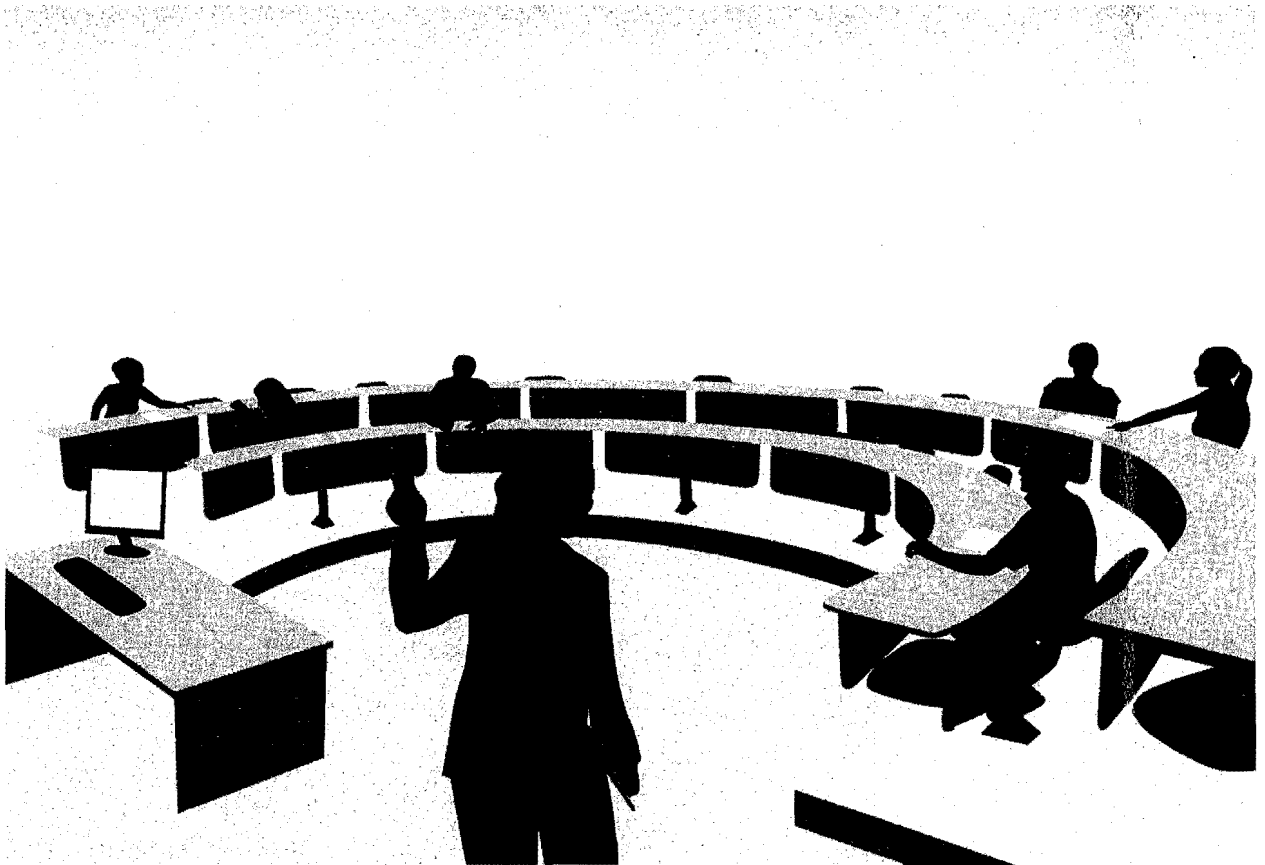


**DULCE FEDERATION  
OF UNITED  
SCHOOL EMPLOYEES  
“DFUSE”**

***COLLECTIVE BARGAINING  
AGREEMENT  
2009-2010***





**ARTICLE 1  
INTRODUCTION**

This Agreement was entered into by the Dulce Independent School District and the Dulce Federation of United School Employees on February 16, 2010, in Dulce, New Mexico.

**ARTICLE 2  
RECOGNITION**

The District hereby recognizes the Federation as the exclusive representative for all regular certified employees, as recognized/certified by the District Labor Management Relations Board on January 19, 2005. The exclusive representation rights do not apply to supervisory, managerial, confidential, substitute employees, and non-certified employees.

**ARTICLE 3  
DEFINITIONS**

Unless otherwise specifically defined elsewhere in this Agreement, the following definitions shall be applicable throughout the Agreement

1. "Bargaining Unit" shall mean the group of employees designated by the Dulce Labor Management Relations Board to be represented for the purposes of collective bargaining under this Agreement.
2. "Certified Employee" shall mean any person holding a valid certificate authorizing the person to teach, counsel or provide special student services in the public schools of the State of New Mexico.
3. "District" shall mean the Dulce Independent School District.
4. "Federation" shall mean the Dulce Federation of United School Employees.
5. "School Board" shall mean the Dulce Independent School District Board of Education.
6. "Teacher" shall mean an employee of this bargaining unit who is required by the Public Education Department to possess a license to teach in the State of New Mexico.
7. "Superintendent" shall mean the chief executive officer of the Dulce Independent School District.
8. "Labor Management Relations Board" shall mean the Dulce Labor Management Relations Board.
9. Use of one gender shall be interpreted as including the other gender.
10. "Employee" when used in the Agreement shall mean bargaining unit employees.



11. "Day" shall mean days that the Central Office is open for normal operation and shall not include holidays or recesses observed by the District.
12. "Professional Development" is defined by and shall be in accordance with the Public Education Department regulations.

#### **ARTICLE 4 AGREEMENT CONTROL**

1. This Agreement has been executed and will be implemented in accordance with the Laws of the State of New Mexico and the Dulce Independent Schools Labor Management Relations Resolution.
2. If any District policy, regulation or directive is in conflict with any provision of this Agreement, the Agreement will control.
3. The parties, by mutual written, signed, and dated agreement, may modify this Agreement.
4. The District will not approve or implement any policy, regulation, or directive that is in conflict with this Agreement without first negotiating on the issue with DFUSE.
5. It is agreed and understood by the parties that unless otherwise specifically stated herein, the provisions, conditions, and requirements of this Agreement shall be applied equally to all members of the bargaining unit.

#### **ARTICLE 5 DISCRIMINATION**

The parties agree to adhere to all applicable state and federal laws regarding discrimination.

