

NAGE **NSEIU**



**Master Agreement
Between the
Department of Veterans Affairs
and the
National Association
of Government Employees**

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PREAMBLE

In accordance with Chapter 71 of Title 5 of the U.S. Code, and subject to all applicable statutes with regulations, the following articles constitute an agreement by and between the Department of Veterans Affairs (Department) and the National Association of Government Employees (Union). The Department and the Union are jointly referred to as the "Parties".

The Department and the Union agree that a constructive and cooperative working relationship is essential to achieving the Department's mission and to ensure a quality work environment. This relationship must be built upon a solid foundation of trust, mutual respect, and a shared responsibility for organizational success.

PURPOSE

It is the intent and purpose of this Agreement to maintain constructive relationships and to assist in contributing to the efficient administration of the Department and to the well being of employees represented by the Union and assigned within the recognized bargaining unit.

It is further the intent of this Agreement to educate all employees concerning their rights and responsibilities involving personnel policies, practices, procedures, and matters affecting the conditions of employment in the bargaining unit in compliance with all laws, rules and regulations. This Agreement also seeks to provide all bargaining unit employees the opportunity to participate in the formulation and implementation of appropriate policies and procedures in accordance with USC Title 5 and USC Title 38 regarding Federal Labor Management Relations.

Each party to this Agreement has a responsibility to consider the other party's concerns and to make an honest attempt to find acceptable solutions. The Parties shall foster an atmosphere of cooperation and mutual respect in all of their relationships and to conduct their negotiations with dignity and decorum.

**ARTICLE 1
RECOGNITION AND COVERAGE**

Section 1 - Exclusive Representative

The National Association of Government Employees (Union) is recognized as the sole and exclusive representative for certified employees, full-time, part-time and temporary, in units consolidated and certified by the Federal Labor Relations Authority (FLRA). The Union is entitled to act for and negotiate agreements covering all employees in the bargaining unit.

In the event that the Union requests the FLRA to include subsequently organized employees in the consolidated unit, the Department shall not oppose such request or petition if the unit would otherwise be considered an appropriate unit under the law. Upon certification by the FLRA, such new units automatically are covered by this Agreement.

Section 2 - Unit Clarification

In the spirit of cooperative labor management relations, the Local and Management shall discuss any issues which may result in a change of the bargaining unit status of an employee prior to filing a petition with the FLRA. If still unresolved, either party may file a petition with the FLRA. If the position previously was included within the bargaining unit, the employee and the position will remain in the bargaining unit until the FLRA issues a decision on the petition. In the event that the Department, by or through its agents, unilaterally removes a position or employee from coverage, and the FLRA subsequently determines that the position is properly included in the bargaining unit, the Department shall reimburse to the Union any and all union dues not deducted. Reimbursement for dues deduction will only apply to those employees who had previously filed an SF-1187 or equivalent in accordance with Article 58, Section 4.

**ARTICLE 2
GOVERNING LAWS AND REGULATIONS**

Section 1 - Relationship to Laws and Regulations

In the administration of all matters covered by this Agreement, officials and employees shall be governed by applicable Federal statutes. They will also be governed by Government-wide regulations in existence at the time this Agreement was approved.

Section 2 - Department Regulations

Where any Department regulation conflicts with this Agreement and/or a supplemental agreement, the Agreement shall govern.

Section 3 - Collective Bargaining with Title 38 Employees

Under 38 USC § 7422, collective bargaining by employees appointed under Title 38, Chapter 74, may not “cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of compensation” under Title 38. The term “professional conduct or competence” is defined as (1) direct patient care or (2) clinical competence. By law, these areas are excluded from collective bargaining and governed entirely by VA regulations. The parties intend that all Articles in this Agreement should be interpreted consistently with 38 USC § 7422, regardless of whether the statute is or is not specifically cited in the Article.

ARTICLE 3
AFFILIATIONS

- A. The Department will honor the Union's rights as the exclusive representative regardless of any relationships between the Department and an affiliate body.
- B. The Department agrees that officials of an affiliate acting in a supervisory capacity over unit employees shall be bound by the applicable law, regulation, and the terms of the Agreement and any applicable supplemental agreements in their supervisory relationships with bargaining unit employees.

**ARTICLE 4
EMPLOYER RIGHTS**

Section 1

Subject to Section 2 of this Article, nothing in this agreement shall effect the authority of any Management official of the Employer –

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the Employer; and
- B. In accordance with applicable laws –
 - (1) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - (2) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Employer's operations shall be conducted;
 - (3) with respect to filling positions, to make selections from –
 - (a) among properly ranked and certified candidates for promotion; or
 - (b) any other appropriate source; and
 - (4) to take whatever actions may be necessary to carry out the Employer's mission during emergencies.

Section 2

Nothing in this Article shall preclude the Employer and the Union from negotiating –

- A. At the election of the Employer, on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- B. Procedures which management officials of the Employer will observe in exercising any authority under this Article; or
- C. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

Note: The parties acknowledge that 38 USC § 7422 must be considered in the exercise of these rights.

ARTICLE 5 UNION RIGHTS AND RESPONSIBILITIES

Section 1 - Introduction

The Department/Management recognizes that, as the exclusive representative of employees in the bargaining unit, the Union/Local has the right to speak for and to bargain on behalf of the employees it represents. The Department/ Management will not bypass the Union/Local by entering into any formal discussions or agreements with other employee organizations or bargaining unit employees concerning all matters affecting personnel policies, practices, or working conditions. This does not extend to any matter or question that the Under Secretary for Health has determined concerns or arises out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under Title 38.

Section 2 - Union Rights

- A. The union recognizes the responsibility of representing the interests of all employees within the unit it represents without discrimination and without regard to labor organization membership in matters covered by the Agreement.
- B. Each party shall recognize and meet with the designated representative(s) of the other party at mutually agreeable times, dates and places that are reasonable and convenient.
- C. The Department shall not restrain, coerce, discriminate against or interfere with any Union representative or employee in the exercise of his/her right.

Section 3 - Union Representation

- A. The Local will be given the opportunity to be present at any formal discussion between one or more representatives of the employer and one or more employees in the unit concerning any grievance or any personnel policy or practice or other general condition of employment.
- B. The Union will annually provide Management at each facility with an updated list of the names, titles and work telephone numbers of all Union officials along with the room/location of the Union office and representatives as well as changes as they occur. Management agrees to disseminate the list to all bargaining unit employees within thirty days of its receipt. Further, Management agrees to provide each new hire a copy of the list when he/she enters on duty.
- C. Upon advance notification, representatives of the Union will be allowed to visit facilities represented by the Union on appropriate Union business. Representatives of the National Office of NAGE shall be entitled to visit any and all local facilities on appropriate union business.
- D. Those activities concerned with organizing efforts and the internal management of the Local and Union may be conducted only during the non-work time of the employees involved. Similarly, when the Local or Union schedules membership meetings, internal

elections or similar events wholly or partially within the scheduled working hours of employees, any employee attending or participating in such events must do so in an annual leave or leave without pay status.

Section 4 - Union Employee Communication

Management will not alter or censor the content of any direct communications between the Local and employees. However, VA facilities will not be available for posting or distribution of libelous or defamatory material directed at Management or Local officials or programs.

Section 5 - Surveys and Questionnaires

- A. The Department will not communicate directly with bargaining unit employees through verbal or written surveys and questionnaires regarding conditions of employment without prior notification to the Union, where appropriate. This includes all questionnaires and surveys from all other agencies. Nothing in this section precludes the Union from the right to bargain over conditions of employment under the Statute.
- B. Participation in surveys will be voluntary, unless the parties agree to require participation. Employees will be assured that their responses will be confidential and their anonymity protected, unless the parties agree otherwise.
- C. The results of surveys conducted by either party regarding conditions of employment will be shared. If a third party conducts a survey and the results are distributed to the Department, the results will be shared with the Union.

Section 6 - New Employee Orientation

- A. The Parties are encouraged to make a joint presentation to new employees to orient them about Management and the Local. If the Local desires to make a presentation on its own, Management shall afford the Local the opportunity to make up to a thirty minute presentation during each orientation session for new employees.
- B. Management will provide the Local with notice of the date, time and place of the orientation. The Local official making the presentation will be allowed official time to make the presentation. Stewards or Local officials may introduce themselves to new employees at the work site and inform them of their availability for representational functions so long as there is no undue disruption of work activities.
- C. At the orientation, Management shall provide each new bargaining unit employee with the following:
 - 1. Master Agreement, including any and all amendments;
 - 2. Supplemental Agreement, including any and all amendments, and
 - 3. *VA Employee Handbook, including any and all amendments.*

Section 7 - Voluntary Program

The Parties shall provide each other reasonable advance notice of the initiation or discontinuance of all voluntary programs such as bond campaigns, blood programs, fund

drives, etc. When requested, appropriate bargaining will be held. The Parties agree that employee participation in the Combined Federal Campaign, blood donor drives, bond campaigns and other worthy projects will be on a voluntary basis. This does not preclude publicizing such projects and encouraging employees to contribute.

Section 8 - Official Time

- A. Each VHA local is entitled to at least one Union official with no less than 40% official time. Each VBA and NCS local is entitled to at least one Union official with no less than 25% official time. Where a local represents more than one administration or facility, a Union representative at each administration or facility is entitled to the designated minimum amount of official time. In the case of integrated facilities, a Union representative at each pre-integration facility is also entitled to at least the designated minimum amount of official time.
- B. For locals already above the minimum amount of official time described in Paragraph A. in this Section, existing local agreements and past practices regarding official time on the effective date of this Agreement shall continue in full force and effect unless and until the local parties negotiate a change.
- C. The minimum amounts of official time described in Paragraph A in this Section are not intended to limit the amount of official time that can be negotiated by the parties locally.

ARTICLE 6 EMPLOYEE RIGHTS

Section 1 - General

In an atmosphere of mutual respect, all employees shall be treated fairly and equitably and without discrimination in regard to their political affiliation, union activity, race, color, religion, national origin, gender, sexual orientation, marital status, age, or non-disqualifying handicapping conditions. Employees will also be afforded proper regard for and protection of their privacy and constitutional rights. It is therefore agreed that Management will endeavor to establish working conditions, which will be conducive to enhancing and improving employee's morale and efficiency.

- A. Instructions will be given in a reasonable and constructive manner. Such guidance will be provided in an atmosphere that will avoid public embarrassment or ridicule. If an employee is to be served with a warrant or subpoena, it will be done in private without the knowledge of other employees to the extent it is within Management's control.
- B. No disciplinary or adverse action will be taken against an employee upon an ill-founded basis such as unsubstantiated rumors or gossip.
- C. No employee will be subjected to intimidation, coercion, harassment, or unreasonable working conditions as reprisal or be used as an example to threaten other employees.
- D. An employee will not be subject to disciplinary action as a result of conflicting orders given by responsible officials as long as he/she immediately advises the official who issued the latest order that a conflict exists and allows the official to determine which order shall be followed.

Section 2 - Right to Union Membership

Each employee shall have the right to form and join a Union to act as a designated Union representative, and to assist the Union without penalty or reprisal. This right shall extend to participation in all Union activities including services as officers and stewards.

Section 3 - Rights to Union Representation

An employee may request permission to contact a union representative during duty hours on a representational matter but must first inform and receive permission from his/her supervisor. If the employee wishes to use duty time to meet with a union representative, the immediate supervisor will be advised of the general purpose of the request (e.g., grievance, appeal, personal matter, etc.) and place of the meeting and estimated time of return. If release is not possible at the time requested due to staffing, or work requirements, the employee will be advised as to a time, unless precluded by an emergency, when release is possible. If the employee will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional needed time. The employee will notify the supervisor of his/her return. Delay in release of an employee will serve as an extension of any applicable time frame provided for in this Agreement.

Section 4 - Use of Recording Devices

No electronic recording of any conversation, between a bargaining employee and VA official may be made without mutual written consent except for Inspector General criminal investigations, other law enforcement investigations, or administrative boards of investigation. When a recording is made, the employee will be given the opportunity to review the transcript for accuracy and will be provided with a copy of the tape at the time it is made, and transcript if one is made. Information obtained in conflict with this Section will not be used as evidence against any employee.

Section 5 - First Amendment Rights

Employees have the right to present their views to Congress, the Executive Branch, and other authorities or to the public, and to otherwise exercise their First Amendment rights without fear of penalty or reprisal, consistent with applicable laws (e.g. the Hatch Act, the Privacy Act, the Health Insurance Portability and Accountability Act, and government-wide regulations relating to security and information technology).

Section 6 - Access to Documentation

Employees and their union representative have a right to be made aware of and receive copies of any information specific to them personally maintained under their name and/or social security number. This includes any documentation, which is maintained by the Agency.

Section 7 - Personal Rights

Employees shall have the right to direct and fully pursue their private lives, personal welfare, and personal beliefs without interference, coercion, or discrimination by Department/Management so long as such activities do not conflict with job responsibilities.

Section 8 - Dignity and Self Respect in Working Conditions

Employees, individually and collectively, have the right to expect, and to pursue conditions of employment, which promote and sustain human dignity and self-respect.

Section 9 - Whistle-Blower Protection

Employees shall be protected against reprisal of any nature for the disclosure of information not prohibited by law or Executive Order which the employee reasonably believes evidences a violation of law, rule or regulation, or evidences mismanagement, inadequate patient care or conditions, poor staffing, waste of funds, an abuse of authority, or danger to public or employee health or safety. Management, shall, at least annually, inform and educate all employees concerning the Whistle-Blower Protection Act (5 USC § 2302(b)(8)).

Section 10 - Unlawful Orders

- A. When an employee reasonably believes that he or she is being asked to perform an order that violates the law, the employee will immediately notify the supervisor (or

other appropriate management official if the supervisor is not available). The supervisor or other appropriate management official will determine whether or not the assignment should be carried out. The employee will accept the assignment as directed by the supervisor or management official.

- B. An employee who wishes to express concern about a work assignment he or she was asked to perform will immediately notify the appropriate supervisor verbally and/or in writing. The employee is free to make suggestions or recommendations without fear of intimidation or reprisal. Management will give full consideration to any concerns raised.
- C. The Local may request to meet with management to discuss concerns raised pursuant to Paragraph B above.

Section 11 - Counseling

- A. Counseling shall be reasonable, fair, and used constructively to encourage an employee's improvement in areas of conduct and performance. It should not be viewed as disciplinary action. At any counseling session where an employee has the right to union representation, the employee shall be advised of that right at the beginning of the session.

- B. Oral Counseling

When it is determined that oral counseling is necessary, the counseling will be accomplished during a private interview with the concerned employee and Local representative, if requested and appropriate. If after such a meeting, the employee is dissatisfied and wishes to pursue a grievance, the employee may proceed to either Step 1 or to Step 2 of the grievance procedure. If there is to be more than one Management official involved in a counseling session with an employee, the employee will be so notified in advance, and management will notify the employee that he/she may have a Local representative at the session.

- C. Written Counseling

1. Written counseling will be accomplished in the same manner as specified above, except that two copies of a written statement will be given to the employee.
2. A written counseling for misconduct may only be kept or used to support other personnel actions for up to six months unless additional related misconduct occurs, and then it may be retained up to one year.
3. A written counseling for performance may only be retained and used beyond the appeal period of the annual performance rating to support a timely personnel action related to that rating or any timely action taken during that period.
4. In the case of probationary employees, written counselings may be kept up to the time a decision is made whether or not the employee will be continued beyond the probationary period.

D. Supervisory Notes

1. Subject to Paragraph 2, *infra*, if a supervisor makes a personal decision to keep notes on an employee, the notes: (1) must be absolutely uncirculated, they cannot be reviewed by anyone else (including secretaries, other supervisors, or management official(s)) and (2) must be maintained in secure fashion in order to prevent unauthorized disclosure.
2. Supervisory notes may only be used to support any action detrimental to an employee if such notes have been shown to the employee at the earliest available time after the entry was made and a copy provided to the employee. Once an employee has received a copy of the supervisory notes, the notes can be provided to an appropriate management official with a legitimate need to know for the performance of their duties.
3. The time frames for retaining supervisory notes will be up to six months, unless used in a personnel action.

Section 12 - Group Meetings

The Parties agree that regular and periodic (preferably monthly) group meetings will be held within each service, department, or unit, to discuss concerns of both the Department/Management and employees. The Local shall be notified of such meetings and be given the opportunity to attend.

**ARTICLE 7
MUTUAL RIGHTS AND RESPONSIBILITIES**

Section 1

The parties to this Agreement assume mutual responsibility to abide by the provisions set forth in this Agreement. Neither party shall change the terms of this Agreement except by mutual and written consent in accordance with the methods set forth herein.

Section 2

The Employer and the Union each have a mutual responsibility to assure that those persons represented by each respective party are aware of the rights and responsibilities of both parties as contained in this Master Agreement and any appropriate Supplemental Agreements.

ARTICLE 8 LABOR/MANAGEMENT TRAINING

Section 1 - Union Sponsored or Requested Labor-Management Relations (LMR) Training

- A. Recognized officers and stewards of the Union may be authorized Official Time, as provided in Section 1-B, in conjunction with attendance at training or briefings on appropriate subjects within the scope of the Federal Labor Management Relations Statute.
- B. Official Time will be authorized for training sessions or briefings in an amount not to exceed 280 hours per calendar year for all Local officials, not to exceed forty hours per individual. Requests for any additional training should be addressed locally. Training which relates to internal Union business will not be conducted or attended on Official Time.
- C. Scheduling arrangements for the use of Official Time for training will be determined locally, consistent with the needs of the service.
- D. Requests for Official Time should be submitted to the Director or designee at least 21 calendar days in advance. The request must include the name(s) of the officer(s)/ steward(s), date, time, place of training or orientation session and the subject matters to be covered. A response to the Official Time request will be provided to the Local within five calendar days of receipt of the request.

Section 2 - Use of Equipment

The Local may be authorized to use Department owned projectors when this equipment is available and not being used for normal business. This equipment may be used when conducting Union sponsored training sessions provided the training will be held on the Department's premises.

Section 3 - Training Session Attendance

Attendance at a training session shall satisfy the work requirement for the tour of duty if the employee is normally scheduled to work during those hours. When practical, those employees who normally work night shift or weekends may have their hours changed to day shift for the days of training.

Section 4 - Joint Master Agreement Training

The Parties will jointly provide Master Agreement training within one year of the effective date. The cost of the Master Agreement training session will be paid by Management. Up to two Department and two Union team members will provide contract training, up to two days, at each NAGE site. The parties will jointly prepare the initial Master Agreement training documents. This does not preclude additional training by each party.

Section 5 - Joint Labor Management Relations Training

- A. Management and Locals are encouraged to conduct joint informative sessions for bargaining unit employees pertaining to the Master Agreement.
- B. LMR training will be recorded in each employee's individual training record.
- C. Participants in joint LMR training will be on duty time. This training will be presented jointly unless training is conducted by a mutually agreed upon third party. The parties may develop a joint train-the-trainer/facilitator program.
- D. Local facilities are encouraged to give recognition to individuals or groups who materially advance the process of LMR training.
- E. Normally local facilities will ensure that resources are made available at the local level for joint LMR training.
- F. The parties are encouraged to share training materials or experiences to nurture better LMR training.
- G. The provisions of this Article apply to joint training at all levels from Local through National.

