

**KALEIDA HEALTH
1199/SEIU UNITED HEALTHCARE WORKERS EAST
COMMUNICATIONS WORKERS OF AMERICA**

2022 CONTRACT NEGOTIATIONS

**Union Counterproposal
Date Presented: June 14, 2022,
Employer Counterproposal
Date Presented: June 21, 2022**

**Article 63
Time and Attendance**

Section 1. All non per-diem employees are required to notify their department two (2) hours in advance of their scheduled shift if they are not going to report to work or if they know they will be reporting late. Per-Diem employees must notify the Department four (4) hours in advance per Article 12 Per-Diem employees Section 6. c.).

Section 2. The following procedure will apply to full time and part time employees who are absent from work. In applying the penalties set forth below, it is understood that every **extended shift** employee is allowed six (6) unscheduled absences and ~~employees working eight (8) hour or less shift~~ **employees** will receive ~~six (6)~~ **eight (8)** unscheduled absences ~~(June 1 through May 31) during an attendance year~~ without penalty ~~unless the employee has already received a verbal warning for violation of this policy.~~ ~~unless the employee has already received a verbal warning for violation of this policy.~~

~~Effective upon ratification of this Agreement, the new~~ **The** attendance year will be June 1 through May 31. ~~For purposes of transition to the new attendance year employees who have 6 or fewer days of absences from January 1, 2019 through the date of ratification of the Agreement, ("Attendance Year") shall have a clean slate, and employees with greater than 6 days of absence at the date of ratification & in discipline shall have their discipline rolled back one step, to the prior discipline and date of that occurrence. Those who may have had a suspension will be rolled back to a written warning but will not be paid for that day of suspension for purposes of this transition.~~

Any use of these six (6) days for **extended shifts and eight (8) days for employees working eight (8) hour or less shifts**, shall not be counted as an absence for the purpose of moving to any level of discipline below:

- a.) After six (6) days **for extended shift employees or eight (8) days for (8) hour or less shift employees**, of absence in any attendance year, his or her supervisor will counsel an employee. No record of this counseling will be placed in the employee's personnel file, but may be maintained in the supervisor's anecdotal

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file. (The counseling will be applied after day six [6] **or day eight [8]** and before day seven [7] or **nine [9]**).

- b.) After seven (7) days **of absence for extended shifts and nine (9) days for employees working eight (8) hour or less shifts**, of absence in any attendance year, an employee will receive a verbal warning. A copy of said verbal warning will be placed in the employee's personnel file and remain there for a twelve (12) month period, from the date of the last absence. If there are no additional unscheduled absences in this twelve (12) month period, the employee will be allowed to utilize a pro-rated number of unscheduled absences for the remainder of that Attendance Year without penalty (the verbal warning will be given after day seven [7]/ **nine [9]** and before day eight [8]/**ten [10]**), as per proration of absences schedule, outlined in Section 3. below.
- c.) If an employee is absent for an eighth (8th) **day for extended shifts or tenth (10th) day for employees working eight (8) hour or less shifts**, day within any attendance year, he or she shall receive a written warning for excessive absenteeism. A copy of said warning will be placed in the employee's personnel file and remain there for a twelve (12) month period, from the date of the last absence. If there are no additional unscheduled absences in this twelve (12) month period, the employee will be allowed to utilize a pro-rated number of unscheduled absences for the remainder of that Attendance Year without penalty, as per proration of absences schedule, outlined in Section 3. below.
- d.) Once an employee has received a written warning as set forth in paragraph "c" above, the next day of absence in the twelve (12) month period, from the date of the last absence, will result in a one (1) day suspension without pay. The day of the call in will be considered the day of suspension if no PTO hours have been paid. If there are no additional unscheduled absences in this twelve (12) month period, the employee will be allowed to utilize a pro-rated number of unscheduled absences for the remainder of that Attendance Year without penalty, as per proration of absences schedule, outlined in Section 3. below.
- e.) Any employee who has received a suspension without pay pursuant to paragraph d.) above and is absent one (1) day more in the next twelve (12) month period will be suspended pending administrative review of the employees complete attendance record. If after the administrative review has been completed, the Employer determines termination is warranted, the employee will be terminated.
- f.) It is further understood that none of the aforementioned steps may be skipped and the failure of a supervisor to take action as set forth will advance the days, which trigger any particular level of action.
- g.) Finally, an employee will be offered union representation (if applicable) at each step of the procedure outlined above.