#### **ARTICLE 6 FEDERATION RIGHTS**

1. The following provisions shall be granted exclusively to the Federation, and shall not be granted to any other labor organization for this bargaining unit.
  - 1.1 The parties recognize that the employees may choose to join the union. It is also recognized that the employee may choose not to join the union. Membership or non-membership in the union is strictly voluntary. The District also recognizes the right of the Federation to charge the membership fee for members of the union.
    - 1.1.1. The District upon receipt of a properly executed voluntary authorization form signed by a bargaining unit employee will deduct from the employee's salary per pay period the amount of dues certified in writing by the Secretary-Treasurer of the Federation. Such dues deductions shall



be one (1) amount for all Federation members and shall not include any penalties, assessments, or arrears payments.

- 1.1.2. These dues shall be transmitted monthly to the Treasurer of the Federation along with a list of the eligible employees in the bargaining unit for who deductions were made.
  - 1.1.3. Employees who desire to have dues deducted or cancelled may do so by submitting appropriate written notice that is signed and dated to the Payroll Department and the Federation fourteen (14) business days prior to the beginning of the pay period for which the action is to be effective. The Federation may change the amount of dues deductions once every year from the date of the last change by sending the request to the Payroll Department. The change in dues will be reflected by the second pay period after receipt of notification from the Federation.
  - 1.1.4. It is understood that the District assumes no further responsibility in connection with this authorized deduction except to act as remitting agent in forwarding lists and deductions to the Treasurer of the Federation. The Federation, its membership, and individual members of the bargaining unit agree to hold the District safe and harmless of any legal action concerning the deduction of the Federation dues or failure to deduct Federation dues.
- 1.2. The Federation may request approval from the Superintendent to be allowed to set up a table at the vendor's designated area to present and distribute its literature at certified employee orientation. The Federation may request approval from the Superintendent to be allowed to make a brief statement at the certified employee orientation. The Federation may request approval from the Site Administrator to make brief announcements at the end of staff meetings.
  - 1.3. Space in each building employee lounge area will be provided to the Federation for the maintenance of a Federation bulletin board for the posting of official union material only. This board shall not be used for political postings, electioneering, nor for the purpose of criticizing employees, the union, the administration, or the school board. The Federation will be permitted to utilize individual employee mailboxes for the dissemination of Federation notices of meetings and member benefits (e.g. insurance) provided the Federation places the material in the individual mailboxes on non-work time.
  - 1.4. The Federation shall be granted nine (9) days of leave without pay per year of this agreement for the purpose of conducting Federation business. It is recognized that Federation business is not District business. The Superintendent may request the assistance of a Federation representative and may allow such assistance to occur on paid time during normal duty hours.
  - 1.5. The Federation may use meeting areas in District buildings at no cost to the Federation provided advanced scheduling has been made with the Superintendent or his designee and provided such meetings do not interfere with the instructional schedule or conflict with scheduled events as determined by the Principal. If



custodial services are necessary, the Federation will be billed for such services.

- 1.6. If requested and available, the District shall provide the Federation information classified as public information. This shall not be interpreted to require the District to develop new reports or analysis. The Federation President will be provided a list of bargaining unit employees' names, work sites, and positions prior to certified orientation each school year.
- 1.7. Federation officials and/or representatives who are not District employees shall have the right to visit worksites for the purpose of conducting representational business provided the visit does not interfere with the instructional-duty schedule of the certified employees involved. Prior scheduling with the worksite supervisor is necessary to insure availability of the employee or staff needed and to insure that no interruption of instruction occurs. The visitor will be provided a visitor's pass while in the building and shall comply with all visitor policies. In the event the representational business involves the supervisor, prior arrangements for the visit shall be made through the supervisor or the supervisor's office.
- 1.8. If requested by the Federation, a copy of the District Board of Education's Policies and Procedures and agendas, will be made available. The Federation President will be provided a copy of any proposed policies or procedures or changes thereto at the same time as provided to School Board members.

## **ARTICLE 7 MANAGEMENT RIGHTS**

The District retains and reserves unto itself all powers, rights, authority, duties, and responsibilities conferred upon and vested in it by the laws and constitution of the State of New Mexico. Such rights include but are not limited to the following:

1. to determine the mission of the District and its schools and departments;
2. to set standards at least in accordance with state mandates;
3. to exercise control and discretion over District organization and its operations;
4. to direct employees of the District while performing services for the District;
5. to hire, promote, transfer, assign, and retain employees in positions within the District; and to suspend, demote, discharge, terminate, or take other disciplinary action against employees for just cause;
6. to relieve employees from duties because of lack of work, decrease in student enrollment, programmatic changes, or for other legitimate reasons;
7. to maintain the efficiency of the operations entrusted to the Administration;



8. to determine the methods, means, and personnel by which the District operations are to be conducted; and
9. to take whatever actions may be necessary to carry out the functions and mission of the District and maintain uninterrupted service to its students in situations of emergency.

The employer retains all rights not specifically limited by a collective bargaining agreement or by the Public Employee Bargaining Act.

## **ARTICLE 8 EMPLOYEE RIGHTS**

1. It is recognized by the parties that employees have all applicable rights related to wages, hours, and working conditions guaranteed to them, under the Federal and State Constitutions, Laws, and Regulations.
2. When an employee is discharged or terminated such action will be taken in accordance with applicable law. The District will provide the discharged employee with an explanation of the appeal rights set forth in the law.
3. Disciplinary actions, written reprimands, and demotions are subject to the grievance procedure. Discharges and terminations are not subject to the grievance procedure.
4. An employee may be accompanied by a Federation representative at any disciplinary meeting which will result in formal documentation being placed in the employee's personnel files. An employee may be accompanied by another employee to any meeting with the administration initiated by the employee. A request for a Federation representative shall not delay a meeting for more than twenty-four (24) hours.
5. Any criticism of an employee or of an administrator will be made in private and not in the presence of students, parents, other District employees, or members of the public. In a grievance procedure such criticisms may become public.

## **ARTICLE 9 INGRESS AND EGRESS CONTROL**

The District and the Federation recognize the legality as well as the importance of having strict control of lawful ingress and egress at or in the buildings, facilities, or properties owned, operated, or controlled by the District and does not include employee residences. As such, the parties recognize the District's right to prohibit or limit access to District premises by bargaining unit employees or Federation representatives in accordance with District policy and this Agreement.



