MEMORANDUM OF UNDERSTANDING
BETWEEN
SAN JOAQUIN DELTA COMMUNITY COLLEGE DISTRICT
AND
THE CALIFORNIA SCHOOL EMPLOYEES’ ASSOCIATION CHAPTER #359

WORK FURLoughS FISCAL YEAR 2012/13

This Memorandum of Understanding ("MOU") is made effective July 1, 2012, and has been jointly prepared by the designated representatives of the San Joaquin Delta Community College ("District"), and the designated representatives of the California School Employees’ Association Chapter 359 ("CSEA"), the exclusively recognized employee organization within the District for all employees in the classified service, excluding supervisory, management, confidential, student workers, substitute, and short-term employees, to modify provisions of the Master Contract ("Contract") between the District and CSEA for the period ending June 30, 2013 ("MOU"), as follows:

WHEREAS, the District is facing a severe financial crisis resulting in an estimated $8,009,300 General Fund operating budget deficit in Fiscal Year 2012-2013 (FY12-13) if the Governor’s tax initiative passes (Best Case Scenario), and an estimated General Fund operating deficit of $11,809,300 if the tax initiative does not pass in the November 2012 state-wide election (Worst Case Scenario); and

WHEREAS, to address the current financial crisis and reduce payroll costs, the District and CSEA have agreed to the implementation of work furloughs to address CSEA’s “fair share” of the $3.0M planned expenditure reduction needed for FY12-13 under Worse Case Scenario needed for FY12-13;

WHEREAS, the District and CSEA have, since approximately March 2012, also been negotiating a settlement to CSEA’s request for a salary increase effective July 1, 2011 based on the Letter of Intent contained in the Master Contract (attached herewith as Exhibit A) and a salary increase of 3.46% (1.73% effective July 1, 2011; 1.73% effective July 1, 2012) paid to the employees of the District represented by the California Teachers’ Association (CTA) in settlement of a grievance filed by CTA ("Me Too"); and

NOW, THEREFORE, the District and CSEA, after meeting and conferring in good faith, have reached the following understanding regarding the implementation of work furloughs in Fiscal Year 2012-2013 and resolution of the "Me Too" salary demand:

1. **Furlough Hours.**
   a. Each full-time (1.0 fte) 12-month CSEA represented employee shall take 96 furlough hours (leave from work without pay) between July 1, 2012, and June 30, 2013.
b. Each full-time (1.0 fte) 11-month CSEA represented employee shall take 88 furlough hours (leave from work without pay) between July 1, 2012 and June 30, 2013.

c. Each full-time (1.0 fte) 10-month CSEA represented employee shall take 80 furlough hours (leave from work without pay) between July 1, 2012 and June 30, 2013.

d. Each less than full-time CSEA represented employee shall take furlough hours (leave from work without pay) between July 1, 2012 and June 30, 2013 based on the employee’s pro-rata FTE entitlement.

e. The District agrees that additional concessions will not be required by CSEA during FY12-13 to make up the difference of the planned expenditure reduction of $3.0M of the Worse Case Scenario presented in the Tentative Budget adopted by the District’s Board of Trustees ("the Board") June 19, 2012. The parties further acknowledge the Tentative Budget adopted by the Board contained projections based on information available to the District at the time and agree to meet and confer regarding changes to either the revenue or expenditure projections prior to presentation of the FY 12/13 Adopted Budget to the Board of Trustees if additional reductions are necessary, as well as after the November election if the Governor’s tax initiative fails.

2. **Equalized Monthly Salary Reductions.** Salary reductions for the furlough hours described in paragraph 1 herein shall be equalized so that each CSEA represented employee shall have 8 hours, or the employee’s pro-rata share of the FTE entitlement if less than full-time, at the employee’s regular hourly rate of pay, reduced from each paycheck beginning with the July 2012 paycheck and ending with the June 2013 paycheck.

