

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
ORANGE COUNTY VECTOR CONTROL DISTRICT  
AND THE  
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION  
AND ITS CHAPTER #2002

July 13, 2012 to June 30, 2013

Term

Except where expressly stated otherwise, the Orange County Vector Control District (“District”) and the California School Employees Association, And Its Chapter #2002 (“Association”) agree that the provisions of this Memorandum of Understanding (“MOU”) shall become effective July 13, 2012 and shall expire on June 30, 2013.

Preamble

It is the intent and purpose of this MOU to set forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding, but not limited to, matters relating to the wages, hours, and terms and conditions of employment between the District and the Association pursuant to Government Code Section 3500, et seq.

Recognition

Pursuant to District Resolution No. 352, the Association is the exclusive representative for the following job classifications:

- A-58 Biologist
- A-58 Senior Vector Control Inspector III
- A-58 Vector Ecologist
- A-55 Vector Control Inspector III
- A-55 Vehicle Maintenance Coordinator
- A-53 Accounting Supervisor
- A-53 Assistant Biologist
- A-53 Assistant Vector Ecologist
- A-53 Microbiologist
- A-53 Public Outreach Coordinator
- A-50 Information Technology Coordinator
- A-50 Vector Control Inspector II
- A-50 Vehicle Maintenance Mechanic
- A-48 Maintenance Worker
- A-44 Accounting Specialist
- A-44 Communications Specialist
- A-44 Human Resources Specialist
- A-44 Laboratory Specialist
- A-44 Operations Specialist
- A-36 Operations Support Technician
- A-36 Customer Service Representative II
- A-33 Customer Service Representative I
- A-33 Vector Control Inspector I

Extra Help Employees as defined in Personnel and Salary Resolution are excluded from the recognized unit.

## Non-Discrimination

Neither the District nor the Association in the application of the MOU or as part of the employment relationship, shall, in any way, unlawfully discriminate against any employee on the basis of race, ethnicity, religion, disability, gender, national origin, age, sexual orientation, or any other protected class or activity (as provided by state and federal law).

## Dues Deduction

Membership in the Association is voluntary. The District shall deduct Association dues from the wages of all employees who submit payroll deduction authorization forms to the District. Such payroll authorizations shall remain in effect until expressly revoked in writing by the employee.

The District shall pay to the CSEA San Jose Headquarters within fifteen (15) days of the deduction all sums so deducted. Nothing contained herein shall prohibit an employee from paying dues directly to CSEA.

Whenever there is an increase in the amount required for the payment of dues, CSEA shall provide bargaining unit employees with adequate and necessary data on such increases at a time sufficiently prior to the effective date of the increase to allow employees an opportunity to revoke any written payroll deduction authorization, if desired. CSEA shall provide the District with notification of such increase, along with a copy of the notification sent to all concerned employees, at a time sufficient prior to the effective date of the increase to allow the District an opportunity to make the necessary payroll changes. An increase in the amount of dues shall not require the completion of new payroll deduction authorizations.

CSEA shall indemnify and hold harmless the District, its officers, agents and employees from any and all claims, demands, suits or other liability and/or expense challenging the application of the dues deduction provisions of this MOU provided that CSEA shall have the exclusive right to decide and determine whether any such action shall be compromised, resisted, defended, tried or appealed.

## Association Rights

### A. Release Time

#### 1. Release Time for Negotiations.

Three (3) employee representatives of CSEA shall be allowed release time without loss of compensation when formally meeting

and negotiating with District representatives during MOU negotiations or on any other matters within the scope of representation.

2. Release Time for CSEA Annual Conference

Employees shall be able to donate vacation time or compensatory time to one (1) CSEA representative for the purpose of attending the CSEA Annual Conference.

