipt of the warning shall not constitute an admission of the employee's agreement with the substance of the warning. A Union grievance contesting a written warning shall be subject to the requirements of the grievance procedure in Article 9.

E. DISCIPLINARY NOTICES, REBUTTAL, AND INSPECTION OF PERSONNEL FILES

1. There shall be one official personnel file for all bargaining unit employees and they shall have the right to inspect and to be provided, on request, with one copy of any document in the employee's file.
2. Employees will receive copies of all disciplinary notice(s) placed in their personnel files and shall have the right to rebut in writing any disciplinary notice. Such rebuttals, other than grievances, shall be attached to the disciplinary notice and placed in the personnel file.
3. In any case where the Hospital and the Union agree to revise personnel record material, the Hospital shall, upon request, provide evidence of the revision.
4. No disciplinary document shall be utilized for progressive discipline beyond fifteen (15) months of its issuance.

F. ADDITIONAL REPRESENTATION RIGHTS

The following holding of the U.S. Supreme Court in *NLRB v. Weingarten, Inc.*, shall apply to investigatory interviews conducted by the Hospital that an employee, upon his/her request, is entitled to have a Union representative present during an investigatory interview in which the employee is required to participate where the employee reasonably believes that such investigation will result in disciplinary action. The right to the presence of a Union representative (Field Representative or Union Steward) is conditioned upon a requirement that the Union representative be available for participation in such investigatory interview within twenty-four hours, excluding Saturday, Sunday, and Holidays, of the employee's request for his or her presence.

G. PROBATIONARY EMPLOYEES

An employee will be on probation for the first ninety (90) calendar days and may be discharged or disciplined in the Hospital's discretion without establishing just cause, and such probationary period may be extended for an additional ninety (90) calendar days upon written notice to the employee and the Union.

ARTICLE 11

HOURS OF WORK, OVERTIME AND SCHEDULING

A. STATE AND FEDERAL WAGE AND HOUR LAWS

The Hospital will comply with all applicable local, State, and Federal wage and hour requirements.

B. WORKDAY AND WORKWEEK

1. A workday is defined as the consecutive twenty-four (24) hour period beginning at 00:00 am each day.
2. A workweek is defined as the seven (7) calendar day period that starts at 00:00 on Sunday and ends at 24:00 the following Saturday.
3. It is understood and agreed that the workday and workweek are defined above for the purposes of complying with the overtime requirements under state and federal wage and hour laws and that the workday and workweek may be changed by the Hospital to comply with such laws so long as such changes are not designed to evade the overtime requirements.
4. Every effort will be made to provide each employee with two (2) consecutive days off each week.

Except in a department(s)/unit(s) where an employee(s) is regularly scheduled to be on standby/on-call status, no employee will be scheduled to work in excess of five (5) consecutive days without his/her consent.

Twelve (12) hour shift employees will not normally work more than the schedule they were hired into with up to three (3) shifts of twelve (12) or more hours per week

Consecutive or non-consecutive day schedule in which employees may have fewer than two (2) consecutive days off each week may be continued at the employee's discretion subject to operational needs. No twelve (12) hour shift shall be required to work two (2) shifts within a period of twenty-four (24) hours except in cases of emergency.

No employee who is currently assigned a schedule that includes at least every other weekend off can be involuntarily assigned to work an every weekend schedule. Once the schedules are posted, they may be modified in accordance with Section F. 3 and 4, below.

C. PAYROLL PERIOD

The payroll period will consist of a fourteen (14) day period that begins on Sunday at 00:00 and ends on Saturday of the following week at 24:00.

D. OVERTIME

1. Mandatory Overtime

The Hospital and the Union recognize that mandatory overtime is not desirable and represents a burden on the employee. Acceptance of overtime and shifts beyond the employee's schedule shall be voluntary and in accordance with state law or regulations, except where patient care would be endangered by an internal or external emergency declared by state, local or federal government or declared by the administrator on duty. An external or internal emergency, for the purposes of this section, is defined as an unexpected situation of sudden occurrence of a serious and urgent nature that demands immediate attention, such as an unpredictable or unavoidable occurrence at unscheduled or unpredictable intervals relating to healthcare delivery requiring immediate interventions and care such as natural disasters, situations of mass casualties or an internal emergency endangering patient care such as fire, structural collapse, bomb threats, hazardous material spills or any other unanticipated event.

2. An employee must obtain supervisory approval prior to working any hours that would require the payment of overtime. An employee unable to obtain prior authorization must document the reason in the hospital authorized form on the day the overtime was incurred and must verbally notify his/her supervisor of the situation prior to leaving at the end of the shift.

E. SHIFTS

1. "8 and 40" Work Schedule

An employee who is assigned to an "(8) and 40" work schedule will be paid at the rate of one and one-half (1½) times his/her regular rate of pay for all hours worked after the first eight (8) hours in a workday or over forty (40) hours in a workweek and two (2) times his/her regular rate of pay for all hours worked after the first twelve (12) hours in a workday.

2. "8 and 80" Work Schedule

An employee who is assigned to an "8 and 80" work schedule will be paid one and one-half (1½) times his/her regular rate of pay for all hours worked after the first eight (8) hours in a workday or over eighty (80) hours in a fourteen (14) day pay period and two (2) times his/her regular rate of pay for all hours worked after the first twelve (12) hours in a workday.

3. Ten (10) Hour Shifts

An employee who is assigned to work ten (10) hour shifts will be paid at the rate of one and one-half (1½) times his/her regular rate of pay for all hours worked after the first ten (10) hours in a workday or over forty (40) hours in a workweek and two (2) times his/her regular rate of pay for all hours worked after the first twelve (12) hours in a workday.

4. Twelve (12) Hour Shifts

An employee who is assigned to work twelve (12) hour shifts will be paid two (2) times his/her regular rate of pay for all hours worked after the first twelve (12) hours in a work day and will be paid at one-half (1 ½) times his/her regular rate of pay for all hours worked over forty (40) in a workweek.

5. Regular Rate

For the purpose of computing overtime pay, the regular rate of pay shall be calculated in accordance with the Fair Labor Standards Act, as amended.

F. WORK SCHEDULES AND POSTING

1. The Employer will post work schedules at least fourteen (14) days in advance of their commencement dates and may at the Hospital's discretion, also be posted on a web based scheduling software program, if applicable. Once posted, every employee is required to review the schedule and ensure they are aware of the dates and times they are expected to work. Such schedules will cover a minimum period of four (4) weeks.

2. Wherever applicable, the Employer shall permit the employee to self-schedule on a department/unit-by-department/unit basis for their core schedule. The respective department Director or his/her designee will consider and make a reasonable effort to grant employees' self-scheduling requests, provided such requests are submitted in a timely way and that they are consistent with departmental/unit needs and the operating requirements of the Employer. The Employer will attempt to post work schedules at least fourteen (14) days, but no less than ten (10) days in advance of their commencement dates and such schedules will cover a minimum period of four (4) weeks. Such employees will submit scheduling requests to their department head at least twenty-one (21) days in advance of scheduled commencement date.

3. Changes to the posted schedule will be made only by agreement between the employee and the Hospital consistent with department and patient care needs. Requests by employees for changes to a posted schedule must be made and approved in writing or online via the scheduling program, if applicable by the department Director or his/her designee.

4. A regularly scheduled employee may trade a shift or workday (including Holiday shifts) with another regularly scheduled employee provided they have equal competencies. Such trades are subject to the written or electronic approval of the department Director or his/her designee and, except in emergency situations, should be submitted at least forty-eight (48) hours in advance. A shift trade may not be approved if it would increase overtime or extra shift premium costs for the Employer.

G. WEEKEND SCHEDULING

1. An employee whose regular schedule does not provide for working every weekend but who is working in a department/unit with weekend scheduling may be scheduled to work every other weekend, up to a maximum of two (2) weekend shifts per scheduled weekend. However, employees will be scheduled with at least every other weekend off.
2. A weekend means Saturday and Sunday, except for the night shift, when a weekend means Friday, Saturday and Sunday.
3. Nothing herein shall preclude an employee from volunteering to be scheduled for additional weekend shifts.
4. An employee may request to share his/her weekend shift requirement with another employee with equal competencies. Approval of such requests will be at the discretion of the Employer and will not be unreasonably withheld, except that an employee's request will not be approved if it would increase overtime or extra shift premium costs for the Employer.
5. Notwithstanding the above, Per Diem Employees will be scheduled to work weekends in accordance with their per diem agreements and employees hired specifically to work weekends will continue to be scheduled to work weekends.
6. Employees shall not be required to "make up" missed weekend days; however this shall not be interpreted as diminishing an employee's overall attendance obligation.

H. ADDITIONAL HOURS

Departments/units will maintain a shift or departmental availability list and will attempt to cover any additional hours from such list, subject to competency, in accordance with the steps below. Regular Full-time and Part-time Employees will be placed on the availability list to be selected in seniority order. Using their dates of hire, Per Diem Employees will be placed on the availability list after all Regular Full-Time and Part-Time Employees. This section applies only to the system for allocation of

additional hours, not pay practices associated with the allocation of those additional hours.

1. Straight Time

Additional hours shall first be offered on a rotational basis beginning with the most senior employee from the volunteer availability list who has the necessary competency and whose acceptance of such additional hours will not result in overtime when the additional hours are added to all hours scheduled for the particular pay period. The department/classification specific volunteer availability list will be posted and maintained by employees. If the employees are in a position in a nursing unit, the availability list will be maintained in the nursing office. The availability list of all other employees will be maintained by the employees in their department/unit. Employees will be responsible to maintain the accuracy of their availability and desire to be considered for additional hours. Straight time hours will be distributed starting with the senior-most volunteer, including per diems, and continue down the availability list, so that no employee works more than one additional shift without all employees on the list offered the opportunity to work an additional shift.

2. Overtime

If the Employer is unable to cover the additional hours without incurring overtime for a particular pay period, then such additional overtime hours will be offered on a rotational basis beginning with the most senior employee from the availability list who has the necessary competency. If the senior-most competent volunteer is not available, the Employer will proceed down the availability list, so that no employee works more than one additional overtime shift without all employees on the list offered the opportunity to work an additional overtime shift.

In the event there are no volunteers on the availability list, the Employer will be free to offer the additional hours to any other qualified employee volunteer who is at work, in seniority order. In the event there are no volunteers on the availability list or at work, the Employer will be free to offer additional hours to any other qualified employee.

3. Confirmation/Scheduling

- a. At least two (2) hours prior to the start of the shift, an employee who has indicated his/her availability will be notified by the hospital that he/she is needed for the additional hours or overtime that he/she has signed up for.
- b. If an employee volunteers for an extra shift, he/she is obligated to be available for contact via phone two (2) hours prior to the start of the shift. If an employee who has volunteered to be available for a shift fails or refuses to

report to work when called for that shift, the employee may not be considered for other available shifts for a period of sixty (60) days. Employees may not remove themselves from the availability list within the thirty six (36) hours prior to the commencement of a shift for which they have indicated an availability, except in the event of a personal emergency or debilitating injury.

