Bargaining & Advocacy in a Post *Roe* Environment

February 2023

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Introduction

On June 24, 2022, the United States Supreme Court ruled in *Dobbs v. Jackson Women's Health Organization* (hereafter referred to as "Dobbs") to overturn *Roe v. Wade* (hereafter referred to as "Roe") and Planned *Parenthood v. Casey* (hereafter referred to as "Casey") in a 5-4 decision. By overruling *Roe* and *Casey, Dobbs* held that the United States Constitution no longer protects the right to abortion and therefore leaves the issue of abortion to the states. At the time of the *Dobbs* ruling, twenty-two (22) states already had "trigger laws" in place that effectively banned some or all abortion services, and additional states quickly passed various laws making abortion illegal or severely restricting it. The bans vary by state, with some bans acting as a complete prohibition with no exceptions such as the life of the mother, rape or incest, and other bans acting as partial bans with exceptions. Many of these state laws are being challenged in court, and some have been halted, at least temporarily. In states without abortion bans, abortion will continue to remain legal to the extent provided by state law. For a state-by-state status, please refer to this KFF abortion dashboard.

In addition to bans on abortion services, the broad implications of *Dobbs* are apparent in the ways that some states are legislating around additional reproductive and other health services, such as contraception, the right to travel for medical care, prescription medications, mail order prescription medications, telehealth, and privacy.

Reproductive Services that May be Addressed in a Collective Bargaining Agreement

NEA supports bargaining for broad comprehensive reproductive health care coverage. Collective bargaining gives educators a voice in their workplace, and a collective bargaining agreement (CBA) can be a vital tool in preserving coverage of contraception, abortion and related health care benefits. Where bargaining does not occur, efforts should be made through joint-health care committees, board policy, or other advocacy means to ensure quality reproductive health care coverage.

First, NEA strongly recommends that affiliates review their CBAs, any addendums, and/or memorandums to identify the reproductive rights and health care protections. Review such provisions to understand the current coverage of reproductive services and to ensure that the reproductive rights addressed are comprehensive. To request information related to the coverage of health care services and/or changes thereto, please find a sample letter here.

Second, NEA strongly recommends that where comprehensive coverage is not already included in the CBA, affiliates bargain to include those benefits and protections. This

guidance provides general guidance regarding topics that might be included in a CBA but is not intended as legal advice. Legal rights and requirements vary from state to state and may depend on specific facts. For legal advice, please contact your local or state legal counsel.

Where current bargaining efforts do not provide comprehensive coverage for reproductive services, one may argue that bargaining should take place over the impact of the *Dobbs* decision since the resulting state bans and restrictions are significant changes that affect multiple mandatory subjects of the contract, which may obligate the employer to bargain with the Union. Examples of these subjects, which are covered below, may include, but are not limited to:

- Insurance Coverage
- In-Network vs. Out-of-Network Care
- Types of Health Plan Coverage
- High Deductible Health Plans
- Waiting Periods for Benefit Coverage
- Out-of-Pocket Expenses
- Prescription Drug Coverage
- Mental Health
- Emergency Care
- Telehealth
- Travel Expense Reimbursement
- Privacy-Health Information

Insurance Coverage

Insurance coverage for reproductive services may include coverage of medical, prescription medications, and mental health services. Where insurance coverage is allowed for reproductive services, when bargaining, ensure that language for reproductive services is comprehensive and broad to include coverage of medical and mental health services, in-clinic and medication abortion services, prescription medications, emergency care, preventative/wellness care, miscarriage care, IVF procedures and related services, mail delivery for prescription medications, and telehealth services.

For a sample letter requesting information related to health care services, click here.

In-Network Versus Out-Of-Network Care

To decrease costs and improve plan members' health, insurers contract with and maintain a group of in-network participating providers including doctors, hospitals, and labs. In-network providers agree to accept a pre-negotiated, and often lower reimbursement rate from the plan in exchange for the volume of patients. Providers who

are not in-network are considered out-of-network and plans generally require members to pay more of the cost to use out-of-network providers.

In addition to the general in-network and out-of-network discussion, in states where members no longer have access to abortion care, travel must also be considered when bargaining for expansive coverage of in-network providers. Without an expansive coverage of in-network providers, pregnant patients forced to travel out of state may experience large out-of-pocket expenses or find that their insurance provides no coverage for such services. These expenses are incurred in addition to the expenses to travel. Therefore, to address the holding in *Dobbs* and resulting state abortion bans, bargaining efforts should include securing a large and broad group of in-network providers.

Type of Health Plan Coverage

Coverage varies widely depending on the type of plan, whether it is a Preferred Provider Organization (PPO), Health Maintenance Organization (HMO), Exclusive Provider Organization (EPO), or High Deductible Health Plans (HDHP). When bargaining, ensure that the plan provides broad and comprehensive coverage of reproductive services and that preventative and wellness care pursuant to the *Affordable Care Act* are also covered.

High Deductible Health Plans

High deductible plans with a health savings account are required under federal law to have annual minimum and maximum deductible levels and minimum and maximum out-of-pockets levels.

While the *Affordable Care Act* prohibits plans from using a lifetime or annual dollar limit on essential health benefits, plans may still include restrictions on the number of services, visits, etc. to limit utilization. When bargaining, ensure that these restrictions do not place undue hardship on pregnant patients and make reproductive services prohibitive.

Waiting Periods for Benefit Coverage

Waiting periods for benefit eligibility are generally negotiable. When bargaining, ensure that coverage for reproductive services begin with the first day of employment. Furthermore, when an educator returns from a leave of absence, benefits should commence the day the employee returns to work.

In addition to the initial waiting periods for coverage, bargain for continuation of coverage for ten-month employees and their dependents during the succeeding months over the summer.

Out-of-Pocket Expenses

In most health plans, federal rules cap the amount the patient pays for covered benefits, which is called out-of-pocket expenses. Payments toward the deductible, copayments, and/or coinsurance count toward the cap, but some expenses, such as premiums, do not. When bargaining, ensure that out-of-pocket expenses do not render reproductive services cost prohibitive.

In addition to the insurance coverage for the cost of services and travel, language can be bargained that requires reimbursement for out-of-pocket expenses so that additional funds are provided if the pregnant patient has related costs for seeking health care services. This language could include the funds rolling over annually.

For sample language related to reimbursement for other out-of-pocket costs, click here.

Prescription Drug Coverage

The medical term “abortion” has several meanings, often with the same treatments, including both surgical and medication abortions. Therefore, it’s essential that when bargaining, prescription drug coverage for reproductive services must be comprehensive and include contraception (including emergency contraception, such as Plan B), as well as FDA-approved prescription medications to induce abortion and for miscarriages.

