CAPT BU 18
REALIGNMENT SIDE LETTER
IDEAS

This agreement is a Side Letter to the current Memorandum of Understanding (contract), effective through July 1, 2012, entered into by the State of California (State or State Employer) and the California Association of Psychiatric Technicians (CAPT) Bargaining Unit 18 (BU 18). The purpose of this Side Letter is to assist in effectuating Realignment, as mandated in AB 109 and related legislation, and to continue to promote harmonious labor relations between the State and the Union.

By reaching a negotiated agreement on labor issues related to Realignment will save both time and money as opposed to utilizing the typical layoff process;

This agreement honors the principle of seniority and the ability to bid to vacant positions throughout the State; and

This agreement enables employees to have more control over where they may end up working during the Realignment process; and

This negotiated agreement provides employees with opportunity to make decisions regarding their employment sooner.

The State Employer and the Union enter the agreement as follows:

1. **Supersession**: In reaching agreement on this Side Letter, the parties agree and confirm that they have, through negotiation, superseded any and all (1) supersedable layoff statutes, including sections of the Government Code, (2) Department of Personnel Administration rules or regulations, (3) provisions of the Layoff Manual, and/or (4) articles of the parties' contract that are in conflict with the terms and conditions of this Side Letter.

2. **Term**: This Agreement shall become effective with the initiation of the first wave. This side letter shall expire 120 days after the completion of said final wave. As such, this Side Letter shall continue beyond the term of the parties' current contract (i.e., beyond July 1, 2012). After this time, if the realignment process is not completed this agreement shall continue unless either party requests a meet and confer and such meet and confer is concluded.

3. **Dispute Resolution**: Any dispute regarding the interpretation, application or alleged violation of this Side Letter shall be subject to the grievance and arbitration procedure of the parties' current contract unless specified as outlined below.

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4. **Seniority Scores**: Because all bargaining unit members have already been provided their seniority scores (total state service), as well as had the opportunity to challenge those scores, there shall be no further thirty (30) day seniority score challenges for Realignment layoffs. Commencing with the second wave (2nd) after SROA notices are received, employees shall have fourteen (14) calendar days in which to provide additional information related to their seniority scores (i.e., challenges).

5. **Communication:** The Union shall have 48 hours from the time of receipt to review and provide comment on each of CDCR's draft realignment communication meant for employees.

6. **Distribution of Workforce/Layoff**: Each Realignment wave will be based on a determination of overages and vacancies in staffing. Surplus employees will be given State Restriction of Appointment (SROA) notices although actual layoffs may be mitigated through the Voluntary Transfer Process at the beginning of each Realignment wave.

7. **Voluntary Transfer Process**:

   (1) Prior to sending out any transfer options worksheets, the California Department of Corrections and Rehabilitation (CDCR) shall publish, on internet, intranet, and post at each location,_ statewide information regarding locations that have overages and vacancies by classification.

   (2) Prior to sending out any transfer options worksheets, CDCR shall also post name, classification and seniority scores by county on the internet, intranet and at each work location.

   (3) Voluntary transfers may be requested by any employee within a county with any overage in that employee's designated classification. All vacancies in the State in that classification shall be made available for such transfer request.

   (4) By the designated deadline, employees shall opt in or opt out of the voluntary transfer process by filling out the form(s) provided by CDCR. For those that opt in, employees shall rank their transfer preferences. Employees shall have ten (10) calendar days from the date of postmark to complete and return the required form(s). Responses may be mailed, sent via facsimile or scanned and emailed. Late response shall not be accepted or processed.

   (5) On the transfer form(s), CDCR shall communicate to employees that, although this Voluntary Transfer Process allows employees with the opportunity to transfer out of county sooner, depending upon demotional bumping and one's seniority score, an employee theoretically still could be laid off at the conclusion of the

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SROA/layoff process and/or permanently involuntarily transferred within an impacted county.

(6) All requests for voluntary transfer shall be awarded based upon total State Service seniority in accordance with the MOU.

(7) CDCR shall calculate the transfer awards and communicate a start date. After receiving a transfer date, an employee may be granted a change in the report date by agreement of the releasing worksite and the receiving worksite the affected employee and BU 18.

(8) No relocation shall be paid for such voluntary transfers.

8. **SROA/Layoff Process**:

(1) After the Voluntary Transfer Process, the amount of overages and vacancies will be recalculated by county.

(2) The area of layoff shall be county-wide.

(3) Those with the lowest seniority within the county shall be subject to the SROA/layoff process.

(4) Employees are able to pursue out of county opportunities through the SROA process.

(5) However, there shall be no comparable classifications or out of county placement offered in the layoff options process.