- c. Once the hours/shift/overtime has been confirmed, this is considered a scheduled shift and will default to any and all provisions surrounding scheduling, time and attendance, including Call off/Flexing.
- d. It is understood that the hospital will first attempt to fill its staffing needs through the straight time hours process outlined above prior to making use of overtime taking into account the number of hours scheduled for the employee for the particular pay period.

I. CALL-IN PROCEDURE

An employee reporting absent for a shift, or portion thereof, will call in the absence and will describe the reason for such absence to his/her department Director or his/her designee as soon as he/she knows the absence will occur. An employee calling in less than two and one half (2.5) hours prior to the commencement of an absence may be required on request to provide reasonable substantiation to explain why such absence could not have been called in earlier by the employee or another person acting on his/her behalf. Compliance with this call in requirement is necessary for staffing reliability and will not operate to excuse unscheduled or unauthorized absences.

J. CALL OFF/FLEXING

1. It may be necessary to require an employee to take time off without pay at the beginning or end of their shift, or whole shift_during temporary periods of low census or on other occasions when staffing needs to be adjusted on a temporary basis (Call Off/Flexing). Call Off/Flexing must be approved by a supervisor or department manager or designee. Eligible employees who are cancelled may take the day off without pay or use Paid Time Off (where applicable), at the employee's discretion.
2. Call Off/Flexing as Time Worked
If an employee is cancelled or volunteers to take time off, the hours that an employee was scheduled to work_shall not be counted for purposes of calculating overtime, but shall count as time worked for the following, including but not limited to:
 - a. Vesting and service credit under the retirement (401-k) plan;
 - b. Waiting periods under health insurance and other fringe benefit plans;

- c. PTO accruals.
3. Order of Call Off/Flexing
- Subject to patient care staffing needs, including adequate qualifications of employees, when it is necessary and unavoidable to call off an employee, the Employer shall Call Off/Flex employees in the following order:
- a. Travelers (on overtime)
 - b. Registry
 - c. Employees receiving overtime or In House Registry
 - d. Volunteers
 - e. Travelers (1 day per pay period; per contract)
 - f. Temporary Employees
 - g. Per Diem Employees
 - h. Part-Time Employees
 - i. Full-Time Employees
4. Within each category above, Call Off/Flexing shall be by rotation beginning in reverse order of seniority provided the remaining employee(s) are able to perform the work. Unit or department Call Off/Flexing rotation list is maintained by each department/unit, and made available to Union stewards and staff representatives, upon request.
- Each instance of Call/Off/Flexing is considered an incident, regardless of the number of hours not worked as a result of Call Off/Flexing.
5. The Hospital will accept volunteers for Call Off/Flexing before any other employees provided that such voluntary Call Off/Flexing do not result in retaining an employee at premium pay who would have been Call Off/Flexed if the Employer had followed the list above, unless the Employer permits.
6. Call Off/Flexing Notice
- For employees called off before the shift commences, the Hospital will attempt to Call Off/Flex Employees at least two (2) hours prior to the commencement of their scheduled shift. Nothing herein shall be construed as preventing a call off/flex during the shift, when necessary.
7. Call Off/Flexed Employees Off the Schedule
- Once called-off, an employee is considered off the schedule and shall not be required to maintain contact or be available to work.

K. NO GUARANTEE

Nothing in this Agreement shall be construed to constitute a guarantee of hours of work per day or per week or of days of work per week.

L. NO PYRAMIDING

There will be no pyramiding of overtime and premium payments for the same hours worked. To the extent that hours are compensable as overtime under provisions of this Agreement and where two (2) or more overtime provisions apply, the greater will prevail.

ARTICLE 12 FLOATING

A. DEFINITION

1. Floating is defined as the temporary reassignment of a staff member to a department other than the department into which he or she was hired.
2. Employees may be assigned to float to a department other than the department into which they were hired, subject to the limitations provided in this Article.

B. FLOATING ORDER

Employees shall float in the following order:

1. Volunteers
2. Registry
3. Employees receiving overtime or extra shift bonus
4. Temporary
5. Per Diem
6. Part-Time
7. Full-Time

C. FLOATING ROTATION

The order of float for employees within a department will be on a rotational basis within each of the categories of employees described above. Nothing shall preclude any employee from volunteering to float outside of his/her rotational order. Floating decisions shall be based on the needs of the patients on the sending and receiving departments and the floating conditions and provisions in this Article.

D. FLOATING CONDITIONS

Floating shall be subject to the following conditions and limitations:

1. **Orientation**: Fully qualified employees may be floated to a different department provided the employee has received orientation in that department and has demonstrated current competency in providing care to patients in that department. In the event an employee with limited qualifications is floated to another department to assist other qualified employees, they will be oriented and limited to performing only those tasks they are qualified and competent to perform.
2. **Compliance with Law**: Floating of employees shall be in compliance with all federal and state laws and regulations, including Title XXII of the California Administrative Code.
3. **Voluntary Floating**: Nothing herein shall prohibit an employee from volunteering to float to other departments, provided that the conditions in this Article are satisfied.
4. **Floating Records**: The Hospital will maintain competency validation, float orientation, and other such relevant float documentation. Float rotation lists will be maintained and will be available for inspection by affected employees in the unit and job classification. Information in this paragraph will be made available and provided to the Union upon request.

E. FLOATING POOL

A float pool will be maintained through nursing administration and will report to the Director of Nursing or designee. The employees will complete competency validations for all applicable units. Staff may sign up on the availability list in the nursing office and will be used on a rotational basis. No overtime will be allowed until all employees have worked all available shifts. These employees will be used to augment the units staffing and not in place of a unit employee working non-premium available shifts.

ARTICLE 13 COMPENSATION

A. IMPLEMENTATION OF WAGE RATES

1. Effective within thirty-five (35) days of ratification of the contract, the Hospital will adopt the wage scale set forth in Appendix B.
2. During each year of the contract, existing employees will receive wage increases as follows:

- a. Full time and part time employees will receive the following wage rate adjustment. This will be retroactive to January 10, 2016 and would be provided within thirty-five (35) days of ratification of the contract. Employees who are at or above their placement on the wage scale will receive an adjustment of 2% to their hourly wage rate. Full time and part time employees who are below their placement on the wage scale shall receive an adjustment of 5.0% to their hourly wage rate or the scale rate, whichever is less.
 - b. On the pay period that begins or follows January 1, 2017 full time and part time employees who are at or above their placement on the wage scale will receive an adjustment of 2% to their hourly wage rate. Employees who are below their placement on the wage scale shall receive an adjustment of 5.0% to their hourly wage rate or the scale rate, whichever is less.
 - c. On the pay period that begins or follows January 1, 2018 full time and part time employees who are at or above their placement on the wage scale will receive an adjustment of 2% to their hourly wage rate. Employees who are below their placement on the wage scale shall receive an adjustment of 5.0% to their hourly wage rate or the scale rate, whichever is less.
 - d. On the pay period that begins or follows January 1, 2019 full time and part time employees who are at or above their placement on the wage scale will receive an adjustment of 2% to their hourly wage rate. Employees who are below their placement on the wage scale shall receive an adjustment of 5.0% to their hourly wage rate or the scale rate, whichever is less.
3. Per Diem Employees: Within thirty-five (35) days of ratification of the contract, and on the pay period that begins or follows January 1 of each year of the contract, Per Diem Employees will receive a 2.5% hourly wage increase.

B. PAY PRACTICES

1. **New Hires**
During each year of the contract, new hires will be placed at the appropriate wage by slotting them into the appropriate wage in comparison to incumbents.
2. **Pay Rate upon Promotion**
 - a. A promotion is defined as a change in classification or classification level to a higher rated position in which the rate of pay of the new classification as set forth in Appendix B exceeds the employee's current rate of pay. A promotion must always result in an increase of pay of at least four percent (4%) to the classification rate of pay set forth in Appendix B, whichever is greater. Incumbent employees, similarly situated within the job

classification, will not be brought up automatically to the promoted employee's wage rate based on the four percent (4%) promotion increase.

- b. Pay raises to promoted employees referenced herein shall be effective on the date the promoted employee assumes the duties of the new classification.
3. **Pay Rates Preserved**
Should an employee be placed in a lower paid job classification for a reason other than a reduction in force, bumping, or the employee's choice, the employee shall be placed on the wage scale set forth in Appendix B in the appropriate step based on years of service at USC Verdugo Hills Hospital. However, the employee shall suffer no reduction in their wage rate.
 4. No wage or benefit increases will be provided following the expiration of this Agreement, except as may be established as a result of future bargaining. The purpose of this language is to preclude any claim that this Agreement establishes a pattern of increases in wages, health fund contributions, or service charges that continues automatically after the contract expires.

C. JOB CLASSIFICATIONS AND RECLASSIFICATION

The right to determine job content and to make necessary changes to jobs and job descriptions remains with the Hospital. The Hospital shall timely notify the Union of all meaningful changes to job content and responsibilities. In the event an employee believes his or her job is inaccurately described or that it has changed and, as a result of that change, should be upgraded, the employee may appeal such rating and seek an upgrade by bringing such claim to the attention of his/her supervisor. If a satisfactory resolution is not forthcoming at that level, the matter may be appealed by the union through the grievance procedure and, if necessary, to arbitration. In the event it is determined that a wage increase is in order, the adjustment shall be retroactive to the implementation date of the subject job changes.

D. PAYMENT IN LIEU OF HEALTH BENEFITS

A regular Full-Time or Part-Time Employee may waive medical coverage and receive a forty dollar \$40 per-pay-period credit, if the employee provides proof of other medical coverage in the form of a letter from their current insurer. Such proof of other medical coverage should be submitted to USC Verdugo Hills Hospital Human Resources Department. The employee must elect this option during the annual benefit open enrollment period.

E. PAYDAY AND PAYCHECK

1. Wages will be paid every two (2) weeks. Paychecks will be distributed on payday. Payday is the Friday after the end of a pay period, except where such Friday is a holiday, in which case the payday will be Thursday.
2. The Hospital will continue its current practice regarding the direct deposit of paychecks.
3. Where an error by the Hospital results in paycheck underpayment, upon employee request, such error will be corrected by the close of business on the next business day. However, where the underpayment results from an employee error, it will be corrected on the next paycheck.
4. The Hospital will comply with its obligations under state law regarding paycheck stubs.