Section 6 - Third-Party Sponsored Training

Third-party sponsored training may be considered duty time and/or Official Time, as appropriate.

**ARTICLE 9
LABOR MANAGEMENT COMMITTEE**

There shall be a joint Labor & Management Relations Committee, which shall meet once a year, for one day in Washington, DC, excluding travel time, unless it is mutually agreed to extend to two days. The Department will authorize Official Time and travel and per diem for 12 representatives, including National Representatives and alternates, for participation in these meetings. Those employees who normally work night shift or weekends will have their hours changed to day shift.

The parties will exchange agenda items sufficiently in advance so that arrangements can be made for appropriate representation. The Union will provide the Department with the names of the Union designated representatives as far in advance as possible but no later than three weeks in advance of the meeting so that Official Time, travel and per diem may be arranged.

**ARTICLE 10
NATIONAL CONSULTATION RIGHTS AND MID-TERM BARGAINING**

Part A: National Consultation Rights

Section 1 - Purpose

- A. These procedures shall govern the conduct of agents and representatives of the Department and the Union with regard to National Consultation Rights (NCR).
- B. These procedures shall remain in full force and effect as long as the Union meets the criteria prescribed by the FLRA. If the Department decides to terminate NCR, the Department will serve notice of its intent, together with a statement of the reasons for termination. Upon receipt of a decision, the Union may petition the FLRA regarding any change to the status of NCR. NCR shall continue pending the resolution of any petition.

Section 2 - Procedure

- A. The Department shall provide written and electronic notice of any substantive change in conditions of employment proposed by the Department to which the union is entitled to exercise its NCR. The notice will include the change as well as any supportive documents.
- B. The Union will designate a representative and alternate, electronically or in writing, who will receive all notices, and provide views and comments as outlined in this agreement.
- C. The Union shall be permitted reasonable time, up to 30 days from the date of receipt of the notice, to present its views and recommendations, in writing, electronically, or telephonically, to the Department for review and consideration. Telephonic responses will be recorded and confirmed electronically. If no views or recommendations are provided within the specified time frame, the Department is free to proceed with the proposed change, subject to fulfilling any bargaining obligations.
- D. The Department shall consider the views or recommendations by the Union before taking final action on any matter with respect to which the views or recommendations are presented.
- E. The Department shall provide the Union a written statement of the reasons for taking the final action.
- F. The Parties may mutually agree to extend any time frames in this Agreement.
- G. Nothing in this Agreement shall be construed to impair, diminish, or otherwise limit the right of the Union or the Department to engage in collective bargaining.

Section 3 - Official Time

The Union's designated representative and alternate will be granted reasonable official time for the exercise of NCR.

Part B: Midterm Bargaining

Section 1 - Definitions

Mid-term bargaining is defined as all negotiations, including Local, Union, Department or Management initiated, which occur during the duration of this Agreement, concerning changes to conditions of employment not covered by the terms of this Agreement. Nothing shall preclude the Parties from negotiating procedures and appropriate arrangements which management officials will observe in exercising any rights under 5 USC § 7106.

Section 2 - Changes in Existing Law or Regulation

Subject to the limitations in 5 USC Chapter 71, the Department shall not establish or change any personnel policy, practice, or working condition which terminates or conflicts with the specific terms or conditions of this Agreement. However, amendments may be required after the effective date of the Agreement because of new laws, changes to existing laws, or regulations of appropriate authorities. When such circumstances require, the Parties shall attempt to meet within 30 calendar days after the effective date of such events for the purpose of negotiating appropriate arrangements and procedures concerning amendments required to bring this Agreement into conformity with the new laws, changes to existing laws or regulations of appropriate authorities. The Parties shall agree on mutually satisfactory arrangements for the conduct of these negotiations. Amendments resulting from these negotiations shall be effective upon signing by the Parties unless a later date is agreed to by the Parties.

Section 3 - National Level Bargaining

- A. The Department, including VHA, NCA, VCS, and Staff Offices (e.g. Office of Resolution Management), will forward all proposed changes for which there is a bargaining obligation to the designated national representative of the Union or alternate. In addition to providing the Union notice of the desired change in working conditions, the Department will simultaneously forward a copy of all necessary and relevant documents upon which it relied in proposing the action. When a new law is enacted and the Department decides not to issue a national policy, the Union will be notified prior to the implementation of the law.

- B. The Union shall have ten calendar days from the date of receipt of written notification to request a briefing to discuss the proposed changes. Briefings may be conducted telephonically. If the Union requests additional briefing, the Parties may then meet face to face. The Union shall have ten days after the conclusion of the briefing to forward a complete set of written proposals to the designated Department official authorized to negotiate. If no briefing is requested, as stated above, the Union shall have 20 calendar days from the date of receipt of notification to request bargaining and to forward a complete set of written proposals to the designated Department official authorized to negotiate. Extensions or reductions of the 20 calendar day period will be by mutual agreement. As soon as the Union's bargaining demand and written proposals are submitted, the Parties will begin negotiations within 30 calendar days. However, should the Union request and subsequently receive additional information directly related to the proposed action after the initial 20 calendar day period has passed, it will have the opportunity to submit additional proposals specifically related to the additional information received, but not later than ten calendar days thereafter.
- C. The Parties will initially attempt to reach agreement by conducting telephone negotiations. If the Parties are unable to reach agreement through this effort, negotiations will normally proceed face-to-face. Such bargaining will ordinarily take place in the Washington, DC area.
- D. Each party may have up to four negotiators, which by mutual agreement may be increased based on the complexities and/or number of issues to be negotiated. The Parties will exchange the names of the bargaining team members for the specific issue(s) to be discussed. This does not preclude the attendance of subject matter experts by mutual consent of the Parties.
- E. Travel and per diem will be paid to bargaining unit team members by the Department pursuant to Federal Travel Regulations. These members will be allowed Official Time to complete the bargaining process if otherwise in a duty status. Travel and per diem will be paid to subject matter expert(s) by mutual consent of the Parties.
- F. When the Department, through the National Cemetery Administration, Veterans Canteen Service, or Staff Offices (e.g., Office of Resolution Management) desires to implement policy or changes affecting conditions of employment for bargaining unit employees, provisions of this Section apply, including notification to the Union's nationally designated representative or alternate.
- G. The Department will establish and maintain an automated database for existing and future memoranda of understanding. The Department will make the database accessible to the Union and the Local.

Section 4 - Intermediate Level Bargaining

- A. The Parties agree that when the Department, through any intermediate level, including the level currently known as a Veterans Integrated Service Network (VISN), desires to implement policy or changes affecting conditions of employment of bargaining unit employees, that bargaining will take place at the intermediate level unless facility directors have unrestricted authority to negotiate the matter locally. Given such authority, facility management will negotiate with local NAGE officials in accordance with provisions contained in Section 5 of this Article. When bargaining is conducted at the intermediate level, the Union will provide the names of the bargaining team members for the specific issue(s) to be negotiated. The Parties will make every effort to use bargaining team members from the geographic area of concern. Travel expenses will be paid in accordance with Federal Travel Regulations by Management to bargaining unit team members, and Official Time will be afforded members if otherwise in a duty status. Travel expenses will be paid to subject matter experts by mutual consent of the Parties.

- B. The Union shall have 15 calendar days from the date of receipt of written notification to request a briefing to discuss the proposed changes. Briefings may be conducted telephonically. If the Union requests an additional briefing, the Parties may then meet face to face. The Union shall have 15 days after the conclusion of the briefing to forward a complete set of written proposals to the designated Department official authorized to negotiate. If no briefing is requested, as stated above, the Union shall have 30 calendar days from the date of receipt of notification to request bargaining and to forward a complete set of written proposals to the designated department official authorized to negotiate. Extensions or reductions of the 30 calendar day period will be by mutual agreement. As soon as the Union's bargaining demand and written proposals are submitted, the Parties will begin negotiations within 30 calendar days. However, should the Union request and subsequently receive additional information directly related to the proposed action after the initial 30 calendar day period has passed, it will have the opportunity to submit additional proposals specifically related to the additional information received, but not later than 15 calendar days thereafter.

- C. The Parties will initially attempt to reach agreement through telephonic negotiations. If the Parties are unable to reach agreement through this effort, negotiations will normally proceed face-to-face.

- D. Each party may have up to four negotiators, which by mutual consent may be increased based on the complexities and/or number of issues to be negotiated. The Parties will exchange the names of bargaining team members for the issue(s) to be negotiated.

Section 5 - Local Level Bargaining

- A. Management shall notify the Local in writing prior to the planned implementation of proposed changes that affect conditions of employment and shall simultaneously provide copies of documents relied upon for the proposed change. The method of notification, whether electronic or other, will be a subject for local negotiations.
- B. The Local shall have 15 calendar days from the date of receipt of written notification to request a briefing to discuss the proposed changes. The Local shall have 15 days after the conclusion of the briefing to forward a complete set of written proposals to the designated Department official authorized to negotiate. If no briefing is requested, as stated above, the Local shall have 30 calendar days from the date of receipt of notification to request bargaining and to forward a complete set of written proposals to the designated Management official authorized to negotiate. Normally, briefings at the local level will be face-to-face. Extensions or reductions of this time period will be by mutual agreement. Within ten calendar days after the receipt of the written proposals, the Parties will commence bargaining. The Negotiation Team will consist of no more than three Local and three Management members. Upon mutual agreement, the numbers of team members may be increased. The negotiation session will occur during normal business hours, and will ordinarily be held on agency property. If representatives are otherwise in a duty status, official time will be authorized.
- C. If the Local does not request bargaining and submit a complete set of written proposals within the time limits specified in paragraph B above, the proposed changes may be implemented.
- D. Prior to the expiration of published facility policies, which affect general working conditions, the Local must request bargaining and submit a complete set of written proposals 30 calendar days before the expiration of such policies. In such event Management shall have 30 calendar days from the date of receipt of the proposals to present a complete set of written counter proposals to the Local. Bargaining will normally commence within ten calendar days, unless otherwise agreed upon by the Parties.
- E. Nothing in this section restricts the Local from initiating local mid-term bargaining over issues not contained in published facility policies or covered by this Agreement. In such cases, Management shall have 30 calendar days from the date of receipt of a complete set of Local initiated proposed changes to conditions of employment to forward a complete set of written proposals to the Local. Bargaining will normally commence within ten calendar days, unless otherwise agreed to by the Parties.
- F. Should new information relating to the proposed change come to light after the initial 30 calendar day period has passed, the Local will have the right to submit additional proposals specifically related to such new information, but not later than 15 calendar days after the receipt of such new information.

Section 6 - Legislative/Executive/Judicial Branch Changes in Bargaining Rights

In the event that the scope of bargaining currently available is expanded or diminished due to a change in law or Government-wide regulation, the Parties may by mutual consent reopen the Master Agreement by the submission of a complete set of proposals addressing the specific area affected. Such negotiations shall be strictly limited to those areas for which the scope of bargaining has been specifically broadened or diminished.

Section 7 - Impasse

The Parties shall resolve impasses pursuant to the provisions of 5 USC Chapter 71.

Section 8 - Information Requests and Bargaining Proposals

- A. Where the Local or Union has submitted a request for information during the advance notice period in Section(s) 3, 4, or 5, Management or the Department will, unless prohibited by law, provide data:
1. Which is normally maintained by the agency in the regular course of business;
 2. Which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and,
 3. Which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors related to collective bargaining.
- B. Such request shall be submitted prior to the end of the advance notice period, and will specify the particularized need for the information. If the information is provided prior to the end of the advance notice period, bargaining will commence according to the terms of this Article. However, in all cases, when the data is provided, negotiations will commence no less than seven calendar days thereafter.

**ARTICLE 11
LOCAL SUPPLEMENTAL AGREEMENTS**

Section 1 - General

Contract provisions contained in Local Contracts/Supplements in existence prior to the Master Agreement will continue in effect, provided they do not conflict with the Master Agreement. Whenever any subject is addressed in the Master Agreement, the terms of the Master Agreement shall prevail over the provisions of the Local agreement concerning the same subject. Recognizing that the Master Agreement cannot cover all aspects or provide definitive language for local adaptability on each subject addressed, it is understood that Local Supplemental Agreements may include substantive bargaining on all subjects covered in the Master Agreement provided they do not conflict, interfere with, or impair implementation of the Master Agreement. Supplemental Agreements must be approved pursuant to statute.

Section 2 - Procedures for Local Supplemental Agreements

- A. The parties agree that any time after this Agreement has been in effect for 30 days, the parties, may request to negotiate a Local Supplemental Agreement to this Master Agreement. The Local Supplement may include a provision for reopening that Agreement once during any term of the Master Agreement.
- B. Negotiation for a Local Supplemental Agreement will be conducted between Local and Management representatives and the Agreement shall be applicable only in such facilities represented by the Local representatives who executed the agreement.

**ARTICLE 12
HOURS OF WORK AND OVERTIME**

Section 1 - Establishing Work Schedules

A. Title 5 and Hybrid Employees

1. For Title 5 and hybrid employees, a change in the administrative workweek and changes in the regularly scheduled administrative workweek are considered changes in conditions of employment.
2. The administrative workweek is established as the seven-day calendar week beginning at 0001 Sunday and ending at 2400 Saturday. The basic workweek will normally consist of five eight-hour days. Management whenever possible will give employees two consecutive days off. Management will consider requests from employees for other than consecutive days off. Schedules will be established in accordance with government-wide regulations.

B. Title 38 Medical Professionals

With respect to employees in occupations listed under 38 USC § 7401(1), the terms of this Article shall be interpreted consistently with 38 USC § 7422, which exempts from collective bargaining matters concerning or arising out of professional conduct or competence (meaning direct patient care and/or clinical competence), peer review, or the establishment, determination or adjustment of employee compensation. Scheduling of Title 38 medical professionals is an issue of direct patient care and clinical competence. Accordingly, the provisions of this Article shall be interpreted consistently with, and to allow for exceptions within, Management's discretion to schedule medical professionals consistent with changing patient care needs.

Section 2 - Work Schedule Options – Alternative Work Schedules (AWS) and Credit Hours)

A. General

This section sets forth the procedures to be followed for Alternative Work Schedule (AWS), including flextime, compressed work schedules, and credit hours. This section also provides options for local bargaining for employees to participate in these plans. AWS means a schedule other than the traditional eight-hour tour of duty. Flexible work schedules and compressed work schedules are included within the definition of an alternative work schedule. Other variations of AWS may be negotiated locally to expand opportunities for bargaining unit employees, consistent with the Department's Automated Payroll System. However, the parties understand that this does not obligate the Department to negotiate subjects covered by 5 USC § 7106(b)(1).

B. Flextime

1. "Flexible work schedule" means an eight-hour tour of duty in which the employee may vary the time of arrival and/or departure. A flexible work schedule includes core time and a flexible band. "Flexible time" and "flexible bands" mean the specific periods of the workday during which employees may opt to vary their arrival and departure times. Whenever possible, the flexible bands shall be within the hours of 6 a.m. to 6 p.m.
2. "Modified Flex-tour" is a type of flextime where an employee selects a starting time within the established flexible time band. This establishes the employee's assigned tour of duty; however, the employee is allowed 15 minutes flexibility on either side of the selected arrival time. For example, an employee selecting 7:30 a.m. as a starting time under modified flex-tour, may report for work any time between 7:15 a.m. and 7:45 a.m. Changes in starting time must be approved by the supervisor.
3. "Flex-in/flex-out" - Employees working a flexible schedule will be allowed to flex out and in during the workday, subject to supervisory approval. If a combination of an employee's starting time and the amount of time the employee is away from the worksite precludes the completion of a full workday prior to 6:00 p.m., the employee will be placed in the appropriate leave category at his/her request or charged absent without leave, as appropriate.
4. "Core time" means that period of time when all employees on a particular shift are expected to be at work.

C. Compressed Work Schedule (CWS)

1. Definition
 - a. Full time employee: An 80-hour biweekly basic work requirement that is scheduled for less than ten workdays.
 - b. Part time employee: A biweekly basic work requirement of less than 80 hours that is scheduled for less than ten workdays and that may require the employee to work more than eight hours in a day or more than 40 hours in a week.
2. Typical Types of Compressed Schedules
 - a. "5-4-9" is a work schedule that includes eight workdays of nine hours each, plus one workday of eight hours within the biweekly pay period.

- b. "4-10" is a work schedule that includes eight workdays of ten hours in each biweekly pay period.
- c. "6-12-8" is an eighty-hour bi-weekly basic work schedule that includes six 12-hour workdays and one eight-hour workday.

D. Credit Hours

1. Definition - Any hours within a flexible schedule established under 5 USC § 6122 which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or workday. This excludes employees on compressed work schedules and employees who are paid on a daily basis.
2. Earning Credit Hours
 - a. Employees may earn up to three credit hours per day, provided there is work available for the employee and it can be performed at the requested time. To be eligible to earn credit hours, employees must be on approved flexible work schedules, modified flex tour or flex-in/flex-out.
 - b. Credit hours may be earned in 1/4-hour increments and may be used in 1/4-hour increments.
 - c. The maximum number of credit hours which a full-time employee may carry over from pay period to pay period is 24 hours. A part-time employee may not carry over more than one quarter of the hours in his/her basic bi-weekly work scheduled from pay period to pay period.

E. Procedures for Using AWS and Credit Hours.

Procedures for using AWS and credit hours are subject to local bargaining.

F. Adverse Impact.

If a facility experiences adverse impact as described in 5 USC § 6131, negotiations in accordance with the Master Agreement will begin immediately to attempt to resolve the impact to both parties' satisfaction.

G. Miscellaneous

1. If Management or the Department proposes to make any change to the AWS Plan (including the CWS Plan and Flextime Plan) or the Credit Hour Plan of bargaining unit employees, or to restrict the application of the Plans to any new position, the Local or the Union, as appropriate, will be notified and given an opportunity to bargain.

2. In the performance of labor-management activities, employees who are NAGE representatives will be given the opportunity to work the AWS Plan and/or the Credit Hour Plan in accordance with the provisions of this and any locally negotiated agreement.
3. In maintaining adequate staffing coverage, management will approve AWS in a fair and equitable manner. Management may approve employee requests for specific schedules.
4. Management or the Department will provide the Local or the Union, as appropriate, with advance written notice of any survey or study concerning AWS and/or credit hours in which information is sought from bargaining unit employees.

Section 3 - Tours of Duty/Scheduling

- A. For the purpose of this section, these definitions of terms are used:
 1. Established Tour - A tour of duty approved with a specific beginning and ending time.
 2. Work Shift - 1st (days), 2nd (evenings), 3rd shift (nights) within 24-hour period.
- B. Consistent with 5 USC § 6101 and VA Handbook 5011, Part II, Chapter 3:
 1. An employee's regularly scheduled administrative workweek will usually not extend over more than five days of the period Sunday through Saturday.
 2. Employees will not be scheduled to work more than two of the established work shifts, changing on one occasion, within any seven consecutive day period unless the parties locally agree to a period longer than seven consecutive days.
- C. Except in emergencies, employees will not be required to report to work unless they have had at least 12 hours off-duty time between different work tours. Exceptions may be made with the approval of the employee and supervisor. This will not preclude work on an overtime basis. "Emergencies" under this section include situations in which management determines that patient care needs require scheduling of Title 38 medical professionals for duty without 12 hours off-duty time between tours.
- D. Rotation - Scheduled off-tours will be rotated fairly and equitably among affected employees, i.e., day/evening, day/night.
- E. Rotation of weekends and holidays will be on a fair and equitable basis within a group and may be a subject for local bargaining. The weekends are defined as Saturday and Sunday and may be expanded to include Friday or Monday when scheduling permits.

