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1 **ARTICLE 32--OVERTIME**

2 **Section 1. Definition of Time Worked.** All time for which an employee is compensated at the
3 regular straight time rate of pay, including work-related telephone calls made to or by an employee
4 after the end of their work-shift, shall be counted as time worked with the following exceptions:

- 5 • Holidays which fall on an employee's scheduled day off;
- 6 • On-call time (Article 34);
- 7 • Penalty payments (Article 40);
- 8 • **Interview leave (Article 45);**
- 9 • **Inclement or Hazardous Conditions Leave (Article 123).**

10 **Section 2. Overtime Work Definition.** Overtime for employees working a regular work schedule
11 is time worked in excess of eight (8) hours per day or forty (40) hours per workweek. Overtime
12 for employees working an alternate work schedule is time in excess of the daily scheduled shift or
13 forty (40) hours per workweek. Overtime for employees working a flexible work schedule is time
14 in excess of the agreed upon hours each day or time in excess of forty (40) hours per workweek.
15 Time worked beyond regular schedules by employees scheduled for less than eight (8) hours per
16 day or forty (40) hours per workweek is additional straight time worked rather than overtime until
17 the hours worked exceed eight (8) hours per day or forty (40) hours per workweek. In a split shift,
18 the time an employee works in a day after twelve (12) hours from the time the employee initially
19 reports for work is overtime.

20 **Section 3. Compensation.** All employees shall be compensated for overtime at the rates set out
21 in Section 4. No application of this Article shall be construed or interpreted to provide for
22 compensation for overtime at a rate exceeding time and one-half (1 ½), or to effect a "pyramiding"
23 of overtime and penalty payments.

Section 4. Eligibility for Overtime Compensation.

(a) Overtime-Eligible Positions. Time and one-half (1 ½) their regular hourly rate unless the position is executive, administrative or professional as defined by the Fair Labor Standards Act (FLSA) and ORS 653.269(5)(a) or unless the classification contains direct care nursing employees, in the following classifications or successor classifications:

- 6214 Institution RN
- 6255 Nurse Practitioner

Such time and one-half (1 ½) compensation shall be in the form of cash or compensatory time, pursuant to Articles 32.1-32.5.

In Agencies where there is no contractual limitation on the accumulation of compensatory time the Employer may:

- (1) schedule unilaterally up to forty (40) hours of unused compensatory time per employee per fiscal year, after prior notice of at least five (5) working days to the affected employees; and/or
- (2) pay off in cash some or all of an employee's unused compensatory time once per fiscal year.

(b) Straight-Time-Eligible Positions. Employees in positions, except as identified in Section 4 above, which have been determined to be executive, administrative, or professional as defined by the FLSA and ORS 653.269(5)(a) shall receive time off for authorized time worked in excess of eight (8) hours per day or forty (40) hours per week at the rate of one (1) hour off for one (1) hour of overtime worked subject to limitations of Articles 32.1-32.5.

This time off shall be utilized within the fiscal year earned or shall be lost, except when the scheduling has been extended by the Agency or as otherwise specified below. At ninety

(90) days prior to loss of such straight time, employees shall be notified that they must use or lose the hours. Time earned in the last ninety (90) days may, at the discretion of management, be carried forward into the next fiscal year. However, such carry forward may not increase the total straight time that may be accrued in that year. If time off requests are denied for use of accrued leave before the year ends, these accrued hours will be paid in cash upon forfeiture. Employees will take all necessary steps to request use of straight time during the fiscal year. Employees shall be paid out any unused straight time upon separation from employment.

(c) No overtime is to be worked without the prior authorization of management.

Section 5. Schedule Change. When a change of work schedule is requested by an employee and approved by the Agency, all forms of penalty pay shall be waived by the employee. When a change of work schedule is requested by an employee and approved by the Agency, overtime compensation for that workday, but not for work over forty (40) hours per week, associated with the changed schedule shall be waived.

Section 6. Record. A record of all overtime worked shall be maintained by the Agency.

Section 7. Change in FLSA Status.

(a) DAS shall provide the Union with no less than twenty (20) days written notice of its intent to exempt from overtime a filled bargaining unit position. DAS agrees not to change the position's designation during this twenty (20) day period.

(b) Employees may challenge their position's designation by providing notice and requesting a desk audit to the Agency Human Resources Department. The Agency shall conduct the desk audit and make a determination in writing within thirty (30) days of the request, or as extended by mutual agreement.

- 70 (c) Should the Union decide to contest the proposed change in status, it shall serve DAS with
71 written notice of such intent within twenty (20) days of its receipt of the notice. Should such
72 notice be given, DAS will forego implementing the change in designation for an additional
73 forty (40) days, beyond the initial twenty (20) day period. The purpose of this forty (40) day
74 period is to allow time to investigate whether there are grounds to contest the proposed
75 change in status. If the Union decides to pursue challenging an exemption it must file with
76 Department of Labor (DOL)/Bureau of Labor and Industries (BOLI) prior to the end of this
77 forty (40) day period. In such event, DAS agrees to forego implementing a change in
78 designation until the matter is resolved by way of DOL/BOLI decision, settlement or other
79 manner.
- 80 (d) If timely notice indicating intent to contest the exemption during the initial twenty (20) day
81 period is not received or if the Union does not proceed forward during the subsequent forty
82 (40) day period, the position's designation shall be changed, and the Parties agree not to
83 contest the status of this position during the remainder of this contract term, unless the
84 position's duties should materially change such that the exemption is no longer warranted.
- 85 (e) For purposes of this Section, written notice may occur by personal delivery, fax, email or
86 mail (postmark) within the time frames cited above.