F. BONUSES

1. Extra Shift Bonus
 - a. In addition to an employee’s base hourly rate, overtime pay and/or shift differentials, the Hospital shall continue its current practice of paying an additional Extra Shift Bonus (ESB) to bargaining unit employees working in the job classifications listed below when they sign up to work an extra shift(s) or partial shift(s) as follows:

<i>POSITION</i>	<i>BONUS AMOUNT</i>
<i>Certified Nursing Asst</i>	<i>\$50.00</i>
<i>Secretary – Unit</i>	<i>\$50.00</i>
<i>Tech - Instrument</i>	<i>\$50.00</i>
<i>Tech – Monitor</i>	<i>\$50.00</i>
<i>Phlebotomist I, II, & II Sr.</i>	<i>\$50.00</i>
<i>LVN</i>	<i>\$70.00</i>
<i>OR Tech</i>	<i>\$70.00</i>
<i>OB Tech</i>	<i>\$70.00</i>
<i>Tech – Surgical</i>	<i>\$70.00</i>

- b. In order to be eligible to receive an ESB, an employee must work all hours in his/her posted schedule (i.e., 72 hours per pay period for FT 12-hour employee and 80 hours per pay period for FT 8 and 10-hour employees, etc.). Employees may not use ESB shifts to make up for scheduled or unscheduled absences. If an employee is unable to work

his/her regularly scheduled shift in the same pay period an ESB shift is worked, the ESB will be forfeited.

- c. An employee who is scheduled to work an ESB shift may be called off/flexed off by the Hospital. If an employee works an incomplete ESB shift for any reason, he/she will be paid a prorated ESB for the actual hours worked. If an employee is called off/flexed off for a regularly scheduled work day, an ESB shift(s) worked prior to the date on which the call off/flex off occurred will still qualify for the ESB.
- d. An employee may not work an ESB shift and collect any other compensation, including Paid Time Off, for the same day worked.

G. SHIFT DIFFERENTIALS

The Hospital will continue its current practice of paying shift differential at the following rates when a majority of the hours worked fall between 3:00pm and 7:00am.

<i>POSITION</i>	<i>EVE. DIFF.</i>
LVN, ER Tech, Surgical Tech, OB Tech	\$1.80
All other bargaining unit members	\$1.20

H. LEAD/COORDINATOR DIFFERENTIAL

The Hospital will continue its current practice of paying a lead differential of five percent (5%) of the base rate when assigning lead responsibilities.

I. STAND-BY/ON-CALL AND CALL-BACK PAY

1. **Stand-By/On-Call Pay**

An employee assigned to stand-by/on-call status by the department Director or his/her designee will be paid as follows for each hour he/she is assigned to such status. No other compensation will be paid for such stand-by/on-call status. Hours of stand-by/on-call will not be considered hours worked for purposes of paying differentials, overtime or any other form of premium pay under this Agreement.

<i>POSITION</i>	<i>STANDBY RATE</i>
<i>OR Tech</i>	<i>\$6.00</i>
<i>OB Tech</i>	<i>\$6.00</i>
<i>LVN</i>	<i>\$4.00</i>
<i>Orderly</i>	<i>\$4.00</i>

<i>Certified Nursing Asst</i>	\$2.90
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2. **Call-Back From Standby Pay**

An employee who is assigned to stand-by/on-call status will be guaranteed a minimum of two (2) hours work each time he/she is called in by the department Director or his/her designee. When called back, an Employee will be required to work until released by his/her Department Director or his/her designee. An Employee will receive one and one-half (1-1/2) times his/her base rate of pay, rather than stand-by/on-call pay, for all hours actually worked when he/she is called back to work from stand-by status. The work time of an employee who is called in from stand-by/on-call status shall commence when he/she arrives at the work site and clocks in and will end when he/she clocks out.

3. **Call-Back - Not on Standby**

An employee on standby status who is called back and either i) completes that assignment, or ii) is released and/or is no longer on standby status, but subsequently agrees to return to work later that same day will be paid in accordance with paragraph 2, above.

J. REPORT PAY

1. Each workday an employee is required to report to work and does report to work, he/she will be provided with at least half of their scheduled shift up to a maximum of four (4) hours' work or any combination of work and pay totaling four (4) hours. If the employee agrees to report to work a second time in any one (1) workday and does report, he/she will be provided with a minimum of two (2) hours' work or any combination of work and pay totaling two (2) hours. If the Hospital offers an employee an assignment other than the regular assignment and the employee refuses the alternate work no report pay will be paid.
2. The employee will not be paid report pay if the Hospital makes a reasonable effort to notify the employee at least two (2) hours prior to the start time that the employee should not report to work. It shall be the employee's responsibility to keep his/her current phone number on file with the Hospital.
3. Report pay will not be paid to an employee who is called back to work from stand-by/on-call status.
4. The Hospital shall not be required to pay report pay if no work is available due to acts of nature such as fires, floods, earthquakes, power failure or other causes not within the Hospital's control.

K. WORKING OUT OF JOB CLASSIFICATION

Any employee directed to relieve another employee in a higher paid classification shall receive the higher rate, or three percent (3%) increase, whichever is higher, for all hours worked in the higher classification, except when the employee works one-half (1/2) or more of the shift in the higher classification and then the employee shall receive the higher rate or three percent (3%) increase for the entire shift. Overtime rates shall be calculated on the higher rate for all hours of overtime worked in the higher pay classification. An employee assigned to relieve another employee in a lower paid classification shall continue to receive his/her own wage rate, and shall not be reduced to the lower wage rate.

L. NEW CLASSIFICATIONS AND JOB DESCRIPTIONS

1. In the event that the Hospital wishes to establish a new job classification in the bargaining unit, the Hospital and the Union will meet and negotiate over rate of pay and job duties, prior to the Hospital implementing the job. The parties will make a good faith effort to reach a settlement. If the parties are unable to reach agreement, the Hospital may implement and the Union, within fifteen days, may submit the dispute to expedited arbitration for final and binding resolution. Any monetary remedy resulting in a higher rate of pay for employee shall be paid retroactively to the start of the job or the start date of each individual employee in the new position.
2. The Hospital shall maintain and review job descriptions for all classification, which will be timely and remitted to the Union.
3. Upon request to the Human Resources Director, or designee, the Hospital shall provide the Union or employee with any existing job description and/or individual position descriptions, for covered employees. These shall be mailed and made available to the requesting party within five (5) calendar days of any such request.

M. EMPLOYER MEALS

The Hospital will continue its current practice of providing all employees with a cafeteria meal discount of ten percent (10%).

N. PER DIEM WAGE RATES

In the event Per Diem Employees are utilized by the Employer, and are not covered by an established "Per Diem" wage rate, the parties shall meet to determine the wage rate.

O. MODIFICATION OF PRACTICES

There shall be no individual bargaining with employees over wages, hours and working conditions. Where the Agreement explicitly allows employee agreement, it shall not be coercive. If requested, by either party, the parties agree to discuss modifications or improvements to terms and conditions of current practices.

P. DONNING AND DOFFING OF UNIFORMS/OPERATING ROOM SURGERY

The Employer agrees to continue the past practice of allowing those employees who are required to “Don” and “Doff” uniforms prior to reporting to their assigned areas in the operating room an additional 7-minute grace period.

This grace period is extended to those employees who are required to scrub in and be ready to perform their assigned duties in the surgery department.

For the purposes of those required to “Don” and “Doff” uniforms, is considered “integral and indispensable” as part of their job description. The Employer agrees to continue the current practice and acknowledges the additional grace period.

ARTICLE 14 MINIMUM RATES

No employee shall suffer any reduction in wages or benefits as a result of the execution of this Agreement, except as provided for in the Agreement.

ARTICLE 15 BENEFITS

A. BENEFITS OFFERED

The Hospital will offer the following benefits during the term of this Agreement: paid time off, medical plan, dental plan, vision plan, group life and 401(k) Plan.

B. HEALTH INSURANCE

Bargaining Unit members who meet eligibility requirements shall be allowed to enroll in the existing VHH PPO Medical Plan (PPO), Delta Dental plan and VSP Vision plan. No later than thirty (30) days before the commencement of open enrollment of each year, the Employer will notify the Union of any plan changes and will meet and confer upon request.

Employee Contributions for Health Insurance

Employees enrolled in the VHH PPO Medical Plan (PPO), Delta Dental plan and VSP Vision plan will pay premium contributions, based on their level of coverage (Employee, Employee/ Adult, Employee/ Child(ren), Employee/Family).

1. The Employer percentage of Health benefit premiums shall be as follows:

1.a	Employee Only	85%
1.b	Employee +1	75%
1.c	Employee + Family	80%

2. The Employer percentage of Dental benefit premiums shall be as follows:

1.a	Employee Only	80%
1.b	Employee +1	80%
1.c	Employee + Family	80%

3. The Employer percentage of Vision benefit premiums shall be as follows:

1.a	Employee Only	50%
1.b	Employee +1	50%
1.c	Employee + Family	50%

The VHH PPO Medical Plan, Delta Dental plan and VSP Vision plan may be amended during the term of the contract but will be substantially equivalent to the current plan.

C. RETIREMENT

The current 401(k) plan shall continue to cover employees under this agreement on the same terms and conditions as those offered to the Employer's non-bargaining unit staff employees. Eligibility to participate in the plan and the specific benefits available under the plan shall be determined by the terms of the plan documents, provided however, that the matching contribution for the term of this agreement shall be four percent (4) or at the discretion of the employer on the same basis as non-bargaining unit employees.

D. OTHER BENEFITS

Employees will be eligible for Flexible Spending, Disability, Long-term care insurance, and Legal Services under the same terms and conditions as provided to other USC VHH staff. Such plans may be amended from time to time.

E. PAID TIME OFF

1. The Hospital will grant Regular Full-Time and Part-Time Employees paid time off (PTO) as income replacement for missed scheduled hours as set forth in this article.

2. Eligible employees will earn PTO hours each pay period, based on length of service, status and scheduled hours. For purposes of this Section “scheduled hours” are based on the Employee’s status and recorded in the system of record.
3. The standard bi-weekly and annual PTO accrual schedule will be as follows:
 - a. 31 days after hire - 5 years = .09615 per scheduled hour.
 - b. 5+ years = .11538 per scheduled hour.
4. The maximum amount of PTO hours an employee can accumulate is 324. At the point the Cap is reached, accruals will cease until the hours balance is reduced below the Cap.
5. PTO hours accrued by employees prior to the effective date of this Agreement are vested and count towards the Cap. Any future accrual will be in addition to those hours up to the Cap. During any period in which an employee is on Leave of Absence, paid or unpaid, and has no scheduled hours, he or she will not accrue PTO hours.
6. PTO hours may be used for time off with pay, for absences due to illness, injury, or doctor or dentist appointments for the Employee, and to make up lost pay due to call-off/flex-off.

PTO hours may also be combined with any disability benefits to allow employees to be paid for one-hundred percent (100) of their regular scheduled earnings if no SLR available.
7. Full-Time and Part-Time Employees may voluntarily cash out up to eighty (80) hours of PTO in November of each year at 100% of their current hourly rate excluding differentials. Employees must have at least one hundred twenty (120) hours of PTO in their bank after distribution.