- F. Records of weekend and off tours are kept by Management to ensure fair and equitable treatment of employees. These records will be readily available for review.
- G. If Management determines that employees have similar qualifications, seniority will be the determining factor for access to a preferred tour. Seniority will be defined locally.
- H. Management and the Local may evaluate excessive use of overtime for the purpose of reviewing scheduling options.
- I. Shift schedules and areas of assignment will be posted at least 30 days in advance. Every effort will be made to assure that shift schedules will not be for more than six consecutive days for eight-hour tours, three consecutive days for 12-hour tours, and four consecutive days for ten-hour tours, with no less than two consecutive days off. This does not, however, relieve Management of its obligation to change a Title 5 and hybrid employee's regularly scheduled administrative workweek, in advance of the administrative workweek, to correspond with work requirements (see 5 CFR 610.121(b)). Changes in work schedules will not be made without notifying the employee in advance and advising the Local. The parties are encouraged to explore self-scheduling.
- J. When change of uniform is required or permitted at the workplace, Management will provide at least ten minutes at the beginning and end of the employee's tour to change clothes.
- K. Management will permit reasonable clean-up time at the end of each shift for the purpose of returning tools and cleaning up the work areas and machinery, as necessary in each work area. No employee shall be required to remain after the end of his/her shift for the purpose of cleaning up his/her designated area.

Section 4 - General Overtime Provisions

- A. Management agrees that overtime assignments shall be made in keeping with applicable regulations, instructions, and workload requirements. Overtime work shall be paid for in accordance with applicable laws and regulations.
- B. Overtime work shall be distributed fairly and equitably among qualified employees with consideration being given to such factors as the character of the work, qualifications or professional competencies (as determined by management), availability, and organizational location of employees; knowledge of the particular type of work involved; and health/fatigue limitations. Fair and equitable distribution of overtime shall be a topic of local bargaining.

- C. Management shall make a reasonable effort to give the employee as much notice as possible when planned overtime is required, and further will give due consideration to the employee's personal circumstances subject to the paramount requirement of fulfilling the mission of the Department. At the employee's request, Management will endeavor to avoid mandated overtime exceeding four hours at the end of the employee's tour of duty.
- D. If a heavy and/or emergency workload situation exists, each employee is expected to work overtime when required by management. Such an employee may request release from an overtime assignment. The employee will be relieved in those instances where another qualified or competent employee (as determined by management) in the same work unit is readily available for the assignment and willing to work. Management retains the right to direct an employee to work overtime consistent with Paragraph C above if there are no qualified/competent volunteers in the same work unit. The method of scheduling distribution of overtime will be subject to negotiations in local supplemental agreements.
- E. Eligible employees may request compensatory time off in lieu of premium pay for overtime work. The approving official will consider staffing needs in deciding whether to approve compensatory time. Supervisors shall not require the above mentioned employees to take compensatory time in lieu of overtime pay.
- F. Management shall, to the extent practicable, permit employees who earn compensatory time instead of overtime to use their compensatory time at the earliest time convenient to them within seven pay periods. Normally, compensatory time off shall be granted before annual leave is approved. If annual leave would otherwise be forfeited, however, the annual leave shall be granted before compensatory time off. Any employee who is unable to use compensatory time within seven pay periods will receive overtime pay instead.
- G. Employees who are called back to work for a period of overtime unconnected to their regularly scheduled tour or who work overtime on their day off, are entitled to a minimum of two hours overtime pay. Employees called in for emergency work outside their basic workweek shall not normally be required to perform non-emergency functions.
- H. Overtime will be paid in 15 minute increments.
- I. Employees who are required to work overtime without prior notice will be allowed to call and make the necessary arrangements.
- J. Rosters of employees will be utilized to determine overtime, voluntary or mandatory. The mechanics and eligibility of the rosters are subjects for local negotiations, and seniority will be a criterion. Management will make available to the Local, upon request, current records of overtime assignments.

- K. Employees required to work through their regularly scheduled non-duty meal period shall be paid for such time.
- L. In the event of an extension of a regular tour of duty into an evening or night work shift for more than a three hour overtime work period, reasonable time will be allowed, when possible, for procurement and eating of food no later than three hours after the overtime starts. Employees not released from duty while eating will be compensated.

Section 5 - Paid On-Call/Standby Duty

- A. Title 5 Employees and Hybrids Not Earning On-Call Pay Pursuant to 38 USC § 7454:
 - 1. Paid on-call and standby duty will be rotated among all qualified staff. Records of paid on-call and standby duty shall be kept by Management and made available to the Local upon request. Employees scheduled for paid on-call duty shall be issued pagers or other mobile technology which will be used to notify them of a need for their return to duty.
 - 2. On-call employees shall not be expected to work more than 16 consecutive hours of actual work, except in rare and unusual circumstances.
 - 3. Employees will not be required to stay at home unless they are in a standby duty status (5 CFR 550.141) or required to wear and respond to beepers/pagers unless they are scheduled to be in an on-call duty status under the provisions of 38 USC § 7457.
 - 4. Employees shall not be scheduled on-call while on annual leave.
 - 5. On-call employees will not be utilized for non-emergency work. Supervisors should not require the employee to perform "busy work" just to keep the employee at work for a full two hours. This Section was not intended to open for debate whether or not the official who called the employee in for work was correct in his determination that an emergency need was present.
 - 6. If an on-call or standby tour of duty is terminated in a work unit, the decision and reason shall be specific and in writing and forwarded to the Local to fulfill bargaining obligations.
 - 7. Employees who are eligible for standby pay under 38 USC § 7457(c) will be paid pursuant to that Statute.

B. RNs, CRNAs, PAs, EFDAs, and hybrids earning on-call pay under 38 USC § 7453(h) or 7454:

1. Nurses and nurse anesthetists earn premium pay at 10% of their overtime rate for officially scheduled on-call duty pursuant to 38 USC § 7453(h). Physicians assistants and expanded-function dental auxiliaries earn premium pay on the same basis as nurses for officially scheduled on-call duty pursuant to 38 USC § 7454(a). Other hybrid employees may earn premium pay on the same basis as nurses for officially scheduled on-call duty pursuant to 38 USC § 7454(b).
2. Procedures relating to on-call duty for employees covered by paragraph 1 above are contained in VA Handbook 5007, Part V, Chapter 5, Paragraph 1.
3. Paid on-call duty will be rotated among competent staff. Records of on-call duty shall be kept by Management and made available to the Local upon request. Employees scheduled for paid on-call duty shall be issued pagers or other mobile technology, which will be used to notify them of a need for their return to duty.

Section 6 - Voluntary On-Call Duty

- A. Management and the Local may negotiate situations in which employees voluntarily provide coverage during other than normal duty hours.
- B. Such employees may voluntarily wear beepers or other paging devices, but this may not be required. In addition, the whereabouts of these employees is not restricted and they may not be disciplined for failure to report for duty if they cannot be contacted.
- C. Employees contacted may be ordered to report for duty. However, such employees are entitled to a minimum of two hours of overtime premium pay. The provisions of Section 5, Paragraph E also apply to overtime approved under this section.

Section 7 - Lunch Period and Breaks

- A. Management will continue the existing lunch and break arrangements. If Management determines that an adjustment to lunch or breaks is necessary to solve any significant public service or operational problems caused by the AWS Plan, the Local will be given the opportunity to bargain on such changes in working conditions.
- B. A rest period of 15 minutes duration will be allowed each employee during each four-hour period worked. Rest periods will not be added to periods of leave or the beginning or end of the employee's tour of duty or meal breaks. Management will not restrict employee mobility during rest breaks, except in situations that require the employee's presence. Within the confines of the work area, reasonable space for the break will be made available where feasible.

**ARTICLE 13
TIME & LEAVE**

Section 1 - General

- A. Employees will accrue and use sick and annual leave in accordance with applicable statutes, OPM regulations, VA regulations, and this Agreement.
- B. All leave charges shall be in increments of one-quarter hour (Note: Except for employees who accrue and use leave in full day increments).
- C. Employees should request, in advance, approval of anticipated leave.
- D. Leave will be denied only for appropriate reasons and not as a form of discipline.
- E. No arbitrary or capricious restraints will be established to restrict when leave may be requested.
- F. Employees will not be denied leave based solely on their leave balance except as provided in Section 16.
- G. The Department may increase the stated limits applicable to all forms of leave in accordance with applicable government wide regulations and laws.
- H. Changes to the Department's Automated Time and Attendance System shall be negotiated at the National level consistent with statutory obligations.

Section 2 - Annual Leave

- A. Annual leave is provided to allow employees extended leave for rest and recreation and to provide periods of time off for personal and emergency purposes.
- B. Use of accrued annual leave is an absolute right of the employee, subject to the right of Management to approve when annual leave may be taken.
- C. Management will render timely decisions on employees' leave requests. Employees should submit requests as far in advance as possible.
- D. If scheduling conflicts arise among Title 5 employees' annual leave requests, they shall be resolved consistent with present practices or as otherwise negotiated in local supplemental agreements or policies. The issue of scheduling conflicts concerning Title 38 Registered Nurses is addressed in Section 19 of this Article.
- E. When an employee requests annual leave in conjunction with scheduled days off at the beginning or end of the leave period, Management will not unilaterally change the employee's days off except where necessary to meet operational needs and where there is no other qualified and competent employee, as determined by management, who can perform the required duties.

- F. Management recognizes the need of employees to plan vacations and personal time off. Annual leave is a benefit afforded to employees subject to the right of management to fix the time at which leave may be taken. Previously approved annual leave may be cancelled if necessary to meet patient care needs or other work requirements and if there is no other qualified and competent employee, as determined by management, who can perform the required duties.
- G. Carryover of annual leave and restored leave will be addressed in accordance with applicable rules and regulations.

Section 3 - Tardiness

Supervisors should excuse, without charge to leave, infrequent, brief periods of tardiness/absence if such tardiness/absence was for good cause. If the tardiness is not excused, the employee may be afforded the opportunity to take annual leave or leave without pay or be charged absent without leave. In cases involving annual leave, leave without pay, or absent without leave, the employee will not be permitted to work during the period covered by the leave or absent without leave. Unexcused tardiness of hourly employees will be charged in multiples of a quarter of an hour. Management shall afford all employees the opportunity to present the reason for tardiness prior to officially charging the employee absent without leave.

Section 4 - Sick Leave

- A. Sick leave is an employee's earned benefit and will be granted to the employee for absences meeting the requirements of 5 CFR Section 630.401(a) (for Title 5 employees) or VA Handbook 5011, Part V, Chapter 3 (for Title 38 employees).
- B. Consistent with 5 CFR Section 630.401(a), management must grant a Title 5 employee sick leave when the employee:
 - 1. Receives medical, dental or optical examination or treatment;
 - 2. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy or childbirth;
 - 3. (i) Provides care for a family member who is incapacitated by a medical or mental condition, or attends to a family member receiving medical, dental, or optical examination or treatment, or (ii) Provides care for a family member with a serious health condition;
 - 4. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;
 - 5. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by being present on duty after exposure to a contagious disease; or
 - 6. Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

- C. 1. Consistent with VA Handbook 5011, Part V, Chapter 3, sick leave shall be granted to Title 38 employees when they are incapacitated for the performance of their duties because of personal illness, disease, injury, pregnancy and confinement; for necessary medical, dental or optical examination or treatment; or when a member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee; or when through exposure to contagious disease, the presence of the employee at the post of duty would jeopardize the health of others.
- 2. Title 38 employees may also use sick leave for the purposes listed in paragraphs B.4 and B.6 above, subject to the limitations set forth in Section 17D below.

Note: Sick leave is also authorized for the care of family members as outlined in Sections 16 and 17 of this Article.

- D. It is the responsibility of an employee who is incapacitated for duty to notify the immediate supervisor or designee (or to have a responsible person make the notification for the employee) at the worksite as soon as possible, but not later than two hours after the employee is scheduled to report for duty unless mitigating circumstances exist. The supervisor will not routinely request the nature of the illness.
- E. An employee who expects to be absent more than one day should inform the supervisor or designee of the expected date of return to duty and notify the supervisor of any change. In cases of extended illness, daily reports will not be required.
- F. Supervisors should make an effort to accommodate employees who request, in advance, a change in work schedule to meet medical or dental appointments. Employees will make reasonable efforts to schedule medical, dental or optical examination or treatment appointments after working hours or on non-workdays.

Section 5 - Documentation of Sick Leave

- A. An employee requesting annual leave, sick leave, or leave without pay for periods of illness of more than three consecutive work days must make an appropriate request and may be required to furnish evidence of the need for sick leave within a reasonable period of time after return to duty. An employee can justify the request for sick leave by the following:
 - 1. By medical certification from the Department's personnel physician or the employee's personal physician or health care professional;
 - 2. By the employee's own written statement in instances where the illness was not treated by a physician. The statement will indicate why a physician was not seen, for example, remoteness of area, nature of illness, or other specific reasons. The supervisor may request clarification should the employee's written statement not be sufficient to support the request.
 - 3. An employee with chronic medical condition that does not require medical treatment, but does result in periodic absences from work, will not be required to furnish a physician's certificate on a continuing basis if the employee: (1) is not on leave restriction and (2) provides, if requested, an updated valid medical certificate every six months which clearly states the continuing need for periodic absences.

4. Medical certification must include a statement that the employee was incapacitated for work and date(s) of the incapacitation. This will be considered sufficient for medical certification purposes. This applies to both sick leave of more than three days and certification for sick leave restriction.

B. Information or documents regarding an employee's absence for sick leave purposes are highly sensitive. Management will ensure that they are maintained in a secure and confidential manner.

Section 6 - Sick Leave Certification

A. Generally, SF-71 (Request for Leave or Approved Absence) and a medical certificate or equivalent should not be required for a sick leave period of three consecutive work days or less. However, when there is substantial justification that an employee is abusing entitlement of sick leave (e.g., excessive use of sick leave or a pattern of sick leave usage which, in either case, is unsubstantiated), a medical certificate may be required for any period of absence. The employee must be provided with the reasons in advance, in writing, why such requirement is being established in his or her case. This requirement would not apply in instances where management suspects that employees have participated in a sick out. All such cases requiring medical certification shall be reviewed not later than six months afterwards.

B. Frequency or amount of leave used will not be the sole factor for determining sick leave abuse, nor will leave for which administratively acceptable medical documentation has been provided. When abuse ceases, the sick leave certification requirement will be removed, the record shall be made clean, and the employee will be notified of this action. The employee will also be notified of the reasons, in writing, if the certification requirements are to be continued.

Section 7 - Leave Misrepresentation

No approved leave or approved absence will be a basis for disciplinary action taken on grounds of leave misrepresentation except when it is clearly established that the employee submitted fraudulent documentation or misrepresented the reasons for the absence.

Section 8 - Registration and Voting

Management agrees that when the voting polls are not open at least three hours, either before or after employees regular hours of work, employees will be granted an amount of excused absence to vote, or to register to vote, which will permit them to report to work three hours after the polls open or leave work three hours before the polls close, whichever requires the lesser amount of time. Under unusual circumstances, an employee can be excused up to a full day. Where release of an employee at the beginning or end of the day would seriously impair operations, the supervisor, to the extent possible, shall make other arrangements to allow the employee a reasonable amount of time during the workday to vote or register to vote.

Section 9 - Employee Absences for Court or Court-Related Services

- A. Except as otherwise modified by applicable law, Government wide regulations, or other outside authority binding on the Department, an employee summoned or subpoenaed in connection with a judicial proceeding by a court or other authority responsible for the conduct of that proceeding, shall be authorized to attend the judicial proceeding without charge to leave or loss of VA salary in the following instances:
1. For jury duty;
 2. To appear as a witness on behalf of the Federal, District of Columbia, state, or local government;
 3. To appear as a witness on behalf of a private party in an official and job-related capacity or to produce official records;
 4. To appear as a witness on behalf of a private party in an unofficial capacity provided one of the parties to the proceeding is the United States Government, the District of Columbia, a State, or a local government;

Even though compensation may be received for serving on jury duty in a Federal court, employees may not keep such compensation, but may only keep expense money received for mileage, parking, or required overnight stay. Monies received for performing jury duty in state or local courts are indicated on pay voucher(s) or check(s) as either "fees for services rendered" or "expense money." "Expense money" may be retained by the employee; "fees for services rendered" must be submitted to the appropriate financial office.

It is agreed that days off or schedules will not be changed to avoid granting absence for court or court-related services.

- B. An employee who is granted court leave and is excused or released by the court for any day or substantial portion of a day is expected to return to the employee's regular VA duties except when:
1. Only a small portion of the workday would be involved and thus no appreciable amount of VA service would be rendered;
 2. The distance from the court to the place of duty is such that this would be an unreasonable requirement; or
 3. The regular tour of duty occurs at night.

Section 10 - Leave Without Pay (LWOP)

- A. Requests for LWOP will be given serious bona fide consideration. The granting of LWOP will be in a fair and equitable manner.
- B. LWOP may be requested in the same manner and for the same purposes as annual leave and sick leave.
- C. Upon written request from the Union, an employee may be granted leave without pay to engage in union activities on the national, regional or local level, to work in programs sponsored by the Union. Such requests will be referred to the appropriate Management official. Such employees shall continue to accrue benefits in accordance with applicable

OPM regulations. LWOP for this purpose is limited to one year, but may be extended or renewed upon proper application.

- D. Upon return to duty after a period of LWOP, Management will restore the employee to the position, which the employee held prior to the leave, or should no vacancy exist, to a similar position at the same grade and pay.
- E. Employees may request LWOP for educational purposes.
- F. LWOP is granted at the discretion of Management, except in the following cases:
 - 1. When a disabled veteran requests LWOP for medical treatment;
 - 2. When requested by a reservist or National Guard member for military duties in accordance with appropriate military orders. Employees may request such leave after their military leave has been exhausted (38 USC § 4316(d));
 - 3. When requested by an employee who has suffered an incapacitating job-related injury or illness and is waiting adjudication of a claim for employee compensation by the Office of Workers' Compensation Program; or
 - 4. When an employee makes a request under the Family and Medical Leave Act and meets the criteria for that program.

Section 11 - Hazardous Weather/Emergency Conditions

- A. It is recognized that it is the policy of the VA that all employees of VA facilities provide critical services, and employees are required to be at work in emergency situations. It is understood that certain situations may exist that would warrant excusing some of the employees.
- B. Early Dismissals: When emergency situations warrant, as determined by the facility Director, excused absence, without charge to leave, may be granted to employees who are in a duty status. Employees who are not in a duty status will be charged appropriate leave for the entire period of absence.
- C. Absence Due to Emergency Situations: Excused absence during emergency situations does not generally apply to employees who provide critical services because of the need to assure continuity of essential patient care operations. However, in extreme situations, where certain employees who provide critical services make reasonable efforts to get to work and are unable to do so, excused absence may be appropriate.
- D. Whenever employees are unable to leave the facility at the end of their shifts due to inclement weather, or other emergency circumstances, Management will review staffing needs to determine if any of these employees are required to perform duties during these emergency periods. If the employee is assigned work, the employee will be paid in accordance with established policy for the payment of premium rates.
- E. Employees who are unable to leave the facility at the end of their shifts due to inclement weather, or other emergency circumstances, and who remain at the facility shall be provided available shelter until such time as the emergency is over.