**ARTICLE 10  
SENIORITY**

1. Seniority shall be defined as the length of continuous District service within the bargaining unit. Seniority credit shall commence with the certified employee's most recent date of hire.
2. Time spent on an unpaid leave of absence of thirty (30) days or more shall not be counted toward seniority credit. However the time spent on unpaid leave of absence shall not represent a break in service.
3. Time spent on sabbatical leave or advanced study leave granted for the purpose of gaining an additional endorsement/certification and completed shall be counted for seniority purposes and shall not break continuous service.
4. Time spent in an administrative position in the District will not be counted towards seniority unless it is for a period of one year or less. Upon return to the bargaining unit, the time spent as an administrator shall not represent a break in service.
5. The District will provide the Federation a seniority list of all employees in the bargaining unit within thirty (30) days of the start of each school year. The list shall include the employees ranked in order of seniority and the date of hire of each employee.

**ARTICLE 11  
EMPLOYMENT PROCEDURES**

1. The District will continue to be an Equal Opportunity Employer.
2. The District will hire employees who are licensed to teach, counsel, or provide special student services, in the State of New Mexico in accordance with Public Education Department rules, regulations, and appropriate laws.
3. When a full-time vacancy exists within the bargaining unit and the District decides to fill the vacancy, the District will fill the vacancy with the best-qualified individual, as defined by the Public Education Regulations and determined by the District.
4. An employee who resigns employment from the District shall provide the District with a minimum of thirty (30) days notice of the intended resignation. In extenuating circumstances shorter resignation notices will be considered by the District.
5. The District shall develop and maintain job descriptions for all positions in the bargaining unit. Such job descriptions shall be on file in the District's Central Office. Certified employees will be provided with a copy of any amendments to their job description.



**ARTICLE 12**  
**LICENSES/ENDORSEMENTS**

1. The District will process all certified employee license and endorsement requirements in accordance with State Law and Public Education Department regulations, standards, and guidelines.
2. If the District requires additional licenses/endorsements for employees, the requirements shall be based primarily on the instructional needs of the students. The following conditions will apply:
  - 2.1. Subject to the Public Education Department's Training and Experience regulations and guidelines, the District shall grant salary schedule credit to employees who complete course work and workshops required for an additional license/endorsement beginning at the next pay period after official verification, if such verification occurs prior to October 1.
  - 2.2. Subject to the recommendations the Principal and the Superintendent, and the approval by the Board of Education, an employee shall be permitted to complete in service or internship requirements for an advanced degree program provided the required activities do not interfere with the employee's duties or responsibilities.

**ARTICLE 13**  
**WORK YEAR/ WORK DAY**

1. It is recognized by the parties that this is a mandatory subject of bargaining. The District will convene a calendar committee in January of each year to negotiate a calendar for the following school year and tentative calendars for the next two school years. The tentative calendars shall be reviewed annually and either party may elect to re-negotiate the calendar for the upcoming year. The committees' agreed upon recommended calendar shall be completed no later than February 20<sup>th</sup>. The school calendar will be ratified by the Union. Following ratification by the Union, the calendars will be presented to the School Board for approval and ratification at the next regularly scheduled School Board Meeting in March. Should either party fail to ratify, the calendar committee shall reconvene to negotiate a calendar, if, however, by the first working day in May an agreement on the calendar is not reached, the calendar will be subject to negotiations between the parties.
2. Employees understand the need for meetings as part of the employees' professional duties and obligations and recognize that employees are required to attend these meetings, such as, but not limited to, PED priority schools, EPSS plan activities, and professional development. In addition, employees may be required to attend meetings and/or events that are extra-curricular/outside of school hours, such as, but not limited to, class sponsorship, open houses, grade level meetings, parent nights, prom, and graduation. This does not include sporting events. Prior notification of forty-eight (48)



hours will be provided on staff development, in-services, assemblies and staff meetings except in the case of an emergency. If the Officers of the Federation believe that the language in this section is being over-utilized by any of the Administrators the President of the Federation may schedule a meeting with the Superintendent to discuss her/his concerns.

3. Volunteers will be sought to sponsor clubs, classes, etc. If no employee volunteers, the District reserves the right to assign an employee and will assign to an employee who does not have a sponsorship at the time of assignment.

#### **ARTICLE 14 CLASS SIZES/LOADS**

The District shall comply with the Public Education Department's class size/class load limits and staffing patterns as required by State Statute and shall apply for a waiver if not in compliance.

#### **ARTICLE 15 ASSIGNMENTS**

1. Employees shall be provided the opportunity to provide input into the development of teaching schedules.
2. On or before the end of the school year, each employee will be provided a tentative schedule of assignment for the subsequent school year. An employee will be informed of any changes in the tentative schedule as soon as possible. Changes in teaching assignments after the commencement of the school year will be made by the District after consultation with the affected employee.
3. When possible, the District will assign employees within the scope of their licenses/endorsements. If necessary, the District may make teaching assignments beyond the scope of an employee's license/endorsement. Such assignments will be made in accordance with appropriate rules, regulations and state laws.
4. Non-instructional student supervisory duties will be assigned on a rotating basis per appropriate statute 22-10A-3D3, but shall not interfere with a bargaining unit employee's thirty (30) minute duty-free lunch.
5. The District and Site Administrator will keep a list of sponsorships and the stipend attached to each. Employees interested in a sponsorship for the following school year may notify the Principal in writing by May 15<sup>th</sup> of the current school year. In the event that no one volunteers for a sponsorship, the Principal will appoint a sponsor. The appointment may be declined if the employee already has a sponsorship.
6. Whenever there is a vacancy in a coaching position that the District decides to fill, the District will post notice of the vacancy and stipend/salary for a period of not less than five (5) days. The District will fill all coaching positions with the best-qualified person,



as determined by the District according to all licensure requirements. All things being equal, preference will be given to a District employee.

## **ARTICLE 16 VACANCIES AND TRANSFERS**

### 1. Definitions:

- 1.1. “Vacancy” shall mean an open bargaining unit position in the District which the district has decided to fill.
- 1.2. “Transfer” shall mean a lateral move from one work site to another within the same job classification.
- 1.3. “Voluntary Transfer” shall mean a transfer initiated by the employee(s).
- 1.4. “Involuntary Transfer” shall mean a transfer initiated by the District.
- 1.5. “Continuous Service” shall mean seniority as defined in this Agreement.