B. Job Stewards.

The District recognizes the need and affirms the rights of Association to designate two (2) Job Stewards from among employees in the unit. It is agreed that the Association, in appointing such representatives, does so for the purpose of promoting an effective relationship between the District and employees by helping to settle problems at the lowest level of supervision. Employees of the District shall have the right to be accompanied by a Job Steward or CSEA Labor Relations Representative at grievance meetings, or in meetings with the Board, the District Manager, or with a management or supervisory employee where the bargaining unit employee reasonably believes that a disciplinary action may result. The CSEA Job Steward and the employee will not suffer a loss of compensation during such meetings, if such meetings are held at the direction or request of District management and are held during regular working hours for the employee and Steward. Meetings held during non-working hours will not result in overtime.

The Association shall notify the District in writing of the name of the Job Stewards selected by the Association. If a change is made, the District shall be advised in writing of such change. The Association shall also notify the District of the names of all Association officers within ten (10) days of the execution of this Agreement and shall notify the District of any change(s) in the Steward or officers within twenty (20) working days of any such change.

C. Use of Equipment and Facilities.

Upon written approval in advance and without charge, the Association shall be granted the right to use the District boardroom for lawful Association business. The conditions of such use shall be consistent with applicable law, and permission shall not be unreasonably withheld.

D. Bulletin Boards.

The Association may use the designated District bulletin board, marked "CSEA

Chapter 2002.” It shall be the sole right of the Association to place material on the bulletin boards and to remove unauthorized material. No material will be posted on the Association's portion of the bulletin board by the District. All material posted by the Association shall be dated and clearly identified by either official identification or the signature/title of the authorized Association official. In turn, CSEA agrees that materials placed on the bulletin board will not create an adversarial work environment or are not of a derogatory or personal nature or inflammatory. The District may contact CSEA without fear of any reprisal in the event that it perceives material in the bulletin board to be in violation of this section and request its removal.

E. District Records.

The Association shall have the right at reasonable times to review and/or receive copies of any documents in the District's possession which are open by law to public inspection or which are necessary to the Association's fulfillment of its role as exclusive bargaining representative. The first copy of the material is free of charge; additional copies are 10¢ per page.

ADDRESSING THE BOARD OF TRUSTEES

An opportunity to address the Board of Trustees shall be granted when requested in writing to the District Manager or the Clerk of the Board. In the event CSEA makes a written request not less than fourteen (14) calendar days in advance of the Board Meeting, the CSEA request to address the Board shall be incorporated within the open session agenda. One CSEA representative shall be allowed to address the Board of Trustees for a maximum of five (5) minutes during such Board meeting.

District Rights

Unless specifically modified by the provisions of this Agreement, the District has and will retain the exclusive right to manage and direct the performance of District services and therefore the following matters will not be subject to the meet and confer process but shall be within the exclusive discretion of the District.

- A. To determine public policy;
- B. To determine the merits, necessity or organization of service or activity conducted by the District;
- C. To determine and change the facilities, methods, means and personnel by which the District operations are to be conducted;
- D. To expand or diminish services;

- E. To determine and change the number of locations, and types of operations and the processes and materials to be employed in carrying out all District functions; and to relocate the District's offices;
- F. To determine the size and composition of the work force, to assign work to employees in accordance with class specifications, and to determine new job classes, to establish and change work schedules and assignments (including work locations), and to determine the days and hours when employees shall work;
- G. To relieve employees from duty because of lack of work or funds;
- H. To discharge, suspend or otherwise discipline employees in accordance with established Personnel Rules and the MOU;
- I. To prepare class specifications for new work not currently performed by the bargaining unit and to maintain a classification plan;
- J. To hire, transfer, promote and demote employees in accordance with the provisions of the Personnel Rules and the MOU;
- K. To determine policies, procedures, rules and standards for selection and employment;
- L. To establish employee performance standards;
- M. To maintain the efficiency of District operations;
- N. To take any and all necessary actions to carry out its missions in emergencies, limited, however, to the duration of the emergency;
- O. To exercise complete control and discretion over the District's organization and technology of performing its work and services; and
- P. To establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of District services.

CSEA Chapter 2002 represented employees shall retain all rights granted to them under the MMBA.