F. SICK LEAVE RESERVE

1. The Employer shall continue to offer Sick Leave Reserve (SLR) Time under the same policies and accrual rates currently in effect for the term of this Agreement.
2. SLR hours accrued by eligible employees prior to the effective date of this Agreement are vested and count towards the maximum accrual. Any future accrual will be in addition to those hours up to the maximum accrual. During any period in which an eligible employee is on Leave of Absence, paid or unpaid, and has no scheduled hours, he or she will not accrue SLR hours.

SLR	80 hours		72 hours	
	<u>Accrual</u>	<u>Max</u>	<u>Accrual</u>	<u>Max</u>
	2.15	80	1.94	80
EE eligible after first ninety (90) days of employment				

3. The maximum accrual of SLR shall be 80 hours.

G. SICK TIME - PER DIEM EMPLOYEES

Sick Time

Per diem employees accrue sick time at the rate of .034 hours for every one hour of work to a maximum of 48 hours. Employees in this category may accrue a maximum of 24 hours per year. Sick time is to be used for absences due to the employee's illness, injury, doctor or dentist appointments. Employees may not use sick time before it is accrued or "accrue" a negative sick time balance. Sick time is not accrued during unpaid leaves of absence. Sick time can be requested only for hours the employee is scheduled to work. As soon as an employee knows s/he will be unable to report to work due to his/her health condition or that of an eligible family member, the employee must contact his/her manager in writing or verbally following standard departmental procedures. The employee and the manager are responsible for recording the absence in their respective timekeeping system

Affordable Care Act

The parties agree that the Employer may implement policies and practices in order to comply with any Affordable Care Act requirements to offer or provide coverage, as applicable, to employees not otherwise eligible for benefits under this article.

ARTICLE 16 HOLIDAYS

A. HOLIDAY DIFFERENTIAL FOR WORK ON HOLIDAYS

Employees working the following holidays will be paid a holiday differential of one and one-half (1½) times the regular rate of pay:

New Year's Day Labor Day
 President's Day Thanksgiving Day
 Memorial Day Day after Thanksgiving Day
 Independence Day Christmas Day
 Martin Luther King Jr. Day

B. ELIGIBILITY FOR HOLIDAY DIFFERENTIAL

A bargaining member will be paid the holiday premium pay (time and one-half) for each hour worked from 6:30pm the eve of the holiday to 7:00pm on the holiday.

C. SCHEDULED OFF ON HOLIDAYS

Each Department Director, in conjunction with Administration, will determine the appropriateness of staffing hours for the holiday (s). Employees who are scheduled off for the Holiday due to pre-approved time off or department closure will use accrued Paid Time Off. If an employee is cancelled/flexed off due to low volume, the employee may choose to use accrued Paid Time Off

D. MISCELLANEOUS

In addition to these nine (9) holidays, there may be other days during the year when it may be determined by the Department Director and Administration to close a department or operate with a minimal staff. Those who work these other days are not eligible for premium pay. Employees who are scheduled off due to pre-approved time off or department closure will use accrued Paid Time Off. If an employee is cancelled/flexed off due to low volume, the employee may choose to use accrued Paid Time Off.

E. HOLIDAY SCHEDULING

1. Except as provided below, employees will not be scheduled to work on a designated holiday.
2. Assuming more than three (3) employees, the Hospital will schedule bargaining unit employees within a department/unit and shift to work on the following designated holidays according to an ABC rotational system, as follows:
3. In a department/unit within a shift with three (3) or fewer employees, holiday scheduling shall be determined by seniority or by rotation, as determined by an annual vote of bargaining unit members.

“A” Rotation	New Year’s Day, Presidents’ Day & Labor Day	Christmas Day, Independence Day & Martin Luther King	Thanksgiving Day, Day After Thanksgiving & Memorial Day	New Year’s Day, Presidents’ Day & Labor Day
“B” Rotation	Thanksgiving Day, Day After Thanksgiving & Memorial Day	New Year’s Day, Presidents’ Day & Labor Day	Christmas Day, Independence Day & Martin Luther King	Thanksgiving Day, Day After Thanksgiving & Memorial Day
“C” Rotation	Christmas Day, Independence Day	Thanksgiving Day, Day After	New Year’s Day, Presidents’ Day &	Christmas Day, Independence Day

& Martin Luther
King

Thanksgiving &
Memorial Day

Labor Day

& Martin Luther
King

4. Upon the effective date of this Agreement, each employee may initially bid for which holiday rotation into which they wish to be placed and such bids will be honored in seniority order. Once an employee has been placed into a holiday rotation, he/she will remain in that rotation unless or until he/she changes position and/or shift. Each of the three (3) rotations will contain a balanced number of employees but should an adjustment to balance be necessary that cannot be resolved through attrition, the parties shall meet to resolve the problem by mutual agreement.
5. When a new employee is hired into department/unit and/or shift, the employee will be assigned into the holiday rotation schedule of the former employee, or if a new position, the Hospital will assign such employee into one (1) of the three (3) holiday rotations with the intention of maintaining a balanced number of employees in each holiday rotation. When an employee transfers into a department/unit and/or shift, the employee will be assigned into a holiday rotation schedule of the former employee.
6. In the event there are more employees scheduled to work in a holiday rotation than are necessary to staff the unit on a designated holiday, such employees may request to be scheduled off. Requests to be scheduled off shall be awarded on the basis of seniority or date of hire, whichever is applicable, subject to the operational needs of the Hospital.
7. Scheduled holiday shifts may be traded pursuant to Article 11.
8. All designated holidays will be observed in accordance to Article 16, B (above). A department where staff is not regularly scheduled on the holiday, i.e., Saturday and/or Sunday, may close the department on the preceding Friday or following Monday (herein referred to as "alternatively-observed holiday"). Employees who do not work on an alternatively-observed holiday will use Paid Time Off as income replacement for such day.

ARTICLE 17

HEALTH AND SAFETY

A. GENERAL

The Hospital has the obligation to provide a safe and healthy environment for employees and patients. The Hospital shall comply with all applicable federal and

California laws and regulations pertaining to occupational and general safety and health standards.

1. Reporting of Health and Safety Hazards

It is the duty of all employees and Management to comply with health and safety regulations, and if any safety or health hazard is detected by an employee, the employee shall promptly report it to the Hospital and the Hospital shall take prompt positive measures to remedy the situation. The Union shall promptly notify a member of Hospital Management of any potential health and safety hazards, violations, or problems of which it is aware and the Hospital shall take prompt positive measures to remedy the situation. No adverse action shall be taken against any employee for reporting health and safety concerns to the Hospital, to the Union, or to federal or state authorities.

2. In-Service

The Hospital shall provide regular in-service or other training and information to employee concerning health and safety.

3. Personal Protective Equipment

Personal protective equipment, as appropriate, will be provided to all employees who will utilize such equipment in accordance with the Hospital-wide exposure control plan.

B. COMMUNICABLE DISEASES

1. The Hospital will work to eliminate or minimize employee exposure to communicable diseases. The employees shall work collaboratively with management to achieve this goal.

2. The Hospital shall provide appropriate and relevant information and training to employees on communicable diseases to which they may have routine workplace exposure. The Hospital shall make appropriate vaccinations available to employees who are at risk of exposure to infectious agents.

3. Hepatitis B vaccine shall be made available free of charge and at an employee's request.

4. Other Testing and or Treatment for On-the Job Exposure

The Hospital will continue existing practices with regard to testing and/or treatment for on-the-job exposure to health and safety hazards at no cost to the employee.

5. Needlestick Injury Log

The Hospital will comply with all laws regarding maintaining an Injury Log.

C. WORKPLACE VIOLENCE

The Hospital will maintain a comprehensive workplace violence prevention program.

D. COUNSELING

The Employer will make the Employee Assistance Program (EAP) available on an as needed basis. EAP is to be used for incidents such as serious physical and/or emotional work injury, work-related death of co-workers, or the suicide of a co-worker.

E. PHYSICAL EXAMINATIONS

1. All physical examinations required of an employee in connection with his/her employment, according to the practice of the Hospital, shall be given without charge, provided such examination is conducted by a Hospital-designated physician, Nurse Practitioner, or designated Registered Nurse. Physical examinations shall include all laboratory and other clinical tests as required by the Hospital, Title XXII, or the Department of Health Services. All time spent by an employee in such physical examination(s) will be considered as hours worked regardless of whether it occurs during the employee's normal working hours or nonworking hours; however, time spent in a pre-employment physical examination and/or test will not be compensable.
2. An examination conducted by any other physician, Nurse Practitioner or designated employee may be acceptable at the Hospital's option for purposes of compliance with state law, but in these cases the Hospital shall have no financial obligation for such examination(s). The amount of time that would have been spent in having the Hospital-designated physician or employee Registered Nurse perform the examination(s) shall be considered as hours worked.

F. PARKING AND SECURITY

The Hospital will provide reasonable security for employees at all times in and around the Hospital's premises. After dark and subject to operational needs of the Hospital, a security escort to the employee parking area(s) will be made available at the request of an employee.

The Hospital will meet with employees to discuss concerns related to security, if requested to do so.

G. INJURY PREVENTION

The Hospital will comply with state and federal regulations regarding employee injury prevention.

ARTICLE 18 EDUCATION

1. Tuition Assistance Benefit Program

In the event that the Employer makes the USC Tuition Assistance Benefit program available to non-supervisory, non-bargaining unit employees at the Hospital, such program shall be made available, on the same basis, to members of the bargaining unit. It is understood that such program may be cancelled or modified on a University-wide basis at any time.

2. Paid Education Time

- a. Mandatory In-Service: Bargaining Unit employees shall receive their base rate of pay for all in-service meetings designated by the Employer as Mandatory.
- b. After one (1) year of employment with the Employer, Regular Full-Time and Part Time bargaining unit members will be eligible to request paid education time to complete mandated Continuing Education Requirements (CEUs) of up to twenty four (24) hours for regular full-time employees and up to twelve (12) hours for regular part-time employees in a calendar year. For Per Diem employees, up to eight (8) hours in a calendar year.

3. Joint Training and Education Trust Fund

The Hospital hereby agrees to contribute .22% (twenty two hundredths of one percent) of the collective bargaining unit's annual payroll to the SEIU United Healthcare Workers West and Joint Employer Education Fund. Said contribution payments for the current year shall be payable no later than February 1st of each year of this Agreement, and shall be based on the W-2's for the prior year. Upon said payment, covered employees will be eligible for benefits during the current calendar year. The Hospital further agrees to be bound by the terms of the Trust Agreement, the Plan Document, and the rules and regulations adopted by the Trustees of the Fund. The Hospital reserves the right to cease its participation in the Joint Training and Education Trust Fund effective the end of any calendar year by providing notice to the Union by November 31 of that calendar year.