### 2. Vacancies:

- 2.1. Job vacancies for bargaining unit job classifications shall be posted in all work sites. Posting will be placed in areas frequented by employees. Each posting will be made no later than ten (10) calendar days prior to the deadline for final submission of applications for the posted position. An employee(s) applying for a vacancy shall submit a letter of interest to the contact person listed on the vacancy notice on or before the deadline identified in the notice.
- 2.2. During the summer months, posting of vacancy notices shall be maintained at the District’s Central office. Employees who wish to be considered for vacancies, that might occur during the summer months, will submit a request for transfer on or before the deadline date. The District shall consider these as applications for the positions identified in the transfer request.
- 2.3. Vacancy postings will contain the specific identification of the vacant position, the work site at which the vacancy exists, the position’s major responsibilities, minimum license, and skills needed for the position, the name of the person to whom the application should be sent, and the deadline date for submission of applications.

Qualified in-house applicants will be considered on the basis of best-qualified applicant compared against the needs of the School District.

Interviewees should be notified of outcomes no later than ten (10) days after the



decision.

3. Transfers-Voluntary

- 3.1. When the District announces its intent to fill a vacancy, an employee may request a voluntary transfer, by submitting a written request to the Superintendent with a copy to the Principal/Supervisor. The employee(s) requesting a transfer shall designate the requested work site and assignment desired.
- 3.2. When a vacancy occurs, interested qualified applicants shall submit their request for consideration. Employees will be considered on the basis of the best-qualified applicant compared against the needs of the School district. All things being equal seniority will be considered.

4. Transfers-Involuntary

- 4.1. The District reserves the right to transfer an employee as it becomes necessary, such as, but not limited to, district instructional needs, lack of student interest, or state requirements. Transfers shall be determined primarily on the basis of the instructional program needs and based on what is in the best interest of student/instructional needs. The notification and reasons for the involuntary transfer shall be in writing.
- 4.2. Prior to the implementation of an involuntary transfer, the administration will seek a voluntary transfer.
- 4.3. In cases of emergency, written notice of the transfer will be given to the certified employee.
- 4.4. For an employee who is involuntarily assigned to a position for which the certified employee is not licensed and/or endorsed, the District shall provide assistance through peer-mentor programs, training, workshops, relevant on campus course work, or in service training pursuant to a District-approved PDP developed by the employee(s) in collaboration with their supervisor.

**ARTICLE 17  
SPECIAL EDUCATION**

- 1. The assigning of identified special education students in general education classrooms shall be in accordance with all Federal laws, State laws, and the New Mexico administrative code.
- 2. The District will make available at each school site all the necessary documents and compliance manuals pertaining to special education law and regulations for use by certified employees who are assigned special education students in a regular education setting.



3. At no time will a document be generated that identifies special education students differently than other students to be distributed indiscriminately to all staff.
4. It is the responsibility of the certified employees in conjunction with the Special Education Department to identify training, educational programs, or teaching strategies they consider crucial to their job responsibilities, performance, and safety. Requests for such training will be evaluated, prioritized, and provided as determined to be appropriate by the District.

### **ARTICLE 18 ACADEMIC FREEDOM**

All students shall be provided an unbiased, complete study and examination of all academic issues consistent with the curricular and instructional competency requirements of the Public Education Department and the District Board of Education.

Students are entitled to the grade they earn. Certified teachers will assign these grades. If a grade must be changed it will be done by the teacher of record. In special circumstances where grades cannot be verified by the instructor of record because of his/her absence, the building administrator has the responsibility to assign the grade.

### **ARTICLE 19 COMMITTEES**

Any committee dealing with mandatory subjects of bargaining, other than administrator-only committees, will have bargaining unit representation. Any position representing bargaining unit employees will be filled by an individual selected by the Union. Minutes will be made available to all committee members.

### **ARTICLE 20 FACILITIES**

1. Providing classroom space, school supplies and equipment will continue to be a priority of the District. Certified staff will not purchase supplies or equipment for reimbursement without prior written authorization from their Principal/Supervisor. In addition, certified staff will not be required to utilize personal funds for supplies and equipment.
2. District phones are for school business. District phones and personal cell phones are not to be used for regular personal business during instructional time.
3. When a certified employee is required by the District to move to a new classroom, the employee, upon request, will receive assistance by the maintenance/custodial crews to facilitate such a move, based on availability.
4. The parties will work towards reducing classroom interruptions, including the use of the



intercom during instructional time.

## **ARTICLE 21 HEALTH AND SAFETY**

1. The District will provide healthful and safe working conditions for all employees.
2. The District and Employees will continue to comply with all appropriate State and Federal health, environmental, and safety laws and regulations.
3. All hazardous or potentially hazardous conditions including personal physical limitations shall be reported immediately to the employee's immediate supervisor.
4. Employees assigned or volunteering to hazardous conditions as defined by the State or Federal Law will be provided protective clothing and equipment as required by law or the Public Education Department. Such clothing or equipment shall remain property of the District.
5. An appropriate first aid kit shall be available at all buildings. Continued CPR and First Aid Training shall be made available each year.
6. The District may require training for proper restraint and crisis management as deemed necessary.

## **ARTICLE 22 GENERAL LEAVE**

1. General leave may be granted for an employee's personal illness or injury, or for illness of injury of an employee's spouse, son, daughter, or parent, birth of a son or daughter, to care for a newborn child, or at the discretion of the Principal/Site Administrator depending on an employee's individual circumstances. General leave may be used for personal business which cannot be handled except during working hours. General leave will not be granted on the last work day prior to or the first work day following a holiday/school closure, or on an in-service day, or during the last five instructional days of the school year.
2. Each school will provide a non-medical general leave calendar where employees shall schedule their non-medical general leave. Such leave must be scheduled by the employee by signing and dating the scheduling calendar on the available slots. Scheduling of such leave must be done five (5) days prior to the day desired. Each school will have two (2) non-medical general leave days available per day.
3. General Leave for medical purposes such as sickness, illness, injury, or medical emergencies will be requested and scheduled directly with the employee's immediate supervisor. Since these requests do not require advance scheduling this leave may



require documentation and is subject to review. Abuse of this leave may result in the non-payment for the time taken and the employee may be subject to disciplinary action.

