

**MEMORANDUM OF UNDERSTANDING BETWEEN
NEWARK UNIFIED SCHOOL DISTRICT AND
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, NEWARK CHAPTER #208
COVID-19 PANDEMIC 2020-2021 SCHOOL YEAR SCHOOL RE-OPENING
December 4, 2020**

The Newark Unified School District (“District”) and the California School Employees Association and its Newark Chapter #208 (“CSEA”), jointly known as the Parties (“Parties”) enter into this Memorandum Of Understanding (“MOU”) regarding issues related to the coronavirus COVID-19 and the opening of schools during the 2020-2021 school year.

The District will reopen schools in compliance with current requirements established by the Centers for Disease Control (CDC), the California Department of Education (CDE), the California Department of Public Health (CDPH), and the Alameda County Public Health Department (ACPHD).

The parties agree to the following:

1) SAFETY

a) Safety Plans, Information, and Training

- i) The District shall adhere to the COVID -19 guidelines issued by the Centers for Disease Control and Prevention (“CDC”), California Department of Public Health (“CDPH”), California Department of Education (“CDE”), the California Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA), and the Alameda County Public Health Department, as may be updated from time to time. The District shall train unit members virtually in public health measures, hygiene, sanitation and physical distancing requirements no later than September 30, 2020 to help prevent the spread of the virus and will ensure that its facilities have the necessary supplies for sanitation measures such as soap and water, disposable towels, tissues, hand sanitizer and appropriate PPE. The District will provide unit members with all Keenan COVID-19 training modules.
- ii) The District agrees to maintain an updated Injury and Illness Prevention Plan (IIPP) to address unique circumstances during COVID-19 crisis and agrees to make updates accessible to employees and parents.
- iii) The Human Resources Director has been designated as the districtwide COVID-19 coordinator and will work with the worksite Directors and Principals to address COVID-19.

b) Reporting Unsafe Conditions

- i) Employees are reminded of their duty to do assigned work absent reasonable fears for their health or safety (that is, to grieve assignments rather than refuse them absent evidence that the assigned task puts their own health or another’s health at risk). Any unit member may report in writing, any COVID related working condition that immediately threatens their health and safety to their immediate supervisor. The supervisor shall, within three (3) working days, respond in writing to the unit member, with a simultaneous copy to CSEA #208 Chapter President, stating what has been done to make the condition safe or, if no action will be taken, the reason(s) why. All other concerns will be address under the Contract provision Article 18.1.

c) Food Service during Remote-Only Instruction

- i) To the extent the District provides meals when schools are closed to in-person instruction, the District agrees to develop strategies to limit physical interaction during meal preparation and meal service (e.g. serving meals in classrooms, increasing meal service access points, staggering cafeteria use) as follows:
 - I. Teach and reinforce handwashing and use of cloth face coverings by unit members when near other employees or students.
 - II. Have adequate supplies for both employees and students including soap, hand sanitizer, and tissues.
 - III. Post signs on how to stop the spread of COVID-19.
 - IV. Update standard operating procedures for sanitation of school kitchens, cafeterias, food warehouses, and central production kitchens.

- V. Train all employees on health and safety protocols, including correct application of disinfectants and maintaining physical distancing.
- VI. Clean and disinfect surfaces frequently touched by students or others picking up meals, including tables, chairs, carts used in transportation, and point-of-service touch pads.
- VII. Ensure gloves, masks, disposable aprons, and other supplies are readily available.
- VIII. Consider how workstations can be reorganized for proper physical distancing during meal preparation and meal service.
- IX. Adjust employee shifts to minimize the number of staff in the kitchen.
- X. Provide physical guides, such as tape on floors or sidewalks and signage on walls to ensure that students remain at least six feet apart in lines.
- XI. Have staff wear masks and gloves while using point of service (POS) touch pads, replace touch pads with a scanner, or have hand sanitizer available.
- XII. Install physical barriers, such as sneeze guards and partitions, at POS and other areas where maintaining physical distance of six feet is difficult.
- XIII. Consider increasing access points for providing meal service.
- XIV. Offer grab-and-go student meals for consumption at home, including drive-through, delivery, or curbside pick-up options.
- XV. Assess whether there are students who are unable to access school meal distribution sites and identify ways to address these gaps.
- XVI. Notify parents and the school community about school meal service and options, using a variety of communication methods such as social media, newsletters, and school websites.