### Employee Rights

#### A. Employee Participation and Non-Participation Rights.

The District and CSEA recognize the right of employees to participate in lawful employee organization activities and the equal alternative right to refrain from participating in employee organization activities.

## B. Personnel Files.

The personnel file of each employee shall be maintained at the District's central administrative office, and shall not be removed for any reason.

- (1) Employees shall be provided with copies of any written material placed in the employee's personnel file which could be used for disciplinary purposes. In such case, the employee shall be offered the material before such materials are placed in the employee's personnel file. The employee shall have a right to attach a written response to the material within ten (10) working days of it being placed in the employee's file.
- (2) An employee shall have the right at a reasonable time, upon prior agreement with the District Manager, without loss of pay, to examine and/or obtain copies of any material from the employee's personnel file. The District shall allow employees, or with written permission from the employee, the employee's CSEA representative, to inspect his/her personnel file within two (2) days of the date of receipt of a written request for inspection. The District shall provide the District employee or authorized individual with a copy of any portion(s) of the personnel file requested at the time of inspection.
- (3) All personnel files shall be kept in confidence and shall be available for inspection only to supervisory or management employees of the District who have an employment-related need for information, or to the Board's legal counsel, when necessary in the proper administration of the District's affairs or the supervision of the employee. The District shall keep a log indicating the persons who have examined a personnel file as well as the date such examinations were made. Such log and the employee's personnel file shall be available for examination by the employee or the employee's Association representative if authorized by the employee. The log shall be maintained in the employee's personnel file.
- (4) Any person who places written material or drafts written material for placement in an employee's file shall sign the material and signify the date on which such material was drafted. Any written materials placed in a personnel file shall indicate the date of such placement.

### District Personnel Rules

It is understood and agreed that there exists within the District certain personnel rules, policies and practices contained in the Personnel and Salary Resolution No. 321 (11/15/07), as modified by Resolution No. 322 (12/20/07), as modified by Resolution No. 331 (8/21/08), as modified by Resolution No. 332 (11/20/08), as modified by Resolution No. 339 (5/21/09); as modified by Resolution No. 343 (6/18/09), as modified by

Resolution No. 348 (2/18/10), and as modified by Resolution No. 355 (4/21/11) ("Personnel Rules") which will continue in effect, except for those provisions modified by this MOU, unless and until modified by mutual agreement of the parties (or unilateral implementation after the impasse process is completed) and enacted by the Board of Trustees in accordance with state law.

Except as provided herein all wages, hours, and other terms and conditions of employment presently enjoyed by affected employees set forth in the Personnel Rules shall remain in full force and effect during the term of the MOU. The District shall have the right to update said Personnel Rules that do not affect wages, hours and other terms and conditions of employment with the understanding that prior to such changes the District will notify the authorized representative of the Association.

### MOU Distribution

The District agrees to provide all new employees, covered by this MOU, a copy of the MOU. Both the District and the Association will equally share in the cost of printing the MOU.

### No Strike/No Lockout

- A. Purpose. The Board of Trustees believes it is important for the District to continue to provide for control of mosquitoes and other vectors and the diseases they can transmit to humans at all times without interruption for any reason. Therefore, the Board, all employees and any employee organization will work together to prevent any disruption of service which constitutes an imminent and substantial threat to the public health and safety.
- B. No Lockout. The District agrees that there shall be no lockout of employees during the term of this Agreement.
- C. No Strike. During the term of this Agreement, the Association and its members will not cause, sanction or take part in any strike (whether sit-down, stay-in, sympathetic, general or any other kind), walk-out, stoppage of work, retarding of work or boycott (whether primary or secondary in nature), or any other interference with the operation and conduct of the District's business.
- D. Association Responsibility. In the event that any of the occurrences prohibited by the preceding Paragraph "C" take place, the Association shall immediately and publicly declare such action is not authorized and will use all means within its power to stop such action at the earliest possible time, and will not honor any picket line set up under such circumstances.
- E. Disciplinary Action. It is agreed and understood that any employee violating this Article may be subject to appropriate discipline up to and including termination by the District.