4. General Leave days will be taken in half day increments unless it is in the best interest of the students as mutually agreed by the employee and his/her immediate supervisor.
5. All bargaining unit employees shall be credited with two (2) days of general leave at the beginning of the employee's personal employment contract for each school year, except for employees beginning after Christmas shall receive only one (1) day. Thereafter, general leave will accrue at the rate of .50 of one day per pay period for the first twenty (20) pay periods worked per year except for 210-day employees who will accrue for twenty-two (22) pay periods.
6. Bargaining unit employees may accumulate and carry-over no more than eighty (80) days of general leave into a future contract year. Accumulated general leave shall not be reduced or lost by the employee during officially approved leaves of absence, or while on temporary disability. All accumulated general leave is forfeited upon severance of employment with the School District.
7. Bargaining unit employees may not utilize general leave during periods that the employee is receiving worker's compensation benefits.
8. At anytime when qualified substitutes are not available to cover classes affected by the absences, classes will be combined in order to limit the negative impact on the affected students.
9. As in the past, there will be times when absences would seriously impact the delivery of services and the employees' supervisors may request that leave in general be kept to the absolute necessary situations.
10. It is recognized by the parties that the success and continuation of this approach to paid leave will be directly related to the impact that it has on the students of this District.

### **ARTICLE 23 LEAVES: PROFESSIONAL**

Employees, with prior approval from the Superintendent and budgeted funding, may be allowed to attend meetings, workshops, training and conferences directly related to the employees' professional discipline and District EPSS.

### **ARTICLE 24 SABBATICAL**

Sabbatical leave may be granted to certified employees subject to available funds and the approval of the School Board of Education as per the policies of the Public Education Department and the New Mexico Statute, Section 22-10A-35, or as amended.



**ARTICLE 25**  
**FAMILY AND MEDICAL LEAVE ACT OF 1993 (FMLA)**

The District will continue to comply with the Family and Medical Leave Act of 1993 (FMLA).

**ARTICLE 26**  
**LEAVES: MILITARY**

An employee who is a member of an organized unit of the United States Reserves or the New Mexico National Guard will be given leave in accordance with the State and Federal laws.

**ARTICLE 27**  
**JURY DUTY AND COURT APPEARANCES**

1. Leave with pay shall be granted to an employee called to serve on jury duty. The employee shall be permitted to retain any travel or meal reimbursement received from the court. All other jury compensation shall be signed over to the school district.
2. Leave without pay will be granted to a certified employee to appear in court to assert or protect the employee's own interest.
3. Leave with pay will be granted a certified employee when absence from duty is required by a lawful subpoena to testify, in court or an administrative hearing on a job related issue, on behalf of the District. Leave granted under this section will not be deducted from the employee's accumulated leave.
4. Employees must notify their immediate Supervisor of their desire to apply for such leave as soon as the employee is aware of the date of the court appearance.

**ARTICLE 28**  
**POLITICAL LEAVE**

1. Upon request to the Board, an employee may be granted a political leave without pay to campaign for his/her own election or to serve in public office.
2. This leave may be extended by the Board, but only with the express condition that there is no guarantee for return to employment.

**ARTICLE 29**  
**LEGISLATIVE/PUBLIC SERVICE LEAVE**

1. Employees appointed or elected to non full time government offices such as boards or commissions may be granted leave without pay to attend meetings required of the elected position, subject to the recommendations of the Superintendent and the approval of the



Board.

2. Employees elected to the New Mexico Legislature will be granted leave without pay for the period of time that the legislature is in session.

### **ARTICLE 30 ASSAULT AND BATTERY/STAFF PROTECTION**

The School Board Policy #2.007 on Assault and Battery will apply to bargaining unit employees. The Union President will be notified of any contemplated changes to the policy. The Union may request, in writing, within seven (7) calendar days of notification of the contemplated change, to negotiate changes. Such request will not be denied.

### **ARTICLE 31 TEACHER EVALUATION**

1. The primary purpose of certified employee evaluation will be the improvement of instructional behavior and performance related to the delivery of quality education to the students.
2. Certified employees will be evaluated by the Principal or a certified administrative employee trained in evaluation procedures and techniques, as assigned by the Superintendent.
3. Certified employees shall be evaluated on the cycle set forth in the District's evaluation plan in accordance with the Public Education Department Regulations.
4. Employees will be given a copy of their written evaluation, and/or status report, and will be given the opportunity to review the evaluation with their supervisor prior to its submission to the personnel file. The employee shall sign and date the evaluation, the PDP (Professional Development Plan), PDP Reflection, and/or status report indicating acknowledgment that the employee has read and understood the evaluation. The employee will be afforded the opportunity to respond to the evaluation in writing within five (5) workdays and have such response attached to the evaluation form.
5. If deficient performance on the part of a certified employee is identified during the school year, the certified employee may be evaluated at any time. The PGP (Professional Growth Plan) will reflect remedial action needed to meet performance standards set by the New Mexico State Teacher competencies according to licensure level and standards set by the District with timelines for correction, mentoring assistance, and the providing of any additional training of behavioral issues and/or identified deficiencies as applicable.
6. Complaints from students, parents, administrators, and other employees will be brought to the attention of the certified employee against whom the complaint has been made if the Supervisor intends to use the complaint as part of the employee's evaluations. The employee can respond, in writing, to the complaint.



7. Any modifications to the Teacher Evaluation Plan will be made in accordance with the Public Education Department regulations and a copy given to the employee.
8. The certified employee will be given at least five (5) workdays' notice prior to the formal evaluation observation, or as agreed to between the site administrator and the affected employee.
9. The supervisor will meet with an employee within five (5) workdays of completion of the formal evaluation and related documents. A document will not be attached to the evaluation if the employee was unaware of the document prior to the final evaluation.

**ARTICLE 32**  
**EMPLOYEE INVESTIGATIONS**

1. The District reserves the right to investigate all allegations of employee misconduct. Employees are required to cooperate in an investigation. Failure to cooperate may be considered insubordination, unless the employee has been denied representation.
2. An employee may be placed on paid administrative leave of absence during the investigation of misconduct provided the employee has been given notice that he/she may be the target of an investigation.
3. During an employee investigation for misconduct, no documentation related to the matter under investigation will be placed in the employee's personnel file. If the investigation does not establish cause for discipline the documentation placed in the employees personnel file will reflect such.
4. Upon completion of the investigation but prior to the filing of charges against an employee, the employee will be provided the opportunity to respond to the charges. The employee will receive a written notification from the Superintendent or his/her designee of the findings and disciplinary action recommended or proposed to be taken by the District.
5. If an accused employee requests Federation representation at any stage of the investigation, such request will be honored, provided that the representative will be any available Union officer for an investigatory meeting held with no prior notice to the employee. The Union officer will be excused from any duty for this meeting without notice. An investigatory meeting in which the employee receives at least twenty-four (24) hours notice may be delayed no more than twenty-four (24) hours from the time of the scheduled meeting based on the non-availability of a requested Union Representative.
6. An investigation will be conducted expeditiously, determined on a case-by-case basis. An employee will be informed of the status of an investigation, upon written request filed by the employee with the Superintendent, if the investigation has continued for greater than thirty (30) calendar days.