d) Childcare:

- i) The District will follow all recommendations of CDE Management Bulletin 20-14 or most current guidance.
- ii) The District shall use “passive screening” of all students prior to them starting the program each day by asking parents or caregivers to screen students for COVID symptoms before leaving for school including a temperature check.
- iii) Students shall be required to wear face coverings at all times while in the childcare facility except during snack, mealtimes or when medically necessary.
- iv) The District shall clean and disinfect all childcare areas, classrooms, offices, bathrooms, common areas, shared electronic equipment frequently.
- v) The District shall adhere to the traditional maximum group size of twelve (12) students per classroom or following guidelines issued by CDPH or space per best practices and most current guidance at the time of implementation.
- vi) In the event that a student becomes ill, staff shall follow District established protocol for removing student from childcare and placing them in the designated isolation room while parent/guardian is contacted to pick up the student. The District shall require that the sick student and sibling(s) be picked up within 30 minutes of notification to parent/guardian.
- vii) Employees shall work designated working hours consistent with hours of the reopened program to address childcare needed due to COVID-19. The District shall work with employees who have jobs outside of the childcare program to assign childcare shifts to avoid conflicting with outside jobs.
- viii) The District childcare program is a student supervision program only. The District shall not require employees to provide services beyond the traditional before- and after-school programs.

e) Infectious Disease Prevention

- i) The District shall require the use of face coverings for all persons over the age of 2 who enter District facilities except for medical exemptions. The District agrees to adopt the CDE recommendations as to access by parents, students and other persons not on school staff, which state, at a minimum, face coverings should be worn:
 - I. While waiting to enter District sites
 - II. While on District sites (except when eating or drinking)
 - III. While leaving District sites

- ii) The District shall provide a minimum of two cloth face coverings plus two disposable face coverings initially for each unit member before they are asked to work at a site or district location.
 - iii) The District shall provide face shields to unit members upon request. Face shields should be worn with a face covering or with a cloth drape across the bottom and secured (i.e. tucked into shirt, tied around back of neck).
 - iv) Unit members shall bring District provided face coverings. The District shall provide appropriate Personal Protective Equipment (“PPE”) to bargaining unit members such as gloves, eye protection, aprons, gowns, and coveralls as needed. The District shall provide sufficient protective equipment to comply with CDPH guidance for students and staff appropriate for each classification or duty, relevant to Cal/OSHA requirements. The District shall implement a plan for ongoing supply of protective equipment.
 - v) The District agrees to provide other protective equipment, as appropriate for work assignments, including but not limited to as follows:
 - I. For front office staff:
 - vi) Face coverings and disposable gloves
- f) For staff involved in surface cleaning:
- i) Masks, gloves appropriate for all cleaning and disinfecting
- g) For staff involved in deep cleaning and disinfecting, or diapering or toileting of students:
- i) Appropriate PPE for COVID-19 disinfection (disposable gown, gloves, eye protection, and mask or respirator) in addition to PPE as required by product instructions.
- h) The District shall follow health guidelines and orders, including but not limited to:
- i) Maintaining appropriate changes to physical layout to maintain physical distancing;
 - ii) One-way hallways to the extent feasible;
 - iii) Barriers for food service;
 - iv) Barriers for bus drivers;
 - v) Limits on number of students in classrooms or other spaces during in-person instruction;
 - vi) The provision of many handwashing locations (soap and water, or sanitizer when handwashing location not accessible) and adequate time for employees to wash hands frequently.
 - vii) The District shall ensure sufficient supplies of hand sanitizers (with a minimum of 60 percent ethyl alcohol and not contain methanol), soap, hand washing stations, tissues, no-touch trash cans and paper towels. Each classroom and non-classroom workspace shall be stocked with hand sanitizer.
 - viii) The District agrees to maintain physical distancing standards in school facilities and vehicles, including but not limited to implementing plans incorporating the following components:
 - I. Plan to limit the number of people in all campus spaces to the number that can be reasonably accommodated while maintaining a currently set minimum of six feet of physical distance between individuals.
 - II. To the extent possible, and as recommended by the CDC, attempt to create smaller student and educator cohorts to minimize the mixing of student groups throughout the day. Minimize movement of students and educators or staff as much as possible.
 - III. Avoiding the direction of staff congregation in work environments, break rooms, staff rooms, and bathrooms.
 - IV. Avoiding the direction of grouping staff together for training or staff development. Virtual training and distancing measures shall be considered.
 - V. In accordance with Cal/OSHA regulations and guidance, the District shall evaluate all workspaces and rearrange workspaces to ensure that employees can maintain physical distancing to the extent possible.
 - VI. The District shall ensure all HVAC systems operate on the mode which delivers the maximum fresh air. HVAC air filters shall be changed at the recommended intervals.
 - VII. All locations with functioning windows and doors shall be encouraged to keep windows and doors open depending on student safety concerns, weather, temperature, or air quality conditions.