Mail delivery for prescription drugs should be bargained for lower cost implications as well as to preserve the ability, particularly in rural areas, to receive these medications by mail. Additionally, the Food and Drug Administration removed the in-person requirement for a drug for medication abortion, mifepristone, making medication abortion possible via telehealth. As a result, consider bargaining for telehealth services and expanding such services to include reproductive services. More information on telehealth may be found subsequently in this resource guide.

Mental Health

Many events in a person's reproductive life, including miscarriage and fertility issues, can have significant mental health implications. In addition to medical coverage, coverage of mental health services can also be bargained. Begin by reviewing all

current mental health coverage to determine whether mental health coverage is comprehensive.

Furthermore, review whether the plan is complying with mental health parity laws. The *Affordable Care Act* amended the 2008 *Mental Health Parity and Addiction Equity Act* in 2010 to extend mental health parity to one of HHS' essential health benefits categories. The 2021 *Consolidated Appropriations Act* included a requirement that health plans and insurers conduct and document an analysis comparing treatment limits that apply to mental health and substance use disorder benefits to the limits for medical services. The 2023 *Consolidated Appropriations Act (hereafter referred to as "Omnibus")* eliminated the opt out for self-insured behavioral health plans for non-federal governmental employees and their covered dependents. The Omnibus eliminated the ability of health plans offered by non-federal government entities like states, municipalities, school districts and other public systems to opt out of parity requirements. The Omnibus also included $50 million over five (5) years to help states enforce the federal parity provisions. It is estimated that over one million more children and families will gain improved mental health coverage through the elimination of this exemption. Prior to the Omnibus, self-insured state and local government plan sponsors (non-federal state and local government employees), regulated by the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) had the ability to opt out of mental health and substance use disorder parity compliance each year by filing an annual election notice with HHS and CMS. For a list of plans that previously chose to opt-out, the CMS list can be accessed at https://www.cms.gov/files/document/hipaaoptouts03182021.pdf.

Now, pursuant to federal law, mental health and substance use disorder benefits and services must be comparable and/or less restrictive than those of medical/surgical benefits in terms of, deductibles, copayments, co-insurance, treatment limits, and how treatment is accessed.

Additionally, when bargaining, analyze how mental health treatment is accessed and under what conditions treatment is covered. Be aware of barriers including prior authorization requirements and other requirements that might prevent a pregnant person from obtaining mental health services.

Emergency Care

Emergency care for reproductive services should be comprehensive. Federal law, the *Emergency Medical Treatment and Labor Act* (EMTALA), requires providers to offer stabilizing treatment in emergency situations. The Biden Administration has taken the position that this federal law may require emergency care providers to perform an abortion to save the life of a pregnant person, even where state law bans on abortion

are unclear or do not have an exception for when the life of the pregnant person is at stake.

Pursuant to President Biden's two Executive Orders regarding reproductive health services, which can be read here and here, the Department of Health and Human Services issued guidance affirming EMTALA's requirements, as well as a letter from Secretary Becerra to providers stating that federal law preempts state law restricting access to abortion in emergency situations. Notwithstanding this guidance on EMTALA's requirements, some states have moved to prohibit abortion with no exception for protecting the life of the pregnant patient. This has resulted in different results in Idaho and Texas, and as with many of the issues that have come out of the *Dobbs* decision, will likely be heavily litigated and eventually decided by the United States Supreme Court.

Telehealth

To address all changes in technology and the ongoing changing health care environment, bargaining efforts should also address telehealth coverage as it relates to reproductive services. There are states addressing protecting telehealth across state lines, so if that is available under state law, telehealth across state lines is a benefit that can also be bargained.

Where telehealth is not possible, in those states, and particularly in border states, bargaining should address travel reimbursement for medical care.

Travel Expense Reimbursement

Though the post-*Roe* landscape is still taking shape and the legal implications are not fully known at this point, one thing is for certain – the number of individuals impacted by the decision has skyrocketed and many who require care will be forced to travel potentially great distances to access it. Because the costs associated with having to travel for care will be prohibitive for many, it is important for affiliates to consider exploring avenues of financial support through bargaining.

For sample language related to travel reimbursement, click here.

Privacy - Health Information

Bargaining should address the issue of employers requiring doctor notes if employees take sick time. Because absences of more than three full days may trigger coverage under the *Family and Medical Leave Act* (FMLA), some employers automatically seek

medical documentation to support entitlement to FMLA. Employers are allowed, but not required, to seek information from the employee's medical provider. If such documentation is required, the FMLA limits the degree to which the employer can probe

beyond the treating provider's certification that leave is needed and requires the employer to keep this health information confidential.

Contract language may further protect privacy by stating that, for example, employees are not required to provide information about the health services received or sought. It is also important to be aware that the confidentiality of health information relayed to an employer is only covered by FMLA protections if it is in response to a request from the employer. Employees volunteering information or responding to questions by supervisors who have no need to know may not necessarily be considered confidential.

For these reasons, it is important to include language prohibiting supervisors from asking employees for information about their specific health condition or care.

Additional Federal resources addressing privacy of health information may be accessed at the following links.

- The Federal Trade Commission (FTC) committed to fully enforcing the law against illegal use and sharing of highly sensitive data, including location and health information contained in fertility and period tracking data. The FTC urged companies to consider that sensitive data is protected by numerous state and federal laws, claims that data is "anonymous" are often deceptive, and the FTC has a track record of cracking down on companies that misuse consumer data. The Department of Health and Human Services issued guidance to address how the HIPAA Privacy Rule protects the privacy of individuals' protected health information, including information related to reproductive health care. The guidance helps ensure doctors and other medical providers and health plans know that, with limited exceptions, they are not required – and in many cases, are not permitted – to disclose patients' private information, including to law enforcement.
- The Department of Health and Human Services also issued a how-to guide for consumers on steps they can take to make sure they're protecting their personal data on mobile apps.
- The Department of Health and Human Services released a complaint portal for anyone who believes their privacy rights or the privacy rights of someone they know have been violated.

- The Federal Communications Commission Chairwoman wrote to the top 15 mobile providers requesting information about their data retention and data privacy policies and general practices.

Additional Bargaining Language Considerations

Privacy - Technology

While employees value personal privacy, privacy considerations become even more important if associated with a decision to seek an abortion or other reproductive care. Unions should review and assess existing language to ensure the contract includes comprehensive provisions protecting the rights of individual members.