7. An employee may request a re-entry meeting with the supervisor upon return to work from administrative leave under this Article. The employee will have the right to have Federation representative accompany the employee in this meeting.

### **ARTICLE 33 PROGRESSIVE DISCIPLINE**

Disciplinary actions may include verbal warning, written reprimand, suspension without pay, demotion, discharge, or termination. It is recognized that progressive discipline will be implemented at the appropriate level based on the employee's total record, the severity, and the frequency of the infraction. All disciplinary action will be based on just cause. The principles of progressive discipline may be applied to, but not limited to, conduct which violates actions defined in NMAC 6.60.9.9 (New Mexico Administrative Code – Standards of Professional Conduct). Disciplinary action taken against an employee, with the exception of verbal warning, may be grieved pursuant to the Grievance Procedure contained in this Agreement, however, written reprimands may only be grieved through Level Two. This language does not apply to non-tenured employees. The termination of non-tenured employees will be handled/processed in accordance with the State of New Mexico Public School Personnel Act 22-10A-24.

### **ARTICLE 34 DRESS CODE**

In order for bargaining unit employees to have the respect of the students and the community, employees must dress and conduct themselves as professional people. Clothing should be clean, without holes or frayed areas, and not revealing. Flip flops are not allowed. Employee dress should present a professional appearance and demeanor. Clothing with inappropriate graphics/sayings, sweatpants, short jogging suits, shorts, spandex, other form fitting clothing, and miniskirts are inappropriate as are dresses/tops with spaghetti straps, unless covered at all times. Skirts and dresses shall be worn approximately knee length or longer. Hats should not be worn in buildings unless they are religious apparel consistent with the employee's religious beliefs.

Exceptions to these standards are recognized for physical education, vocational teachers, and other classifications when necessary to implement the District's curriculum or to appropriately fulfill the employee's job assignment, as determined by the District. Other exceptions may be made with the approval of the building principal for situations such as inclement weather, field trips, field days, community clean up, and days when the students are not in attendance.

Violations of this Article should be brought to the attention of the employee by the employee's supervisor for correction and appropriate disciplinary action taken for continued violations.



**ARTICLE 35**  
**GRIEVANCE PROCEDURE**

**PURPOSE**

1. The purpose of this grievance procedure shall be to secure, at the lowest possible administrative level, resolutions to issues that arise and are subject to review under this procedure. By mutual agreement electronic recording of any meeting or hearing, regarding this process, may take place.

**2. DEFINITIONS**

- 2.1. A “grievance” shall be defined as a dispute pertaining to a claim which alleges a violation of this Agreement.
- 2.2. A “grievant” shall be a certified employee, group of certified employees, the Federation, or the School District.
- 2.3. A “party in interest” shall mean any witness at a grievance hearing, a person against whom the grievance is filed, or a person who may be impacted as a result of any action taken to resolve a grievance.
- 2.4. “Days” shall mean days that the Central Office is open for normal operation and shall not include holidays or recesses observed by the District.

**3. PROCEDURES**

- 3.1. An employee will, upon request, be accompanied or represented by a Federation representative at any level of the grievance procedure.
- 3.2. The number of days indicated at each level of this procedure shall be considered maximum, and every effort shall be made to expedite the process.
- 3.3. If the respondent fails to comply with the time limit requirements as set forth under any of the procedure’s levels, the grievance shall be considered automatically appealed to the next level of the procedure.
- 3.4. If the grievant fails to comply with the grievance’s time limit requirements as set forth under any of the procedures, the grievance shall be considered null and void.
- 3.5. The time limits set forth herein may be extended provided the extension has been mutually agreed upon by the parties, in writing.
- 3.6. Both parties may be represented at any hearing or meeting conducted under this procedure.



- 3.7. No reprisal or retaliation by any party to the grievance shall be taken against either a grievant or a party in interest including witnesses as a result of participation in this grievance process.
- 3.8. An employee, acting individually, may present a grievance without the intervention of the Federation provided the grievance has been processed in accordance with this procedure. In this case, the employee, not the Federation, assumes full financial responsibility for the processing of the grievance. At any hearing of a grievance brought individually by an employee, the Federation, as a party to this Agreement, will be afforded the opportunity to be present and present its views. Any adjustment shall be consistent with the provisions of this Agreement.
- 3.9. If a grievance affects a group of two (2) or more employees or involves an action or a decision by the District which has a system wide impact, the Federation may submit the grievance on behalf of the affected employees.
- 3.10. A grievance filed by the District shall be filed in writing at Level Two with the Local Federation President.
- 3.11. The parties shall cooperate in any investigation which may be necessary in order to expedite the process and the parties will share relevant documents, facts, or records. The language in this subsection is subject to written revocation if either party believes that this language is being abused.
- 3.12. All documents related to a grievance shall be maintained in a separate envelope in the employee's personnel file. This information will be available on a need to know basis to the supervisory and management staff, the District's representative, the employee, and the employee's representative.
- 3.13. All grievances shall be processed in accordance with this Agreement. This is the only grievance procedure available to the parties covered by this Agreement.
- 3.14. Unless otherwise agreed to by the parties, the hearing of the grievance shall be conducted before or after the grievant's workday.
- 3.15. All grievances shall be filed and processed on grievance forms.
4. **INFORMAL LEVEL:** It is encouraged, but not required, that prior to the filing of a formal written grievance, the grievant first discuss his/her grievance with his/her Principal/Director in a good faith attempt to resolve the grievance prior to the filing of a formal grievance.
5. **LEVEL ONE:** Grievances shall be filed within ten (10) days of the commission or omission of the act that generated the grievance with the employee's Principal/Director. The Principal/Director will supply a written response to the grievance within five (5)



days following receipt of the grievance. If the matter is not resolved to the satisfaction of the grievant, the grievant may file a written grievance at Level Two.