- VIII. Where employees are occupying space, the District shall ensure that all classrooms, restrooms, break rooms, and workspaces are cleaned and disinfected daily, including but not limited to desks, doorknobs, crash bars, light switches, faucets, and other high touch fixtures and surfaces.
- IX. The District will use those disinfecting products approved for use against COVID-19 on the Environmental Protection Agency (EPA)-approved list "N" and follow product instructions. The District shall maintain adequate school-appropriate cleaning supplies to continuously disinfect the school site in accordance with CDPH guidance. The District will not utilize products that contain peroxyacetic (paracetic) acid, sodium hypochlorite (bleach) or quaternary ammonium compounds, which can cause asthma.
- X. The District will establish a cleaning and disinfecting schedule in order to avoid both under- and over-use of cleaning products. The District shall establish and maintain routine "deep-cleaning" schedule in accordance with State guidelines and orders. "Deep-cleaning schedule" is defined as a plan for keeping school facilities at high level of cleanliness, particularly sanitizing high-touch surfaces.
- XI. The District shall ensure that all water systems are safe for use.
- XII. The District agrees to install physical barriers, such as protective plexiglass/plexishield partitions and safety screens, in areas where maintaining required physical distancing is difficult.
- i) Health Screening, Testing, Notification and Contact Tracing
- i) The District will require the following health screening:
- (a) A daily self-check health assessment will be required for all employees (visitors and students) before arriving at District sites.
 - (b) The self-check health assessment shall include only symptom screening related questions which are based on CDC recognized symptoms of COVID-19, including but not limited to: fever or chills, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, and diarrhea.
 - (c) Unit members who complete the self-check assessment and answer yes to any of the screening questions, including regarding symptoms which are new or not explained by a reason other than possibly having COVID-19, shall stay home on applicable leave. Unit members will immediately contact their supervisor, report their absence in the absence management system, and consult with a healthcare professional. Unit members will seek medical clearance or a negative COVID-19 test before returning to a District facility.
 - (d) All employees, visitors, students and parents will be trained on the protocols and procedures.
 - (e) Records of staff screenings shall be kept in a safe, confidential location, and shall not be disclosed without employee permission except to county public health employees in the course of investigating a case or outbreak of the virus.
- ii) Testing, Notification and Tracing
- (a) The District shall follow the guidelines covered in AB685 regarding notification to employees and the CSEA #208 Chapter President within 24 hours should learn of a confirmed coronavirus infection of District employees or students and at which campus or worksite said infection was found. The District has a general duty to provide a safe workplace under California Occupational Safety and Health Administration (Cal/OSHA) and Federal (OSHA). The Centers for Disease Control (CDC) advises that if an employee is confirmed to have COVID-19, employers shall inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee.
 - (b) The District shall provide COVID-19 testing at no expense to unit members where potential exposure has occurred or where the District is requiring a COVID-19 test before returning to work. When mandatory testing occurs for students and staff, the District shall provide the same services/resources to staff as they provide to students.
 - (c) The District shall provide testing at no cost to the unit member (unit member's insurance will be billed with no out of pocket cost for the testing). Should the District choose to use the Alameda

County Office of Education's testing vendor, Curative, a testing "proctor" at each school or work site will be identified from unit members who voluntarily choose to perform these duties. Proctors shall be provided training and adequate PPE for this function. Each proctor shall be provided outdoor space to proctor all self-administered tests and shall be paid a monthly stipend of \$200 regardless of the number of days per month spent proctoring. Employee testing shall begin at least four (4) days prior to the beginning of each phase of in-person student instruction for all employees at all school and work sites districtwide.