3. **Standard Furlough Days.** Except as provided in paragraph 4 herein below, each CSEA represented employee shall take the following furlough days (less than full time employees shall observe the same furlough days noted herein with their pro-rata share salary reduction):

   a. Friday, December 21, 2012 (8 hours);
   b. Thursday, December 27, 2012 (8 hours);
   c. Friday, December 28, 2012 (8 hours);
   d. Wednesday, January 2, 2013 (8 hours);
   e. Thursday, January 3, 2013 (8 hours);
   f. Friday, January 4, 2013 (8 hours)
   g. Monday, March 25, 2013 (8 hours);
   h. Tuesday, March 26, 2013 (8 hours);
i. Wednesday, March 27, 2013 (8 hours);
j. Thursday, March 28, 2013 (8 hours);
k. Friday, June 7, 2013 (4 hours);
l. Friday, June 14, 2013 (4 hours);
m. Friday, June 21, 2013 (4 hours);
n. Friday, June 28, 2013 (4 hours);

4. **Exception to Standard Furlough Days for Some Employees.** CSEA represented employees shall adhere to the standard work furlough days shown in paragraph 3 herein above; except where it is impracticable for certain District departments or operations (such as public safety and essential services functions) as identified by the department manager and the Director of Human Resources. Those employees must schedule their furlough hours as described in paragraph 1 herein in accordance with Article 12.6 of the Contract, and use their furlough hours no later than June 30, 2013. If a furlough (leave from work without pay) is scheduled before or after a District holiday, the employee will be eligible for holiday pay.

5. **Use of Accrued Leaves in Coordination with Furloughs.** CSEA-represented employees shall be permitted to use accrued vacation leave, sick leave, and/or compensatory time off (CTO) on non-furlough days by reason of the occurrence of furloughs. Employees shall be permitted to use their accrued vacation leave, sick leave, and/or compensatory time off (CTO) on a coordinated basis (e.g. adjacent to) furlough days unless approval of such leave creates an undue hardship on the District.

6. **Vacation and Sick Accrual Not Affected.** Notwithstanding the occurrence of furloughs, CSEA members shall continue to receive the full amount and application of accrued vacation leave, accrued sick leave in accordance with the provisions of Article XII (Vacation Plan) and XIII (Leaves).

7. **Impact of Furloughs and CalPERS.** The parties acknowledge that the furloughs herein are mandatory furloughs as described in AB 1651 and will be implemented consistent with the provisions of AB 1651 as described in the CalPERS Circular dated October 21, 2010, which is attached as Exhibit B and incorporated herewith.
8. **Separation from District Service before June 30, 2013.** Any CSEA represented employee who separates from District service before the final 8 hour furlough deduction, or their pro-rata share for less than full-time employees, on June 30, 2013, and after having used furlough hours shall have his or her final compensation reduced by the sum of the number of furlough hours the employee has actually used minus the number of furlough hours actually deducted from the employee’s pay warrants multiplied by the employee’s regular hourly rate of pay. Conversely, any employee who separates from District service before June 30, 2013, having had furlough deductions in excess of the actual number of furlough hours the employee has used, shall have his or her final compensation credited by a like amount. Furlough hours not taken will not carry-over, nor be cashed out at any time.

9. **Settlement of the “Me Too” Salary Demand.**
   a. **Worst Case Scenario:** In exchange for adoption of the hours of furlough described in paragraph 1 herein, the parties agree that the “Me Too” salary demand shall be partially satisfied with the implementation of a 0.5% base salary increase, effective July 1, 2012. The parties further agree that future negotiations regarding the remaining 2.96% will continue as additional funding becomes available.
   b. **Best Case Scenario:** If the Governor’s tax initiative passes, the furlough deduction will cease November 2012 and the District shall repay the payroll deductions described above for the months July through October, less any furlough hours taken by employees. The parties agree that the “Me Too” salary demand will be partially satisfied with a total 2.23% base salary increase (0.5% applied July 1, 2012 and 1.73% retroactively applied upon passage of the Governor’s tax initiative). The parties further agree that future negotiations regarding the remaining 1.23% will continue as additional funding becomes available.

10. **Disputes.** Any dispute arising from the interpretation and application of this MOU shall be resolved in accordance with the grievance procedures set forth in Article XVII of the Contract.

11. **Effect of MOU.** Except as modified herein, all provisions of the Contract in effect between the parties shall remain in effect. If there is a conflict between any provision of the Contract and this MOU, the provisions of this MOU shall take precedent.
12. **Effect of Waiver.** No waiver by the parties to this MOU or any breach of any term or provision of this MOU shall be construed to be, nor be a waiver of any preceding, concurrent or succeeding breach of the same, or any other term of provision hereto. No waiver shall be binding unless made in writing and signed by the party or parties against whom the waiver is sought to be enforced.

**IN WITNESS WHEREOF,** the parties hereto have executed this Memorandum of Understanding effective this ______________ day of June, 2012.