6. LEVEL TWO: Within five (5) days of the date of the receipt of the Principal/Director's response, the grievance shall be filed in writing with the Superintendent. Within ten (10) days of the filing of the grievance, the grievant and his/her representative and the Superintendent will meet at a mutually agreed upon time and place for the purpose of attempting to resolve the grievance. For this meeting, the Superintendent may designate an Administrator other than the Level One Supervisor to meet with the grievant in his/her absence. If the grievance is resolved the settlement will be reduced to writing and provided to both parties. If the grievance is not resolved or the parties are unable to meet within the ten (10) day time frame and an extension has not been mutually agreed to, the Superintendent or designee will provide a written response within five (5) days following the expiration of the ten (10) day time limit.
7. MEDIATION: If the grievant is not satisfied with the Superintendent's decision, the grievant may appeal to mediation by submitting a written request to the Superintendent within five (5) days of the date of the Superintendent's decision. If one party refuses mediation, that party will provide the reason for refusing mediation, in writing, which is not grievable. Either party may proceed to arbitration when mediation is refused. If neither party refuses mediation, the parties will contact the Federal Mediation and Conciliation Service (FMCS) within five (5) days of the filing of the request for mediation, for assignment of a mediator. The mediator shall conduct mediation as soon as possible, but no later than thirty (30) days following the submission of the request for mediation. The mediator shall have the authority to request and review pertinent documents and shall have the authority to interview witnesses. If the grievance is not resolved in mediation, the grievant may submit a request for arbitration within five (5) days of the date of mediation.
8. ARBITRATION
  - 8.1 If the grievance is not resolved at Level One and the grievant desires to pursue the grievance the grievant shall provide written notification of intent to proceed to arbitration. Such written notice shall be provided to the Superintendent within five (5) days of the date of the Superintendent's decision or five (5) days of the date mediation was held. If the District's grievance is not resolved at the session with the Local President and the District wishes to pursue the grievance, written notification of intent to advance to arbitration will be presented to the Local Federation President within five (5) days of the meeting between the parties to attempt to resolve the grievance.
  - 8.2 Within five (5) days of the notice of intent to proceed to arbitration the parties will request an unrestricted list of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS).
  - 8.3 Upon receipt of the list of arbitrators the parties will meet within ten (10) days to



select the arbitrator. Each party will alternately strike a name until only one name remains. The remaining name will become the selected arbitrator. The flip of a coin will determine who strikes the first name.

- 8.4 The arbitrator shall conduct a hearing as soon as possible. The arbitrator will prepare and submit his decision to the parties in writing.
- 8.5 The arbitrator's decision shall be final and binding on the parties.
- 8.6 The arbitrator's fees and costs shall be shared equally by the parties. All other expenses shall be assumed by the party incurring the costs.
- 8.7 It is recognized by the parties that in the case of the individual employee pursuing the settlement of a grievance on his own, or without consent of the Federation, the parties will be responsible for the costs by his/her own means and may be required by the arbitrator to provide full or partial payment in advance.

**ARTICLE 36  
PERSONNEL FILE**

- 1. The District shall maintain a personnel file for each employee. The file shall be maintained in the District's Central Office.
- 2. An employee shall be permitted to review material contained in the employee's file. An employee wishing to access his/her personnel file shall provide 24 hours advance notice. The District shall remove all pre-employment material from the file prior to providing the file to the employee for review.
- 3. The District will honor reasonable requests by the employee or designated representative(s) for a copy of an accessible document in the file. The representative shall have access to the employee's file only after providing written authorization from the employee. The District will charge a fee of \$0.25 for copies of more than ten (10) pages.
- 4. An employee may be accompanied by a designated representative(s) while reviewing the file. The employee may also assign the sole responsibility for reviewing the file to the designated representative(s) provided the certified employee authorization is in writing. A District Central Office employee must be present at the time the file is reviewed.
- 5. Except for routine file maintenance material, the District shall provide an employee a copy of any document prior to the placement of the document in the file. The employee shall acknowledge having seen and received a copy of the document by affixing the employee's signature and date to the document. Signature acknowledges receipt not necessarily agreement with the document.
- 6. Supervisors may maintain a separate personnel file for each employee at the work site. These documents shall not be used for actions against the employee(s) without their prior



knowledge.

**ARTICLE 37**  
**REDUCTION IN FORCE**

1. It is the District's right to reduce its workforce and, if necessary, discharge or terminate employees as a result of a reduction in force (RIF) in the event of a financial emergency, elimination of positions, or restructuring of its instructional program based on lack of student interest and/or participation.
2. When the District anticipates a RIF, which might result in the transfer or layoff of an employee(s), the District will notify the Federation in writing of the anticipated RIF. The notice shall include the reasons for the RIF, the affected programs, the affected employee(s), and the expected date of the RIF. The notice will be provided at least thirty (30) calendar days prior to the anticipated implementation of a layoff.
3. Following the issuance of the notice set forth in #2. above, the Federation may meet with the District Board of Education to discuss possible alternatives to the RIF provided the Federation requests the meeting in writing no later than seven (7) calendar days after receiving the notice of intent to RIF.
4. The District will first request voluntary transfers and resignations with written notice to the employee(s) in the affected job classification.
5. If the request set forth in #4. above does not resolve the problem, the District will notify the affected employee with the least seniority District wide in the endorsement area affected by the RIF that the employee will be laid off. The seniority definition set forth in Section 10 of this Agreement shall be used.
6. **LAY OFF:**  
The employee(s) will have recall rights for one (1) year. The District shall offer any bargaining unit position vacancy for which the employee(s) is licensed/endorsed to the laid off employee(s). Employees on an eligible recall list shall be recalled in seniority order, and shall be entitled to all seniority rights, (i.e., last laid off, first recalled). The employee shall maintain a correct current address and phone number with the District. Failure to provide this information will disqualify the employee(s) for recall rights under this Agreement. If the employee is not recalled to employment within the one (1) year recall period, the District obligation to provide any employment rights to the employee(s) shall be terminated.
  - 6.1 Upon request of the employee(s), the laid-off employee(s) will be placed on the District's approved substitute rolls.



**ARTICLE 38  
DRUG-FREE WORKPLACE**

1. The unlawful possession, dispensing, distribution, manufacture, sale or use of alcohol and/or illicit substances on school premises or as part of any school sponsored activities is prohibited.
2. Employees who dispense or are responsible for controlled substances (drugs) and/or employees who are authorized to drive school-owned vehicles or personal vehicles to transport students or employees on school-related activities shall be subject to random drug and alcohol testing. All other employees are subject to reasonable suspicion testing and/or post-accident testing.