- (d) CSEA will cooperate with the District in any necessary public health actions, such as contact tracing of infected individuals.
- (e) CSEA will support efforts to maintain funding pursuant to Education Code 41422 and 46392 in the event of a closure of any District facilities due to epidemic.
- (f) The District will follow the law in SB1159 creating a rebuttable presumption for employees to file workers compensation claims.

j) Training

- i) The District shall provide appropriate software and training for unit members required to engage with students in a virtual setting either as part of in-person learning, distance learning, or a hybrid model.

2) LEAVES

- a) If a unit member is potentially exposed to COVID-19 at work and directed to self-quarantine or self-isolate, or is sent home from work due to a screening result or symptoms, the unit member shall be given paid leave under Emergency Paid Sick Leave and Families First Coronavirus Response Act (FFCRA). If employees have exhausted EPSL and FFCRA and test positive for COVID-19, then the employee will be eligible for industrial accident leave under the collective bargaining agreement if the employee was exposed to COVID-19 at work. If exposure to COVID-19 is unrelated to work then leave will be paid for out of employee's sick leave and extended sick leave.
- b) Through December 31, 2020, unit members shall be eligible for leaves pursuant to the FFCRA also known as HR 6201, which provides most unit members with two weeks of paid leave for coronavirus-related absences, and extends the Family Medical Leave Act (FMLA). The parties recognize that such leave as provided by HR 6201 shall be available to unit members in the appropriate circumstances, and shall be drawn prior to any other forms of paid or unpaid leave available to such unit members. The parties further recognize that HR 6201 extends FMLA leave in various ways, including making it available to any unit members who has been employed for at least 30 days, making it available to unit members unable to work due to the need to care for an unit member's minor child if the child's school or place of care has been closed due to a public health emergency, and making it a paid leave at 2/3 pay after the first 10 days. Unit members may elect to take the leave intermittently and, to integrate the amount of pay they receive under such laws by using their accrued paid sick time (and upon its exhaustion "Extended Sick Leave") and/or vacation to receive up to 100% of the employee's normal earnings. For example, if an employee receives \$200 per day under the FFCRA and their regular pay is \$300 per day, they can use 1/3 of a day of such accrued time off to receive the additional \$100 and remain fully paid. The parties will construe HR 6201 as permitting intermittent leave absent a binding judicial decision to the contrary.
 - i) Under HR 6201, the Emergency Paid Sick Leave Act (EPSLA) provides up to 80 hours of paid sick leave at their regular pay rate (up to \$511 per day and \$5, 110 in total) for full time-employees (pro-rated for part-timers) on top of their existing leave banks if the employee is unable to work for any of the following reasons: due to quarantine or isolation orders if the employee is unable to work or telecommute; if the employee has been advised by health care provider to self-quarantine because of COVID-19; or if the employee is experiencing symptoms of COVID-19 and is seek a medical diagnosis.
 - ii) The EPSLA provides up to 80 hours of paid sick leave at two-thirds (2/3) their regular pay rate (up to \$200.00 per day and \$2,000 total) if the employee is unable to work for any of the following reasons: caring for an individual subject or advised to quarantine or self-isolate; caring for a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19; or care is closed, or child care provider is unavailable, due to COVID-19; or experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

- c) Unit members continue to have all leave rights as provided in Article 12 of the CBA. Unit members who have exhausted accumulated sick leave and require additional leave for COVID-19 illness and quarantine, may access extended sick leave and catastrophic leave as provided in Article 12 of the CBA. Unit members who have exhausted all paid leave and must be absent due to COVID-19, including to care for family or household members or to meet a childcare emergency, shall be permitted to take unpaid leave.