For: San Joaquin Delta College:

Dated: **June 28**, 2012

By: Dianna R. Gonzales
Director of Human Resources

For: California School Employees Association
Delta College Chapter 359

Dated: **June 28**, 2012

By: Dana Baker
Chapter President

Janet Rivera
President, Board of Trustees
Exhibit A

Letter of Intent

By and between San Joaquin Delta College and
California School Employees Association Chapter 359

Entered into upon the date of signing below, the San Joaquin Delta College (District) and the California School Employees Association Chapter 359 (CSEA) hereby agree as follows and it is the intention of the District and CSEA to implement the following agreement with respect to the compensation of the CSEA membership.

For the term of the Master Agreement, CSEA shall follow the assumption that the District, as it has been their practice, shall continue to follow the “me too” method in total compensation. It has long been held as a tenant in Labor Relations that in the absence of a written policy, past practice shall prevail. CSEA believes that over the years in the settlement of most contracts the District has established such a practice. Therefore, we shall reasonably and in good faith expect this practice to continue during this term.

FOR THE DISTRICT

Vince Brown
Chief Negotiator

FOR THE ASSOCIATION

Dana Baker
CSEA President
Circular Letter

TO: ALL PUBLIC AGENCIES, COUNTY OFFICES OF EDUCATION, AND SCHOOL DISTRICTS

SUBJECT: INFORMATION ON AB 1651 AND IMPACTS OF MANDATORY FURLOUGH FOR SCHOOL AND LOCAL SAFETY EMPLOYEES

On September 30, 2010, Assembly Bill (AB) 1651 was chaptered, which adds Government Code section 20969.2 to the Public Employees’ Retirement Law. This bill ensures that certain persons subject to mandatory furloughs will not have their CalPERS retirement benefits impacted due to the furlough. Those covered under this legislation include local safety members as defined in Government Code Section 20420 and persons employed by a county office of education, school district, school district that is a contracting agency, or community college district. AB 1651 does not impact local miscellaneous members.

This bill applies to furlough plans administered on or after July 1, 2008, for members employed by the above mentioned entities. The retroactive element of this legislation compels CalPERS to obtain furlough data beginning in the 2008/2009 fiscal year and continuing to present.

A furlough plan, as defined by AB 1651, represents any time period on or after July 1, 2008 during which members are directed to be absent from work without pay on the day or days designated by their employer or by a memorandum of understanding by the parties entered into on or after July 1, 2008 for purposes of achieving budgetary savings. A reduction in pay or pay cut imposed by an employer without any corresponding days off does not constitute a mandatory furlough under AB 1651.

Impact of AB 1651 on Membership Eligibility and Member Benefits

Membership Eligibility
The work hours of employees who do not have a fixed term of appointment and who work on a seasonal, limited-term, on-call, emergency, intermittent, substitute, irregular or other part-time basis as outlined in Government Code Section 20305 should be monitored to determine the point at which service that
would have been credited but for the mandatory furlough would have qualified the employee for membership in CalPERS. The hours that an employee would have worked had the employee not been subject to mandatory furloughs should be counted toward qualification of CalPERS membership.

**Member Benefits**

A member's retirement allowance is computed based on benefit formula, final compensation and service credit. The benefit formula is unaffected by a furlough, but service credit and final compensation may see an impact because of the loss of member earnings due to furlough. However, AB 1651 is designed to restore the service credit and final compensation totals to the amounts the member would have received had there been no furlough.

Please refer to Circular Letters 200-023-10 dated May 12, 2010 and 200-016-09 dated March 19, 2009 for similar information relating to membership eligibility and the impact a furlough has on member benefits.

**Implementation of AB 1651**

Implementation of AB 1651 does not change the manner in which an employer reports payroll to CalPERS. Employers should continue to report the member's normal payrate and the furlough reduced earnings to the System. Due to the variety and complexity of the furlough plans being administered among employers, CalPERS determined that the most efficient approach to implement this legislation is through an annual adjustment process, in which CalPERS will request employers furnish furlough information.

We expect to provide specific implementation information in a second Circular Letter in December. Meantime, impacted employers should begin to identify and organize their furlough information, such as, the number of furlough days or hours administered per fiscal year and member earnings lost due to the furlough plan. Implementation of AB 1651 is a substantial undertaking for employers as well as CalPERS. As we implement this legislation we appreciate your continued patience and cooperation.

If you have any specific questions about furloughs as they relate to CalPERS, please contact the CalPERS Employer Contact Center at **888 CalPERS** (or **888-225-7377**).

Loui McGartland, Chief
Employer Services Division