(6) Layoffs shall occur in accordance with inverse seniority within the impacted county/counties. The least senior employees who are subject to layoff shall receive 30-day written notice of the effective date of their layoff or the transfer report date as described below. An employee may be granted a change in the report date by agreement of the releasing worksite and the receiving worksite.

(7) Transfer within CDCR: Once the layoff process is completed, where overages still remain, the least senior employees shall be permanently, involuntarily transferred to a location within the county that still has vacancies. There shall be no relocation, mileage or other travel reimbursement paid in association with such involuntary transfers except as otherwise provided herein.

(8) Those who do not comply with the permanent involuntary transfer shall be Absence Without Leave (AWOL) separated.

(9) Transfer to Another Department: After receiving a transfer to another department, an employee may be granted a change in the

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report date by agreement of the releasing hiring authority and the receiving hiring authority.

(10) There shall be no relocation remuneration for any other transfers or movement associated with this agreement.

9. **Waves**: After the first wave, the Voluntary Transfer and SROA/Layoff processes may occur at the same time.

10. **Pay Adjustments**

Any pay adjustment required by a transfer or placement in lieu of layoff shall not be made until the employee's scheduled report date.

11. **Orientation and Training**

Any impacted employee that transfers to another institution/worksite or has changes to his/her job duties in assignments shall be provided orientation and any required on-the-job training in his/her new position, including, but not limited to, New Employee Orientation and in-service training.

12. **Pre-approved Leaves**

Management shall honor any pre-approved leaves (paid and unpaid).

13. **Classification Differential**

Employees who currently receive a recruitment and retention differential, and who demote in lieu of layoff, shall be eligible for a prorated share of the differential for those months served.

~~14. **Recruitment and Retention – Avenal, Ironwood, Calipatria, Chuckwalla and Centinela State Prison**~~

~~The following shall apply to any impacted employee covered by the above Recruitment and Retention (R&R) differential who transfers via the layoff process:~~

~~A. If the employee transfers to a new classification or position in an institution covered by the above R&R differential, the employee shall continue to qualify for the R&R without interruption and without a change in the eligibility date.~~

~~B. If the employee transfers to a new classification or position in an institution not covered by the R&R differential, he/she shall be eligible for a prorated share for those months served.~~

15. **Probationary Period**

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Employees impacted by voluntary transfer, involuntary transfer, redirection or demotion due to "Realignment" shall not serve a new probationary period. However, if an employee has not previously served probation in the classification, s/he may be required to serve a probationary period.

16. **Retransfer Rights**

After realignment is completed, an employee who transfers from a county has a right of first refusal to return to that county. The employee must designate, on the job application, eligibility under this provision. Ties will be broken by seniority.

17. **Point of Contact for Agreement Implementation**

DPA shall provide one point of contact to deal with reopeners, violations, future impacts, grievances, or any other matters associated with this agreement governing "Realignment."

18. **Information Updates**

The State shall share the following information that it possesses with CAPT BU 18 beginning November 1, 2011 and at least sixty (60) days prior to the implementation of each wave.

A. Vacancy lists (lists shall include classification, county, facility, and unit);

B. Overage and Vacancy lists (lists shall include classification, county, institution/work location and unit);

C. Final seniority scores will be posted thirty (30) days prior to the end of each wave.

D. Current staffing (placement listing) within thirty (30) days of the end of each wave of "Realignment"

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19. **Layoff Progression**

Management shall make all efforts to avoid implementing overlapping waves of layoff. In the unlikely event that management must initiate an overlapping wave, it shall notify the union as soon as possible. CAPT BU 18 shall have the right to meet and confer regarding the impacts of the wave, but the process shall not delay the implementation of the subsequent wave.

20. **Layoffs "Outside of Realignment"**

Any other CDCR layoff during Realignment shall be governed by this agreement.

21. **After completion of first wave.**

The parties shall meet in good faith regarding the above processes after the conclusion of the first wave.

22. **Per Diem**

23. **Administrative Time off (ATO)**

24. **Meet and Confer Triggers**

Nothing herein shall be deemed a waiver of the Union's right to receive notice, or meet and confer, regarding changes to any policy, legislation, law, rule, resolution, or regulation proposed to be adopted by the State directly relating to matters within the scope of representation.

At CAPT BU 18's reasonable request, DPA and CDCR shall meet to discuss matters of institutional concern (e.g., staffing levels).