3) REASONABLE ACCOMMODATIONS UNDER ADA

- a) The parties recognize that some unit members are at higher risk of severe illness from COVID-19 due to existing medical conditions. The District is required to engage in an interactive process with any unit member who needs reasonable accommodations to perform the essential functions of their job due to a qualified disability which may include underlying health condition that makes them “high risk” or “vulnerable” as related to COVID-19 exposure. The District will engage in the interactive process and reasonable accommodation may include, but is not limited to, the following:
 - I. Providing telework for all or part of working hours if work can be done remotely while the District remains in distance learning and reevaluate once in person instruction resumes;
 - II. Providing additional or enhanced PPE;
 - III. Usage of physical barriers to separate the vulnerable unit member from coworkers or the public;
 - IV. Reorganizing workspace;
 - V. Providing an alternative workspace or location;
 - VI. Altering non-essential job functions to reduce risk of exposure; and/or
 - VII. Providing paid or unpaid leave, where applicable if other accommodations are not available.
- b) Non – ADA interactive meeting: If a unit member is the primary caregiver for a family member or household member then the District will meet with the employee to discuss options. To the extent needed, employees may be eligible for unpaid leave under FMLA/CFRA.

4) RETURN PERSONNEL:

- a) Any arrangements for unit members required to report to a work site shall be subject to the approval of the immediate supervisor and the HR Executive Director or HR Classified Manager. The District shall notify the unit member and the CSEA #208 Chapter President in writing at least 48 hours in advance of returning unit members to report to a work site. As part of the reopening plan the district will consider the following factors in determining staffing, including but not limited to staggered work schedules, hours and days and CDC guidelines as it relates to social distancing

5) MEETINGS AND GATHERINGS:

- a) The District will conduct all staff meetings, professional development training and education, and other activities involving staff with physical distancing measures in place, or virtually, where physical distancing is a challenge.
- b) The District shall develop and implement a plan to minimize access to school sites, and limit non-essential visitors, facility use permits, and volunteers.
- c) The District will ensure that all guests will follow the same safety policies and procedures.

6) WORK DAY/DUTIES:

- a) Bargaining unit members are expected to work and be available during their normal work hours and workdays.
- b) Those unit members teleworking will work with their administrator, director and/or supervisor regarding their daily responsibilities. While teleworking, unit members are expected to be available during their normal designated working hours. No unit members will be expected to answer every phone call and every email received. However, unit members are expected to return phone calls and emails received within a reasonable amount of time (24-hours not counting weekends or holidays).
- c) The District shall provide all bargaining unit members the necessary equipment and supplies in order to provide distance learning or office support, including Chromebooks and/or laptop computers and any other items requested to be able to telecommute.
- d) In the event a unit member who is telecommuting is asked to report to a District work site at a time other than what is listed on the above referenced schedule. The District shall provide 48-hour notice prior to the time they are required to report (exclusive of holidays and weekends).

- e) The District agrees that District Administrators/Managers/Supervisors shall not contact unit members outside of their normal designated working hours to perform work. If a District Administrator/Manager/Supervisor does contact a unit member outside of their normal designated working hours to perform work (this does not include emailing work that can be done during the next designated working hours), that shall be considered as "Call-Back" per the current Collective Bargaining Agreement and the unit member will be compensated appropriately.
- f) The parties acknowledge that California Education Code §45101(a) requires that all classified positions have set duties. However, due to the current unforeseen and unprecedented nature for the current conditions CSEA and the District recognize that some CSEA bargaining unit positions may be asked to perform duties not currently contained within their current job description, but reasonably related to their usual work.
- g) The District and CSEA agree this is a temporary solution to a current need and shall not be considered a waiver of CSEA's rights to negotiate the transfer of duties as required by law. This also shall not be considered precedent setting for either party. All temporary transfer of duties shall be negotiated. In urgent situations, the following duties may be assigned to Paraprofessionals, Campus Monitors and Library Clerks, as needed:
 - i) When students are present for in person instruction, provide daily health checks for students, including taking students' temperatures, completion of student health surveys, and other related duties on a voluntary basis and with training; and
 - ii) Provide support with surface cleaning and high touch areas midday including wiping down and disinfecting classroom on a regular basis in order to assist with maintaining cleanliness;
- h) Paraprofessionals may be assigned to monitor their students in isolation room if they are working with a child that develops symptoms and must be sent home. Additional PPE, such as N95 masks, will be provided while monitoring their student.
- i) While the District remains in virtual learning model, unit members may be permitted to work remotely for some or all of their weekly working days, with prior written approval from Human Resources and the employee's supervisor.
 - i) To maintain equitable coverage at sites, a staggered schedule for each office will be established to maintain physical distancing and reduced contact

7) EVALUATIONS

- a) Evaluations for all probationary unit members and those on the evaluation cycle for 2020-2021 will take place in person or remotely.