Common existing provisions might provide protections for subjects such as personal life, personal email, social media and other uses of technology. As discussed above, individuals will be forced to travel great distances across state lines to obtain the necessary care. Therefore, new privacy issues, such as the reasons for the increased amount of leave necessary to travel, can become increasingly important in this post-Roe environment.

If your collective bargaining agreement does not cover privacy issues or the language can be strengthened, now is the time to address it. Even with strong privacy protections provided for in the contract, employees should not use employer-provided equipment or networks to access or send anything related to sensitive personal health information or other information they want to keep confidential.

Paid Leave

The United States stands alone as the only developed country in the world without mandatory, paid medical, family leave, maternity leave, or parental leave. Since 1993, the only federal protection for workers has been through the *Family Medical Leave Act* (FMLA), which only provides for unpaid leave under certain circumstances and only for employees who meet eligibility criteria. Since FMLA leave is only available for a “serious medical condition,” individuals may not have a statutory right to such leave to obtain abortion services unless medical complications arise. Therefore, employees would likely have to utilize their contractually provided paid or unpaid leave.

In situations where individuals requiring an abortion or other reproductive care are forced to travel great distances, the need for substantially more paid leave will be

necessary. Therefore, unions should consider addressing these needs in bargaining. They should also address paid leave and protections for new and early career educators who may not qualify for FMLA and likely do not have a lot of accrued leave available.

Safeguards should be put in place to protect employee rights when requesting leave for these types of services, particularly where medical documentation may be required.

For sample language related to paid leave, click here.

Personal and Professional Rights

Due to the extreme divisiveness and widening political division around abortion and reproductive rights, strong protections against discipline and other forms of retaliation may be necessary if they aren't established already. These attacks could originate from administrators, school board members, parents, community groups, or even other employees.

Protections should cover a wide range of subjects including discipline and discharge, personal life freedoms, and defenses or indemnification.

For sample language related to personal and professional rights, click here.

Non-Discrimination

Strong protections against discrimination and harassment ensure fairness and equity for all employees. Many protections are already in place at the federal, state, and local levels so if the contract does not cover discrimination prohibitions, existing laws will provide coverage for certain protected classes. However, many contracts do contain provisions covering non-discrimination. When proposing to insert or agreeing to non-discrimination language, it is vital that an abundance of caution is taken so that a bargaining unit member's rights to a statutory claim are not inadvertently precluded, or waived, by requiring arbitration when discrimination claims are made.

As always, consult with your local or state affiliate legal counsel for guidance on this topic before introducing or agreeing to language around this issue at the bargaining table.

For sample language related to non-discrimination, click here.

Severability and Savings Clause

Provisions covering savings or severability are used to protect the remainder of a contract in the case that any portion is deemed contrary to law, whether by a change in statute or by a court with jurisdiction over the parties to the contract. As the fallout from the *Dobbs* decision continues to unfold and the possibility for legislative changes is high in some areas of the country, it is important to ensure that protections are in place if one provision of the agreement is found unenforceable.

For sample language related to severability and savings clauses, click here.

Workplace Accommodations for Nursing or Pregnant Employees

Another important facet of reproductive health is workplace accommodations for nursing or pregnant employees. Whether in a situation where a pregnant individual is unable to access the necessary reproductive care, such as abortion services, or a pregnancy and birth of a child, educators and most working people maintain legal rights to many different types of workplace accommodations. While many rights to reasonable accommodations are provided for by federal and state/local law, bargaining can provide for additional accommodations for those who need them. Examples of accommodations for nursing and pregnant employees are leave or intermittent leave, light duty, and nursing/lactation assistance.

For sample language related to workplace accommodations, click here.

Child Care

As with its lack of paid leave, the United States is the only industrialized nation in the world without a public child care system. A lack of quality, affordable child care options has long existed and is exacerbated by the COVID-19 pandemic and now the overturning of Roe.

Parents are left on their own to make extremely difficult decisions about their most cherished loved ones and many, especially amongst those in the education profession, are forced to take on multiple jobs or even leave the profession. With the potential of individuals being forced to go through with unwanted pregnancies along with educator shortages becoming increasingly more prevalent in states across the country, it is vital that we find ways to deal with both the reproductive rights and the child care crisis.

For sample language related to child care, click here.

Sample Bargaining Language

Sample Letter Requesting Information Related to Health Care Services

[Date]
[Name of recipient]
[Address of recipient]
Re: Information Request – Changes to Healthcare Plan

Dear _____,

For purposes of bargaining and representation, the [Union] hereby requests the following information with respect to the changes to the healthcare plan announced on [date] and the steps that [Employer] has taken or plans to take to following the Supreme Court's decision in *Dobbs v. Jackson*. We are seeking this information to determine whether [Employer] is abiding by the collective bargaining agreement as well as to determine whether [Employer] is engaging in a unilateral change in working conditions. Please acknowledge receiving this request.

Please provide the following:

1. **Current Plan benefits for each plan in which bargaining unit members are eligible to enroll**
    1. Does unit employees' current Plan provide for abortion or abortion-related services (e.g., abortion counselling)? If so, please provide the Summary Plan Description (SPD) and/or plan document that describe these services.
    2. Does unit employees' current Plan provide for telehealth appointments where prescriptions to aid medication abortion could be given, regardless of where the employee resides? If so, please provide the SPD or plan document that describes this benefit.
    3. Does unit employees' current Plan cover medications used for medication abortion? If so, what such medications are covered, and what co-pay applies to these medications?
    4. Is the plan self-funded by the Employer or fully insured? If fully insured, when does the Employer renegotiate terms for the upcoming plan year?
    5. In which states do plan participants currently reside?

2. **How does the benefit provided by [Employer] work?**
    1. What is the policy's definition of "reproductive healthcare"? [adjust this based on the term the employer's communication used]
    2. Are dependents eligible for this benefit? Are there any restrictions on their eligibility?
    3. What travel expenses does this policy cover?

4. Does the plan cover travel expenses of a person acting as a companion to an employee/covered dependent seeking reproductive healthcare?
5. Are there dollar limitations on what will be covered by this new travel policy?
6. What are the eligibility requirements for participation in this benefit? This question includes whether employees must exhaust a deductible before receiving this benefit.
7. How do eligible employees and covered dependents receive this benefit (e.g., reimbursement)?
8. Who receives and evaluates requests for this benefit?
9. Who judges whether or not "reproductive healthcare is available within 100 miles of [an employee's] home?"
10. Do employees and covered dependents have to provide proof of their location and the location where they receive reproductive health services? If yes, who receives that proof?
11. Are employees required to use accrued PTO or sick leave if they need to take time off from work to access this benefit? If so, are they required to provide [Employer] with a reason for taking that PTO?