CAPT BU 18:

Ken Murch

State Employer:

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BU 18
Realignment Ideas

1. **Per Diem**

Per Diem for Transfer over 50 miles only	Amount	Basic Duration
Voluntary	$125	30 days
Involuntary	$90	22 days

2. **Administrative Time off (ATO)**

ATO for those who move within 6 months of his/ her report date	100-200 miles	200+ miles
Voluntary	16 hours	24 hours
Involuntary	16 hours	24 hours

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Dispute Resolution

Dispute Resolution: Any dispute regarding the interpretation, application or alleged violation of this Side Letter shall be subject to the grievance and arbitration procedure of the parties' current contract. However, the following provisions shall apply and prevail if inconsistent with that procedure.

Expedited Grievances

The parties agree that all alleged violations of the "Realignment" agreement shall be filed at step three (3) of the grievance procedure.

All other timelines shall apply to the grievance except the following:

i. Within fifteen (15) calendar days after receipt of the appealed grievance, the Director of the DPA or designee shall respond in writing to the grievance.
ii. Within fifteen (15) calendar days after the notice requesting arbitration has been served on the State, the Union shall contact the State to mutually select an arbitrator. If the State fails to respond to the request or the parties cannot mutually agree upon an arbitrator within ten (10) calendar days after the request to select an arbitrator has been served, the Union may request the State Mediation and Conciliation Service to submit to both parties a panel of nine (9) arbitrators. Within ten (10) calendar days after receipt of the panel of arbitrators from the State Mediation and Conciliation Service, the Union shall contact the State in writing and request to strike names from the panel. The parties shall have five (5) business days to meet and alternately strike names until only one (1) name remains and this person shall be the arbitrator. If the State or Union fails to meet and strike names, the other party shall select an arbitrator from the list.
iii. Nothing in this agreement shall supersede the BU 18 MOU section 10.1 relating to health and safety grievances.

Expedited Arbitration

The parties agree that all alleged violations of the "Realignment" agreement shall be subject to the following expedited arbitration process:

i. The arbitrator shall hear and decide as many grievances as can reasonably be presented in a normal work day.
ii. No post hearing briefs unless agreed to by the parties.

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iii. If there is no agreement as to post hearing briefs, each party shall present an oral summation of its position and the arbitrator shall issue a bench decision on each grievance. Thereafter, at the request of either party, the arbitrator shall provide the parties with a written decision.
iv. If the parties agree to post hearing briefs, the arbitrator shall issue a decision no later than 60 (sixty) days after receipt of the parties' post-hearing briefs.
v. Either party may request that the expedited arbitration be conducted with a court reporter. The requesting party shall bear the cost of the reporter.

Institutional Grievances

The parties agree that alleged violations of the "Realignment" agreement that occur on a statewide basis, or where the Union is the grievant, shall not be subject to the expedited arbitration process described above. Such institutional grievances shall be subject to the following procedures:

i. BU 18 shall send a grievance letter to the DPA Director, with a copy to the DPA Chief Counsel.
ii. Within five (5) calendar days after receipt of the grievance letter, either party may request a meeting regarding the grievance. If a request to meet is timely made, the parties must meet within ten (10) calendar days of the request.
iii. Within ten (10) calendar days after receipt of the grievance letter, the Director of the DPA or designee shall respond in writing to the grievance letter.
iv. Within fifteen (15) calendar days after receipt of DPA's response, the Union shall have the right to submit the grievance to arbitration. Within fifteen (15) calendar days after the notice requesting arbitration has been served on the State, the Union shall contact the State to mutually select an arbitrator. If the State fails to respond to the request or the parties cannot mutually agree upon an arbitrator within ten (10) calendar days after the request to select an arbitrator has been served, the Union may request the State Mediation and Conciliation Service to submit to both parties a panel of nine (9) arbitrators. Within ten (10) calendar days after receipt of the panel of arbitrators from the State Mediation and Conciliation Service, the Union shall contact the State in writing and request to strike names from the panel. The parties shall have five (5) business days to meet and alternately strike names until only one (1) name remains and this person shall be the arbitrator. If the State or Union fails to meet and strike names, the other party shall select an arbitrator from the list.
v. If there is a disagreement over whether the grievance is an institutional or expedited grievance, the arbitrator shall first decide whether the grievance is an institutional grievance or an expedited grievance.
vi. A court reporter shall be used for any institutional grievances.
vii. No post hearing briefs unless agreed to by the parties.

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viii. If there is no agreement as to post hearing briefs, each party shall present an oral summation of its position. The arbitrator shall issue a decision thirty (30) days after receipt of the transcript.

ix. If the parties agree to post hearing briefs, the arbitrator shall issue a decision no later than thirty (30) days after receipt of the parties' post-hearing briefs.

If any provision in this agreement is in conflict with the MOU, this agreement shall control.

Nothing in this agreement shall supersede the BU 18 MOU section 10.1 relating to health and safety arbitrations.

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