8) OUT OF CLASS PAY

- a) The District will follow the contract in regards to out of class pay as outlined in Article 9, Pays and Allowances.

9) RE-CLOSURES:

- a) Employees reporting during closures: The District shall timely inform CSEA about which classifications of employees, and how many, are required to report for work during COVID-19 related closures. The District shall keep CSEA informed of its current and planned operational needs as they affect unit members working during the pandemic and shall upon request bargain further about the effects of such operations.
- b) The District shall in no event assign unit members to perform work not reasonably related to their usual work without first bargaining with CSEA.

10) COMPLIANCE WITH FURTHER GOVERNMENTAL ORDERS:

- a) In addition to the specific provisions above, the District shall follow the applicable CDPH Industry Guidance(s) as follows:
 - i) For all sites and all classifications, the CDPH guidance for Schools and School-Based Programs, at <https://files.covid19.ca.gov/pdf/guidance-schools.pdf>.
 - ii) For all classifications that work in office workspaces, the CDPH Guidance for Office Workspaces, at <https://files.covid19.ca.gov/pdf/guidance-office-workspaces.pdf>.
 - iii) The District shall follow the applicable California Department of Education (CDE) guidebook for the safe reopening of schools at <https://www.cde.ca.gov/ls/he/hn/documents/strongertogether.pdf>.
 - iv) The parties recognize that governmental standards and guidance about workplace safety and health with respect to the novel coronavirus continues to evolve as scientific understanding increases. The District

agrees to adhere to any coronavirus-specific safety standards, orders, regulation, or guidance that may be issued after the guidelines referenced above and that apply to any of the types of work or working environments found in the District's operations as such guidelines may be issued by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (CDPH), California Department of Education (CDE), the California Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA), or the county Health Department, and will also adhere to any mandatory safety and health orders or regulations as they may be issued by any competent governmental body with appropriate jurisdiction.

11) GRIEVANCE PROCEDURES

- a) The District will follow the contract in regards to grievance as outlined in Article 20, Grievance Procedure.

12) CONSULTATION RIGHTS AND RESERVE RIGHT TO FURTHER NEGOTIATE

- a) Due to the evolving nature of the pandemic, the District or CSEA reserves the right to negotiate safety and/or any impacts and effects related to the COVID-19 pandemic upon identification of the negotiable change in working conditions, etc., and District operations.

13) DURATION

- a) Non-Precedential Agreement: All components of the current CBA between CSEA and the District not addressed by the terms of the MOU shall remain in full effect. This MOU is a non-precedent setting and does not establish the status quo for future bargaining purposes.

- b) Term: This MOU is a temporary agreement to address the extraordinary circumstances created by the novel coronavirus (COVID-19) pandemic. This MOU shall expire in full without precedent at the end of the day on June 30, 2021, or the lifting of the statewide State of Emergency declared on March 4, 2020 in response to the COVID-19 outbreak, whichever comes first.

-SIGNATURE PAGE-

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CSEA:

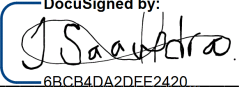
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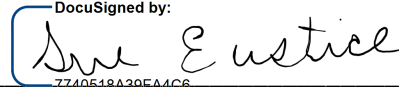
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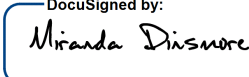
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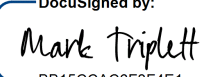
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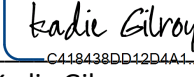
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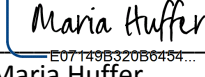
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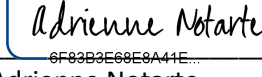
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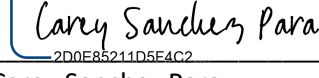
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Carey Sanchez Para
CSEA Labor Relations Representative