3. **How will [Employer] ensure the privacy of its employees through this benefit?**
   1. Who keeps the records of employees and covered dependents requesting this benefit?
   2. What retention policy, if any, governs these records?
   3. How will [Employer] ensure that these records remain private?
   4. Has [Employer] determined whether these records would be discoverable, if [Employer] and/or Plan is subjected to a subpoena?

4. **How many unit employees and dependents are eligible for this benefit?**
   In all instances, the preference is for documents in electronic form via email attachment, which we are confident will allow the speediest compilation and transmission of the requested information at the least inconvenience and cost to the employer. As such, the request is that information be returned to [email address]. Please provide the requested information at your earliest convenience, but no later than one week from receipt of this request.

If any part of this request is denied, or if any material has not been fully assembled by the requested date or is otherwise unavailable, please provide the remaining items by the requested date, which will be accepted without prejudice to the position that [Union] is entitled to all documents and information called for in the request.

This request is made without prejudice to [Union] right to file subsequent requests.

Thank you for your prompt attention and assistance in this matter.

Yours truly,
[Name]

cc:

[Union leader names and emails]

Paid Leave

Sick Leave

Master Agreement between Independent School District #299 Caledonia, Minnesota and Caledonia Chapter of the River Valley Education Association 6/30/2021 (MN)

Sick leave may be used to cover absences due to disabilities caused by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom, for up to six (6) weeks without a medical statement from the attending physician, provided that the teacher has not begun a maternity leave of absence as outlined in Article XV, Section 1 prior to such disabilities. Additional pregnancy-related disability leave will be granted upon submission of a physician's written statement stating the medical necessity for such extension.

Agreement Between Hiawatha Valley Education Association and Hiawatha Valley Education District 6/30/2023 (MN)

A teacher unable to perform duties of employment because of pregnancy, termination of pregnancy, adoption, childbirth, or recovery thereof, may begin leave upon certification from the attending licensed physician that the teacher is unable to perform such duties, or upon the agreement by said teacher and the Executive Director that leave should be commenced, and the teacher shall be entitled to sick/bereavement leave without loss of pay to the extent provided by Subdivision 1 hereof. Leave in excess of unused sick/bereavement leave credit of such teacher shall be treated as a leave of absence without pay during the period such the teacher is unable to work due to the pregnancy, termination of pregnancy, adoption, childbirth, or recovery thereof.

Pregnancy Disability Leave (PDL) and Post-Pregnancy Leaves

Alpine County Unified School District and the Alpine County Office of Education and Alpine County Classified Employees Association/California Teachers Association/National Education Association 6/30/2023 (CA)

13.7 Pregnancy Disability (PDL)

13.7.1 Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

13.7.1.1 Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion;

13.7.1.2 Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy- induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition.

13.7.2 Any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four (4) months. This four (4) month limit includes up to six (6) weeks off after a vaginal birth and eight (8) weeks off after a C-section, which shall NOT be deducted from your FMLA baby bonding leave described in Section 14.5 above.

13.7.3 PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four (4) months of PDL, whichever occurs first, a CFRA-eligible employee may also request to take CFRA leave of up to twelve (12) work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

13.8 Parental Bonding Leave

13.8.1 During the first twelve (12) months of an employee's child's birth, adoption or placement for adoption or foster care, the employee may use their sick leave for purposes of parental bonding leave for a period of up to 12 workweeks. A unit member shall not be provided more than one (1) twelve (12)-workweek period for parental leave during any twelve (12) month period.

13.8.2 When an employee has exhausted all annual and accumulated sick leave and continues to be absent from his or her duties on account of parental bonding leave, the amount deducted from the salary due him or her for any of the remaining portion of the 12- workweek period in which the absence occurs shall not exceed the sum that is actually paid a substitute employee employed to fill his or her position during his or her absence or, if no substitute employee was employed, the amount that would have been paid to a substitute had he or she been employed. The compensation shall be no less than fifty percent (50%) of their regular salary for the remaining portion of the 12-workweek period of parental bonding leave after available and accrued sick leave is exhausted. ACUSD/ACOE shall comply with all components of California Education Code Section 44977.5.

13.8.3 An employee, upon return from leave of absence, shall be reinstated to the position held when the leave began or to a comparable position without decrease in rate of compensation or loss of promotional opportunities.

13.8.4 If both parents of a child work for ACUSD/ACOE, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 work weeks of FMLA time only. This restriction shall apply regardless of the legal status of both parents' relationship. (Government Code 12945.2, 12945.6; 2 CCR 11088; 29 USC 2612)

13.8.5 An employee shall use his/her accrued vacation leave, other accrued time off, and any other paid time off negotiated with ACUSD/ACOE for any otherwise unpaid FMLA or CFRA leave not involving his/her own serious health condition. For PDL, CFRA, or FMLA leave due to an employee's own serious health condition, the employee shall use accrued sick leave and may use accrued vacation leave and other paid time off at his/her option.

(Government Code 12945, 12945.2, 12945.6; 2 CCR 11044; 29 USC 2612)

13.8.6 Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employer may request certification from the health care provider that he/she is able to resume work. The certification shall address the employee's ability to perform the essential functions of his/her job.

Education Minnesota

Paid parental or family leave sample contract language

Parental Leave
Teachers shall have the right to take paid and unpaid parental leave for the birth, adoption, or foster care placement of a child in his or her family. The Employer shall not discriminate against any Faculty Member on the basis of their use of family leave.

Paid parental leave

1. Upon 1 months' notice to the Superintendent, a teacher shall be granted a parental leave of absence with pay for the birth or adoption of a child to become effective at his or her discretion and to terminate not more than 16 weeks after the beginning of the leave. For circumstances outside the teachers' control, teachers are entitled to take parental leave without prior notice if the teacher gives verbal notice to his or her supervisor so that arrangements can be made for covering the teacher's assignment. In such emergencies, the teacher shall give written notice to the employer within five (5) days after the beginning of the leave. As soon as possible, the teacher shall consult with the employer regarding the scheduling of the remaining leave.

2. A teacher on paid parental leave shall notify the Superintendent of his or her intent to return at any time during the leave period.

3. A teacher returning from paid parental leave shall be reinstated in his or her previous position.

4. A teacher returning from paid parental leave will retain all his or her previous rights. Salary placement shall be at the next step of the salary schedule if the teacher served one-half (1/2) or more of the school year in which the leave was granted.

5. Paid parental leave shall not interrupt continuity of service and such teacher shall be reinstated with accumulated seniority, retirement, fringe benefits and uninterrupted employment credit. Parental leave does not interrupt continuity of service for the purpose of acquiring continuing contract status.