- F. Management and the Local at each facility will jointly plan the procedures for hazardous weather/emergency conditions and will annually communicate these procedures to employees.
- G. Facilities under emergency conditions will authorize meals and accommodations for employees who are required to remain on duty.
- H. The VA Incentive Awards Program is an appropriate vehicle and will be utilized for recognizing exceptional services rendered by employees during emergency/hazardous weather conditions.

Section 12 - Religious Compensatory Time

- A. An employee whose personal religious beliefs require abstention from work during certain periods of time may elect to engage in overtime work to compensate for time lost when meeting those religious requirements.
- B. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the Department's mission, Management shall afford the employee the opportunity to work compensatory overtime and shall in each instance, grant compensatory time off to an employee requesting such time off for religious observances when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek.
- C. For the purpose stated in paragraph B of this section, the employee may work such compensatory overtime before or after the granting of compensatory time off. Advanced compensatory time off should be repaid with the appropriate amount of compensatory overtime work within a reasonable amount of time. Compensatory overtime for hourly employees shall be credited on an hour-for-hour basis or authorized fractions thereof. Appropriate records will be kept of compensatory overtime earned and used.

Section 13 - Military Leave

- A. Military leave will be administered in accordance with law and regulations. In accordance with law and regulations, full-time permanent and part-time permanent employees who are members of the National Guard or the Armed Forces Reserves are entitled to fifteen (15) calendar days of regular military leave in a fiscal year for active duty or active duty for training. Management shall not deny the employee any benefit of employment on the basis of his/her membership in the National Guard or the Armed Forces Reserves.
- B. For part-time employees (other than part-time Title 38 employees appointed under 38 USC § 7405(a)(A)) military leave is prorated based on the number of hours in the employee's workweek.
- C. Employees who do not use the entire 15 days can carry any unused military leave (not to exceed 15 days) over to the next fiscal year. Military leave may never exceed 30 days in a fiscal year, except when the employee is entitled to additional military leave under 5 USC § 6323(b), (c), or (d).

- D. Military leave should be credited to a full-time employee on the basis of an eight-hour workday. The minimum charge to leave is 1 hour. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay.
- E. Drills or other inactive duty for training is to be treated separately for the purposes of charging military leave. For example, if an employee is scheduled for drill or inactive military duty on Friday and again on the following Monday, the employee is charged military leave only for the actual days of inactive duty for training.
- F. Management will take into consideration the schedules of employees who work off-tours and will, when possible, arrange schedules to allow such employees to have scheduled days off immediately preceding and following the required military leave.
- G. A Title 5 employee's pay remains the same for periods of military leave under 5 USC § 6323(a) and (c), including any premium pay the employee would have received if not on military leave. For military leave under 5 USC § 6323(b), the employee's civilian pay is reduced by the amount of military pay for the day of military leave. However, employees may choose not to take the military leave and instead take annual leave and keep both the military and civilian pay. Military leave for Title 38 employees is subject to VA Handbook 5011, Part III, Chapter 3, paragraph 7.
- H. When given at least two weeks advance notice, and when there are qualified employees available to perform the necessary work, Management will make every effort to provide, through advance scheduling, days off for employees in the bargaining unit to attend weekend training drills. If, because of an emergency, Management is unable to schedule time for the employee to attend weekend training drills, Management will make every effort to afford the employee with an alternative work schedule within the administrative workweek to prevent loss of pay or other benefits. Upon request, the Local will be afforded a written and specific reason why management is unable to schedule time off for an employee to attend military duty or training.
- I. Management will not arbitrarily deny an employee's request for military leave.

Section 14 - Advanced Annual/Sick Leave

A. General

1. Advanced leave may not be granted to an employee beyond the date set for the expiration of the employee's time-limited appointment or to any employee if there is a likelihood that the employee will retire, be separated, or resign from the Department before the date the employee will have earned the leave. Upon separation, employees may repay the balance of any remaining advanced annual leave. Employees must also repay the balance of any remaining sick leave unless the separation is for an approved disability retirement.
2. Advanced sick leave may be combined with annual leave when necessary to cover one continuous period of absence.

3. It is agreed that advanced leave, including both sick and annual, will be fairly and equitably administered.
4. Denials of requests for advanced leave must be conveyed to the employee promptly and must contain a specific written explanation of the reasons for the denial.

B. Amounts of Advance Annual and Sick Leave.

Subject to the limitations set forth in Paragraph A above, employees may be advanced annual and sick leave in the following amounts:

1. Title 5

- a. An employee may be advanced all annual leave that will accrue up to the end of the leave year.
- b. Sick leave may be advanced in amounts not to exceed 30 days (240 hours for full-time employees). There may not be more than 30 days (240 hours) of advanced sick leave on an employee's record at any one time. The amount of annual leave to an employee's credit generally will have no bearing on grants of advanced sick leave.

2. Title 38

- a. Full-time Title 38 nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries may be advanced up to 208 hours of annual leave and up to 312 hours of sick leave at any time.
- b. Full-time physicians, dentists, podiatrists, and optometrists may be advanced up to 30 days of annual leave and up to 45 days of sick leave at any time.

3. Part-time physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries may be advanced annual and sick leave based on the ratio which their employment bears to full-time employment and the amount of annual and sick leave that may be advanced to a full-time employee covered by paragraph a above. For example, a half-time employee who is not on a time-limited appointment may be advanced up to 104 hours of annual leave and up to 156 hours of sick leave at any time during the leave year.

Section 15 - Voluntary Leave Transfer Program/Leave Bank

As authorized by 5 CFR Part 630, Subpart J, employees are entitled to donate and receive leave for medical emergencies. By reference, the definitions, eligibility criteria and administrative provisions pertaining to a Voluntary Leave Transfer Program, contained in 5 CFR Part 630, Subpart J, are incorporated into this Agreement. The establishment of Leave Banks to administer the leave transfer program is a subject for local bargaining.

Section 16 - Sick Leave for Family Reasons

- A. Employees covered by the Title 5 leave system may use up to 104 hours of sick leave (or in the case of a part-time employee, the number of hours of sick leave normally accrued in a leave year) to:
1. Provide care for a family member who is incapacitated by a medical or mental condition or to attend a family member receiving medical, dental, or optical examinations or treatment; or
 2. Deal with the death of a family member, including making arrangements for and attending the funeral of such family member.
- B. Employees covered by the Title 5 leave system are entitled to take up to 40 hours of sick leave (or for a part-time employee, the average number of hours in the employee's regularly scheduled workweek) for the above purposes without regard to their sick leave balance. Employees may also take up to an additional 64 hours of sick leave for these purposes. However, if more than 40 hours of sick leave is taken, an employee's sick leave balance may not fall below 80 hours (or for a part-time employee, twice the average number of hours in the employee's regularly scheduled workweeks). In addition, sick leave may not be advanced so employees can maintain the required 80-hour minimum.
- C. Employees covered by the Title 5 leave system may use up to 480 hours of sick leave (or, in the case of a part-time employee, 12 times the average number of hours in the employee's scheduled tour of duty each week) to provide care for a family member with a serious health condition. For the purposes of this paragraph, serious health condition has the same meaning as the definitions in 5 CFR 630.1202.
- D. (1) Full time title 38 employees charged leave on a daily basis may take up to seven days of sick leave in a leave year; however, if they maintain a balance of 15 days of sick leave, they may take an additional eight days of sick leave, or up to 15 days of sick leave in a leave year.
- (2) Full time title 38 employees charged leave on an hourly basis may take up to 40 hours of sick leave in a leave year; however, employees maintaining a balance of 80 hours of sick leave may take an additional 64 hours of sick leave or up to 104 hours of sick leave in a leave year. Leave taken by employees on the Baylor Plan is to be multiplied by 1.667 when determining these limitations.
- E. Family member means:
1. Spouse and parents of spouse;
 2. Children, including adopted children, and their spouses;
 3. Parents;
 4. Brothers and sisters and their spouses; and
 5. Any individual related by blood or affinity, whose close association with the employee is the equivalent of a family member.
- F. Sick leave taken under paragraph B is subject to the certification requirements in paragraph I of Section 17.

Section 17 - Family and Medical Leave

A. Maternity and Paternity Reasons

1. Under the Family and Medical Leave Act and this Agreement, full-time and part-time bargaining unit employees with appointments that are not limited to one year or less are entitled to up to 16 weeks of LWOP during any twelve-month period for the following reasons:
 - a. Birth of a son or daughter and the care of such son or daughter; or
 - b. Placement of a son or daughter with the employee for adoption or foster care.
2. Supervisors are encouraged to approve additional leave as circumstances warrant.

B. Other Family and Medical Leave

Under the Family and Medical Leave Act and this Agreement, bargaining unit employees are entitled to up to twelve weeks of LWOP during any twelve month period for one or more of the following reasons:

1. The care of a spouse and parents thereof, children, including adopted children, or spouses thereof, parents, brothers and sisters and spouses thereof, and any individual by blood or affinity whose close association with the employee is the equivalent of a family relationship with a serious health condition.
 2. A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his/her assigned position.
- C. An employee may not retroactively invoke his or her entitlement to family and medical leave. However, if an employee was physically or mentally incapable of invoking the entitlement during the entire period he or she was absent for work for a qualifying reason, the employee may invoke the entitlement within two workdays after returning to work. In addition, such incapacity must be documented by a written medical certification from a health care provider.
- D. Employees may only take the amount of family and medical leave necessary to manage the circumstances that prompted the need for the leave.
- E. Entitlements in Paragraphs A and B are separate. The maximum entitlement to leave under Paragraph A does not count towards the maximum entitlement under Paragraph B.
- F. Holidays do not count toward the maximum entitlement to family and medical leave.
- G. Substitution of Paid Leave – Employees may substitute annual leave, sick leave, compensatory time off, or credit hours for unpaid family or medical leave for any part of the applicable period, consistent with governing laws and regulations. However, once the leave commences, employees may not retroactively substitute paid time off for unpaid family and medical leave.

H. Notice of Leave

1. When the need for unpaid family and medical leave is foreseeable and the employee fails to give 30 calendar days notice, Management may require the employee to delay taking family and medical unpaid leave until at least 30 calendar days after the employee's request has been received. Examples include family and medical leave for an expected birth of a child, expected placement for adoption or foster care, or planned medical treatment. If the birth or placement or planned medical treatment requires leave to begin within 30 days, the employee must provide as much notice as is practicable.
2. If leave taken under Paragraph B above is foreseeable, the employee shall consult with Management and make a reasonable effort to schedule medical treatment so as to not disrupt Agency operations, subject to the approval of the authorized health care provider.
3. If the leave is not foreseeable, the employee or his/her personal representative (e.g., family member or other responsible party) shall provide notice within a reasonable period of time appropriate to the circumstances involved.
4. Management may require that a request for leave under paragraph A be supported by evidence that is administratively acceptable. Leave under paragraph B must be supported through the medical certification requirements in paragraph I below.

I. Medical Certification (When requesting leave for serious health conditions):

1. An employee shall provide written medical certification, signed by the health care provider, no later than 15 calendar days after Management has requested such certification. If it is not practicable under the circumstances to provide the certification despite the employee's diligent good faith efforts, the employee must provide the certification within a reasonable period of time, but no later than 30 calendar days after Management has requested the certification.
2. The written medical certification shall include:
 - a. The date the serious health condition commenced;
 - b. The probable duration of the serious health condition or specify that the serious health condition is a chronic or continuing condition with an unknown duration and whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity;
 - c. The appropriate medical facts, within the knowledge of the health care provider, regarding the serious health condition, including a statement as to the incapacitation, examination, or treatment that may be required by an authorized health care provider;
 - d. For the purposes of leave taken under Paragraph B1 a statement from the authorized health care provider that the spouse, son, daughter, or parent of the employee requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety, or transportation or in making arrangements to meet such needs, and that the family member

would benefit from the employee's care or presence. The employee will also provide a statement of the care he or she will provide and an estimate of the amount of time needed to care for his or her spouse, son, daughter, or parent;

- e. A statement that the employee is unable to perform the functions of his/her position; and
- f. In the case of intermittent leave or leave on a reduced schedule, under Paragraph B for planned medical treatment, the dates (actual or estimates) on which the treatment is expected to be given, the duration of such treatments, and the period of recovery, if any, or specify that the serious health condition is a chronic or continuing condition with an unknown duration and whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.
 - 1. At its own expense, Management may require subsequent medical recertification on a periodic basis, but not more than once every 30 calendar days, for leave taken for purposes related to pregnancy, chronic conditions, or long-term conditions meeting the definition of serious health care condition in 5 CFR 630.1202.
 - 2. Management will not require any personal or confidential information in the written medical certification other than that required by this Section.
 - 3. To remain entitled to leave under the Family and Medical Leave Act, an employee or the employee's spouse, son, daughter, or parent, must comply with any Management requirement that they submit to examination (not treatment) to obtain a second or third medical certification from a health care provider other than the individual's health care provider.
 - 4. If the employee is unable to provide the requested medical certification before leave begins or Management questions the validity of the original certification provided by the employee, and the medical treatment requires the leave to begin, Management shall grant provisional leave pending final written medical certification.
 - 5. If the employee does not provide the required certification, such leave may not be taken under the Family and Medical Leave Act. Management may charge the employee absence without leave or allow the employee to take annual leave, sick leave, or leave without pay, as appropriate.

J. Intermittent Leave or Reduced Leave Schedule

- 1. Leave taken under paragraph A of this section may not be taken intermittently or on a reduced leave schedule unless the employee and Management agree to do so.

2. Leave taken under paragraph B of this section may be taken intermittently or on a reduced leave schedule subject to the notice and certification requirements in paragraphs I and J, respectively.
 3. If an employee takes leave under paragraph B intermittently or on a reduced schedule, which is foreseeable based on planned medical treatment or recovery from a serious health condition, Management may place the employee temporarily in an available alternative position for which the employee is qualified and that can better accommodate recurring periods of leave.
- K. An employee eligible under the Department's family and medical leave program may request to participate in the Telework Program consistent with this Agreement.
 - L. Upon return from Family and Medical Leave, the employee will be restored to the same position as occupied before the leave or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
 - M. When an employee requests leave under the Family and Medical Leave program, Management will provide guidance concerning the employee's rights and obligations under the Program.
 - N. An employee who meets the criteria for leave and has complied with the requirements under this section may not be denied leave, consistent with all applicable rules governing annual or sick leave.

Section 18 - Excused Absence (Administrative Leave) and Leave for Organ Donation

- A. Excused absence (sometimes referred to as administrative leave) is absence from assigned duties without charge to leave or loss of pay. Excused absence may be granted for activities that are in the Government's interest.
- B. Employees may be granted up to four hours of excused absence to donate blood to a Department-sponsored or endorsed blood program for rest and recovery. Additional excused absence will be granted to employees who donate blood platelets through Department-endorsed Hemophilia Programs. Time spent in necessary travel for such purposes shall also be administrative leave.
- C. Upon request, subject to certification by a physician, leave-approving officials shall approve excused absence for employees who serve as donors for bone marrow, organ, and tissue donation and transplantation. The use of excused absence can cover time off for activities such as donor screening, the actual medical procedure, and recovery time. Leave-approving officials shall approve:
 1. Up to seven workdays per leave year for bone marrow donation; and
 2. Up to 30 workdays per leave year for organ donation.

The length of absence from work can vary depending on the medical procedure involved in the donation. Therefore, for longer periods of incapacitation, leave-

approving officials shall approve annual, sick leave or LWOP in combination with the maximum amounts of leave specified in Paragraphs 1 and 2 above.

Section 19 - Annual Leave for Title 38 Registered Nurses

- A. Registered nurses covered by this Agreement shall accrue and be entitled to such annual leave as provided for in established VA regulations.
- B. The provisions of this section are intended to be interpreted consistently with 38 USC § 7422.
- C. Leave Schedule
 - 1. The vacation leave schedule for registered nurses will be posted on the first administrative workday after September 1st and remain available for leave selection until October 1st of each year. A list of registered nurses ranked according to their relative seniority (i.e., seniority means service computation date or SCD) will be posted on each unit next to the vacation leave schedule. Each registered nurse will have the right to select a three-week vacation period, the weeks being separated or consecutive. The calendar year for the purpose of leave selection will be from January 1st through December 31st. When there is a conflict of choices, the conflict will be resolved by the appropriate supervisor on the basis of seniority. The approved schedule after the resolution of any conflicts, will be posted by October 15th of each year. Each registered nurse will then select one week by seniority. Second leave selection will remain available until November 15th. Conflicts of choices will be resolved by seniority.
 - 2. The approved schedule after the resolution of any conflicts, will be posted by November 30th.
 - 3. Each registered nurse will then select one week by seniority. The third leave selection will remain available until December 21st. Conflicts of choices will be resolved by seniority. The final approved schedule will be posted by December 30th.
- D. If Management initiates a reassignment or detail, previously approved leave requests will be honored, except as provided in Section 2F of this Article.
- E. If a registered nurse is reassigned upon his/her own request from one unit to another, Management will honor previously approved leave requests except as provided in Section 2F of this Article.
- F. Bargaining unit registered nurses will compete only with other bargaining unit registered nurses under this Section.

ARTICLE 14 TELEWORK

Section 1 - General

The Department and Union jointly recognize the mutual benefits of a flexible workplace program to the Department and its employees. Balancing work and family responsibilities, assistance to the elderly or disabled employees, and meeting environmental, financial, and commuting concerns are among its advantages. In recognizing these benefits, both parties also acknowledge the needs of the Department to accomplish its mission. The Department Telework Program will be governed by applicable law, Government-wide rules and regulations, and this Article.

Any Telework Program established under this Article will be a voluntary program which permits employees to work at home or at other approved sites away from the office for all or a part of the work week.

Section 2 - Definitions

- A. "Telework" is defined as a voluntary program which enables employees to perform specific assignments at an Alternate Duty Station (ADS) with supervisory approval.
- B. "Alternate Duty Station" is defined as a specific room or area within an employee's primary residence or an established Department satellite location.

Sections 3 - Criteria

All employees who meet the criteria below may be eligible to participate in the Program if management determines that the employee's position and particular work assignment(s) are appropriate for telework:

- A. The employee volunteered (or concurred with the supervisor's recommendation) to perform work at the ADS.
- B. The employee has a fully successful/satisfactory or better rating of record.
- C. The employee has workspace and utilities at home suitable for performing work.
- D. The employee is willing to sign and abide by the Telework Program Agreement concerning participation in the Telework Program.
- E. The assignment will meet the operational needs of the organization.