ARTICLE 19

LEAVES OF ABSENCE

A. STATUTORY LEAVES

The Hospital will comply with its obligations under federal and state law regarding leaves of absence, including but not limited to leaves of absence under the Pregnancy Leave Act, California Family Rights Act, California Paid Family Leave Act, the federal Family and Medical Leave Act of 1993, California Workers' Compensation laws, and the federal Uniform Services Employment and Reemployment Act (29 U.S.C. §§ 84301).

B. UNION LEAVE

Notwithstanding the above, employees who have been in the employ of the Hospital for at least one (1) year may request a Union leave of absence (without pay) in writing at least thirty (30) days prior to the leave commencing. Such leave of absence without pay will not exceed six (6) months. No more than one (1) employee per facility may take such a leave at any one time. Should the Hospital grant such leave, permission shall be in writing confirming the date of such leave as requested by the Union.

1. Health Insurance

Benefits may be continued under the provision of COBRA.

2. Accrual of Benefits

A Union leave of absence will not affect previously accumulated benefits. However, employees taking this type of leave will not accrue benefits while on unpaid leave.

3. Return to Work

When an employee returns to duty in compliance with the authorized leave of absence, such employee shall be reinstated in the same classification, position, shift, unit and scheduled hours in which such employee was employed before his/her absence. If conditions in the Hospital have so changed that it would not be feasible to reinstate him/her in such manner, then the Employer will reinstate the employee to as nearly comparable position and shift as is reasonable under the circumstances. If an employee wishes to return from leave early he/she must give the Hospital at least four (4) weeks' notice prior to reinstatement.

C. RETURN TO WORK FROM A LEAVE

When an employee returns to work, and the bargaining member has not exhausted protection under section A., above, such employee shall be reinstated in the same classification, position, shift, unit and scheduled hours in which such employee was employed before his/her absence, if vacant. If not, the Hospital will reinstate the employee to a comparable vacant position, provided the employee satisfies the job

requirements and it is reasonable to believe that he/she can satisfactorily perform the job with minimal orientation and training within two (2) weeks. Notwithstanding the foregoing, the Hospital will provide additional return to work protection should it be required by law. Any return to work is contingent upon the employee's ability to perform the essential functions of the position with or without reasonable accommodation.

D. CONTINUATION OF HEALTH BENEFITS

Benefits may be continued under USC Verdugo Hills Hospital's Leave of Absence policy and according to state and federal law.

E. USE OF PAID TIME OFF DURING LEAVES

Except as otherwise agreed, employees will use any accumulated Paid Time Off Plan and extended illness benefits, in accordance with the Paid Time Off Plan policy, in connection with leaves of absence granted pursuant to this Article. If the employee elects to utilize paid time off and/or reserve sick benefits during a leave covered by state Workers Compensation or State Disability benefits, such paid time off or accrued reserved sick benefits shall be integrated with the state benefits in order to fully replace the employee's regular wages, until such benefits are exhausted.

F. MODIFIED DUTY PROGRAMS

1. In the case of worker compensation injury, the Employer will make every effort to return an employee with temporary restrictions to a job which he/she can perform with comparable wages, shift, and hours in accordance with the Transitional Duty/Modified Duty Program.
2. Prior to participating in the Transitional Duty/Modified Duty Program, an employee shall be provided Transitional Duty/Modified Duty Program Information.

G. BEREAVEMENT LEAVE

In the event of a death in the immediate family, an employee will be allowed three (3) scheduled shifts off with pay to a maximum of thirty-six (36) hours, immediately following the death, to arrange or attend the funeral. Bereavement Leave should be taken within the seven (7) day period following the death. In the event of extenuating circumstance, bereavement leave may be taken at a later date. Cases will be decided on a case by case basis by the employee's Department Head/Director or his/her designee.

1. Immediate Family

"Immediate family" is defined as: spouse, parents, children, brothers, sisters, grandparents, grandchildren and current: brothers-and sisters-in-law, fathers-and

mothers-in-law, stepparents, stepsisters, stepchildren, step-grandchildren, legal wards, domestic partners, and individuals who are not legally related but who reside with the employee.

2. Pay

The employee will be paid his/her base hourly rate for each of the scheduled shift(s) missed (up to thirty-six (36) hours), and may be required to furnish satisfactory evidence to support the leave.

3. Additional Bereavement Leave

At the employee's option, two (2) additional days of time off may be used for bereavement purposes in addition to the paid bereavement leave above and Paid Time Off Plan must be utilized. At the Hospital's discretion, additional bereavement day or days may be granted.

H. JURY DUTY LEAVE

1. An employee must notify his/her manager as soon as s/he receives a jury summons. Employees must be excused to serve on jury duty, but a manager may request that an employee postpone his/her jury service based on business or academic necessity.

Up to ten workdays will be paid at employee's regular rate of pay for days the employee was scheduled to work but instead had to report to the courthouse.

2. Jury Duty Attendance and Work Requirement

- a. Evidence of jury duty attendance must be presented to the Hospital.
- b. An employee required to report for jury duty will be excused from work on the day(s) the employee is required to report to the court for jury duty. However, if excused from Jury Duty two (2) hours or more prior to the start of an employee's regular shift, the employee will contact the staffing office, house supervisor or department director to determine if needed, and if needed the employee will come to work for that shift. Night shift employees will be excused the shift before and the shift after they are required to report to court for jury duty.

3. Return to Work

It is the employee's responsibility to report for employment at the end of an approved leave (not daily) for jury duty. Failure to do so may result in disciplinary action up to and including termination of employment.

4. Continuation of Benefits

All employee benefit accruals and other benefits in which the employee is enrolled will continue while the Employee is on jury duty leave. The employee will be required to continue payment of any required contributions for employee benefits during the jury duty leave.

I. WITNESS LEAVE

An employee who needs to appear in court as a witness may take unpaid time off or PTO for such purpose provided he/she gives the Hospital reasonable advance notice, provided however, an employee who appears as a witness, at the request of the Hospital or as a result of the work duties performed by the employee, will receive pay at his/her base rate during such time off.

J. PAY AND BENEFITS

Unless otherwise required by law or otherwise required by this Agreement, leaves of absence under this Article and Agreement shall be unpaid. Employees on leaves of absence other than Union leaves of absence shall be eligible to continue to participate in the Hospital's insurance and benefits plans in accordance with the terms and conditions of those plans.

K. REDUCTION IN FORCE

If business conditions require a reduction in force, employees on approved leaves of absence will be considered for layoff under the same terms and conditions as other employees actively at work.

L. TERMINATION DURING LEAVE OF ABSENCE

Unless otherwise required by law, an employee may be subject to termination during a leave of absence for reasons including but not limited to the following:

1. Failure to keep the Employer informed of changes in medical status if on a medical disability leave, including maternity/pregnancy-related leave.
2. Misrepresentations regarding the reasons for applying for the leave of absence, or any facts related hereto.
3. Failure to report for employment at the end of an approved leave.

M. PHYSICAL EXAMINATIONS

The Employer reserves the right to require any employee on any medical or disability leave, including maternity/pregnancy leave, to be examined at the Hospital's expense

by an Employer selected physician, Nurse Practitioner or designated Employee Health prior to his/her return to work.

ARTICLE 20 SUCCESSORSHIP

A. SUCCESSORSHIP PROTECTION

In the event of sale or transfer of control of the hospital, USC Verdugo Hills Hospital shall, within a reasonable period of time but not less than twenty-one (21) days of the effective date of the sale or transfer, provide the Union with the new employer's or entity's name, address and designated representative. Prior to the sale or transfer, USC Verdugo Hills Hospital shall inform the new owner and/or employer or entity of the existence of this Agreement and of its terms and conditions; shall require the new owner, employer or entity to retain all or substantially all of the bargaining unit employees, recognize the Union as the collective bargaining representative and to assume any existing bargaining agreement. The parties agree that compliance with this Article shall constitute full satisfaction of any and all obligations to bargain regarding such sale or transfer, and USC Verdugo Hills Hospital shall have no further obligation to the Union with respect to a sale or transfer of control of the hospital.

ARTICLE 21 MANAGEMENT RIGHTS

Subject to the laws and regulations governing the healthcare industry, the Hospital retains, solely and exclusively, all of its rights, powers and authority as an employer, except as expressly limited, delegated or deleted by a provision of this Agreement. Without limiting the generality of the foregoing, the rights, powers and authority retained solely and exclusively by the Hospital and not abridged by this Agreement include, but are not limited to, the following: (i) to manage, direct and maintain the efficiency of its business and personnel; (ii) to manage and control its departments, buildings, facilities, equipment and operations; (iii) to create, change, combine or abolish jobs, departments and facilities in whole or in part; (iv) to discontinue work for business, economic, medical or operational reasons; (v) to utilize registry personnel, resource personnel, and/or personnel from other temporary help agencies; (vi) to direct the work force; (vii) to increase or decrease the work force; (viii) to determine staffing patterns and levels and the number of Employees needed; (ix) to lay off Employees; (x) to hire, transfer and promote Employees; (xi) to demote, suspend, discipline and discharge Employees; (xii) to maintain the discipline and efficiency of its Employees; (xiii) to establish work standards and schedules of operations; (xiv) to specify or assign work requirements and overtime including without limitation the right to float employees to areas outside of the normal areas of operation; (xv) to assign work and decide which Employees are qualified to perform such work; (xvi) to

determine working hours, shift assignments, and days off; (xvii) to adopt rules of conduct, attendance and punctuality, appearance, and health and safety, and penalties for violations thereof; (xviii) to determine the type and scope of work to be performed and for the services to be provided to patients; (xix) to determine whether work will be assigned to bargaining unit Employees or other Employees including but not limited to the right to continue to assign bargaining unit work to charge nurses and the right to contract out work; (xx) to determine the methods, processes, means and places of providing service to patients; (xxi) to determine the quality of patient services; (xxii) to acquire and dispose of equipment and facilities; (xxiii) to determine the places where work will be performed; (xxiv) to hire temporary Employees for designated periods of time; (xxv) to pay wages and benefits in excess of those required by this Agreement; (xxvi) to effect technological changes in its equipment and operations; and (xxvii) to sell, close, or dispose of all or part of the Hospital. The Hospital's failure to exercise any right, prerogative, or function hereby reserved to it or the Hospital's exercise of any such right, prerogative, or function in a particular way, shall not be considered a waiver of the Hospital's right to exercise such right, prerogative, or function, or preclude it from exercising the same in some other way not in conflict with the express provisions of this Agreement.