Extended parental leave

1. Parental leave shall be extended upon the request of the teacher for up to two years, with all time after the first 16 weeks taken as unpaid leave.

2. A teacher on unpaid parental leave shall notify the Superintendent of his or her intent to return 30 days before the date of return.

3. A teacher returning from unpaid parental leave will be reinstated in his or her previous position if there is a vacancy, or to another comparable vacant position for which he or she is qualified.

4. Salary placement shall be at the same step of the salary schedule if the teacher serves less than one-half (1/2) of the school year in which the leave was granted.

5. A teacher shall retain the seniority acquired at the time of beginning unpaid parental leave and shall begin with that seniority upon return to teaching.

6. All teachers on parental leave must apply for reinstatement within eighteen (18) months of the date the unpaid parental leave commenced. Failure to do so shall be considered a resignation.

Family leave

Teachers shall have the right to a paid family leave of absence in connection with the birth, adoption, foster care placement, or care of a child, or for the care of a spouse, domestic partner, parent, father-in-law, or mother-in-law with a serious health condition.

1. Notice of Intent to Take Family Leave
   The teacher shall provide the employer one (1) months' notice before taking family leave in every case where it can be anticipated that a leave will be necessary. In emergencies, teachers are entitled to take family leave without prior notice if the teacher gives verbal notice to his or her supervisor so that arrangements can be made for covering the teacher's assignment. In such emergencies, the teacher shall give written notice to the employer within five (5) days after the beginning of the leave. As soon as possible, the teacher shall consult with the employer regarding the scheduling of the remaining leave.

2. Length of Family Leave
   Teacher may take up to four (4) months of family leave during the school year. Family leave may be broken into non-contiguous periods of as small as one (1) day.

   Teachers shall be granted up to an additional twenty (20) months of family leave. Any family leave above four (4) months shall be taken as unpaid leave unless the teacher elects to use sick leave or vacation time / Paid Time Off (PTO) for some or all of the additional family leave.

Note: if using this language, refer to the article or articles that contain sick leave/vacation/PTO provisions.

3. Continuity of service
   Use of paid or unpaid family leave shall not interrupt continuity of service. Teachers returning from family leave shall be reinstated with accumulated seniority, retirement, fringe benefits and uninterrupted employment credit. Parental leave does not interrupt continuity of service for the purpose of acquiring continuing contract status.

4. Non-Discrimination
   The Employer shall not discriminate against any Faculty Member on the basis of his or her use of family leave.

Travel Expense Reimbursement

Iditarod Education Association & Iditarod Area School District 6/30/2025 (AK)

Emergency medical travel expenses by certified employees will be reimbursed by the insurance program when certification of medical necessity signed by a qualified healthcare provider, or a doctor is presented. Emergency medical travel is defined as medical treatment that requires immediate attention not available on site.

Personal and Professional Rights

Discipline and Retaliation – Abortion and Reproductive Rights

Master Agreement The Fairland Board of Education and The Fairland Association of Classroom Teachers [F.A.C.T.] 6/30/2024 (OH)

11.04 Pregnancy Leave

1. Pregnancy Disability Leave
   d. Contract rights – the disability caused or contributed to by pregnancy or the anticipated extra expense to the employer for such leave, fringe benefits, substitute teachers, etc., or any other factor pertaining to the condition of maternity or to pregnancy, miscarriage, abortion, childbirth, and recovery there from shall not be grounds for termination, nonrenewal or failure to issue any limited or continuing contract for regular teaching duties, supplemental duties, or administrative duties.

2. Maternity Leave
   e. Contract rights – no factor pertaining to the condition of maternity, or to pregnancy, miscarriage, abortion, childbirth or recovery there from shall be grounds for termination, nonrenewal, or failure to issue any limited or continuing contract, whether for regular teaching duties or administrative duties.

Discipline and Negative Employment Action – General

California Teachers Association Contract Reference Manual

8.2 Public Complaints

8.2.1 No negative and/or unsatisfactory evaluation, assignment, discipline, dismissal, or other adverse action shall be predicated upon complaints, information, or material of a derogatory or critical nature which has been received by the District from pupils, parents, District, employees, public agency, and/or the public, unless the following procedures have been followed:

8.2.1.1 Any public complaint about a unit member shall be reported to the unit member by the administrator receiving the complaint, within five (5) days of receipt, if the complaint may be placed in the unit member's file or used against the unit member as described in Section 8.2.1.

8.2.1.2 Should the involved unit member believe the allegations in the public complaint warrant a meeting, the immediate supervisor shall attempt to schedule a meeting between the member and the complainant. At the request of the unit member, Association representative(s) may be present at the meeting. If the complainant refuses to attend the meeting, the complaint shall neither be placed in the unit member's personnel file nor utilized in any evaluation, assignment, or disciplinary or dismissal action against the unit member.

8.2.1.3 If the matter is not resolved at the meeting to the satisfaction of the complainant, complainant may reduce the complaint to writing and submit the original to the unit member, with a copy to the unit member's immediate supervisor. The unit member shall be given time during the duty day, without salary deduction, to review the complaint and prepare responsive comments. If the unit member believes the complaint is false and/or based on hearsay, a

grievance may be initiated to determine the validity of such complaint. If no written complaint is received, the matter shall be dropped.

8.2.2 Complaints which are withdrawn, shown to be false, or are not sustained by the grievance procedure shall neither be placed in the unit member's personnel file nor utilized in any evaluation, assignment, or disciplinary or dismissal action against the unit member.

8.2.3 All information or proceedings regarding any complaint shall be kept confidential by the District.

8.3 Personal and Academic Freedom

8.3.1 It is the policy of the District that all instruction shall be fair, accurate, objective, and appropriate to the age and maturity of the pupil(s), and sensitive to the community needs and the needs and values of our diverse cultures and heritages. Academic freedom is essential to the fulfillment of this policy and the District acknowledges the fundamental need to protect unit members from any censorship or restraint which might interfere with the unit member's obligation to pursue truth in performance of their teaching functions.

8.3.1.1 A unit member shall have reasonable freedom in classroom presentations and discussions and may introduce political, religious, or otherwise controversial material, provided that said material is relevant to the course content and within the scope of the law.

8.3.1.2 In performing teaching functions, unit members shall have reasonable freedom to express their opinions on all matters relevant to the course content in an objective manner. A unit member, however, shall not utilize her/his position to indoctrinate pupils with her/his own personal, political and/or religious views.