### Separability

If any article or section of this MOU shall be found to be in conflict with any statute or regulation of the United States or the State of California by a court of competent jurisdiction, such article or section shall be deemed null and void and of no further effect. However, such articles and sections shall be severable from the remainder of this MOU, and all other provisions hereof shall continue in full force and effect.

### Integration and Construction

This MOU represents the entire understanding of the parties hereto as to those matters contained herein, and no prior oral or written understanding shall be of any force or effect with respect to those matters covered by this MOU. This MOU shall be construed as if drafted by all of the parties hereto.

### Retirement

1. Employees hired on or after July 13, 2012 shall participate in the following "second tier" retirement program:
  - 2% at 60
  - Three-year average
  - No enhanced survivor benefits
  - Employees to pay 100% of the employee contribution
2. Effective July 13, 2012 employees hired prior to that date shall pay one-half (1/2) [i.e., 3.5%] of the required seven percent (7%) employee contribution on behalf of the employee to CalPERS. This shall be paid on a pretax basis. These contributions shall, at time of termination, belong to the employee.
3. During the term of this MOU the parties agree to meet and confer on the use of accumulated sick leave under the prior OCERS retirement system and under the current CalPERS system. The failure to reach a mutual agreement is not subject to the impasse procedure set forth in Section 14 of Resolution No. 131 (as adopted on August 17, 2006); the grievance process; unfair labor practice proceedings before the Public Employment Relations Board; and/or proceedings in the Superior Court.

ADDITIONAL PROVISIONS MODIFYING THE  
DISTRICT'S PERSONNEL AND SALARY RESOLUTION

1. Article 1, Section 2(D), shall be amended to read as follows:

A department head shall immediately notify the District Manager and CSEA about a proposal for changes in the assigned duties of a position, as set forth in the applicable job specification, if the class to which the position is currently allocated may no longer be appropriate. Such notification shall include the reason for the change in duties necessitating the classification change.

2. Article I, Section 3(B), shall be amended to read as follows:

The District Manager is authorized to reclassify positions when such classifications are consistent with classification concepts, classification specifications, and salaries adopted by the Board. The District Manager will notify CSEA about the proposed reclassification before the position is reclassified.

3. Article I, Section 7(C), shall be amended to read as follows:

A probationary or limited-term employee shall not be eligible for a provisional appointment.

4. Article II, Section 1(C), shall be amended to read as follows:

The District Manager shall regulate said work schedules/periods based on the needs of the District with due regards to maintaining reasonable and equitable work schedules/periods for all employees. The District Manager shall also meet and confer, in advance where practicable, with CSEA in regards to said work schedules/periods.

5. Article II, Section 2(C), shall be amended to read as follows:

1. The District shall follow a system of fairness, making overtime opportunities available on an equal basis to qualified employees, who have been properly trained and are capable of performing the work.

- 1.1 To the extent possible, all interested and qualified employees shall have access to overtime opportunities by way of a single overtime pool. An employee who is qualified for the overtime event who wishes to work shall have his or her name recorded in the overtime pool. An employee with the least amount of recorded overtime hours shall have the first opportunity to an overtime event over those who have more recorded hours in the overtime pool. In the event that two (2) or more employees are eligible for

the event, based on hours worked, a system of random selection shall be used. When necessary the District Manager shall make the final determination.

1.2 Any employee scheduled to work an overtime event must contact appropriate District personnel at least 24 hours prior to the event, if unable to work the event. Employees that fail to do so, with the exception of those with written medical documentation, shall forfeit the hours, which shall be recorded within the overtime pool in a manner which will negatively impact his or her ranking in regards to subsequent overtime opportunities.

