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ARTICLE 6 - PERSONNEL ACTIONS

Section 6.1 - Probation

- a) Each new nurse shall serve a probationary period of nine (9) months, which shall be counted as twenty (20) complete pay periods. Upon successful completion of such probationary period, the nurse shall be deemed a permanent employee. A leave of absence without pay shall not be credited toward completion of the nurse's probationary period. The parties agree that probationary nurses shall have all rights in this Agreement, unless otherwise specified, including full and complete access to the grievance procedure. Any nurse released during the probationary period shall, upon request, be provided with a statement of the reasons for the release. Consistent with County Charter Section 704(e), probationary nurses may not grieve suspensions, demotions, or dismissals.
- b) Probationary nurses shall have the right to request and receive Department/Agency administrative review of disciplinary action taken during probation. Such review must be requested in writing within ten (10) working days of the disciplinary action or it is waived. The review process shall consist of a meeting with the clinical director or their designee. The review process shall proceed promptly after a request is received. The clinical director or their designee shall hear and make a decision within fifteen (15) working days.

Section 6.2 - Disciplinary Action - Unclassified Nurses

Unclassified nurses who have completed a period equal to the probationary period for a comparable classified position may grieve disciplinary action on the grounds that such discipline was not for cause. Such grievance shall comply in all respects with Article 16 of this Agreement.

Notice of disciplinary action must be served on the nurse in person or by certified mail prior to the disciplinary action becoming effective. Notice shall be included in the nurse's personnel file and a copy sent to the Association and shall include:

- a) Statement of the nature of the disciplinary action.
- b) Effective date of the action.
- c) Statement of the cause thereof.
- d) Statement in ordinary and concise language of the act or omissions upon which the causes are based.
- e) Statement advising the nurse of the right to appeal from such action and the right to Association representation.

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Section 6.3 - Personnel Files

The County shall maintain a personnel file for each nurse in this bargaining unit. ~~The Santa Clara Valley Health and Hospital System may also maintain a personnel file for each nurse.~~ Nurses shall have the right to review their personnel file(s) or authorize review by their representative. No material will be inserted into the nurse's personnel file(s) without prior notice to the nurse. Nurses may cause to be placed in their personnel file(s) responses to adverse material inserted therein and a reasonable amount of correspondence originating from other sources directly related to their job performance.

Materials relating to suspensions ~~which that~~ become final will be removed after four (4) years if no other suspensions have occurred during the four (4) year period except those involving charges as listed in A25-301(a)(4) Brutality in the performance of duties and (b)(2) Guilty of immoral conduct or a criminal act.

Materials relating to suspensions may be removed from the nurse's personnel file earlier than the regular removal schedule by mutual agreement between the Union Association, the Office of Labor Relations and the CNO or their designee. Removed discipline cannot be used for the purposes of progressive discipline, but they can be used to establish an employee's notice of a rule or expectation.

Materials relating to disciplinary actions recommended but not taken, or disciplinary actions overturned on appeal, shall not be retained in a nurse's personnel file.

Section 6.4 - Disciplinary Action - Permanent Classified

The County may take disciplinary action for cause against any permanent classified nurse by suspension, demotion, or discharge by notifying the nurse in writing. Notice of disciplinary action must be served on the nurse in person or by certified mail prior to the disciplinary action becoming effective. The notice shall be included in the nurse's personnel file(s) and a copy sent to the Association and shall include:

- a) Statement of the nature of the disciplinary action.
- b) Effective date of the action.
- c) Statement of the cause thereof.
- d) Statement in ordinary and concise language of the act or omissions upon which the causes are based.
- e) Statement advising the nurse of the right to appeal to the Personnel Board from such action and the right to Association representation.

Such nurse shall be given either five (5) days' notice of discharge, or demotion, or five (5) days' pay, except where circumstances require immediate action.