8.3.2 Unit members must be employed, promoted, or retained without discrimination or harassment regarding their personal opinions or their scholarly, literary, or artistic endeavors.

8.3.3 The personal life of a unit member is not an appropriate concern of the District for purposes of evaluation or disciplinary action unless it prevents the unit member from performing her/his duties.

8.3.4 A unit member shall be entitled to full rights of citizenship, and no religious, political, or personal activities, or lack thereof, of any unit member shall be used for purposes of evaluation, transfer, disciplinary or dismissal action.

Non-Discrimination

WEA Model Language

Section 39 – Non-Discrimination

39.1 The employer agrees that there shall be no discrimination exercised or practiced with respect to any employee in the matter of hiring, assigning wage rate, training, upgrading, promotion, transfer, layoff, recall, discipline, classification, or discharge, by reason of age, race, creed, ancestry, national origin, religion, political affiliation or activity, sexual orientation, sex, marital or parental status, family relationship, place of residence, handicap, nor by reason of membership or activity in the Union, or because s/he is participating in the activities of the Association, carrying out duties as a representative of the Association, or involved in any procedure to interpret or enforce the provisions of the collective agreement.

39.2 The Association and the District agree that employees are entitled to work in an environment free from any kind of harassment.

39.3 The Board and the Union support the concept of achieving a non-sexist and non-racist working and learning environment. Toward this end the Board agrees to include a statement that it is an equal opportunity employer in advertisements for employment.

Example of Non-Waiver of Rights to Statutory Claim

Nuestro Elementary School District Certificated Collective Bargaining Agreement with the Nuestro Teachers Association CTA/NEA 6/30/2024 (CA)

Article 6 – Non-Discrimination

Nothing in this Article shall constitute a waiver of a unit member's rights to process a discrimination claim through an appropriate government agency, or a court of competent jurisdiction.

Severability and Savings Clause

Ohio Education Association Language Development Guide

Sample Severability Provision

This Contract supersedes and prevails over all statutes of the State of Ohio (Except as specifically set forth in Section ORC 4117.10(A), all Civil Service Rules and Regulations, Administrative Rules of the Director of State Personnel and all policies, rules, and regulations of the Employer. However, should the State Employment Relations Board or any Court of competent jurisdiction, determine, after all appeals or times for appeal have been exhausted, that any provision herein is unlawful, such provision shall be automatically terminated but all other provisions of the Contract shall remain in full force and effect.

The parties shall meet within ten (10) days after the final determination of unlawfulness to bargain over its impact and to bring the Contract into compliance. If the parties fail to reach agreement over the affected provision, the statutory dispute settlement procedure shall be utilized to resolve the dispute.

California Teachers Association Contract Reference Manual

Option I requires the parties to negotiate if a court invalidates a provision of the contract.

Option 2 permits the parties to negotiate upon mutual agreement. Care must be exercised to consider external and internal factors, such as capacity and leverage, when choosing which option to pursue.
Article 7: Savings

OPTION 1

7.1 Improvements in contractual provisions included in this Agreement which are brought about by the amendment or addition of statutory guarantees now provided in California or federal law shall be incorporated into this Agreement as of the date the statute went into effect.

7.2 Reduction or elimination of contractual provisions which are brought about by the amendment or repeal of statutory guarantees incorporated into this Agreement shall obligate the parties within ten (10) days of such amendment or repeal to negotiate whether or not such amendments or repeals shall be incorporated into this Agreement. Absent an agreement, no reduction or elimination of statutory guarantees of benefits included in this Agreement shall apply.

7.3 If any provision of this Agreement or any application of this Agreement to any unit member or group of unit members is held to be contrary to law by a court of competent jurisdiction, then such provision or application shall not be deemed valid and subsisting, except to the extent permitted by law; but all other provisions or applications shall continue in full force and effect.

7.4 It is further agreed that within ten (10) days of receipt of notification of the court's decision, negotiations shall commence regarding matters related to such provision.

OPTION 2

7.1 Improvements in contractual provisions included in this Agreement which are brought about by the amendment or addition of statutory guarantees now provided in California or federal law shall be incorporated into this Agreement as of the date the statute went into effect.

7.2 Reduction or elimination of contractual provisions which are brought about by the amendment or repeal of statutory guarantees incorporated into this Agreement shall obligate the parties within ten (10) days of such amendment or repeal to negotiate whether or not such amendments or repeals shall be incorporated into this Agreement. Absent an agreement, no reduction or elimination of statutory guarantees of benefits included in this Agreement shall apply.

7.3 If any provision of this Agreement or any application of this Agreement to any unit member or group of unit members is held to be contrary to law by a court of competent jurisdiction, then such provision or application shall not be deemed valid and subsisting, except to the extent permitted by law; but all other provisions or applications shall continue in full force and effect.

7.4 Upon mutual agreement, the parties shall commence negotiations regarding matters related to the contractual provision held contrary to law by a court of competent jurisdiction.

Workplace Accommodations for Nursing or Pregnant Employees

Agreement between Cupertino Union School District and Cupertino Education Association (CEA) 2019-2022 (CA)

ARTICLE 24 Americans With Disabilities (ADA) Provision

24.1 The District and the Association acknowledge that both parties have the legal obligation to consider reasonable accommodation for qualified disabled members.

24.2 If the District determines that it must reasonably accommodate a qualified disabled member, that legal obligation may supersede those sections of this agreement in conflict with the duty to accommodate.

24.3 The Association recognizes that the District has the legal obligation to meet with qualified disabled members to discuss reasonable accommodation.

24.4 A unit member seeking accommodation has the right to representation by the Association in discussions with the District regarding such accommodation. Upon such a request, arrangements shall be made for a representative to be present before discussion continues.

24.5 Following discussion with the unit member (and his/her representative if requested), if the District determines that implementation of the reasonable accommodation will conflict with the rights of other members or with provisions of the collective bargaining agreement, and the parties (including the Association) have not already consented to the accommodations offered by the District, the District will give the Association written notice and an opportunity to meet to discuss alternatives before implementation of said accommodations.

24.6 If after discussions the Association disputes the necessity for or appropriateness of the reasonable accommodation, the District will require the unit member to undergo an independent medical examination. In such case, the medical examiner shall determine, in his/her professional opinion:

a. whether in fact a disability exists within the meaning of the ADA, and if so,
b. whether the proposed accommodation will allow the disabled unit member to perform the essential job functions.

24.7 If the examination referred to above answers questions (a) and (b) in the affirmative, and the Association continues to dispute the necessity for or the appropriateness of the reasonable accommodation, at the Association's request,

a conference will be held with the Superintendent, attended by Association representatives, the unit member (and/or representative), and a representative from the Human Resources Department. The Superintendent's decision regarding the reasonable accommodation shall be final. The Association agrees to keep medical information related to the reason for the reasonable accommodation confidential, unless the affected member signs a release.