**ARTICLE 39  
PURCHASE ORDERS**

Bargaining unit employees will be provided a copy of the District's procedures for processing purchase orders. Bargaining unit employees are required to follow these procedures in the purchase of any material for the District.

**ARTICLE 40  
USE OF VEHICLE**

An employee is encouraged to use the vehicles in the District auto pool for district business use only. Employees will not be required to use their personal vehicle during the employee's workday. If a school vehicle is not available and the employee uses his personal vehicle for business he will be compensated as per State Law. The employee must maintain good records. Fraud may subject the employee to termination.

1. The District, where use of private or commercial transportation is necessary, will pay travel costs in connection with approved bona fide District activities. This is subject to the prior approval of the Superintendent or designee.
2. If district-owned transportation is available, transportation costs for personal vehicles will not be paid.
3. Per diem compensation will be paid to employees to attend or participate in activities outside the normal work location. However, prior approval, using District forms, is required before such compensation can be paid.
4. Any actual expense authorization will require actual expenditure receipts and prior administrative approval before compensation can be paid.

**ARTICLE 41  
PRIVITIZATION**

It is recognized by the parties that it is the right and responsibility of the School Board to determine what is in the best interest of the students, what services will be delivered, and by what method and/or source those services will be provided. Should the District decide to contract out work that would lay off bargaining unit employees, the District will provide at least forty-five (45) days prior notice to the Federation and the Federation will be provided the opportunity



to present alternatives to the School Board.

**ARTICLE 42**  
**ADMINISTRATIVE CHANGES**

It is recognized by the parties that the Superintendent is responsible for the operation of the school district. The District will continue to make changes that it believes are in the best interest of the students. If the Union believes that any change implemented by the District has created a mandatory subject of bargaining, it is the Union's option to initiate negotiations or pursue other remedies. Nothing in this agreement shall abridge the rights of management or the school board to make any change to policies, procedures, professional, or instructional matters as long as such changes do not violate this agreement.

**ARTICLE 43**  
**INSURANCE**

1. Each employee will be eligible for the benefits set forth in this section as per the conditions set by the New Mexico Public Schools Insurance Authority (NMPSIA). Upon employment by the District, an employee shall be provided an explanation of the benefits provided by the district.
2. An employee's premium co-payment for insurance set forth below shall be deducted from the employee's paycheck for 24 (twenty-four) pay periods in equal installments.
3. The District offers the approved New Mexico Public School Insurance Authority (NMPSIA) benefits. The District will continue to offer life insurance offered by NMPSIA of \$50,000, unless NMPSIA lowers its insurance offered below \$50,000, in which case the District will offer the highest level offered by NMPSIA.
4. The District will continue its current premium contributions, as required by law, towards the premiums for the NMPSIA Plans currently in place.
5. The District will continue to provide employees the opportunity to invest and pay premiums through payroll deductions to voluntary tax-sheltered annuities/accounts, life insurance, deferred compensation and credit union programs sponsored by the school district, subject to the requirements set by the companies and subject to at least 25% of the bargaining unit employees participating in the plan.
6. If an employee experiences any change in marital or other personal status which necessitates the enrollment of the employee in any of the group plans identified above, the employee is permitted to enroll or withdraw from the available plan(s) in accordance with the NMPISA requirements.



**ARTICLE 44**  
**SALARY**

The parties recognize that the District's financial state for the 2009-2010 school year does not allow for pay increases. Each employee shall receive one year of credit for experience on the salary schedule, however, the step will allow for no salary increase as the schedule has been adjusted to reflect a salary freeze. This adjustment is for the 2009-2010 school year only.

**ARTICLE 45**  
**ADVANCEMENT ON THE SALARY SCHEDULE**

All employees shall receive appropriate credit for their experience and education: however there shall be no increases in salary for experience for the 2009-2010 school year. Changes in level of licensure or additional training in accordance with the "Manual of Procedures for Calculation of the Training and Experience Index" shall be honored. This salary freeze is for the 2009-2010 school year only.

**ARTICLE 46**  
**NEGOTIATING PROCEDURES**

1. Negotiations for a successor agreement may be initiated by either party by submitting a written notice to the opposite party requesting the commencement of negotiations. The notice shall be sent no earlier than one hundred twenty (120) calendar days and no later than the ninety (90) calendar days prior to the Agreement's termination date.
2. Negotiations shall be conducted in closed session.
3. Additional negotiation ground rules may be negotiated by the parties.
4. During negotiations, the parties shall meet at mutually acceptable times and places for negotiations.
5. All agreements reached by the parties shall be initialed as tentative agreements. Tentative agreements shall not become effective until the entire negotiations package has been ratified by the parties.
6. If an impasse is reached, the parties agree to use the impasse procedures as outlined in the Dulce Labor Management Relations Resolution adopted August 17, 2004.

**ARTICLE 47**  
**COPIES**

The parties shall each assume one-half the cost of printing enough copies of this Agreement for distribution to each employee in the bargaining unit, all administrators, and District Board of Education members.



**ARTICLE 48  
SEVERABILITY**

This is the complete and only agreement between the parties. If any provision of this Agreement is determined by a final order of an administrative agency or court of competent jurisdiction to be contrary to law, the affected provision shall be rendered null and void. All other provisions not affected shall remain in full force and effect. The provision determined to be contrary to law shall be re-negotiated by the parties provided either party submits a request to reopen negotiations no later than thirty (30) days after the parties knew or reasonably should have known that the provision was contrary to law.


**ARTICLE 49  
DURATION**

This agreement is effective on the first full pay period following ratification and signature by the parties and shall remain in full force and effect through June 30, 2010.

**ARTICLE 50  
SIGNATURES**

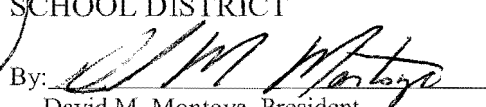
IN WITNESS WHEREOF, the parties hereto affix the signatures of their respective officers and representatives

DULCE FEDERATION OF UNITED  
SCHOOL EMPLOYEES


By:   
Belva Eversgerd, Chief Negotiator

Date: 2/25/10

DULCE INDEPENDENT  
SCHOOL DISTRICT

By:   
David M. Montoya, President  
Board of Education

Date: 2-25-2010

By:   
Superintendent

Date: 2-25-2010