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~~In cases of questionable gross negligence or incompetence as defined in the Nurse Practice Act, the nurse, at the sole election of the appointing authority or their designee, may be placed on administrative leave with pay, not to exceed fifteen (15) working days, pending an investigation. If circumstances permit, a nurse will be advised in writing that they are being placed on administrative leave under this provision.~~

6.5 - Counseling and Unfavorable Reports

a) Counseling

In the event that a nurse's performance or conduct is unsatisfactory or needs improvement, informal counseling shall be provided by the nurse's first level supervisor. Counseling shall be separate and distinct from on-going worksite dialogue. Documentation of such counseling (including verbal counseling) shall be given to the nurse as it is developed. Such documentation shall not be placed in a nurse's personnel file(s) and when the situation allows counseling, counseling shall be used prior to any unfavorable reports being issued. Counseling shall be removed from supervisory files within two (2) years, and shall not be used in the progressive disciplinary process provided no subsequent related ~~counseling or other~~ personnel action was issued.

b) Unfavorable Reports on Performance or Conduct

If upon such counseling a nurse's performance or conduct does not improve and disciplinary action could result, a written report shall be prepared by the supervisor including specific suggestions for corrective action, if appropriate. A copy shall be given to the nurse and a copy filed in the nurse's personnel file(s). No unfavorable reports shall be placed in a nurse's file(s) unless such report is made within ~~ten (10)~~ fifteen (15) working days of the County's knowledge of the occurrence or incident which is the subject of this report. The counting of the fifteen (15) working days shall begin at the conclusion of an investigation. Provided no additional report personnel action has been issued during the intervening period, each report shall be removed from the nurse's file(s) at the end of two (2) years. Upon resignation, any such reports shall be removed from the nurse's file(s). Unfavorable reports may be removed from the nurse's personnel file earlier than the regular removal schedule by mutual agreement between the Union, the Office of Labor Relations and the CNO or their designee. Nurses shall have the right to grieve the factual content of such reports or attach a written response to the report for inclusion in their personnel file(s).

Section 6.6 - Return to Former Class

As an alternative to appointment from any employment list, any current regular nurse, upon recommendation of the appointing authority and approval by the Director of Personnel, may be appointed without further examination to a position in any class in

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which regular status had formerly been acquired, or to any related class on a comparable level with the former class.

Section 6.7 - Unclassified Appointment

No nurse, while holding a position in the unclassified service, shall be assigned to or occupy any classified position.

Section 6.8 - Rights Upon Promotion to Classified or Unclassified Service or Transfer to Unclassified Service

Any permanent nurse who receives a provisional or probationary promotion, or who is transferred or promoted to a position in the unclassified service shall retain all rights and benefits as a permanent nurse of the nurse's former class while in such provisional, probationary, or unclassified status. These include the right to participate in promotional examinations and the right to return to the nurse's former class if released while in such status. All such service shall count toward seniority credits in the nurse's former class in the event the layoff procedure is involved.

Any permanent nurse who receives a provisional promotion, or who is transferred or promoted to a position in the unclassified service, the duration of which is known to be for less than six (6) months, shall be considered to be on leave from the nurse's permanent position and departments are authorized to make substitute appointments to such vacated positions.

Section 6.9 - Transfers and Job Opportunities

~~Santa Clara Valley Healthcare and Hospital System~~ shall establish a system to facilitate transfers and career mobility of Registered Nurses.

a) Internal Transfers

All coded vacancies, transfer opportunities, and all special assignment positions created within existing job specifications, that the County intends to fill shall be posted on the work unit where the vacancy exists for a period of seven (7) calendar days. The County will transmit electronically to the RNPA Association all vacancies every payroll period.

Code and/or shift change requests within a unit shall be based on seniority subject to the following:

- 1) For the purposes of Section 6.9(a), seniority shall be defined as the total length of continuous employment in a coded classification from the first date of hire within the bargaining unit.
- 2) Nurses who have been issued an Unfavorable Report, suspension, subsequent probationary release, or demotion within the past twelve (12)

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months may only transfer to a higher code status with management approval.