24.8 The District and the Association acknowledge that particular accommodations are intended to meet the individual needs of particular persons. Acceptance by the District and the Association of a particular accommodation shall not obligate either of them to accept the same and similar accommodation for a different individual.

24.9 Any reasonable accommodation provided under the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure. Any action taken to provide an accommodation pursuant to the ADA shall not be subject to challenge through Article 10 (Grievance Procedure), however disputes regarding the use of the procedure herein shall be subject to Article 10 provided that an arbitrator shall have not authority to change or otherwise affect the accommodation made for the member.

24.10 For the purposes of this Article/Section, "member" or "unit member" includes current unit members, members from other bargaining units whose reasonable accommodation involves assignment to a position in this bargaining unit, and new members whose employment in the bargaining unit will involve reasonable accommodation.

Pregnancy Disability Leave (PDL) and Reasonable Accommodations

Agreement Between San Mateo County Superintendent of Schools and San Mateo County Educators Association CTA/NEA 2015-2018 (CA)

Article 8 Leaves

8.15 Pregnancy Disability Leave

8.15.1 Any employee who is disabled by pregnancy, childbirth, or a related medical condition is eligible for a Pregnancy Disability Leave of Absence. There is no length of service requirement.

8.15.2 For purposes of this Section, an employee is disabled when, in the opinion of the Employee's healthcare provider, she cannot work at all or is unable to perform any one or more of the essential functions of the employee's job without undue risk to herself, the successful completion of her pregnancy, or to other persons as determined by a health care provider. This term also applies to certain pregnancy-related conditions, such as severe morning sickness or if an employee needs to take time off for prenatal or postnatal care, bed rest, post-partum depression, and the loss of end of pregnancy (among other pregnancy-related conditions that are considered to be disabling).

8.15.3 Reasonable Accommodation for Pregnancy-Related Disabilities

8.15.3.1 Any employee who is affected by pregnancy may also be eligible for a temporary transfer or another accommodation. There is no length of service requirement. An employee is affected by pregnancy if she is pregnant or has a related medical condition, and because of pregnancy, the employee's health care provider has certified that it is medically advisable for her to temporarily transfer or to receive some other accommodation.

8.15.3.2 The County Office will provide a temporary transfer to a less strenuous or hazardous position or duties or other accommodation to an employee affected by pregnancy if: she requests a transfer or other accommodation; the request if based upon the certification of her health care provider as "medically advisable"; and the transfer or other requested accommodation can be reasonably accommodated pursuant to applicable law.

8.15.3.3 As part of this accommodation process, no additional position will be created and the County Office will not discharge another employee, transfer another employee with more seniority, or promote or transfer any employee who is not qualified to perform the new job.

8.15.3.4 Advance Notice and Medical Certification

To be approved for a pregnancy disability leave of absence, a temporary transfer, or other reasonable accommodation, an employee must:

8.15.3.4.1 Provide 30 days' advance notice before the leave of absence, transfer, or reasonable accommodation is to begin, if the need is foreseeable;

8.15.3.4.2 Provide as much notice as is practicable before the leave, transfer, or reasonable accommodation when 30 days' notice is not foreseeable; and

8.15.3.4.3 Provide a signed medical certification from the employee's health care provider that states that the employee is disabled due to pregnancy or that it is medically advisable for the employee to be temporarily transferred or to receive some other requested accommodation.

The County Office may require an employee provide a new certification if she requests an extension of time for the leave, transfer, or other requested accommodation.

8.15.3.5 Duration

8.15.3.5.1 The County Office will provide an employee with a Pregnancy Disability Leave of Absence for the duration of her pregnancy-related disability for up to four (4) months. This leave may be taken intermittently or on a continuous basis, as certified by her health care provider. The four months of leave available to an employee due to her pregnancy-related disability is defined as the number of days (and hours) the employee would normally work within four calendar months or 17.33 work weeks.

8.15.3.5.2 Any temporary transfer or other reasonable accommodation provided to an employee affected by pregnancy will not reduce the amount of Pregnancy Disability Leave time the employee has available to her unless the temporary transfer or other reasonable accommodation involves a reduced work schedule or intermittent absences from work.

8.15.3.6 Reinstatement

8.15.3.6.1 If the employee and the County Office have agreed upon a definite date of return from her leave of absence or transfer, she will be reinstated on that date if she notifies the County Office that she is able to return on that date. If the length of the leave of absence or transfer has not been established, or if it differs from the original agreement, she will be returned to work within two (2) business days, where feasible, after she notifies the County Office of her readiness to return.

8.15.3.6.2 Before an employee will be allowed to return to work in her regular job following a leave of absence or transfer, she must provide the Associate Superintendent, Human Resources with a certification from her health care provider that she can perform safely all of the essential duties of her position, with or without reasonable accommodation. If she does not provide such a release prior to or upon reporting for work, she will be sent home until a release is provided. Any time an employee is not allowed to work due to not having provided the required release will be unpaid except to the extent that the employee submits the required certification and that certification identifies the employee as still qualifying for leave under this Section.

8.15.3.6.3 An employee will be returned to the same or a comparable position upon the conclusion of her leave of absence or transfer. If the same position is not available on the employee's scheduled return date, the County Office will provide her a comparable position on her scheduled return date or within 60 calendar days of that return date. However, the employee will not be entitled to any greater right to reinstatement than if she had not taken the leave. For example, if an employee would have been laid off had she/he not gone on leave, or if the employee's position has been eliminated during the leave, then the employee will not be entitled to reinstatement.

8.15.3.6.4 Failure to return to work at the conclusion of the leave of absence may result in termination of employment, unless an employee is taking additional leave provided by law or County Office policy or the County Office has otherwise approved the employee to take additional time off.

8.15.3.7 Integration with Other Benefits

Employees who are taking a leave of absence under this Section or who require accommodations to work a reduced schedule or to take time off from work intermittently will first use their accrued sick leave to remain in paid status. If an employee exhausts her accrued sick leave and remains on a leave or working intermittently/a reduced work schedule, she will use her 5 month or 100 days of differential leave under Article 8.4.2. Use of such sick leave and differential leave will not extend the available leave of absence time. Sick leave hours will not accrue during any unpaid portion of the leave of absence, and an employee will not receive pay for official holidays that are observed during her leave of absence except during those periods when the employee is substituting sick leave for unpaid leave.