1.3 The District shall provide represented employees with a record showing the distribution of all overtime.

#### OVERTIME QUALIFICATIONS FOR OUTREACH EVENTS AND EVENING PESTICIDE APPLICATIONS

1.4 The District shall permit represented employees to participate in overtime opportunities, relating to outreach events and evening pesticide applications. Employees shall be deemed qualified to work such overtime opportunities by meeting the criteria outlined below:

##### Operations:

- a. Employees shall be required to have earned CDPH certifications (sections A and B) in order to apply pesticides for overtime events.
- b. The employee shall express a desire to work such events and meet a minimum field training requirement during the non-peak season, established by the Operations Manager, designed to meet safety and efficacy guidelines pertaining to pesticide applications.
- c. The District shall allow a reasonable amount of time for a training refresher course before the event.

##### Public Outreach:

- a. All current represented employees who desire to do so shall be able to participate in public outreach events through December 31, 2013.
- b. Beginning January 1, 2014 all represented employees shall be required to have earned all CDPH certifications (sections ABCD) in order to participate in public outreach events.
- c. The District shall allow a reasonable amount of time for a training refresher course before the event.

6. Article XI, Section 1, shall be amended to read as follows:

Discipline may be imposed only, for just cause and utilizing the concept of progressive discipline, in all cases by the District Manager. Only suspensions, non-probationary demotions, reductions in pay, and discharges imposed by the District Manager may be appealed to the Policy and Personnel Committee of the Board of Trustees. All other discipline imposed by the District Manager shall be final.

7. Article XI, Section 2, shall be amended to read as follows:

It is the Board's intent to continue its policy of delegating to the District Manager the full responsibility and authority to discipline and discharge employees.

8. Article XI, Section 3, shall be amended to read as follows:

A. Written Reprimand

If the reprimand is in writing, the Department Head shall give the employee a copy and forward a copy to the District Manager for review and retention in the employee's personal history file. A written reprimand shall contain a description of the events which necessitated the action, specific expectations of change by the employee, and notice of further action in the event a change by the employee does not occur. An employee shall have the right to attach a written rebuttal and/or appeal to the District Manager.

B. Performance Evaluations

Any employee shall have the right to attach a written rebuttal and/or appeal to the District Manager.

C. Nature of Appeal to District Manager

An employee's opportunity to appeal to the District Manager is not intended to be an adversarial hearing. An employee has the right to have a representative of his/her own choosing at the meeting. The employee need not be accorded the opportunity to cross-examine a department's witnesses, nor to present a formal case in opposition to the proposed discipline or performance evaluation. However, the limited nature of this response does not obviate the District Manager's responsibility to initiate further investigation if the employee's version of the facts raises doubts as to the accuracy of the Department Head's information leading to the

discipline proposal or performance evaluation. An employee may elect not to respond, thereby waiving any further response.

9. Article XI, Section 5(A), the introductory paragraph shall be amended to read as follows:

In suspending, demoting (non-probationary), reducing pay, or discharging a regular permanent or limited-term employee in a non-emergency situation, a written notice of such proposed disciplinary action shall be served on the employee personally and privately, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:

10. Article XII, Section 5(C) shall be amended to read as follows:

C. Appeal to the Board of Trustees

An employee desiring to appeal the District Manager's decision shall have ten (10) days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the District Manager and received in the District Manager's office so that same date is stamped by the District Manager's office within the (10) day period.

If, within the 10-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the District Manager shall be considered conclusive and shall take effect as prescribed. If within the ten (10) day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to the District Manager, an appeal hearing shall be established as follows:

- (1) The California State Mediation and Conciliation Service shall be requested to submit a list of seven (7) persons qualified to act as hearing officers to the District and the employee. Within ten (10) days following receipt of the list of hearing officers, the parties shall meet, or confer by telephone, to select the hearing officer. The parties shall alternately strike one (1) name from the list of hearing officers (the right to strike the first name to be determined by lot) until one (1) name remains, and that person shall be the hearing officer.
- (2) Where practicable, the date for a hearing shall not be less than twenty (20) days, nor more than sixty (60) days, from the date of the filing of the appeal with the District Manager. The parties may

stipulate to a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.