- 3) The nurse is available to fulfill the position within six (6) weeks of the request.
- 4) If two or more nurses applying for the same internal transfer have the same date of hire, the nurses' California Board of Registered Nursing (BRN) numbers will be utilized to break the tie, with the nurse having the lowest number receiving the position. (i.e. E.g., if the first nurse's BRN number is 456000, and the second nurse's BRN number is 566000, the first nurse will receive the internal transfer.)

b) County-wide Transfers

~~If a vacant position exists after exhausting the above provisions, management shall post a notice of the vacancy for transfers of eligible nurses outside the work unit for seven calendar days. The vacancy may also be posted as promotional or open/competitive. Should the vacancy be posted as promotional or open/competitive, any nurse interested and eligible for transfer will be interviewed and considered prior to interviewing outside candidates. The County will make every reasonable effort to hire an internal candidate. All Job postings may be accessed at www.sccjobs.org.~~

The County shall create a transfer information system, which nurses can access on-line, for information on transfer opportunities in the Association's Bargaining Unit classifications resulting from newly created positions and vacancies resulting from promotion, demotion, resignation, termination, or transfer that the County intends to fill.

1. Job announcements for the transfer list shall be posted for ten (10) working days monthly. All job postings may be accessed at www.sccjobs.org.
2. The job announcement will have questions that allow the employee to choose transfer preferences such as, but not limited to:

- Unit
- Location
- Shift
- Code Status (Full Time Equivalent Status e.g., 5, 6, 7, 7.5, 8, 9, 1.0)
- Information on subsequent posting dates
- Information on how supplemental questions are used

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3. The County will continue the practice of advising managers of transfer posting timelines and dates new lists are expected.
4. Nurses who apply on the monthly transfer list only need to do so once per month during the ten (10) working day posting period. Should a nurse wish to change any component of their transfer preference they must wait until the next ten (10) working day posting.

Once this process is completed, the newly created monthly-transfer list shall be considered the most current transfer list and the previous list will be abolished.

Open-competitive or promotional recruitments may be conducted concurrently with transfer postings. Should the vacancy be posted as promotional or open/competitive, any nurse interested, eligible, and on the transfer list we'll be interviewed and considered prior to interviewing outside candidates.

5. To be eligible to apply for the monthly transfer posting, a nurse must: 1) meet the applicable employment standards; 2) be probationary or permanent; and 3) fall within the twelve percent (12%) transfer band.
6. To be removed from the monthly transfer list, nurses must submit a request in writing to ESA Human Resources.
- ~~4.7.~~ Nurses who transfer to another position in a different classification must serve the appropriate probationary period in the new classification as required under County Ordinance Code section A25-175.

- c) Upon accepting the new position, the nurse shall be placed in the new position as soon as possible, but no later than sixty (60) days, unless the County and the nurse mutually agree in writing to waive the sixty-day limit.

Section 6.10 – Exchange of Shifts

Nurses may exchange shifts within the same code status and within the same work unit using the following process:

1. From February 1 through February 10 and August 1 through August 10 of each year, nurses desiring to change shifts within their same code status may submit in writing to management a request to change shifts. For example: day shift nurse holding a 3/5ths position requesting to exchange to night shift 3/5ths position.

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2. Such requests shall be maintained in the schedule binder of each unit. Nursing management shall notify nurses of a viable shift change by February 15 and August 15 of each year.
3. If two or more requests to exchange to the same different shift are received, the nurse with the most seniority shall be granted shift exchange provided there is a staff member on the opposite shift in the same code status desiring to exchange. Seniority for the purposes of shift exchange is defined as continuous date in a coded classification from the first date of hire within the bargaining unit. Date of seniority for this purpose will be adjusted for unpaid leaves of absence.
4. If two or more nurses requesting an exchange of shift have the same date of hire, the nurses' California Board of Registered Nursing (BRN) numbers will be utilized to break the tie, with the nurse having the lowest number receiving the exchange of shift. (i.e. E.g., if ~~T~~the first nurse's BRN number is 456000, and the second nurse's BRN number is 566000, the first nurse will receive the exchange of shift.)
5. Exchange of shifts will occur as soon as practical but not to exceed six weeks after notification to both parties.

County Proposes a side letter as follows:

The parties agree to convene a joint committee of no more than three (3) members each from the Association and the County to explore Merit System Rule changes that the parties would mutually present to other recognized labor organizations, the Personnel Board, and the Board of Supervisors for adoption. Paid release time shall be provided to the County nurses who participate in the joint committee on behalf of the Association while attending meetings of the committee. The committee shall convene its first meeting no later than thirty (30) days after adoption of the successor contract by the Board of Supervisors.

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