ARTICLE 22 SUBCONTRACTING

1. The Hospital may subcontract all or part of any operation performed by employees. Where such subcontracting would displace an employee, the Hospital shall provide the Union with thirty (30) days prior notice of its decision to subcontract so that the Union can discuss the effects of such subcontracting. In the event that the subcontracting of any operation would result in the displacement of twenty (20) or more employees, the Hospital will require any subcontracting entity to offer employment to the affected employees and to maintain their current rate of pay for a period of not less than ninety (90) days.
2. The parties desire to maximize stability in their labor relations. This effort includes their concern for the working environment and labor practices of subcontractors operating within the Hospital. The Hospital supports and shall encourage its contractors to honor a position of neutrality in the event there is a legitimate attempt by a labor organization to organize the subcontractor's employees.

ARTICLE 23

UNION SECURITY

A. UNION MEMBERSHIP AS A CONDITION OF EMPLOYMENT

During the life of this Agreement, employees of the Hospital who are subject to this Agreement shall be required as a condition of employment to maintain membership in the Union in good standing, subject to federal law. Compliance is required by the 31st day after employment. Concurrent with new employee orientation, the Union will be afforded an opportunity to distribute and collect union membership application/Payroll Deduction Forms.

As a condition of employment, all employees hired on or after the effective date of this Agreement shall, on the thirty-first (31st) day following the beginning of such employment, become and remain members in good standing of the Union and tender to the Union the initiation fees and periodic dues that are the obligations of members.

B. FAILURE TO MAKE REQUIRED PAYMENTS

The Union shall notify the Hospital and the affected employee in writing of an employee's failure to comply with the provisions of this Article and shall afford each such employee fifteen (15) work days, after the employee has been mailed such notice at his/her last known address, in which to comply.

If said employee does not comply with the provisions of this Article within the ten (10) day period following actual notice, the employee shall be promptly terminated upon written notice of such fact from the Union to the Hospital.

C. DEDUCTION AND REMITTANCE OF UNION INITIATION FEES AND DUES

Upon receipt of an individual, voluntary, written, and un-revoked check-off authorization form which has been signed by an employee in the bargaining unit covered by this Agreement, the Hospital shall deduct from the pay of such employee during the first pay period of each calendar month a sum equal to the employee's union initiation fees or monthly membership dues, uniformly required, and only so long as such employee was employed by the Hospital at the time such obligation became due.

The Hospital shall promptly remit to the Union the sums which are deducted under this Section, together with a list on hard copy and a disk or electronically (on Excel, ASCII delimited text, or another compatible format) showing the following information for Union members: their names, Social Security number, home address and phone number (as provided by the employee), classification, regular wage rate, regular hours worked during the period, regular earnings during the period, department, status (e.g. Regular Full-Time, Regular Part-Time, Per Diem, or Temporary), and date of hire.

The Union shall indemnify the Hospital and hold it harmless against any and all suits, claims, demands and liabilities that arise out of, or by reason of, any action that shall be taken by the Hospital for the purpose of complying with the foregoing provisions of this Article.

The Hospital will honor written assignment of wages to the Union's Committee on Political Education (C.O.P.E.) fund, where such assignments are submitted in a form agreed to by the Hospital and the Union, and will remit such contributions to the Union.

ARTICLE 24 WORK STOPPAGE

A. PROHIBITED ACTIVITY

During the term of this Agreement, neither the Union nor its agents or representatives, nor any employees, individually or collectively, shall call, sanction, support or participate in any strike, work stoppage, boycott, sit-down, sickout or slow-down, any refusal to cross a picket line at the Hospital, or refusal to enter the Hospital's premises, or any other interference with any of the Hospital's services or operations, or with the movement or transportation of goods to or from the Hospital's premises.

The Union agrees that no informational picketing shall take place during the term of the Agreement unless the Union has provided ten (10) days' notice prior to such picketing.

B. WAIVER BY UNION

The prohibitions of this Article are intended to apply regardless of the motivation for the strike or other conduct. By way of illustration only, this article expressly prohibits (1) sympathy strikes (individual or concerted failure to cross a picket line established by another labor organization or by members of another bargaining unit); (2) strikes over disputes that are not subject to arbitration; and (3) strikes in protest of alleged violations of state or federal law. Any statutory right under the NLRA which an employee may otherwise have to engage in such conduct is hereby expressly waived by the Union.

C. UNION OBLIGATION

If a violation of this Article should occur, the Union shall immediately do everything within its power to terminate the violation.

D. PENALTY

Any employee who participates in any activity prohibited by this article shall be subject to discharge or such lesser discipline as the Hospital in its discretion shall determine, provided, however, that such employee shall have recourse to the grievance and

arbitration procedure as to the sole questions of whether he/she in fact participated in such prohibited activity and whether the discipline is discriminatory.

E. UNION OFFICIALS

The Union's Labor Representatives and Stewards shall attempt to end any violation of this article by personally complying with the article, and by urging others to do so.

Should they fail to do so, they may be selectively disciplined, including discharge; provided they shall have recourse to the grievance and arbitration procedure as to the question of whether they complied with this section.

F. NO LOCKOUTS

The Hospital agrees that there shall be no lockout during the term of this Agreement. As used herein, the term "lockout" shall not include the closing down or curtailment of operations or layoffs due to economic conditions, business or operational reasons, natural disaster, or reasons beyond the Hospital's control.

ARTICLE 25 NOTICES TO THE PARTIES

Notices by the Union to the Hospital shall be mailed, by certified mail, return receipt requested, or delivered to the following:

Administrator, Human Resources
USC Verdugo Hills Hospital
1812 Verdugo Blvd.
Glendale, CA 91208

Notices by the Hospital to the Union shall be mailed, by certified mail, return receipt requested, or delivered to the following address:

President
Service Employees International Union - United Healthcare West
500 Thomas L Berkley Way
Oakland, CA 94612

ARTICLE 26 SAVINGS CLAUSE

If any provision of this Agreement is held to be in conflict with any State or Federal law, or if compliance with or enforcement of any provision is restrained, the remainder of this Agreement shall remain in full force and effect.

ARTICLE 27

ENTIRE AGREEMENT

The parties agree that this Agreement is intended to constitute the entire contract between them governing wages, hours and conditions of employment of bargaining unit employees covered during the term hereof, and settles all demands and issues on all matters subject to collective bargaining. Notwithstanding, the parties understand that issues may arise from time to time during the term of this Agreement that may not have been covered by this Agreement that one party or the other feel need to be discussed. It is agreed therefore, that either party may raise such issues and the other agrees to meet and confer with respect to such issue(s) in an attempt to try to reach a mutual resolution of such issue, however, arbitration is not a remedy in the event the parties are unable to reach agreement.

ARTICLE 28

VACATION SCHEDULING

1. Requests for time off should be made no less than two (2) weeks prior to the posting of the affected schedule. Individual departments may require a longer period of notice depending on operational needs.

PTO must have approval by the Department Director. PTO approval will be communicated to the employee as soon as possible but no later than two weeks after submitting. Vacations will continue to be granted based on the needs of the department. If the schedule permits more employees may be granted vacation just prior to the days requested. Vacations will continue to be granted based on the following criteria:

- a. First submitted first granted
 - b. Seniority
 - c. Prior years granted vacation time. This relates to resolving conflicts based on same time off requests each year
2. The Hospital will notify an employee in writing of approval or denial as soon as possible, but no later than two (2) weeks after receipt of said request.
 3. Transferring employees will not necessarily carry their previously approved time off with them to a new unit. Employees will be required to select vacation from open dates, at their new department/location, not previously filled by scheduled vacations or approved leaves.
 4. The employee may request vacation be attached to the employee's scheduled day(s) off and such request will be granted, when possible.

5. Employees granted vacation time will use accrued Paid Time Off. An employee who does not have Paid Time Off will have the request reviewed by the Director. The time granted shall not exceed two weeks, subject to patient care and operational necessity, and under the same procedure in this Article.

When requesting vacations, employee may request less than five (5) work days at a time or that the vacation starts on any day of the week. The total amount of vacation earned in any given year may be taken in one (1) consecutive period or vacation periods may be split at the request of the employee.

ARTICLE 29 BARGAINING UNIT WORK

A. SUPERVISORS

The Hospital and the Union agree that the term “supervisory employee” or “supervisor” as used in this Agreement is as defined in the National Labor Relations Act. The Hospital will not establish jobs or job titles for the purpose of excluding work or employees from the bargaining unit. Bargaining unit employees will not perform the work of supervisors or assume supervisory responsibilities or authority. Supervisors will not perform duties normally performed by bargaining unit employees except for emergencies such as natural disasters, situations of mass casualties or an internal emergency endangering patient care (such as fire, structural collapse, bomb threats, hazardous material spills broken pipes, power outages, gas leaks, shut downs, or any other event that might compromise patient safety or care), or under circumstances that are beyond the control of the Hospital, or for training situations where the performance of bargaining unit work may be required but is limited and minimal, or where necessary to maintain competencies or in an emergency and/or a situation where the delivery of health care services of important operations could be compromised and it would be necessary for a supervisor to assist until an appropriate bargaining unit employee is available.

B. SPECIAL PROGRAMS

1. The Hospital agrees that programs such as Job Training Partnership Act (JTPA), Developmentally Disabled Programs, volunteers, students, student interns or other student programs and summer youth programs shall not be utilized to displace bargaining unit employees, or to fill positions previously occupied by bargaining unit employees, nor shall they be used to reduce or limit hours of work for bargaining unit employees.
2. The Hospital shall notify the Union of the commencement of JTPA, Developmentally Disabled Programs, volunteers, student interns or other student programs and summer youth programs including the number of

participants, their classification, duties, work location, hours per week, and the duration of the program. Information including the number of participants, their classification, duties, work locations, hours per week, and the duration of the program shall be furnished to the Union at any time, upon request.

ARTICLE 30 UNIFORMS

To provide uniform appearance and ready identification, certain employees shall wear uniforms prescribed by the Hospital while performing their work. These uniforms shall be worn in the course of the performance of this work and may be worn to and from the employee's home. "Uniform" is defined as any wearing apparel and accessories of distinctive design or color. Uniforms will be provided based on employment status. Additional uniforms will be provided if required by change in employment status. Clothing which is a general ordinary type of street clothing or which is standard in the industry and can be worn from one job to the next is not considered a uniform.

The Hospital will maintain only those uniforms that employees are required to wear in order to maintain a sterile environment.

Employees are expected to take reasonable care of their uniforms. Uniforms will be exchanged if irreparably damaged in the course of the employee's work. Except as provided above, uniforms should only be worn while on duty at USC-VHH.