Section 4 - Telework Program Agreement

- A. Prior to participating in the Telework Program, employees will be required to complete, on a one-time basis, a Telework Program Agreement. However, a new Telework Program Agreement must be completed if significant changes occur (e.g., change in ADS address/location, change in supervisor, and/or change in official duty station). This Agreement will provide employees with sufficient information concerning the Telework

Program so as to make an informed decision as to whether or not they wish to participate. This information will include:

1. Privacy Act/security provisions;
 2. Personal and financial liability;
 3. Leave rules and overtime;
 4. Time and attendance requirements; and
 5. Project guidelines and related material.
- B. Employees will signify that they have volunteered to participate in the Telework Program and will abide by the Telework provisions by signing and dating the Telework Program Agreement. The Telework Program Agreement is attached as an Appendix to this Agreement.
- C. Management shall provide participant employees with essential materials and supplies to enable the performance of duties in the alternate workstation.

Section 5 - Telework Program Work Assignment Request

- A. The employee will submit a separate request for each specific assignment to be performed at the ADS. The request will describe the nature of the duties to be performed and the specific days involved. The request will be submitted to the supervisor for approval. The supervisor will document approval or denial of the request as soon as possible. Employees must make the request to work at the ADS at least one workday in advance; however, this time frame may be waived at the discretion of the supervisor. If the assignment is initiated by the supervisor and the employee concurs, the employee is still responsible for submitting a Telework Program Work Assignment Request in addition to signing the Telework Program Agreement described in Section 4 of this Article.
- B. The criteria for approving a request to work at the ADS shall be based on the following:
1. The work is portable and may be performed away from the official worksite either in whole or part and can be evaluated by the supervisor; and
 2. The employee's absence from the worksite will not unduly interrupt facility operations.
- C. Organizational and budgetary situations may adversely impact telework assignments.
- D. Telework arrangements for participants may be changed if assignment(s) fail to benefit the mission of the Department.

Section 6 - Removal From Program

Management may remove an employee from the Telework Program based on the employee's failure to adhere to the requirements specified in the Telework Program Agreement and/or a decline in overall performance below the successful level. Normally, employees will not be removed from participation for single, minor infractions of Telework Program requirements. Supervisors will make a bona fide effort to counsel employees about specific problems before effecting removal. When a decision is made to remove an

employee from the Telework Program, the employee must be given written notice indicating the reason(s) for removal. The employee may reapply for Telework Program participation 30 calendar days after removal from the Program, provided that their performance is at least fully successful/satisfactory.

Section 7 - Problems Affecting Work Performance

Employees will inform supervisors as soon as practicable whenever any problems arise which adversely affect their ability to perform work at the ADS. Examples could include situations such as equipment failure, power outages, telecommunications difficulties, etc.

Section 8 - Hours of Work and Leave

Employees performing work at the ADS are subject to the same maximum workday limits as they would be if they were performing work at the official duty station. Employees performing work at the ADS are not authorized to work overtime or official compensatory time, except in special circumstances, for example, to meet priority needs of the Department. In such situations, prior approval must be obtained from the immediate supervisor. Employees are not authorized to work credit hours at the ADS.

Employees performing work at the ADS will follow established procedures for requesting and obtaining approval of leave, consistent with Article 13, Time and Leave.

Section 9 - Emergency Closing/Late Openings/Early Dismissals

On a day when an employee is scheduled to work at the ADS and their official duty station facility is closed for all or part of a day, the following rules apply:

- A. Full Day Closing: The employee is not required to perform work at the ADS. However, if the employee voluntarily chooses to perform any work at the ADS, he/she is not entitled to additional compensation such as overtime, compensatory time, or credit hours.
- B. Late Openings: On a day when an employee is scheduled to work at the ADS and the official duty station facility opens late, the employee is entitled to the exact amount of excused absence the employee would have received if scheduled to work at the official duty station.
- C. Late Arrivals and Early Dismissals: On days when a late arrival or early dismissal occurs, the employee is required to perform his/her full ADS schedule, if located at home.

Section 10 - Telecommunication Centers

Management and the Local agree to discuss the feasibility of telecommuting centers.

In the event of a local emergency situation such as a transit strike or a natural disaster which adversely affects an employee's ability to commute to the workplace, Management and the Local agree to meet as soon as practicable to discuss possible temporary Telework arrangements for affected employee(s).

Section 11 - Evaluation of Program

All Telework arrangements will be evaluated periodically, but at least annually to determine the impact on work operations and to assess any concerns relevant to employees working at an alternative work site.

Section 12 - Local Notification

The Local will be notified when employees enter into Telework agreements and when such agreements are terminated.

Appendix

Telework Program Agreement

The following constitutes an agreement between the (employer-VA approving official and organization) and (employee name, title, grade, and organization), to the terms and conditions of this alternative workplace arrangement.

1. Voluntary Participation.

The employee voluntarily agrees to work at the agency-approved alternative workplace indicated below and to follow all applicable policies and procedures. The employee and the employer recognize the mutual benefit of the Telework Program and that this program is an additional method the Department may approve to accomplish work.

2. Salary and Benefits.

Management agrees that a telework assignment is not a basis for changing the employee's salary and benefits.

3. Duty Station and Alternative Worksite.

The employee and management agree that the employee's official duty station is (list duty station for regular office) and that the employee's approved alternate work site is: (specify location, street address, etc.). The employee understands that all pay, leave, and travel entitlements are based on the official duty station. With reasonable notice to the employee, Management may recall an employee from specific telework to meet work requirements in which the employee may be unable to accomplish from the alternate work site.

4. Official Duties.

The employee agrees to conduct official duties only when on duty at the regular office or alternate worksite. The employee agrees not to conduct personal business while in official duty status at the alternative worksite, for example, caring for dependents.

5. Work Schedule and Tour of Duty.

Management and the employee agree that the employee's official tour of duty will be: (specify days, hours, and location).

6. Time and Attendance.

The employee's supervisor will make sure the employee's timekeeper has a copy of the employee's telework schedule. The employee's time and attendance will be recorded as performing official duties at the official duty station or alternate worksite, as applicable.

7. Leave.

The employee agrees to follow established office procedures for requesting and obtaining approval of leave.

8. Overtime.

The employee agrees to work overtime only when ordered and approved by the supervisor in advance and understands that working overtime without such approval may result in termination of the telework assignment and/or other disciplinary action.

9. Equipment/Supplies.

The employee agrees to protect any government-owned equipment and to use it only for official purposes. Management agrees to install, service, and maintain any Government-owned equipment issued to the telework employee. Management agrees to provide the employee with the necessary office supplies and to reimburse the employee for business-related long distance telephone calls.

10. Liability.

The employee understands that the Government will not be liable for damages to an employee's personal or real property while the employee is working at the approved alternate worksite, except to the extent the Government is held liable by the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claims Act.

11. Work Area (work-at-home only).

The employee agrees to provide a distraction-free worksite adequate for the performance of official duties.

12. Worksite Inspection.

The employee agrees to permit the Government to inspect the alternate worksite during the employee's normal working hours to ensure proper maintenance of Government-owned property and conformance with safety standards. The employer will give the employee reasonable notice of a planned inspection.

13. Alternate Worksite Costs.

The employee agrees that the Government will not be responsible for any operating costs that are associated with the employee using his or her home as an alternate worksite, for example, home maintenance or utilities. The employee understands that he or she does not relinquish any entitlement to reimbursement for authorized expenses incurred while performing official duties, as provided by statute or regulation.

14. Injury Compensation.

The employee understands that he or she is covered by the Federal Employee's Compensation Act if injured while performing official duties at the alternate worksite. The employee agrees to notify the supervisor as soon as practicable of any accident or injury that occurs at the alternate worksite and to complete any required forms.

15. Work Assignments/Performance.

The employee agrees to complete all assigned work according to procedures mutually agreed upon by the employee and the supervisor. The employee's performance will be evaluated against standards contained in the employee's performance plan.

16. Cancellation.

The employee may cancel participation in the agreement at any time. Management may cancel the agreement if the employee's performance does not meet performance standards or if the assignment fails to benefit the mission of the work unit. The decision to cancel the telework assignment is not subject to any formal appeal procedure. It may be grieved under applicable negotiated grievance procedures. Management agrees to follow any applicable negotiated procedures in canceling the assignment.

17. Disclosure.

The employee agrees to protect Government/VA records from unauthorized disclosure or damage and will comply with the requirements of the Privacy Act of 1974, 5 USC § 552a.

18. Standards of Conduct.

The employee agrees that he or she is bound by VA standards of conduct while working at the alternate worksite.

19. Agreement.

Nothing in this agreement precludes Management from taking any appropriate disciplinary or adverse action against an employee who fails to comply with provisions of the agreement.

Employee Date

Employer (title of Approving Official) Date

ARTICLE 15 OFFICIAL TRAVEL

Section 1 - Compensation and Travel

To the maximum extent practical, the Department shall schedule time spent in travel status away from the employee's official duty station within the normal working hours. Where it is necessary that travel be performed during non-duty hours, the employee will be paid overtime or may opt for compensatory time when such travel constitutes hours of work under Title 5 of the U.S. Code or the Fair Labor Standards Act, if applicable.

Section 2 - Change from Per Diem Allowance to Actual and Necessary Subsistence Expenses

- A. Advance Authorization - An employee scheduled to travel in an area for which a per diem allowance is prescribed may request advance authorization for travel on the basis of actual and necessary subsistence expenses. Any such request will normally be approved when the supporting justification showing that the unusual and exceptional circumstances for the request meets Department-wide guidelines.
- B. Post Approval - The Department will normally authorize, on a post-approval basis, reimbursement for actual and necessary subsistence expenses allowable under law, rules or regulations, if the employee can justify that prudent expenses required by the ordered travel exceeded the prescribed per diem rate. This provision applies only to travel involving assignments of 30 calendar days or less.

Section 3

Employees who are unable to arrive at or return from their destination as scheduled will be reimbursed for authorized travel expenses in accordance with government-wide regulations.

Section 4 - Advancement of Expenses

Employees required to travel shall have the option of requesting a travel advance. Such request shall be filed by the employee as soon as possible and processed by the Department as expeditiously as possible. Normally, the Department will not require an employee to travel overnight prior to receiving a travel advance. If an employee does not have adequate funds, the Department will make every effort to make alternative arrangements. The Department shall process all claims for travel expenses as expeditiously as possible.

Section 5 - Use of Privately Owned Vehicles

Employees shall not be required to use privately owned vehicles (POVs) for Government business, nor shall they suffer any loss of pay, reprisal, or adverse action on account of refusal to use a POV for Government business. In the event the use of POVs is authorized,

mileage for such use shall be compensated at the prevailing rate, published in the Federal Register.

Section 6 - Document and Property Loss/Theft

An employee is accountable for Government documents or property in his/her possession or custody. Employees exercising reasonable care will not be held responsible for documents or property damaged, lost, or stolen from their possession or custody.

Section 7 - Protective Assistance

The Department recognizes that some travel job assignments present a threat to the personal safety of employees. When such circumstances are brought to the attention of the supervisor by employees or the Union, appropriate measures will be taken to assure the safety of the employee. The parties agree to jointly review existing employee protective procedures from time to time to assure that employees receive the maximum feasible protection from such dangers.

Section 8 - Return to Duty Station

An employee on a long-term assignment may be authorized occasional return trips to his/her permanent duty station at Government expense on non-workdays. Approval for such return trips are at the administrative discretion of the authorizing official and may be authorized in accordance with published travel policy of the Department.

ARTICLE 16 CLASSIFICATION

Section 1 - General

- A. Each position covered by this Agreement that is established or changed must be accurately described in writing and classified to the proper occupational title, series, code, and grade.
- B. Title 5 position descriptions must clearly and concisely state the principal and grade controlling duties, responsibilities, and supervisory relationships of the position.
- C. Employees will be furnished a current, accurate copy of the description of the position to which assigned at the time of assignment and upon request.
- D. Title 5 position descriptions will be kept current and accurate, and positions will be classified properly. Employees shall be properly compensated for duties performed on a regular and recurring basis. Changes to a position will be incorporated in the position description to assure that the position is correctly classified/graded to the proper title, series, and grade. The Local will be provided the opportunity to review proposed changes in position descriptions and copies of updated position descriptions. Current position descriptions will be provided to Locals, upon request.
- E. Employees dissatisfied with the classification of their positions/jobs may first discuss the problem with their supervisors. The employee may then discuss the matter with the appropriate official who will explain the basis for the classification/job grading. An employee and/or the Local, upon request, will have access to the position description, evaluation report (when available), organizational and functional charts, and other pertinent information directly related to the classification of the position. This informal classification review process should be completed in a reasonable period of time. An employee or the Local may request a desk audit, and if it is determined to be appropriate, the audit will ordinarily be completed within 90 days of the request. If the employee still believes there is an inequity, an appeal may be filed with the Department or OPM as appropriate. An employee may file a classification/job grading appeal at any time through appropriate channels.
- F. If conducted, Management will meet and confer with the Local on procedures pertaining to systematic position classification and special maintenance reviews.
- G. Vacant positions will not be posted until the appointing authority assures that they are authorized, properly described, evaluated, and classified according to series, title, and grade.
- H. No position(s) will be downgraded without a thorough review. For a downgraded position, the employee's pay and grade will be retained in accordance with law and regulations.
- I. Delegations of authority for the classifications of positions will be specified in Department policies and regulations.

Section 2 - Classification Standards

- A. Title 5 positions will be classified by comparing the duties, responsibilities, and supervisory relationships in the official position description with the appropriate classification and job grading standard.
- B. The Department will apply newly issued OPM classification and job grading standards within a reasonable period of time. The Local will be advised of how to access current and new standards upon request. If these standards are not available electronically, copies will be provided to the Local by the appropriate HRM official upon request.
- C. The Department will provide the Union with copies of any Department guidance provided to OPM in connection with any classification standards.

Section 3 - Classification Appeals

- A. The Department will provide employees and Locals with copies of procedures for filing classification appeals through the Department or OPM channels upon request.
- B. Employees or their representatives are encouraged to submit their classification/job grading appeals through the local Human Resources Management (HRM) office. The HRM office will forward the appeal to the Department or OPM as appropriate no later than 15 days from receipt and will provide the Local with two copies of the employee's appeal request. However, this does not preclude an employee from filing a classification/job grading appeal directly to the Department or OPM as appropriate.
- C. An employee who files a classification appeal is entitled to a copy of the classification appeal file. The Union is entitled to the same material upon request.
- D. General Schedule and Federal Wage System employees who file appeals with the Department concerning the title, series and grade, and/or coverage of their position will have their appeal decided within a reasonable period of time with a goal of 60 days from the date the Appeals Office receives a completed application. Copies of classification appeal decisions will be forwarded to the Local.

Section 4 - Effective Date

The effective date of a personnel action taken as a result of an appeal should not be later than the beginning of the fourth pay period following the date of the decision.

**ARTICLE 17
COMPETENCIES**

Section 1 - Definition

Competencies are written descriptions of the appropriate skills assessed by management in determining an employee's competence.

NOTE: It is management's right to determine employee competence and, within parameters set by the Joint Commission on Accreditation of Healthcare Organizations and Federal employment standards, to summarize competence assessments in written competencies.

Section 2

Management shall train bargaining unit employees on all new equipment, technology changes, and clinical procedures needed to perform the duties of their position.

Section 3

An employee's competencies will be shared with the employee, and copies will be provided to the Local upon request.

Section 4

Title 5 competencies shall not be used in lieu of performance evaluations or performance standards.

ARTICLE 18 PERFORMANCE APPRAISAL

(Includes Title 5 employees and those Title 38 Employees Appointed Under 38 USC § 7401(3) and 7405(a)(1)(B) but is not applicable to Employees Appointed Under 38 USC § 7401(1), and 7405 (a)(1)(A))

Section 1 - Purpose

The Parties to this Agreement each recognize that high-level performance by the Department's employees is essential to the efficient operation of the Department and is necessary for the achievement of its goals and programs. The purpose of this article is to set forth a fair and equitable procedure to be utilized by supervisors when informing employees of their performance. The Department's employee performance appraisal system will be administered in accordance with the requirements of 5 USC § 4301 et seq. and 5 CFR, Part 430 as amended.

Section 2 - Performance Standards

The performance appraisal system will provide for: (a) the establishment of performance standards which will be based upon the requirements of the employee's position; (b) the communication of the standards of performance and the critical elements of the position at the beginning of the appraisal period; and (c) a comparison of performance with the standards established for the appraisal period. This does not preclude modifications of or additions to the performance standard during the appraisal period. The employee will not be rated against these modifications or additions for a reasonable period of time, which will be dependent upon the degree of modification or the nature of the addition normally not to be less than 60 days.

Section 3 – Intent of Appraisal System

The intent of the performance appraisal system is to provide an objective evaluation of the employee's performance based on an analysis of the employee's performance as compared to the established performance standards for the position.

Section 4 - Critical Elements

A critical element means a component of a position consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that unacceptable performance on the element would result in unacceptable performance in the position. Each critical element will be in clear and understandable language to the extent possible. Each employee will be provided a copy of his/her performance plan at the time it is developed, which will contain the critical elements, and performance standards of his/her position.

Section 5 - Communication

The Department's policy on performance appraisal encourages supervisors to conduct periodic guidance sessions with employees regarding their job performance. The Department recognizes the need to identify and discuss employee performance on an

ongoing basis. At a minimum, supervisors will conduct a mid-term evaluation. Confidential and informal guidance sessions may be useful to ensure that employees are kept current on the status of their performance.

Section 6 - Summary Appraisal

As long as sufficient information is available on which to appraise an employee's performance that covers a 90-day minimum period, there is no requirement for a Rater to occupy his or her position for a specific length of time. However, if a performance rating is not available or is not sufficiently developed to permit appraisal, the appraisal period will be extended to provide for performance under the Rater for the minimum appraisal period.

Section 7 - Supervisory Discussion

The supervisor will discuss the appraisal with the employee after the rating has been approved.

Section 8 - Grievance Rights

The employee has a right to grieve his/her performance evaluation. Grievances will begin at Step 2 of the Grievance Procedure and will be filed within 30 calendar days of the employee receiving a copy of the performance evaluation.

Section 9 - Performance Assistance

Management will assist employees in relation to their overall performance on an as-needed basis when the employee's performance drops below a successful level.

Section 10 - Actions Based on Unacceptable Performance

- A. In cases of actions based on unacceptable performance, the basic procedures and rights of employees shall be as provided in 5 USC § 4303 or USC § 7513 and applicable VA rules, regulations and procedures.
- B. Before an employee receives an unacceptable rating leading to a notice of proposed demotion, or removal for unacceptable performance under 5 USC § 4303, the employee will be advised in writing of performance deficiencies, and be provided a 60-day period to demonstrate acceptable performance.
- C. If an employee has performed acceptably for one year from the beginning of an opportunity to demonstrate acceptable performance (in the critical element(s) for which the employee was afforded an opportunity to demonstrate acceptable performance), and the employee's performance again becomes unacceptable, the agency shall afford the employee an additional opportunity to demonstrate acceptable performance before determining whether to propose a reduction in grade or removal under this part.
- D. A proposed action may be based on instances of unacceptable performance which occur within a one-year period ending on the date of the notice of the proposed action.