- (3) All hearings shall be private provided, however, that the hearing officer shall, at the request of the employee, open the hearing to the public.
- (4) Subpoenas and subpoenas duces tecum pertaining to a hearing shall be issued at the request of either party, not less than seven (7) days, prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- (5) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.
- (6) Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first-called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (District, hearing officer, employee/employee representative) mutually agree that same is not necessary.
- (7) The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
  - (a) The Grievant shall be permitted to make an opening

statement;

- (b) The District shall then be permitted to make an opening statement;
  - (c) The Grievant shall produce the evidence on his/her part; the Grievant bears the burden of proof and burden of producing evidence;
  - (d) The District may then open its defense and offer its evidence in support thereof; the District bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
  - (e) The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case,
  - (f) Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- (8) The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, otherwise directs. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render his/her judgment as soon after the conclusion of the hearing as possible and in no event later than thirty (30) days after conducting the hearing. The opinion shall set forth findings of fact and conclusions.
- (9) The hearing officer may recommend sustaining or rejecting any part of the grievance.

The hearing officer's opinion and recommendation shall be filed with the District Manager with a copy sent to the Grievant, and shall set forth his/her findings and recommendations.

- (10) Within ninety (90) days of the receipt of the hearing officer's findings and recommendation, and transcript (which is optional only by the mutual consent of the District and the Grievant), whichever date is later, the Personnel Committee of the Board of Trustees ("Committee") shall adopt, amend, modify or reject the

recommended findings, conclusions, and/or opinions of the hearing officer. Prior to making a decision which rejects the recommendation of the hearing officer, the Committee shall order and read the transcript. Prior to making a decision which supports the hearing officer, the Committee may order and read the transcript, at its option. The Committee shall not conduct a de novo hearing. The Committee may, at its option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the Committee shall be final and conclusive. Copies of the Committee's decision, including the hearing officer's recommendation (s) shall be filed where appropriate, including the Grievant's personnel file.

- (11) Each party shall bear equally the cost of facilities, fees and expenses of the hearing officer, including the court reporter and transcripts. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing officer or court reporter, then the party responsible for the cancellation or postponement shall be solely responsible for payment of that fee. This process shall not apply to mutual settlements by the parties which result in an arbitration fee.
- (12) The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this Section.

11. Article XIII, Section 4, shall be amended to read as follows:

#### Appeal Procedures

Any permanent employee shall have the right to appeal any termination, suspension, reduction in salary, or non-probationary demotion. The appeal process shall not be applicable to those positions which may be deemed exempt or to probationary employees. The appeal process shall not be applicable to verbal and written reprimands, probationary demotions, performance evaluations and denial of performance increases. An employee desiring to appeal the appointing authority's decision shall have ten (10) days after receipt of the response to file an appeal. The employee's request for appeal must be addressed to the District Manager and received in the District Manager's office so that same is date stamped by the District Manager's office within the (10) day period.

If, within the 10-day appeal period, the employee involved does not file said appeal, unless good cause for the failure is shown, the action of the appointing authority shall be considered conclusive and shall take effect as prescribed. If within the ten (10) day appeal period, the employee involved files such notice of appeal by giving written notice of appeal to



the District Manager, an appeal hearing shall be established as follows:

- (1) The California State Mediation and Conciliation Service shall be requested to submit a list of seven (7) persons qualified to act as hearing officers to the District and the employee. Within ten (10) days following receipt of the list of hearing officers, the parties shall meet to select the hearing officer. The parties shall alternately strike one (1) name from the list of hearing officers (the right to strike the first name to be determined by lot) until one (1) name remains, and that person shall be the hearing officer.
- (2) Where practicable, the date for a hearing shall not be less than twenty (20) days, nor more than sixty (60) days, from the date of the filing of the appeal with the District Manager. The parties may stipulate to a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.
- (3) All hearings shall be private provided, however, that the hearing officer shall, at the request of the employee, open the hearing to the public.
- (4) Subpoenas and subpoenas duces tecum pertaining to a hearing shall be issued at the request of either party, not less than seven (7) days, prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- (5) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.
- (6) Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing

witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first-called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (District, hearing officer, employee/ employee representative) mutually agree that same is not necessary.