8.15.3.8 Benefits

8.15.3.8.1 The County Office will maintain an employee's health insurance benefits during an employee's Pregnancy Disability Leave for a period of up to four months, as defined above, on the same terms as they were provided prior to the leave time. If an employee takes additional time off following a Pregnancy Disability Leave that qualifies as California Family Rights ("CFRA") leave, the County Office will continue the employee's health insurance benefits for up to a maximum of 12 work weeks in a 12-month period.

EXAMPLE: An employee takes 17.33 workweeks off due to a pregnancy disability. Assuming the employee is eligible for FMLA and CFRA leave, her Pregnancy Disability Leave will also be concurrently covered by

FMLA and her group health insurance coverage would continue for the entire 17.33 workweek period. If, after the employee's Pregnancy Disability Leave and FMLA Leave, has been completed, she wishes to take 12 additional weeks off from work to bond with a new baby under CFRA, the County Office will continue her health insurance benefits for the 12-workweek period.

8.15.3.8.2 In some instances, the County Office may recover premiums it paid to maintain health benefits if an employee fails to return to work following her Pregnancy Disability Leave for reasons other than taking additional leave afforded by law or County Office policy or not returning due to circumstances beyond her control.

Nursing Mothers/Lactation

Contract between the Miami-Dade County Public Schools and the United Teachers of Dade 2017-2020 (FL)

Article XX – Teaching Conditions
Section 3. Workday

D. Flexible Hours

1. Nursing Mothers

a. Instructional personnel (hereinafter referred to as "employee" in this Section) who breastfeed, until the child's first birthday, shall be provided a reasonable amount of additional time to express breast milk on District premises if regularly scheduled lunch and/or planning periods provide insufficient time or opportunity for this purpose.

b. Prior to returning to work from maternity leave, the employee shall notify her supervisor of the need to express milk during work hours. The employee shall also keep her supervisor informed of these needs throughout the period of lactation.

c. The supervisor shall designate a private area, other than a restroom, where an employee can express breast milk. The designated area shall be

a space where intrusion from coworkers, student, and the public can be prevented and an employee using this area can be shielded from view.

d. An employee may express milk during regularly scheduled lunch and/or planning periods and shall make reasonable adjustments to use such periods for this purpose before requesting additional or longer periods of time or rescheduling periods for the expression of breast milk. The supervisor shall make reasonable adjustments to the employee's schedule for this purpose. Such additional or longer periods of time shall not reduce the amount of daily work time required of the employee. The employee's supervisor shall work with the employee to make modifications reasonably necessary to affect any provision of this Section. This provision is subject to the grievance process but is not subject to arbitration.

Child Care

NEA Model Child Care Language (excerpt)

2. <u>Childcare Center – On-site</u>

The Employer shall provide an on-site childcare center at no cost for District employees' children, ages [age range; example: 6 weeks through 48 months], contingent on acquiring required state licensing. The design of childcare programs shall take into consideration the need for extended hours and flexible enrollment to accommodate [bargaining unit member or District employee] work schedules.

[If childcare services contracted out but using District facilities]

When contracting for childcare services, the [District] shall contract with licensed [state] childcare providers to provide childcare on site and use school building space in accordance with related board policies. The Employer and the Association will jointly participate in the RFP process and the selection of a vendor. The selected vendor shall provide employees with a living wage and health benefits, including paid sick leave.

[If there is a cost associated:]

The childcare center will operate on a non-profit basis. The district shall develop and maintain affordability guidelines that assist in the creation and maintenance of fee structures that balance the financial needs of the parents with the financial requirements of operations. Effective the beginning of the [x] school year, childcare enrollment fees will be as follows:

For the first child, employees earning [figures for example only; shown as sliding scale based on income]:

- Less than [$50,000] shall receive a [70%] discount from the full rate
- [$50,000] to [$60,000] shall receive a [60%] discount from the full rate
- [$60,001 to [$70,000] shall receive a [50%] discount from the full rate
- [$70,001] to [$80,000] shall receive a [40%] discount from the full rate
- [$80,001] to [$90,000] shall receive a [30%] discount from the full rate
- [$90,001] to [$100,000] shall receive a [20%] discount from the full rate
- [$100,001] or more are responsible for the full rate

Attendance for additional children will be billed at [50% of the full rate] for the age of that child.

a. Funding
The Employer shall allocate, on a one-time only basis, a total of [x dollars] for start-up costs, including furniture, equipment, and the salary for a Coordinator who shall be hired prior to the opening of the center. The employer shall allocate [x dollars] for each year of this agreement for operating expenses.

b. Bargaining Unit Positions
Employees of the childcare center shall be members of the bargaining unit with all rights afforded by this Agreement.

c. Space and Enrollment
The center shall accommodate at least [x] spaces that are assigned on a priority basis to the children of [bargaining unit members or District employees]. Additional available spaces may be filled by the children of students and non-employees who live within the community on a first-come-first-serve and yearly basis.

Enrollment priority shall be as follows:
1) Full-time employees
2) Part-time employees
3) Students
4) Community members

[If enough space or resources to support all member needs is not feasible, a process for determining selection will be needed. One such example is the use of a lottery.]

Childcare Center Lottery Guidelines [sample]

1. Regular full-time employees who are eligible may submit an application to register their child for the lottery.
2. Employees will register for the lottery by application and the Employer will acknowledge receipt of registration.
3. A data base will be maintained by employee category.
4. When a vacancy occurs, a name will be drawn at random from within the same employee category and age range unless that category is above parity. In such case, see paragraph 5c below.
5. If the drawing in 4 above does not produce a selection or all selections are declined:
   a. Selection will be made from the category that is the most below parity, or
   b. If all categories are at parity, then the random selection will be made from those three categories, or
   c. If one or more categories are above parity, those categories will be excluded from the random selection.
6. Parents will have 72 hours from the time of notification to decide if they want to enroll their child in the center.
7. If the opportunity to enroll the child is declined, the child's application may remain eligible for future lottery selection.

d. Review

On a quarterly basis, the JCC, referenced in Section 1 above, shall meet to discuss childcare issues, budgetary analysis, legal or statutory changes, parent satisfaction and concerns, and any other items of importance brought to the agenda. By December 31 and June 30 of each year, the committee shall provide a report to the Employer and Association indicating how many children of [bargaining unit members or District employees] are on the waiting list for each kind of space (infant, toddler, preschool), how long each child has been on the waiting list, and how many children of [bargaining unit members or District employees] were unable to obtain a childcare space for which they indicated a need. Based on this report, a review shall be conducted to determine the extent of any unsatisfied demand for childcare spaces and recommend options for improvement.