Employees are expected to follow the policy as described below:

- In **immediate patient care areas** (areas like patient rooms, clinics, exam or treatment rooms – anywhere patients are receiving or would receive care), our policy prohibits **any** insignia, messages, or advertising. The prohibition includes buttons, pins, stickers, and lanyards and the like, as well as shirts and attire. The only badge of any description that can be worn by employees in immediate patient care areas is the USC-VHH issued identification badge.
- In **other areas of the hospital** (for example, the cafeteria, the lobby, break rooms, and other areas where patients do not receive care), employees may wear certain items with messaging including buttons, stickers, and lanyards. Specifically with regard to union insignia, employees have a right, protected by federal law and by USC-VHH policy, to wear buttons, or stickers, or lanyards. The only exceptions to this policy are as follows.
 - Our policy requires **employees to wear their USC-VHH-issued identification badge** at all times while in the hospital, and the employee's name and photograph must be clearly visible. Therefore, regardless of the

message, **no sticker, button, or other messaging may obscure any portion of the ID badge.**

- Stickers, buttons etc. may not contain vulgar or profane messages, and messages must comply with our established anti-harassment and anti-discrimination policies.

ARTICLE 31 MEAL AND REST PERIODS

1. The Hospital will comply with all applicable state and federal laws pertaining to meal and rest periods, meal period waivers, missed meal period penalties, and “on duty” meal period agreements.
2. Unpaid, un-worked meal periods will not be counted as hours worked in calculating overtime to be paid under any provision of this Agreement.
3. An employee will notify his/her supervisor in advance of his/her inability to leave the workstation for a meal period. Department schedules are prepared so as to allow employees to take meal and break rest periods.
4. Employees are required to take all meal period and rest periods as scheduled and may not miss a meal or rest period without the express authorization of his or her supervisor.
5. Any meal or rest period not taken or otherwise not in compliance with the provisions of this section must be noted on the appropriate Hospital form each day that it occurs. The Hospital Payroll Department will pay employees the appropriate sanctions for missed or non-compliant meal or rest period pursuant to the applicable wage and hour laws.

ARTICLE 32

TERM

Once ratified, except as otherwise provided in this Agreement, this Agreement shall become effective and shall continue in full force and effect until January 31, 2019. This Agreement shall be automatically renewed and extended from year to year without addition, change or amendment, unless either party serves notice in writing to the other party no less than ninety (90) days before the end of the term of its desire to terminate, change, amend or add to this Agreement.

For the Employer:

USC VERDUGO HILLS HOSPITAL



Keith Hobbs, CEO
USC Verdugo Hills Hospital

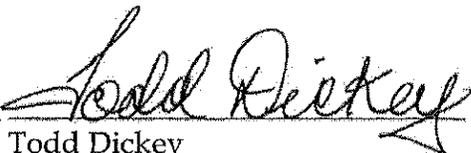
Date: 3/28/2014



Matt McElrath
Chief Negotiator
Chief Human Resources Officer,
Keck Medicine of USC



Eva Herberger, HR Administrator
USC Verdugo Hills Hospital



Todd Dickey
Senior Vice President, Administration
University of Southern California
Date: 4-5-14

For the Union:

**SEIU UNITED HEALTHCARE
WORKERS-WEST**



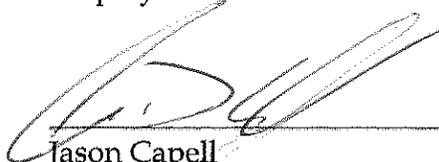
Dave Regan
President
Date: _____



Stan Lyles
Vice President



Myriam Escamilla
Hospital Division Bargaining &
Employer Relations Director



Jason Capell
Chief Negotiator

ADDITIONAL SIGNATURES

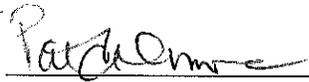
For the Union:

SEIU UNITED HEALTHCARE WORKERS-WEST



Christine Clavesilla
Surgery Tech
Bargaining Committee Member

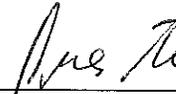
Genelle Emerson
LVN
Bargaining Committee Member



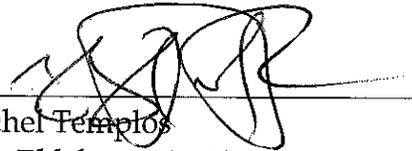
Patricia Gilmore
Activity Aide
Bargaining Committee Member



Yolanda Hurtado
CNA
Bargaining Committee Member



Teresita Santos
CNA
Bargaining Committee Member



Michel Templos
Cert Phlebotomist II
Bargaining Committee Member

APPENDIX A

DEPARTMENT DEFINITIONS

Same Day Surgery

Emergency Room

Diagnostic Fbroptics

Trans. Care Unit

Admitting

5 South

Lab - Medical Bld and Clinical

Medical Imaging Sup.

Lab - Pathology

4Th Floor Med Surg

Gero Psychiatric

Surgery

Purchasing

6Th Floor

Cpd and Cpd Processing

Perinatal Unit (Labor & Delivery, Post Partum, and Nursery)

Physical Therapy

Cardiology

Telemetry

Wound Care

APPENDIX B WAGE SCALE

Position	0	1	2	3	4	5	6	7	8	9	10
Activity Aid	\$ 14.87	\$ 15.32	\$ 15.78	\$ 16.25	\$ 16.74	\$ 17.24	\$ 17.76	\$ 18.29	\$ 18.84	\$ 19.40	\$ 19.99
Activity Leader 8HR	\$ 14.87	\$ 15.32	\$ 15.78	\$ 16.25	\$ 16.74	\$ 17.24	\$ 17.76	\$ 18.29	\$ 18.84	\$ 19.40	\$ 19.99
Buyer	\$ 15.72	\$ 16.20	\$ 16.68	\$ 17.18	\$ 17.70	\$ 18.23	\$ 18.78	\$ 19.34	\$ 19.92	\$ 20.52	\$ 21.13
Clerk, Same Day Surgery	\$ 15.09	\$ 15.54	\$ 16.00	\$ 16.48	\$ 16.98	\$ 17.49	\$ 18.01	\$ 18.56	\$ 19.11	\$ 19.69	\$ 20.28
CPD Technician/CPD Processing Tech	\$ 13.72	\$ 14.13	\$ 14.56	\$ 14.99	\$ 15.44	\$ 15.91	\$ 16.39	\$ 16.88	\$ 17.39	\$ 17.91	\$ 18.44
CT/MRI Patient Coord.	\$ 14.63	\$ 15.07	\$ 15.52	\$ 15.98	\$ 16.46	\$ 16.96	\$ 17.47	\$ 17.99	\$ 18.53	\$ 19.09	\$ 19.66
ED Tech	\$ 19.54	\$ 20.13	\$ 20.73	\$ 21.36	\$ 22.00	\$ 22.66	\$ 23.34	\$ 24.04	\$ 24.76	\$ 25.50	\$ 26.27
Front Office Coord/Medical Imaging Rad. Receptionist	\$ 15.09	\$ 15.54	\$ 16.00	\$ 16.48	\$ 16.98	\$ 17.49	\$ 18.01	\$ 18.56	\$ 19.11	\$ 19.69	\$ 20.28
GI Tech	\$ 16.07	\$ 16.55	\$ 17.05	\$ 17.56	\$ 18.09	\$ 18.63	\$ 19.19	\$ 19.77	\$ 20.36	\$ 20.97	\$ 21.60
Lead Spec Diag Tech	\$ 28.75	\$ 29.61	\$ 30.50	\$ 31.41	\$ 32.36	\$ 33.33	\$ 34.33	\$ 35.36	\$ 36.42	\$ 37.51	\$ 38.64
LVN	\$ 19.67	\$ 20.25	\$ 20.86	\$ 21.49	\$ 22.13	\$ 22.80	\$ 23.48	\$ 24.19	\$ 24.91	\$ 25.66	\$ 26.43
Nurse Assist., Cert	\$ 16.07	\$ 16.55	\$ 17.05	\$ 17.56	\$ 18.09	\$ 18.63	\$ 19.19	\$ 19.77	\$ 20.36	\$ 20.97	\$ 21.60
Nurse Asst.	\$ 13.11	\$ 13.50	\$ 13.91	\$ 14.33	\$ 14.76	\$ 15.20	\$ 15.66	\$ 16.13	\$ 16.61	\$ 17.11	\$ 17.62
OB Tech	\$ 21.74	\$ 22.39	\$ 23.06	\$ 23.75	\$ 24.46	\$ 25.20	\$ 25.96	\$ 26.73	\$ 27.54	\$ 28.36	\$ 29.21
OR Scheduler/ORT	\$ 16.78	\$ 17.28	\$ 17.80	\$ 18.33	\$ 18.88	\$ 19.45	\$ 20.03	\$ 20.63	\$ 21.25	\$ 21.89	\$ 22.55
Orderly	\$ 12.38	\$ 12.75	\$ 13.13	\$ 13.52	\$ 13.93	\$ 14.35	\$ 14.78	\$ 15.22	\$ 15.68	\$ 16.15	\$ 16.64
Pathology Lab Asst	\$ 18.60	\$ 19.16	\$ 19.74	\$ 20.33	\$ 20.94	\$ 21.57	\$ 22.22	\$ 22.88	\$ 23.57	\$ 24.28	\$ 25.01
Patient Services Rep	\$ 13.26	\$ 13.65	\$ 14.06	\$ 14.49	\$ 14.92	\$ 15.37	\$ 15.83	\$ 16.31	\$ 16.80	\$ 17.30	\$ 17.82
Phlebotomist I	\$ 18.60	\$ 19.16	\$ 19.74	\$ 20.33	\$ 20.94	\$ 21.57	\$ 22.22	\$ 22.88	\$ 23.57	\$ 24.28	\$ 25.01
Phlebotomist II	\$ 18.60	\$ 19.16	\$ 19.74	\$ 20.33	\$ 20.94	\$ 21.57	\$ 22.22	\$ 22.88	\$ 23.57	\$ 24.28	\$ 25.01
Phlebotomist II, Sr.	\$ 19.53	\$ 20.12	\$ 20.72	\$ 21.35	\$ 21.99	\$ 22.65	\$ 23.33	\$ 24.03	\$ 24.75	\$ 25.49	\$ 26.26
PMR Secretary	\$ 14.63	\$ 15.07	\$ 15.52	\$ 15.98	\$ 16.46	\$ 16.96	\$ 17.47	\$ 17.99	\$ 18.53	\$ 19.09	\$ 19.66
PT Aide I	\$ 13.50	\$ 13.90	\$ 14.32	\$ 14.75	\$ 15.19	\$ 15.65	\$ 16.12	\$ 16.60	\$ 17.10	\$ 17.61	\$ 18.14
Storekeeper/Records Clerk	\$ 13.00	\$ 13.39	\$ 13.79	\$ 14.20	\$ 14.63	\$ 15.07	\$ 15.52	\$ 15.99	\$ 16.47	\$ 16.96	\$ 17.47
Surg. Materials Coord.	\$ 23.90	\$ 24.62	\$ 25.36	\$ 26.12	\$ 26.90	\$ 27.71	\$ 28.54	\$ 29.40	\$ 30.28	\$ 31.19	\$ 32.12
Surgery Tech	\$ 23.90	\$ 24.62	\$ 25.36	\$ 26.12	\$ 26.90	\$ 27.71	\$ 28.54	\$ 29.40	\$ 30.28	\$ 31.19	\$ 32.12
Unit Secretary/Monitor Tech	\$ 15.46	\$ 15.93	\$ 16.41	\$ 16.90	\$ 17.41	\$ 17.93	\$ 18.47	\$ 19.02	\$ 19.59	\$ 20.18	\$ 20.79

APPENDIX C

**ACKNOWLEDGEMENT OF PER DIEM
EMPLOYEMENT STATUS AND AGREEMENT**

**USC Verdugo Hills Hospital Acknowledgement of Per Diem Employment
Status and Agreement**

I, _____ understand it is my responsibility to familiarize myself with the USC Verdugo Hills Hospital Scheduling Policy.