- (7) The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
  - (a) The party imposing discipline shall be permitted to make an opening statement;
  - (b) The appealing party shall then be permitted to make an opening statement;
  - (c) The party imposing disciplinary action shall produce the evidence on his/her part; the District bears the burden of proof and burden of producing evidence;
  - (d) The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
  - (e) The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case,
  - (f) Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- (8) The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, otherwise directs. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render

his/her judgment as soon after the conclusion of the hearing as possible and in no event later than thirty (30) days after conducting the hearing. His/her decision shall set forth which charges, if any, are sustained and the reasons therefore. The opinion shall set forth findings of fact and conclusions.

- (9) The hearing officer may recommend sustaining or rejecting any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee. He/she may not recommend discipline more stringent than that issued by the Department Head.

The hearing officer's opinion and recommendation shall be filed with the District Manager with a copy sent to the charged employee, and shall set forth his/her findings and recommendations. If it is a dismissal hearing and a dismissal is not the hearing officer's recommendation, the opinion shall set forth the date the employee is recommended to be reinstated and/or other recommended action. The reinstatement date, if appropriate, may be any time on or after the date of disciplinary action.

- (10) Within ninety (90) days of the receipt of the hearing officer's findings and recommendation, and transcript (which is optional only by the mutual consent of the District and the employee), whichever date is later, the Personnel Committee of the Board of Directors ("Committee") shall adopt, amend, modify or reject the recommended findings, conclusions, and/or opinions of the hearing officer. Prior to making a decision which rejects the recommendation of the hearing officer, the Committee shall order and read the transcript. Prior to making a decision which supports the hearing officer, the Committee may order and read the transcript, at its option. The Committee shall not conduct a de novo hearing. The Committee may, at its option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the Committee shall be final and conclusive. Copies of the Committee's decision, including the hearing officer's recommendation (s) shall be filed where appropriate, including the employee's personnel file, unless no discipline is upheld by the Committee.

- (11) Each party shall bear equally the cost of facilities, fees and expenses of the hearing officer, including the court reporter and transcripts. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing officer or court reporter, then the party responsible for the cancellation or postponement shall be solely responsible for payment of that fee.

This process shall not apply to mutual settlements by the parties which result in an arbitration fee.


- (12) In the case of suspension, demotion, reduction in salary, or dismissal prescribed by the Committee, the time of such suspension, demotion or dismissal shall relate back to and be effective as of the date the employee was disciplined pending hearing before and decision by the Committee. If discipline imposed resulted in loss of pay, and the decision results in reduction or elimination of loss of pay, the pay loss shall be restored to the employee based on the number of standard work hours lost computed at his/her then base hourly rate.
- (13) The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this Section.

12. Article XIX, Section 2(D).

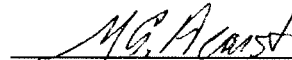
Delete.

On behalf of CSEA, and Its  
Chapter #2002:

On behalf of the Orange County Vector  
Control District:

  
Michael DuBose  
CSEA 2002 President

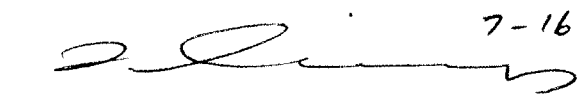
07/16/12  
Date

  
Michael G. Hearst  
District Manager

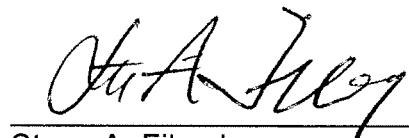
7/16/12  
Date

  
Raymond Cavileer  
CSEA 2002 Negotiation Team Member

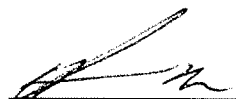
07/16/2012  
Date

  
Jerry Sims  
CSEA 2002 Negotiation Team Member

7-16-12  
Date

  
Steve A. Filarsky  
District Legal Counsel

7/19/12  
Date

  
Kenny Wilson  
CSEA Labor Relations Representative

7-10-12  
Date