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Section 3. Proration of Absences Schedule for the remainder of the Attendance Year:

| Discipline Expires | Extended Shifts | 8 Hour Shift or less |
|--------------------|-----------------|----------------------|
| 6/1 through 8/12 | 5 | 6 |
| 8/13 through 10/24 | 4 | 5 |
| 10/25 through 1/5 | 3 | 4 |
| 1/6 through 3/18 | 2 | 3 |
| 3/19 through 5/31 | 1 | 2 |

Section 4. The following absences shall not be counted as occurrences of absence in applying discipline under this Article:

- a.) pre-approved paid time off;
- b.) approved leave of absence;
- c.) excused absence with pay for bereavement, jury duty, military service and time off for union business;
- d.) other excused absence approved in advance by departmental managers;
- e.) absence caused by a certified work related illness or injury as defined by the NYS Workers' Compensation Law and Board;
- f.) absence for an illness or injury which qualifies for, and for which an employee receives New York State Disability benefits (including statutory waiting period of seven (7) calendar days for receipt of disability benefits);
- g.) absences covered by the Family Medical Leave Act (FMLA) or Paid Family Leave (PFL);
- h.) any day for which ESB utilization is allowed;
- i.) for absences as follows:
 - (1.) employee is confined as an inpatient in a hospital;

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- (2.) employee has outpatient surgery under anesthesia in hospital surgical suite, free standing surgical center, or in a physician or dental office (excluding routine tooth extractions or dental work); employee may be required to submit documentation in support of this exception.
- (3.) suffers an injury which requires treatment by a physician with a written statement verifying the injury and circumstances;
- (4.) Is banned or absent from working as a result of infection control illness as defined by Employee Health Policy EH 10 – Corporate Employee Health Infection Control and in addition lab confirmed cases of Influenza **and COVID-19** which do not qualify for FMLA or Disability.

Section 5. Employees who do not report to work and who do not call in to their immediate supervisor to report the absence will be disciplined in accordance with Article 62, Progressive Discipline and Remediation.

Section 6. An employee will be considered tardy when he or she arrives for work after the employee's regularly scheduled starting time. The following procedure will be utilized in cases of employee tardiness.

- a.) an employee who is tardy for a period of five (5) minutes or less will not have that instance of tardiness held against them for the purpose of moving to any level of discipline procedure outlined below. Employees will not lose pay for a tardiness of seven (7) minutes or less;
- b.) an employee who is tardy more than five (5) times in a three (3) month period will receive a counseling. No record of this counseling will be placed in the employee's personnel file, but may be maintained in the supervisor's anecdotal file;
- c.) a second counseling will occur if an employee is tardy an additional two (2) times in the next sixty (60) calendar days;
- d.) one (1) additional tardiness in the next sixty (60) days for any employee will result in a written warning being placed in the employee's personnel file;
- e.) an employee who is tardy again in the next sixty (60) days will be suspended for two (2) days without pay;
- f.) another instance of tardiness in the ninety (90) days following the return of the employee from his or her two (2) days suspension without pay will result in termination;
- g.) it is understood that an employee will be offered union representation (if applicable) at each step of this procedure;

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- h.) finally, none of the steps set forth in this Section 6, paragraphs a.) through e.) may be skipped.
- i.) if an employee does not have another instance of tardiness during the time frames set forth above they will go back to the immediate prior step for the purpose of progressive discipline. (i.e.: Employee receives a written warning on July 1 and is not tardy again until October 1, the employee moves back to step c.). In the event the employee is tardy again during the sixty (60) days following the employee's return to step c.), the employee will receive a written warning consistent with step d.). If this employee is not tardy again within sixty (60) days following the employee's return to step c.), the employee will return to step a.) of this section and continue through the steps.

Section 7. ~~If an employee is tardy for more than thirty (30) minutes and no longer needed on their unit they may be floated to an area where needed (inclusive of clinics).~~

- a. An employee who reports to work more than sixty (60) minutes after their scheduled start time without communicating with a manager or designee will be considered absent unless (1) they have not been replaced on their unit in accordance with Article 15, Section 11, or (2) they are needed on another unit as a float (inclusive of clinics).
- b. An employee who is tardy and does not report to work within two (2) hours of the start of their shift will be considered absent unless they are needed on their unit or another unit as a float (inclusive of clinics).

Any written record of discipline for tardiness placed in an employee's personnel file will be removed after the appropriate time frames as listed in steps in Section 6. c.) through e.) above providing there has been no further action taken against the employee.

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