Pursuant to this policy, effective this date, _____ I hereby agree to work as Per Diem.

I hereby agree that I will comply with the terms of the policy and other applicable USC Verdugo Hills Hospital policies and procedures as they presently exist or may exist in the future.

I further understand that as a per diem employee, I am not hired into a budgeted position or assigned a regular schedule or hours of work, I am scheduled on an "as needed" basis relative to census, patient acuity, workload and other factors as determined by the hospital. Employment is casual in nature and does not guarantee a minimum number of hours.

I further understand that in a per diem classification I will be required to meet minimum staffing requirements including shifts, weekends and holidays unless otherwise determined by management based on business necessity and documented in writing below. I understand that the minimum number of worked/available shifts to retain per diem classifications cannot be altered by me. Variation in minimum shift assignments can be modified only on this contract agreement by myself, and my manager as noted below.

Shift Hours	Per Diem Minimum Staffing Commitment	
	Shifts In 4 Week Schedule	Weekend Shifts
12	4	2
10	5	2
8	6	3

I further understand and agree that I will not be eligible to receive Vacation, Sick Pay, education benefits, health, dental and vision insurance, life insurance, long term and short term disability, and any other employer provided benefits provided by the organization. I understand that my rate of pay is based on Per-Diem rates as annually determined by USC Verdugo Hills Hospital.

I further understand that USC Verdugo Hills Hospital reserves the right to modify or delete this policy at any time. Nothing herein shall be construed as a guarantee of hours of work or continued employment.

I further understand that I am employed "at-will", nothing in this policy shall constitute a contract of employment. Employment shall remain at the mutual consent of the employee and the employer and may be terminated at any time, with or without case and with or without advance notice.

Print Name

Signature

Date

SIDE LETTER

JOB CATEGORY

The following is meant to clarify the application of Appendix A , department listing.

Notwithstanding any other language in the collective bargaining agreement, the Employer may place employees in the appropriate job code/job category based on job qualifications.

SIDE LETTER

STATUS DEFINITION

Notwithstanding any other language in the collective bargaining agreement, employees who currently are in a status as described below will remain in such status during the term of this agreement unless s(he) transfers to a different position, otherwise, current policy will prevail.

HR Employee Status Definitions

F = Full Time w/benefits

PB2= Full Time w/out benefits

PT1= Part Time w/benefits

P2= Part Time w/out benefits

PD = Per Diem

T= Temporary

Exhibit 3

**NATIONAL LABOR RELATIONS BOARD
REGION 31**

USC Verdugo Hills Hospital,
Employer,

and

Case 31-RD-228771

SEIU - United Healthcare Workers-West,
Union,

and

Andrew Brown,
Petitioner.

**DECLARATION OF ANDREW BROWN IN
RESPONSE TO ORDER TO SHOW CAUSE**

Pursuant to 28 U.S.C. § 1746, Andrew Brown declares as follows:

1. I am the Petitioner in this case and am making this Declaration in response to the Order to Show Cause issued by National Labor Relations Board (“NLRB”) Region 31 dated October 15, 2018. The facts stated herein are known to me personally.
2. I have worked at USC Verdugo Hills Hospital since approximately May 2013. I am employed as a surgical buyer. My work group is represented by SEIU - United Healthcare Workers-West.
3. I oppose representation by SEIU - United Healthcare Workers-West. In approximately December 2017, I decided to investigate ways to decertify this union from my hospital. I had no idea how to go about doing this, or when would be an appropriate time to file a decertification petition. At that time, I did not have an attorney or other legal

representative advising me.

4. Because I believed the NLRB was the proper authority administering decertification elections, I did internet research and found the NLRB's website on decertification. This was in approximately December 2017. On the NLRB's website I found this information, which I relied upon and used to calculate the dates of when a petition could be filed:

<https://www.nlr.gov/rights-we-protect/whats-law/employees/i-am-represented-union/decertification-election>

Decertification election

Have a union, but don't want it anymore, or want a different one?

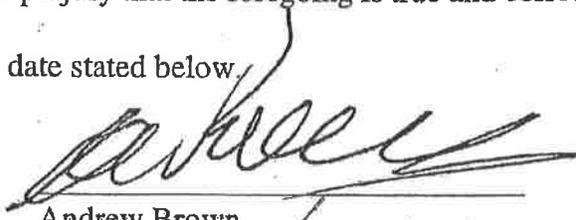
Under certain circumstances, you can vote out or "decertify" your union, or replace it with a different union. At least 30% of your coworkers must sign cards or a petition asking the NLRB to conduct an election. Unless a majority of the votes cast in the election are in favor of union representation, the union will be decertified. Such elections are barred, however, for one year following the union's certification by the NLRB. Plus, if your employer and union reach a collective-bargaining agreement, you cannot ask for a decertification election (or an election to bring in another union) during the first three years of that agreement, except during a 30-day "window period." That period begins 90 days and ends 60 days **before the agreement expires** (120 and 90 days if your employer is a healthcare institution). After a collective-bargaining agreement passes the three-year mark or expires, you may ask for an election to decertify your union or to vote in another union at any time.

(Last visited Oct. 19, 2018, emphasis added).

5. Relying upon this information from the NLRB's website and the dates of the current collective bargaining agreement between USC Verdugo Hills Hospital and the SEIU union (January 1, 2016 – January 31, 2019), I calculated that a petition filed on

October 5, 2018 would be timely, and that is when I filed my petition. During this entire period and at the time I filed my petition I was not represented by an attorney. Only after the petition was filed did I retain an attorney to represent me in this matter, in connection with responding to the Order to Show Cause dated October 15, 2018.

6. I declare under penalty of perjury that the foregoing is true and correct. I have executed this declaration on the date stated below



Andrew Brown

DATE: 10/24/18

Exhibit 4

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31**

USC VERDUGO HILLS HOSPITAL

Employer

And

Case 31-RD-228771

ANDREW L BROWN

Petitioner

And

**SERVICE EMPLOYEES INTERNATIONAL
UNION- UNITED HEALTHCARE WORKERS
WEST**

Union

**NOTICE TO SHOW CAUSE
AND
ORDER POSTPONING HEARING**

On Friday, October 5, 2018, Andrew L. Brown (“Petitioner”) filed a representation petition in the above-referenced matter seeking a decertification election among the employees in the following unit:

Included: All Full-time, regular part-time, and per diem non-professional service employees, including Clerk-Same Day Surgery, Unit Secretary, CT/MRI Patient Coord, Storekeeper/Records Clerk, Buyer, Patient Services Rep, OR Scheduler/ORT, Lab Collection Coordinator, CPD Processing Tech, Surg Scheduler/ORT, CPD Technician, OB Tech, Cert Phlebotomist I, Cert Phleb II, Sr. Cert Phleb II, Lead Spec Diag Tech, Surg Tech, GI Tech, Surgical Materials Coordinator, Unit Sec/MNT Tech, Activity Leader 8HR, Front Office Coordinator/Medical Imaging Radiology Receptionist, LVN, Patient Ambassador, Rad Receptionist, Activity Aid, CNA, Emergency Nurse Assistant, Nurse Assistant, Orderly, Pathology Lab Asst, PT Aide I, ED Tech, and PMR Secretary employed by the Employer at its acute care facilities located at 1808, 1812, and 1818 Verdugo Boulevard, Glendale, CA 91208.

Excluded: All other employees, technical employees, RNs, physicians, professional employees, skilled maintenance employees, business office clerical employees, guards, Registry and Travelers and supervisors as defined in the National Labor Relations Act, as amended.

There is a current collective-bargaining agreement (“Agreement”) in effect between USC Verdugo Hills Hospital (“Employer”) and the Service Employees International Union-United Healthcare Workers West (“Union”), which indicates on its face that it is effective from January 1, 2016 and January 31, 2019. The Agreement covers the described unit.

The Union contends that the instant petition is untimely because the Agreement with the Employer is effective for more than three years and thus, the insulated period should be calculated from the three year anniversary of the effective date of January 1, 2016, not the Agreement's date of expiration. See, *Union Carbide Corp.*, 190 NLRB 191 (1971), citing *General Cable*, 139 NLRB 1123, [1125](#) (1962)(holding that contracts of definite duration for terms up to 3 years will bar an election for their entire period but that contracts having longer fixed terms will be treated for bar purposes as 3-year agreements and will preclude an election for only their initial 3 years.). The Union seeks dismissal of the petition because it was filed during the applicable insulated period.

In the healthcare industry, when there is a collective bargaining agreement in effect, a representation petition may be filed during an open period between the 90th and 120th day prior to the expiration of the agreement, which is followed by an insulated period during which no petition can be timely filed. *Trinity Lutheran Hospital*, 218 NLRB 199 (1975). However, as noted above, when a collective bargaining agreement is in effect for more than three years, as here, the Board determines the open period and insulated period from the three year anniversary of the effective date of the agreement, not the expiration of the agreement.

Based on the foregoing, it appears the instant petition is barred by the "contract bar" doctrine under applicable Board law.

NOTICE IS HEREBY GIVEN that the Employer, Petitioner, and Union show cause, in writing, filed with the Regional Director of Region 31 of the National Labor Relations Board, 11500 West Olympic Blvd, Suite 600, Los Angeles, California, by the close of business (5 p.m. Pacific Time) on **Monday, October 22, 2018**, why the petition herein should not be dismissed, absent withdrawal, as barred, in accordance with the Board's contract bar doctrine. See *Mueller Energy Services, Inc.*, 323 NLRB 785 (1997) (through responses to a notices to show cause, Regional Director properly determined that a contract bar existed and no hearing was required). Any submission by any party must also be served on the other parties.

Finally, **IT IS HEREBY ORDERED** that the hearing in the above-captioned matter previously scheduled for **Wednesday October 17, 2018 and the deadline for the parties to submit a Statement of Position pursuant to Rules and Regulations §102.63(b)(3) prior to the hearing** are postponed indefinitely.

Dated: October 15, 2018



BRIAN GEE
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 31
11500 W Olympic Blvd Ste 600
Los Angeles, CA 90064-1753