**ARTICLE 19
TRAINING AND CAREER DEVELOPMENT**

Section 1 - General Provisions

- A. Training and development of employees is of critical importance in carrying out the mission of Management. Management will provide training and career development opportunities to employees of the bargaining unit. Management is responsible for ensuring that all employees receive the training necessary for the performance of the employees' assigned duties.
- B. There may be reorganization(s), technological changes, RIFs/Staffing Adjustments or other major actions which could have an impact on job security. In recognition of this, Management will make every effort to provide training which would allow employees to move into existing or projected vacancies, consistent with budget and staffing restrictions.
- C. Nothing in this Section is intended to interfere with applicable merit promotion requirements or Title 38 career advancement procedures.

Section 2 - Local Training Committees

- A. There shall be a facility level Training and Career Development Committee which will be authorized to reach joint agreements, and make joint recommendations regarding training and career development programs.
- B. The number of Local representatives on the Training Committee is a subject for local bargaining. The committee will meet as needed to address training issues such as:
 - 1. Orientation sessions for new employees,
 - 2. In-service or on-the-job training to improve the employees' capability to perform their current jobs,
 - 3. Training for career enhancement,
 - 4. Cross-training and rotational assignments,
 - 5. Funding for training,
 - 6. Upward mobility, and
 - 7. Tuition support.

Section 3 - Training Costs

- A. Management will pay all expenses, including tuition and travel, in connection with training required or requested by Management to perform the duties of an employee's current position or a position to which an employee has been assigned.
- B. Depending upon the availability of funds and training priorities, Management will also pay appropriate expenses for work-related training that will:
 - 1. Improve an employee's ability to perform his or her current job or a job the employee has been selected to fill through merit promotion; or

2. Increase an employee's knowledge or skills in connection with career growth or advancement opportunities; and
 3. Approval of such training may also be contingent upon an agreement by the employee to share any costs with Management.
- C. When resources for training are limited, approval for training funds will be based on fair criteria that are equitably applied.

Section 4 - Reassignments and New Assignments

When employees are reassigned to new positions or assigned new duties in connection with their current positions, Management will provide the training necessary to enable employees to perform all required duties.

Section 5 - Scheduling Training

- A. When training required by Management is conducted during an employee's regularly scheduled work hours, he/she will be granted excused absence to attend.
- B. When training is approved under Section 3B of this Article. Management will make a good-faith effort to grant excused absences from work or make schedule adjustments to accommodate an employee's training or educational program.

Section 6 - Training Information

- A. Management shall inform employees, at least annually, about training opportunities, policies, and nomination procedures. Management will, upon request, advise individual employees of training opportunities that meet identified educational or career objectives.
- B. Management will maintain up-to-date information about training courses, programs, and seminars conducted or sponsored by Management or available from some other source. This information shall be accessible to employees and publicized in such a way as to provide adequate notice to interested employees.

Section 7 - Notification

Employees will be notified of approval or disapproval of training requests as soon as possible, but in every case prior to the starting date of the training. Should an employee's request for training be disapproved solely for lack of funds, the employee may resubmit a request for training. When funds become available, the request will be given first consideration. Training may be disapproved due to high priorities. If not selected for the training, the employee will be notified in writing of the reasons.

Section 8 - Educational Programs and Continuing Education

- A. As resources permit, Management shall work with educational institutions and other training sources to develop opportunities for employees to participate in long-term educational programs.

- B. The parties recognize that a block of time for pursuing continuing education is beneficial to Management. Each facility is therefore encouraged to grant a minimum block of time to employees for pursuing continuing education opportunities.

Section 9 - Local Negotiations

Procedures, which ensure fair and equitable training opportunities, are appropriate subjects for local bargaining.

Section 10 - Tuition Support and Reimbursement

- A. Employees who are eligible for receiving tuition support and reimbursement shall be informed of the availability of reimbursement funds and shall be given the opportunity to apply for the reimbursement funds.
- B. When a change in qualifications for a position mandates an additional requirement for an employee already holding that position, the Department will pay for the education needed for the employee to meet the new qualifications unless the employee is grandfathered in or taken out of the position.
- C. Tuition support and reimbursement for upward mobility is a proper subject for local bargaining.
- D. Bargaining unit employees shall have an equitable opportunity to compete for the receipt of available tuition support or reimbursement funds.
- E. All employees will be timely provided with information on the availability of funds for tuition support and reimbursement and on the processes by which an employee may apply for any available funds.
- F. Upon request, Management shall provide the Local, on a quarterly basis, the amount of financial award for employees who receive tuition support or reimbursement. Management will not release any information which personally identifies employees.

ARTICLE 20 EMPLOYEE AWARDS AND RECOGNITION

Section 1 - Background and Purpose

Recognition of employees through monetary and non-monetary awards reflects the Parties' efforts to promote continuous improvement in the Department's performance. The employee recognition program provides a positive indication of the Parties' commitment to providing quality public service. The employee recognition program, as described in this Article, has the following characteristics:

- A. It is an incentive program; employee recognition is based on achievement and improvement. Achievements are linked to the Department mission of providing high quality care and service to veterans and the public. The program is intended to motivate employees to strive for excellence. Strong emphasis is placed on recognition of efforts to improve service to veterans and the public.
- B. It recognizes the accomplishments of employees, as individuals and as members of groups or teams. Because of the interrelationship of work performed by employees, enhanced Department performance is sought through teamwork, not through competition among individuals. This program is based on the concept that individual employees deserve recognition because of their personal efforts and accomplishments, support of the goals of their teams, work units and the Department. It is also based on the concept that groups or teams which improve the Department's performance deserve recognition. It recognizes that Management, the Local, and employees have important roles in identifying and recognizing employees deserving of awards and praise. The intent of this program is to promote a positive work environment and to link awards to employee contributions that enhance the Department's performance.
- C. Further, it is the intent of this program to ensure that employees will be appropriately rewarded regardless of changes in the Department's organizational structure, work processes, or work initiatives.

Section 2 - Policy

- A. There is no limit to the number of awards that employees may receive or the frequency with which they may receive awards unless otherwise stated in this Article.
- B. When employees are considered for awards, the relative significance and impact of their contributions will be considered in determining which type of award constitutes appropriate recognition, and for monetary awards, in determining the amount of money to be granted.
- C. Awards will be processed in a timely and expeditious manner.

- D. Management will provide an award recipient with written documentation that clearly articulates the specific reason that the employee received the award. Employees are encouraged to relate this information to specific evaluation criteria when completing applications for merit promotion.

Section 3 - Types of Awards

Awards which employees may be eligible to receive include but are not limited to:

- A. Special Contribution Award
- B. Instant/On the Spot Award
- C. Suggestion Award
- D. Time-off Award
- E. Quality Step Increase (QSI)

Section 4 - Award Panels

Each facility will establish awards panels consisting of an equal number of management and bargaining unit employees. The composition and membership of each panel will be decided jointly by the Local and Management. The Local will designate the bargaining unit panel members. Panel decisions will be made by consensus and will then be forwarded to the Director of the facility. Awards panels will be formed at the beginning of assessment period. Panels will perform the following functions, maintaining the strictest confidentiality and avoiding even the appearance of a conflict of interest: 1) establish fair and equitable mission-related criteria for awards; and 2) operate within parameters as negotiated locally.

Section 5 - Monetary Awards

- A. Special Contribution Awards -- The special contribution award is a special act or service award which recognizes individuals or group for major accomplishments or contributions which have promoted the mission of the organization. Award amounts should be linked to the significance and impact of the accomplishment or contribution. A special contribution award may be made to an individual employee or to a group. A group may consist of individuals from a single organization or multiple components/offices/units.
- B. Instant/On the Spot Awards -- This is a special act or service award given to an employee for noteworthy contributions or accomplishments in the public interest which are connected with or related to the recipient's official employment. The distinction between a special contribution award and an instant/on the spot award rests in the relative significance of contribution or accomplishment.
- C. Suggestion Awards -- Management will encourage employees to file suggestions under the Department's Suggestion Program. Suggestions will be considered in a fair and equitable manner.

Suggestion awards will be appropriate for tangible suggestions, intangible suggestions, and problem identification as defined in the Department's Suggestion Program.

1. In the event no decision is made regarding adoption or non-adoption of a suggestion within 90 days of submission, the employee, upon request, will be given a written or oral status, report.
 2. Non-adoption of employee suggestions is to be written and contain specific reasons for non-adoption.
 3. If the idea set forth in a rejected suggestion is later adopted, the appropriate suggestion coordinator will reopen the case for award consideration if the matter is brought to his attention within two years of the date of rejection notice.
- D. QSI Awards -- Quality step increases are not required, but they may be granted to employees whose overall performance is deemed exceptional as demonstrated by making significant contribution to the accomplishment of organizational goals and objectives, and exceeding the standards on all the elements in the individuals performance appraisal plan. Employees in occupations identified in 38 USC § 7401 (3) are eligible for one step special advancements for performance, subject to meeting the criteria for QSI's.

Section 6 - Time-Off Awards

Time-off awards may be granted to an individual or group of employees for contributions that benefit the Department. These awards may be granted for contributions such as, but not limited to, the following:

- A. A significant contribution involving completion of a difficult project or assignment of importance to the mission of the Department;
- B. The completion of a specific assignment or project in advance of an established deadline and with favorable results;
- C. Displaying unusual initiative, innovation, or creativity in completing a project or improving the operation of a program or service;
- D. Displaying unusual courtesy or responsiveness to the public which clearly demonstrates performance beyond the call of duty and which produces positive results for the Department; and,
- E. Exemplary work by an employee as a canvasser for special campaigns or programs such as the Combined Federal Campaign, US Savings Bonds or blood donor program. An award for such an effort may not exceed one workday per activity.

ARTICLE 21
DETAILS, REASSIGNMENTS AND TEMPORARY PROMOTIONS

Section 1 - General

- A. A detail is the temporary assignment of an employee to a different position for a specified period of time with the employee returning to his regular duties at the end of the detail. Details are intended only for the needs of the Department's work requirements when necessary services cannot be obtained by other desirable or practicable means.
- B. Details of one week or more shall be recorded and maintained in the employees' personnel record.
- C. Assignment of Title 38 employees is a matter of professional conduct or competence, in that it involves direct patient care and clinical competence (e.g., specific competencies of individual employees on duty in a given unit at a given time may impact the quality of patient care available on that unit). Accordingly, the following provisions must be read consistently with the exemptions from collective bargaining provided by 38 USC § 7422(b) and to allow for exceptions, within management's sole discretion, to meet patient care needs.
- D. Subject to management's reserved rights under 5 USC § 7106(a)(2) and 38 USC § 7422(b), the following procedures shall apply when offering noncompetitive details of ten consecutive workdays or more to both classified and unclassified positions:
 - 1. Management will canvass the qualified employees to determine if anyone wishes to be detailed, if the same number of volunteers as vacancies exist, they shall be selected.
 - 2. If more employees volunteer than vacancies exist, Management will select from the qualified volunteers. Seniority, as negotiated by the Parties at the local level, will be the selection criterion.
 - 3. If no employee volunteers, then the least senior qualified employee will be selected.
 - 4. If there are fewer volunteers than vacancies, then the volunteers will be selected and additional persons will be selected as in D3 above,
 - 5. Management will notify the Local of all details.
- E. Details of less than ten consecutive workdays shall be on a fair and equitable basis, and procedures for such details will be subject for local negotiations.
- F. Details outside of the duty station Management shall accomplish a case-by-case analysis comparing the distance from the old duty station to the employee's residence

with the distance from the new duty station to the employee's residence. When a significant difference exists, the employee should be given duty time for travels commensurate with the new duty station.

Section 2 - Temporary Promotions - Title 5

- A. Employees detailed to a higher grade position for a period of more than ten consecutive workdays must be temporarily promoted. The employee will be paid for the temporary promotion beginning the first day of the detail. The temporary promotion should be initiated at the earliest date it is known by management that the detail is expected to exceed ten consecutive work days.
- B. The ten consecutive work day provision will not be circumvented by rotating employees into a higher-grade position for less than ten days in order to avoid the higher rate of pay.
- C. For the purposes of this section, a General Schedule employee who performs the grade-controlling duties of a higher graded position for at least 25% of the time, or a Wage Grade employee who performs higher graded duties on a regular and recurring basis, shall be temporarily promoted.
- D. Temporary promotions in excess of 60 calendar days shall be filled through competitive procedures. Temporary promotions of less than 60 days shall be made in accordance with Section 1.

Section 3 - Restriction on Lower-Graded Duties

Should the requirements of Management necessitate a detail to a lower graded position, this will in no way adversely affect the detailed employee's salary, classification, or position of record.

Section 4 - Representatives

- A. Management will make every effort to avoid placing a Local representative on a detail that would prevent that official from performing his/her representational functions. Management agrees to notify, in writing, the appropriate Local President prior to placing any designated Local representatives on a detail, away from the representative's normal duty station.
- B. It is recognized that special shift assignments for certain local officials facilitates beneficial communications between Management and the Local. Such assignments are an appropriate subject of local negotiations.

Section 5 - Voluntary Reassignment

Employees seeking voluntary reassignments shall be entitled to prompt and fair consideration.

Section 6 - Shift Change and Relocation

Employees may submit a request for either a change in location or a change in shift within the same service that has the same advancement potential. In filling such a vacancy, seniority will be considered and the request will be granted if the employee has the requisite skills and abilities, provided such relocation would be consistent with effective and efficient staffing. Management reserves the right to make the assignments based on other good faith considerations in assuring effective management of the work force.

Section 7 - Relocation Expenses

An employee whose duty station changes either involuntarily or due to promotion shall be entitled to relocation expenses in accordance with regulations.

Section 8 - Voluntary Demotion/Downgrade

Prior to acting on an employee's request for a voluntary reduction in grade, Management will assure that the employee has been fully apprised in writing about the effects of such an action, and the employee has been given an explanation of other alternatives relevant to the particular case.

Section 9 - Reassignments

- A. Reassignments shall not be used as punishment, harassment, or reprisal.
- B. The Parties agree that procedures for reassignment are a subject appropriate for local bargaining. General areas which may be addressed include, but are not limited to, the following: posting of job notices, submitting voluntary requests; consideration of requests, and notification of reassignments.
- C. All previously requested and approved leave will be transferred with the employee in accordance with Article 13, Section 2.E and F.

**ARTICLE 22
MERIT PROMOTION**

Applicable to Title 5 employees only

Section 1 - Purpose and Policy

The Parties agree that the purpose and intent of the provisions contained herein are to ensure that promotions are made equitably and in a consistent manner. Promotions shall be based solely on job-related criteria, and without regard to political, religious, labor organization affiliation or non-affiliation, marital status, race, color, sex, sexual orientation, national origin, non-disqualifying disabling condition, or age. This article sets forth the merit promotion system, policies, and procedures applicable to bargaining unit positions in the Department.

Section 2 - Development of Career Pathways

- A. The Parties will explore various means of enhancing career opportunities including but not limited to administration movement, broad banding, etc.
- B. The Parties are committed to establishing career ladder positions within the organization in those situations where positions and functions can be grouped in a way compatible with program and work considerations.
- C. The Parties agree to develop and implement career ladder positions through joint labor-management involvement. Labor and management will work together as follows:
 - 1. Participation will include bargaining unit representatives appointed by the Union.
 - 2. The Parties will have appropriate personnel and classification support.
 - 3. Review will consider existing positions and work functions within the respective component in all job categories (i.e., professional, technical, administrative, clerical, wage grade).
 - 4. Consolidate/revise existing positions and develops career ladder positions where appropriate. The Parties will attempt to design career ladders which provide opportunities for both lateral movement between career ladder positions and promotion to higher grade career ladder positions.

Section 3 - Career Ladder Plans

- A. Career ladder positions help employees develop to successfully perform higher level duties through training and incremental assignment of more complex work. The responsibilities assigned to the entry levels of career ladder positions will involve more basic skills and knowledge compared to journey-level responsibilities. The responsibilities at each level of the career ladder position will be communicated to employees through the position description and career ladder plan. Career Ladder Plans will be tailored to the complexity of the job duties and will permit individuals to learn and assume the fuller range of duties.

- B. A Career Ladder Plan will be established for each career ladder position. The Career Ladder Plan will outline the objective criteria for each grade level which an employee must meet in order to be promoted. A copy of the Plan will be given to each employee upon entry into the career ladder and when the employee is promoted to a new level of the career ladder. The employee will also be advised of their earliest date of promotion eligibility.
- C. When Career Ladder Plans are established and/or revised, Management will provide notice to the Local in accordance with the master agreement. The employee will be provided with a copy of any revised Career Ladder Plan within 30 days of such revision.

Section 4 - Career Ladder Advancement

- A. At the time the employee reaches their earliest date of promotion eligibility, Management will decide whether or not to promote the employee.
 - 1. Consistent with 5 CFR § 335.104, to be eligible for career ladder promotion an employee must have a current rating of record of “Fully Successful” or higher and must not rate below “Fully Successful” on a critical element that is also critical to performance at the next higher grade. When an employee is promoted, Management will certify the promotion which will be effective at the beginning of the first pay period after the requirements are met.
 - 2. If an employee is not meeting the criteria for promotion, the employee will be given a written notice at least 60 days prior to earliest date of promotion eligibility. The written notice will state what the employee needs to do to meet the promotion plan criteria. Should a Career Ladder Plan require only a three-month training period, the above notice shall be a reasonable period prior to the earliest date of promotion eligibility.
 - a. If the employee is making progress, the supervisor will ensure that the employee has the opportunity to acquire pertinent skills and knowledge and to demonstrate that they meet promotion requirements as soon as is feasible.
 - b. If the employee is experiencing problems, the provisions in Paragraph B of this Section are applicable.
 - 3. In the event that the employee met the promotion criteria, but the appropriate management official failed to initiate the promotion timely, the promotion will be retroactive to the beginning of the first pay period after the pay period in which the requirements were met.
- B. At any time a supervisor and/or employee recognizes an employee need for assistance in meeting the career ladder advancement criteria, the supervisor and employee will develop a plan tailored to assist the employee in meeting the criteria. The plan should include all applicable training, as well as any other appropriate support. At the request of the employee, the Local may provide assistance.

If a non-probationary employee fails to meet the promotion criteria after the appropriate assistance, Management may:

1. Provide the employee with additional time to meet the promotion criteria; or
2. Assign the employee duties commensurate with their current grade. The Career Ladder Plan may end, and the employee will remain at the level they attained within the career ladder. The employee may be reinstated back into the career ladder plan non-competitively if the employee remains in the position covered by the Career Ladder Plan; or
3. The employee may be assigned to another position at the same grade and step.

Section 5 - Definitions

For the purpose of this Article, the regulations contained in Part 335 and other parts of Title 5 Code of Federal Regulations (CFR) are incorporated as a part of this Agreement, except as otherwise defined in this Agreement.

Section 6 - Applicability of Competitive Procedures

- A. Promotions - Any selection for promotion must be made on a competitive basis unless it is excluded by Section 7 below.
- B. Reassignments/Changes to Lower Grade - Any selection to a position that provides specialized experience (Job Qualification System for Trades and Labor Occupations, Handbook X-118C or appropriate qualification standards) that the employee does not already have and is required for subsequent promotion to a designated higher grade position and/or to a position with known promotion potential must be made on a competitive basis.
- C. Details - Competitive procedures will be applicable to any selection for detail of more than 60 days to a higher grade position, to a position with known promotion potential, or a position which provides specialized experience (Job Qualification System for Trades and Labor Occupations, Handbook X-118C or appropriate qualification standards) required for subsequent promotion to a designated higher grade position.
- D. Training - Competitive procedures will be applicable to selections for training when eligibility for promotion to a particular position depends on whether the employee has completed that training.
- E. Appointments - Competitive procedures apply to the transfer of a Federal employee or to the reinstatement of a former Federal employee to a position above the highest grade previously held permanently (unless the position is a higher-graded successor position as described in Paragraph 7 D5 of Section 7 of this Article) or to a position at or below that grade if the position has promotion potential above the highest grade previously held permanently. The employee must not have been demoted or separated for cause from the higher grade(s) and, when competitive procedures apply, be identified as a well qualified candidate with eligible VA employees to be eligible for appointment. To the extent feasible, the same qualification standards and the same methods of evaluation

will be applied to both VA employees and persons being considered for appointment to higher graded positions above the highest grade previously held permanently by transfer or reinstatement. If it is determined that these methods are not feasible, the Parties will meet and confer on the methods to be utilized.

- F. The procedures for vacancies filled under competitive actions are described in this Article.

Section 7 - Applicability of Noncompetitive Actions

- A. Promotions - The following promotion actions may be taken on a noncompetitive basis unless otherwise provided:
1. Promotion of the incumbent in a position that is reclassified at a higher grade due to the accretion of additional duties and responsibilities and not as the result of a planned management action.
 2. Promotion of an incumbent or an individual entitled to re-employment rights to a position that is reclassified to a higher grade without significant change in duties or responsibilities either on the basis of a new classification standard or as the result of correction of an original classification error. When the incumbent of the upgraded position meets the legal requirements and qualification standards for promotion to the higher grade, the incumbent will be promoted.
 3. Promotion of an employee previously selected competitively for a lower step of a career ladder.
 4. Promotion after receiving priority consideration.
 5. Promotion of an employee when directed by authorized authorities (i.e., judges, arbitrators, FLRA, and other appropriate authorities).
 6. Management may non-competitively reinstate, transfer, promote an employee up to the highest grade previously held on a permanent basis under career or career-conditional appointment, provided the employee was not demoted or separated from that grade for performance or conduct reasons.
 7. Temporary promotions to a higher grade totaling 60 days or less during any 12-month period. If a temporary promotion which was not expected to exceed 60 days was originally made on a noncompetitive basis, any extension beyond 60 days must be made under competitive procedures.
 8. Career ladder promotions following noncompetitive conversion of a cooperative education student in accordance with the requirements of applicable OPM policy.
 9. Promotion of an employee covered by an approved training agreement.
 10. Promotion of an employee placed competitively in a trainee position.

11. Any other noncompetitive action authorized by law or existing government-wide regulation.

B. Reassignments/Changes to Lower Grade - A reassignment or change to a lower grade to a position that does not provide specialized experience required for subsequent promotion to a designated higher grade position or to a position having no known promotion potential may be taken on a noncompetitive basis.

C. Details - The following details may be made on a noncompetitive basis:

1. Details of 60 days or less to a higher-grade position (see Article 21, Details, Reassignments and Temporary Promotions).

2. Details of 60 days or less to a position at the same or lower grade with known promotional potential or to a position which provides specialized experience (Job Qualification System for Trades and Labor Occupations, Handbook X-118C or appropriate qualification standards) required for subsequent promotion to a designated higher-graded position.

3. Details to a position at the same or lower grade with no known promotion potential or to a position which does not provide specialized experience (Job Qualification System for Trades and Labor Occupations, Handbook X-118C or appropriate qualification standards) required for subsequent promotion to a designated higher graded position.

4. Details to unclassified duties.

D. Other Noncompetitive Actions:

1. Conversion of an employee from a temporary promotion to a permanent promotion in the same position and duty station provided the vacancy announcement for the temporary promotion indicated that the promotion could later become permanent.

2. Transfer of a Federal employee or reinstatement of a former Federal employee (including conversion to reinstatement from a temporary appointment) to a position at the same or lower grade than the highest permanent grade held under a career or career-conditional appointment provided the candidate was not demoted or separated for performance or conduct reasons from a higher grade, and also provided that the position does not have known promotion potential to a grade higher than the highest permanent grade held.

3. Reinstatement to the same career ladder position for which an employee was previously selected competitively or to a similar career ladder position having similar qualification requirements and having no greater known promotion potential.

4. Reinstatement of a former VA employee to a position which is the higher-graded successor to a position they previously held. Such reinstatements may be made non-competitively when classification of the successor position is based on the establishment of a new position classification standard or the revision of a position classification standard.

5. A position change permitted by reduction-in-force regulations.
6. Consideration or selection of:
 - a. Disabled veterans under 5 CFR 315.604.
 - b. Disabled veterans under 5 CFR 315.707.
 - c. Cooperative education students under 5 CFR 213.
 - d. Veterans Readjustment Appointments under 5 CFR 307.
 - e. Severely handicapped appointments under 5 CFR 213.3102 (u) and (t).
 - f. Schedule A & B Excepted Appointments.
 - g. Any other noncompetitive action authorized by law or existing government-wide regulation.
- E. Additional procedures for noncompetitive details and reassignments are described in Article 21, Details, Reassignments, and Temporary Promotions.

Section 8 - Vacancy Announcements, Rating and Ranking, and Areas of Consideration

- A. All positions to be competitively filled in the bargaining unit by actions covered by this Article shall be posted unless filled under Section 7 which provides for exclusions from coverage. For the same type of vacancy (title, series, and grade and area of consideration), a certificate may be used for up to 90 days to refer candidates without re-announcing the vacancy.
- B. Vacancy announcements may be announced simultaneously internally and externally.
- C. Candidates will be rated and ranked and best-qualified candidates identified in accordance with statutory and regulatory requirements.
- D. Among candidates who are determined to be best-qualified, internal candidates will be considered as follows:

First - Facility-wide (including satellites) except:

This area may be made more narrow or expanded through mutual written agreement. However, where evidence suggests that the first area of consideration is not expected to produce at least three qualified candidates, it may be expanded to the second area when the vacancy is initially announced. The vacancy announcement will identify the expanded area of consideration.

Second - VA-wide

Third -

1. Reassignments/demotions to positions with higher known promotion potential.
2. Reinstatements to positions at a higher grade or with higher known potential.
3. Transfers to positions at a higher grade or with higher known potential.

The Local will be notified prior to narrowing or expanding the area of consideration. First and full consideration must be given to any best-qualified candidates identified within the area of consideration.

- E. Consideration of bargaining unit employees as promotion or promotion-potential candidates within the area of consideration will be considered as follows: The employee must submit the required application and supporting documents to the appropriate servicing human resources (HR) office. The applicant shall indicate thereon the specific position or types of positions, and location(s) for which the employee wants to be considered. To ensure full consideration, employees should include on their application information relevant to the assessment criteria for the position in which they are interested. In order to be considered for a particular vacancy, the employee must have the required documents on file with the servicing HR office prior to the closing date of the announcement.
- F. Information on Vacancy Announcements. Vacancy announcements will include, at a minimum:
1. Statement of nondiscrimination;
 2. Announcement number and opening and closing dates;
 3. Position number(s), title(s), series, and grade(s);
 4. Number of vacancies to be filled;
 5. Promotional test to be used, if any;
 6. Geographic and organizational location;
 7. Time-in-grade requirements, if any;
 8. Known promotion potential of the position, if any;
 9. Area of consideration;
 10. Summary of qualification requirements and the major duties of the position;
 11. Hours of work and/or the availability of alternative work schedule options;
 12. If appropriate, a statement that the vacant position is a trainee position leading to a noncompetitive promotion and conditions for promotion;

13. Permanent or temporary nature of vacancy and duration, if temporary;
 14. Filing instructions;
 15. Name and telephone number of the individual to contact for additional information relating to the announcement; and
 16. The servicing HR office or the address where the application materials are to be submitted.
- G. Announcing Career Ladder Vacancies and Vacancies Covered by Training Agreements. Career ladder vacancies and vacancies covered by training agreements may be announced at any or all grades. The Local will be provided with written notice of any changes in the posting of these announcements, prior to being posted.
- H. Posting and Distribution of Vacancy Announcements. Management agrees to provide a copy of vacancy announcements to the Local when vacancies are posted. Management will post vacancy announcements and make copies available to employees, upon request, in accordance with the following:
1. Individual vacancy announcements will remain open and posted for 15 workdays.
 2. Open continuous announcements will remain posted at all times. When it has been determined that an open continuous vacancy will be filled, a cut-off notice will be posted in order for all interested employees to apply.
 3. Scheduled employee absence of three weeks or less: Employees temporarily absent on approved leave, detail, at training courses, or on official business, for periods not to exceed three weeks may, upon their return, review position vacancies announced and closed during their absence, and make application for such vacancies in which they are interested. Such late applications must be submitted within three workdays after return to duty and must be accompanied by a statement prepared and signed by the employee and also signed by his/her supervisor explaining the dates and reason(s) for the employee's absence. Employees filing delayed applications under this provision will be considered only for those vacancies for which a best-qualified list has not yet been prepared.
- I. Amending Vacancy Announcements. If a vacancy announcement has been posted and is later found to contain a substantive error concerning items listed in Section 8E, the announcement will be amended if the selecting official still intends to fill the position under the competitive process. Management will notify the Local when such action is taken. The amendment should cite the change(s) and indicate whether or not the original applicants need to reapply in order to be considered.
- J. Vacancy Announcement/Locating Candidates. The Local and each applicant will be notified in writing if an announcement is canceled and will be provided with a reason for the cancellation. However, such cancellations will not be used to compromise merit promotion principles.

Section 9 - Knowledge, Skills, Abilities, and Other Characteristics

- A. Knowledge, skills, abilities, and other characteristics or KSAOs are:
1. Knowledge: a body of learned information used directly on the job.
 2. Skill: a present competence to perform a skill, unlike ability, involves observable, quantifiable, and measurable performance parameters such as typing or pipefitting.
 3. Ability: the power to perform an activity at the present time. Ability is evidenced by the performance of some activity or work and should not be confused with an aptitude, which is only a potential for performing an activity.
 4. Other characteristics must be directly observable or measurable and job related.
- B. KSAOs will be established for each position, and will be derived from the duties and responsibilities of the position. Informational copies will be provided to the Local as part of the vacancy announcement.

Section 10 - Panel for Competitive Action

- A. Panel Membership Requirements – Subject to Section 11, Panels will be established for all competitive actions. Management will instruct panel members in the tasks necessary to perform the Panel's function.

Panels for bargaining unit positions will include two bargaining unit employees chosen with the concurrence of the Local. Absent mutual agreement, Management reserves the right to appoint Panel members following discussions with the Local and informing the Local of the reasons for its decision.

The Parties recognize that some competitive actions may require larger or smaller Panels. Management may determine the necessary Panel size.

Panel members will not be in competition for the vacancy(s) and must be at least the same grade or higher, if possible, than the vacancy to be filled.

A relative of an applicant may not serve on the Panel.

Members of the Panel should be familiar with the job requirement(s) of the position(s) being filled.

- B. 1. When there are more than 10 qualified promotion candidates, a panel shall be convened.
2. Management will provide the promotion Panel with all of the necessary information for completing its function.
- C. Panel Responsibilities – The Panel will:
1. Apply evaluation criteria to ensure that a best-qualified candidate is selected:

- a. Evaluate each application in order to ascertain the relevancy of the candidates' background (including but not limited to work experience, awards, training, outside activities, etc.) to the KSAOs. Candidates will be evaluated on the extent to which they possess the KSAOs relevant to the position being filled. This assessment will be based on the applicant's description of the proportion of time spent performing relevant activities, the complexity of the activity, identifiable results, level of contacts involved in performing the work, or the scope of responsibilities and duties performed.
 - b. In making this evaluation, the task examples should not be taken as the only types of evidence, which demonstrate possession of a KSAO.
2. Determining the Best Qualified List for Referral:
- (1) The evaluation Panel will review the listing of ranked promotion candidates to determine whether a meaningful break is present. The meaningful break is where:
 - (a) The lowest ranking candidate above the break should be able to perform the job with substantially equal success as all candidates with higher scores, and
 - (b) The highest ranking candidate below the break should not be able to perform with substantially equal success as those above the break.
 - (2) Promotion candidates above the break will be placed on the best-qualified list for referral. If there is no break and/or there are too many candidates above the break, the eight highest ranking candidates will constitute the best qualified list and be referred in order of their entry on duty date at the facility.
 - (a) In order to be referred, candidates who have to compete under the procedures of this Article and who are outside the facility shall have a rating equal to or better than the meaningful break or cutoff established by the promotion candidates within the first area of promotion consideration.
 - (b) Length of service with VA shall serve as a tie breaker where one is necessary.
 - (c) A copy of any referral list forwarded to a selecting official will be provided to the Local.
- D. Multiple-Grade Levels or Locations - If an announcement pertains to more than one grade level or geographic location, a separate list of eligible persons will be developed for each grade level and location.
- E. Documentation – The Panel will document working notes. Notes may be annotated on worksheets used by the Panel. The notes will serve as reference material to document the process by which the decision was made.
- F. Confidentiality – The results of the Panel's actions will be treated confidentially and in accordance with provisions of the Privacy Act.
- G. Decisions – The Panel will make its decision(s) by consensus.

Section 11 - Non-Panel Referrals

In situations where ten or fewer candidates are qualified, a promotion panel need not be conducted. However, all best-qualified candidates must be identified and referred for selection. Recommending/selecting officials may personally or through subject matter experts (SMEs) identify best-qualified candidates through performance-based interviews, work samples/simulations, intensive review of application packages, etc., or a combination of such evaluation methods. If SMEs are used, one of the SMEs may be selected by management from a list of names submitted by the Local if one of those recommended meets the established agency criteria.

Section 12 - Sources of Information from Candidates

- A. Any awards the applicants have received must be considered by the selection Panel but only to the extent they are relevant to the rating factors/job elements for the position being filled.
- B. Once applications are received and the selecting Panel convened, no other information on a candidate may be gathered unless with the approval of the Panel.
- C. VA Form 4676a, Employee Supplemental Qualifications Statement, is to be used, and it will be the primary source document used to evaluate qualifications and to rate and rank candidates.

Employees are responsible for giving complete and accurate information and for submitting VA form 5-4676a by close of business on the seventh calendar day after the closing date of the vacancy announcement. If the Panel has not yet been convened, late supplementals will be accepted for bona fide reasons. If the form is not submitted within that time, the Panel will consider only the information available from other sources described in this section.

- D. Interviews – If interviews are used, they must be job-related, reasonably consistent, and fair to all candidates. Also, if interviews are used, all candidates must be interviewed if reasonably available, in person or by telephone where circumstances warrant. If more than one management official is conducting the interview, a Local representative may be present upon the employee's request.

Section 13 - Selection

- A. In the event of unanticipated vacancy or vacancies in the same position and location as the posted vacancy occurring within 90 days of the selection, the selecting officer may make additional selections from the best-qualified candidates selected from the original vacancy announcement.
- B. When a selection has been made, Management will arrange a release date, notify the employee, and ensure the appropriate personnel forms are processed. The effective date of a promotion action, other than promotion with a career ladder, will be the first day of the pay period in which the employee is scheduled to report. If an employee has been selected for promotion, has accepted the offer, and a reporting date has been established, and the resultant request for personnel action (SF-52) is not timely received

and/or acted upon by the appointing official, the action shall be made retroactive to the reporting date.

- C. Employees selected for career ladder positions will be promoted to the next higher grade level at the beginning of the first pay period after selection, provided time in grade and any other legal promotion requirements are met.
- D. Management recognizes that it is important for maintaining high morale to try to select from within the facility when the candidates are equally qualified to those candidates available from outside sources. Thus, Management will agree to look closely at the relative qualifications of candidates from outside and within and shall exercise good faith in the selection. However, the Parties also acknowledge that Management may make selections for appointments from among properly ranked and certified candidates for promotion, or from any other appropriate source.
- E. If the vacancy is one for which an under-representation exists and is a targeted occupation as identified in the Affirmative Employment Plan, and there are well qualified candidates whose selection would reduce the under representation, then the selection official will give serious consideration to those individuals.
- F. Upon written request, the Local will be provided with a written reason for selecting an outside candidate.

Section 14 - Priority Consideration

- A. Definition - For the purpose of this article, a priority consideration is the bona fide consideration for noncompetitive selection given to an employee as the result of a previous failure to properly consider the employee for selection because of procedural, regulatory, or program violation. Ordinarily, employees will receive one priority consideration for each instance of improper consideration.
- B. Processing - The procedures for processing a priority consideration shall be:
 - 1. Employees will be notified in writing by the authorized management official of entitlement to each priority consideration. Such notice will advise employees that if a vacancy is announced and posted and the employee wishes to exercise their priority consideration, the employee should submit the necessary application to the servicing HR office with a written request that they wish priority consideration for the vacancy.
 - 2. Priority consideration is to be exercised at the option of the employee for an appropriate vacancy. An appropriate vacancy is one for which the employee is interested, is eligible, and leads to the same grade level as the vacancy for which proper consideration was not given.
 - 3. Prior to the evaluation of other applicants, the name(s) of the employee(s) requesting to exercise priority consideration will be referred to the selecting official. The selecting official will make a determination on the request prior to evaluating other applicants.

4. The fact that the employee chooses to exercise a priority consideration does not preclude that employee from also filing an application through the regular posting process.
- C. Union Notification – In order to assure compliance with this section the Union will be furnished statistics on priority considerations granted and exercised and the results. Statistics will be kept and provided to the Union on a quarterly basis. The Local will also be notified in writing of each individual priority consideration completed.

Section 15 - Priority Placement

Employees who were downgraded without personal cause (i.e., where the downgrade was not due to misconduct, inefficiency, or at the employee's own request), may be eligible for priority placement consideration. Re-promotion may be made to a grade previously held on a non-temporary basis or to an intervening grade. This applies only when the employee was downgraded in the Department and the re-promotion is to a grade formerly held in the Department. Employees under this provision will receive priority placement consideration for each grade for which they were demoted or downgraded.

Section 16 - Keeping Employees Informed

- A. Employees who apply for and inquire about a specific promotion action will be given the following information by the servicing HR office or the selecting official:
1. Whether they met the minimum qualification requirements,
 2. Whether they were in the group from which selection was made,
 3. Who was selected, and
 4. Upon request, the selecting official shall provide a verbal statement of the reason(s) why the employee was not selected and/or a written statement regarding what areas, if any, they should improve to increase their chances for future selection.
- B. Upon request, an employee will be shown any production records or any supervisory appraisal of past performance used in considering them for promotion. An employee is not entitled to see records of another applicant unless the employee is the selecting official, a member of the selection Panel, officially involved in the promotion process, has the written consent of the subject of the record, or is an agency official with a need to review the record. However an employee and/or the Local shall have access, consistent with law, Government-wide rule, or regulation, to all pertinent records used in the process of filling vacancies which are requested for the purpose of processing or filing a grievance, EEO complaint, or other appeal.

**ARTICLE 23
UPWARD MOBILITY**

Section 1 - Goals and Objectives

The goal of Upward Mobility is to provide maximum opportunity for employees to advance so as to perform at their highest potential. An objective of Upward Mobility is to support the advancement of under-represented minorities and women and to meet other special emphasis program goals. The Department's wide range of occupations will be considered in developing Upward Mobility opportunities.

Section 2 - Program Penetration

The extent of any facility's Upward Mobility endeavors will depend on, among other things:

- A. The number of lower-graded employees having the requisite potential;
- B. The number and type of target positions available which would link employee potential with positions in support of the facility's operations;
- C. Available training resources;
- D. FTEE or budget constraints.

Efforts will be made to create alternate ways to support Upward Mobility such as collaborative efforts with schools having different academic and vocational programs.

Section 3 - Identifying Positions

Each facility will design an Upward Mobility Program, consistent with Section 2 above, that is responsive both to employee career advancement and to the facility's staffing needs. There will be joint labor/management involvement in the design of such a program. As part of this program, the Parties will identify positions which may be appropriate for Upward Mobility. If the Department determines that a position should be filled as Upward Mobility, the position will be specifically described and announced as such. It will be filled at a grade level which is lower than the target level and will permit the consideration of employee potential as a factor in evaluating candidates for selection.

Section 4 - Creating Training Positions

It is understood that Upward Mobility may also be achieved by:

- A. Evaluating situations where vacant positions can be filled at lower-grade, trainee levels;
- B. Identifying areas where bridge positions could be established in order to provide opportunities for employees to enhance their careers; and
- C. Skills upgrading to supplement the existing skills of employees so that they may fully qualify for positions in other career ladders.

The consideration of positions for Upward Mobility will not be limited to any particular occupational series.

Management will review promotion announcements to ensure that the qualifications sought of applicants are necessary for successful performance in the position (e.g., not all secretarial positions require the ability to take dictation).

Section 5 - Employee Initiatives

Employees are encouraged to seek guidance from their immediate supervisor(s) or from the appropriate Administrative Office if they are interested in learning about available career opportunities. These employees will be furnished information about lines of career progression, education requirements, available job opportunities, etc. Upward Mobility announcements will be well communicated throughout the facility by such means as: electronic mail, bulletin boards, newsletters, and staff meetings.

Section 6 - Training

Management also agrees that the Upward Mobility Program can be enhanced by providing tailored guidance and training in instances where it may be beneficial to help employees adjust. These special efforts may be made consistent with the requirements of the position, the selectee's talents and aptitudes, and within available resources.

The Department will support education by allowing employees to participate in employee development and career guidance programs and other similar programs, with appropriate assistance from their supervisors and other staff. Such participation should be on duty time, where applicable. All such training will be recorded in an education tracking system or other locally negotiated method.

ARTICLE 24 WITHIN-GRADE INCREASES

Section 1 - Definitions

- A. **Applicability.** This Article applies to all employees compensated under the General Schedule, Federal Wage System and Non-Appropriated Fund pay schedules and will be used in conjunction with Article 18, Performance Appraisal. This includes Hybrid Title 38 employees appointed on a full-time, part-time or intermittent basis under 38 USC § 7401(3) or 7405(a)(1)(B).
- B. **Acceptable Level of Competence.** An employee is considered to have an acceptable level of competence when he/she is currently performing at least at the fully successful level or equivalent under the performance appraisal system.
- C. **Waiting Period.** The term waiting period refers to the minimum time requirement of creditable service to become eligible for a within-grade increase.
- D. **Within-Grade Increase.** The term within-grade increase (WIGI) means a periodic increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step.
- E. **Equivalent Increase.** This means an increase in an employee's rate of basic pay which is equal to or greater than the amount of one within-grade increase. An equivalent increase is based on the step rate held by the employee before their advancement to the next step of the grade of his or her position. An equivalent increase does not include:
 - 1. A statutory pay adjustment,
 - 2. The periodic adjustment of a wage schedule,
 - 3. The establishment of an above-minimum entrance rate or special salary rate,
 - 4. A quality step increase or other incentive award,
 - 5. A temporary or term promotion when returned to the permanent grade or step,
 - 6. An increase resulting from placement of an employee in a supervisory or management position who does not satisfactorily complete the probationary period under 5 USC § 3321(a)(2), and
 - 7. An interim within-grade increase terminated under 5 CFR 531.414(c).

Section 2 - Within-Grade Increases

- A. The determination to grant or withhold a WIGI will be based on the employee's appraisal of record and his or her performance under a performance plan of 90 days or more.
- B. The WIGI will be granted as soon as the employee is eligible. To be eligible, an employee must meet the following requirements:
 - 1. The employee's performance must be at an acceptable level of competence,
 - 2. The employee must have met the required waiting period, and
 - 3. The employee may not have received an equivalent increase during the waiting period.

Section 3 - Performance/Competence Determinations

- A. Communication of Performance Requirements - Employees shall be informed of the specific performance requirements that constitute an acceptable level of competence with the time frames and means of communication of performance standards established under the performance appraisal system.
- B. Acceptable Level of Competence Determinations – An acceptable level of competence determination shall be based on the current rating of record. The rating used as the basis for an acceptable level of competence determination must have been assigned no earlier than at the end of the most recently complete annual appraisal period. If the most recent rating is more than 90 days old, the current performance will be reviewed to ensure that the rating of record reflects current performance.

When it is determined that current performance is not at an acceptable level of competence, a special rating must be prepared to document current performance.

- C. Notification – Employees shall be provided with an acceptable level of competence determination as soon as possible after the completion of the required waiting period.
 - 1. Favorable Determination – A notification of a personnel action shall be used to advise employees that they have achieved an acceptable level of competence and will receive a within-grade increase.
 - 2. Negative Determination – When it is determined that the employee’s performance is not at an acceptable level of competence, the employee shall be given a written notice which includes the following:
 - a. The reasons for the negative determination and the aspect(s) in which the employee must improve his/her performance; and
 - b. Inform the employee of his/her right to request reconsideration of the negative determination.
- D. Reconsideration
 - 1. Time Limits – An employee or an employee’s Union representative may file a written request for reconsideration not later than 15 days after receiving the notice of negative determination. The time limit to request reconsideration should be extended when the employee shows he/she was not notified of the time limit and was not otherwise aware of it or that the employee was prevented by circumstances beyond his/her control from requesting reconsideration within the time limit.
 - 2. Reconsideration File – When an employee or his/her Union representative files a request for reconsideration, a reconsideration file shall be established which contains all pertinent documents relating to the negative determination, including:
 - a. A written negative determination and the basis thereof;
 - b. The employee’s written request for reconsideration;
 - c. The report of investigation, when an investigation is made;

- d. The written summary or transcript of any personal presentation made; and
 - e. The final decision on the request for reconsideration.
3. Written Exception – The reconsideration file shall not contain any document that has not been made available to the employee and his/her representative. The employee will be given an opportunity to submit a written exception to any summary of the employee's personal presentation.
 4. Preparation of Response – An employee in a duty status shall be granted a reasonable amount of time to review the material used to support the negative determination and to prepare a response to the determination.
 5. Final Decision - The employee will be provided a written decision within ten workdays after receipt of the employee's response. Any negative decision will advise the employee of his or her right to grieve under the negotiated grievance procedure.

Section 4 - Procedures for WIGI Determinations

- A. Where an employee has been assigned a present supervisor for less than 90 days, and that supervisor cannot adequately assess the employee's performance, he/she shall secure the written views of the employee's prior supervisor before making a performance determination. A copy of this document will be given to the employee.
- B. Except in rare and unusual circumstances, the WIGI will be granted as soon as the employee is eligible unless the employee was informed in writing:
 1. During the most recent progress review; or
 2. No later than at least 60 calendar days before the end of the statutory waiting period for eligibility for a WIGI that his/her performance is not at an acceptable level of competence and unless his/her performance improves, the WIGI will be denied.
- C. In those rare and unusual circumstances when the supervisor does not give 60 calendar days advance notice and the WIGI is delayed, the supervisor will reconsider the employee's level of competence not later than 60 calendar days after the date on which the employee completed the required waiting period. If the employee's level of competence is acceptable, the WIGI will be made retroactively effective on its original due date.
- D. If at the end of 60 calendar days, the employee's performance is not at an acceptable level of competence for the purpose of approving the WIGI, the employee will be given a written notice which will include:
 1. An indication that the employee's work has been reviewed;
 2. A statement that the employee's work has been determined to be of less than an acceptable level of competence;

3. An identification of those elements, where the employee's performance has resulted in denial of the WIGI;
4. A statement that the employee has a right to request, in writing, reconsideration of the negative determination provided the request is made within 15 days of the employee's receipt of the negative determination;
5. The name of the reconsideration official to whom an employee may submit a request;
6. A statement that the employee may have a Union representative when presenting a request to the reconsideration official;
7. A statement that the employee may appeal via the appropriate procedure the basis for the negative determination in person and/or writing; and
8. An explanation that the employee may be considered for a within-grade increase at any time during the next 26 calendar weeks if the employee demonstrates an acceptable level of competence.

Section 5 - Exceptions

- A. Delays of Acceptable Level of Competence Determination. In accordance with OPM regulations, the employee shall be informed in writing whenever his/her acceptable level of competence determination is being delayed. The employee shall be informed of the reasons for the delay and the specific requirements for performance at an acceptable level of competence.
- B. Waiver of Requirements to Make Acceptable Level of Competence Determinations. An acceptable level of competence determination shall be waived and the within-grade increase granted when a Title 5 employee has not served for at least 90 days in any position under an applicable Agency appraisal system during the final 52 weeks of the waiting period for the reasons specified in 5 CFR Section 531.409(d).

Section 6 - Redetermination

After a WIGI has been withheld, the Department may grant a WIGI at any time after it determines that the employee has demonstrated performance at an acceptable level of competence. In such cases, the WIGI will be effective the first day of the first pay period after the acceptable determination has been made.

ARTICLE 25

TEMPORARY, PROBATIONARY, PART-TIME EMPLOYEE AND JOB SHARING

Section 1 - Governing Laws and Regulations

- A. All Title 5 bargaining unit employees shall be governed by the terms of this Article to the extent consistent with applicable laws and Government-wide rules and regulations.
- B. Temporary and part-time appointments for Title 38 employees are governed by 38 USC § 7405 and VA Handbook 5005, Part II, Chapter 3, Section G.
- C. Regulations relating to probationary Title 38 employees are set forth in VA Handbook 5005, Part II, Chapter 3, Section F, paragraph 3.

Section 2 - Temporary Employees

Temporary employees may be separated at any time upon notice in writing from management. When it is determined that a temporary employee is to be separated, the employee will ordinarily be given two weeks notice.

Section 3 - Probationary Employees

- A. The Department agrees to provide probationary employees with the opportunity to develop and to demonstrate their proficiency.
- B. During the probationary period, frequent communication between the supervisor and employee is encouraged. In the event there are deficiencies in conduct or performance that may affect an employee's standing for conversion to career-conditional status, supervisors will counsel employees in a timely manner and document the meeting, with a copy given to the employee.
- C. The employee's pre-employment background will be investigated consistent with applicable regulations.
- D. Probationary employees have the right to Union representation.

Section 4 - Part-time Employees

- A. To be considered part-time for purposes of this section an employee must have a regularly scheduled tour of duty, set in advance, of at least 16 hours but not more than 32 hours in an administrative workweek. An increase in a part-time employee's tour of duty above 32 hours per week or 64 hours per pay period is not permitted for more than two pay periods. Except for situations involving patient care needs, this restriction will also apply to Title 38 employees. When a holiday falls on a part-time employee's regularly scheduled workday, the employee will be paid for the number of hours he/she was scheduled for that day.
- B. The Department will give bona fide consideration to employee requests regarding part-time career and employment consistent with the Department's resource and mission requirements.

- C. The Department recognizes that part-time employment maybe particularly appropriate for the following classes of employees.
 - 1. Employees seeking gradual transition into retirement;
 - 2. Employees with disabilities or others who require a reduced workweek;
 - 3. Employees who must balance family responsibilities with the need for additional income; or
 - 4. Students who must finance their own education or vocational training.
- D. Denials of requests for part-time employment from full-time employees will be discussed with the employee and, upon request, the employee will be provided with written reasons for the denial.
- E. A full-time employee shall not be required to accept part-time employment as a condition of continued employment. If the Department proposes to convert any full-time positions to part-time, that will be a subject for negotiations.
- F. An employee's request for temporary adjustment of an established part-time work schedule may be granted if based on personal need or to permit participation in management-approved details, other assignments, or training. Such adjustment shall not result in a permanent change of the established work schedule.
- G. The Department agrees to provide part-time and full-time employees on the same tour of duty equivalent access to employee activities (e.g., health facilities) and not to deny opportunities for attendance at Department-approved training courses solely because of part-time status.
- H. A permanent part-time employee receives a full year of service credit for each calendar year worked (regardless of tour of duty) for the purpose of computing service for retention retirement, career tenure, completion of probationary period, within-grade increases, leave category rate, and time-in-grade restrictions on advancement.
- I. The Department will advise employees in writing of the effects of converting to part-time employment as it relates to employee benefits prior to the actual conversion.
- J. Employees who accept or convert to part-time positions have no guarantee that they will subsequently be converted to full-time employment, but the Department agrees to consider the employee's request based on the employee's circumstances and the needs of the Department.

Section 5 - Job Sharing:

- A. Job sharing is a form of part-time employment in which the tours of duty of two employees are arranged in such a way as to cover a single full-time position. Job sharing can provide the Department and employees with considerable work scheduling flexibility. Work disruptions, which, tend to occur when employees are on extended leave can be reduced through job sharing.

- B. The Department agrees that entry into job sharing is strictly voluntary, initiated by the employee, and without coercion by the Department. Job sharing will be considered when traditional part-time employment is not practical or feasible.
- C. The Department shall give bona fide consideration to employees' requests regarding part-time job sharing employment, including requests for reassignment from a non-job sharing arrangement to a job sharing arrangement and from a job sharing arrangement to non-job sharing arrangement, consistent with the Department's resources and mission requirements.
- D. Employees working in positions of the same occupational series, position description, or in the same line of work may request the opportunity to enter a job sharing arrangement. Employees not in the same occupational series, position description, or in the same line of work must qualify for the position for which they are applying.

Potential job sharing participants shall submit a written proposal to the immediate supervisor. The job sharers are expected to seek management's assistance and approval in drawing up the job sharing plan so that the work will be properly divided.

Potential participants will receive a written response from Management within a reasonable amount of time from the date of submission of their written proposal informing them of acceptance or rejection of their job sharing proposal. If rejected, the reasons will be stated. The participants may revise their written proposal to address the reasons given for rejection and resubmit it for reconsideration.

- E. Although they share the duties of a full-time position, job sharers are considered to be individual part-time employees for all personnel and employment purposes.
- F. Each employee shall be informed of his/her regularly scheduled work hours, as agreed to by the employer, the employee, and the other job sharer. Management will make every reasonable effort to avoid scheduling additional hours not contiguous with the established tour of duty. Statutory, regulatory and contractual provisions shall apply in any situation in which overtime may be worked.

Additional hours will not be assigned to employees engaged in job sharing for the purpose of eliminating the need to schedule qualified, full-time employees for overtime. Such overtime hours will be assigned and accomplished according to contractual obligations.

- G. A variety of different work scheduling arrangements can be used as long as each job sharer works no less than 16 hours and no more than 32 hours each week. For example, split days (one job sharer works mornings and the other afternoons), alternate days (one job sharer works Monday and the other Tuesday, etc.), or split weeks (one job sharer works from Monday morning through noon Wednesday and the other works Noon Wednesday through Friday) may be utilized.

Although most job sharers split the hours of a full-time position in half, this is not an absolute requirement. The work schedules of job sharers may overlap (one job share may work from 10 a.m. to 2:00 p.m. every day and the other from Noon to 4:00 p.m.). This arrangement can provide the Department with extra coverage during heavy workload periods. A certain

amount of overlap may also be desirable to enable job sharers to attend staff meetings or familiarize each other with work developments.

- H. The employment of an individual in a part-time position shall not be a basis for exclusions from participation in job sharing.
- I. Those individuals currently engaged in a job sharing arrangement shall be covered under this Article.
- J. Each employee entering into a job sharing arrangement shall be given a written explanation of his/her work schedule and an explanation of the impact of conversion to part-time on his/her rights and benefits.

The job sharing agreement shall incorporate the understanding that in the event one of the job sharing participants leaves and management concludes that the needs of the position requires full-time staffing, management shall make every reasonable effort to assist the remaining job sharing partner in finding another partner. The remaining participant will be given a reasonable amount of time to find another partner.

During the period of time the remaining participant is searching for new job sharing partner, the remaining participant may be required to increase his/her tour of duty depending upon the needs of the organization and the terms of the job sharing agreement.

If the remaining participant is required to increase his tour of duty, he/she will be given as much advance notice as possible, but no less than two weeks advance notice prior to increasing the tour of duty.

- K. Leave requests by employees in a job sharing situation shall be approved or denied in accordance with Article 13, Time and Leave.
- L. Performance appraisals for job sharing participants will be handled in accordance with this Agreement. Throughout the tenure in a part-time position, the employee's appraisal will not reflect the performance of the job sharing partner.

**ARTICLE 26
CONSOLIDATION, INTEGRATION AND MERGER**

Section 1

The Department and the Union have the right to determine their respective organizations.

Section 2

Consolidations, integrations, mergers or similar concepts are a part of reorganization. The Parties shall negotiate changes affecting working conditions to the extent provided by law and in accordance with Article 10, National Consultation Rights and Mid-Term Bargaining.

ARTICLE 27 CONTRACTING OUT

In the event that management decides to contract out or competitively source any work performed by bargaining unit employees, it shall notify the affected Local and provide the Local with the opportunity to bargain, as allowed under law. Such notification shall normally occur at least ten days prior to the invitation of bids or requests for proposals to contract out work.

Section 1 - Periodic Briefings

Periodic briefings will be held with NAGE officials at the local and national levels to provide the Union with information concerning any VA decisions that may impact unit employees under the Federal Activities Inventory Reform Act of 1998, Public Law 105-270, or other applicable laws or regulations.

Section 2 - Site Visits

Management shall provide the Local with notification, as soon as practicable, of any site visits for potential bidders seeking contracts for work performed by unit employees. The notification will include the date, time and location of the site visit and the opportunity for a Local representative to attend such a site visit.

Section 3 - Employee Placement

When employees are adversely affected by a decision to contract out or competitively source, management shall make maximum effort to find available positions for employees. This effort shall include the following:

- a. Giving priority consideration for available positions within the competitive area;
- b. Establishing an employment priority list and a placement program; and
- c. Paying reasonable costs for training and relocation that contribute to placement.

Employees who are displaced due to contracting out of their jobs will be given the first opportunity to fill employment openings created by the contractor. This applies only to job openings for which such displaced employees are qualified and does not apply when such employees would otherwise be prohibited from such employment by the Government post employment conflict of interest standards. All contractors shall be informed of the requirement before they enter the contract.

Section 4 - Inventory of Commercial Activities

The Department will maintain an inventory of all in-house commercial activities performed and will update this inventory annually. The inventory will be made available to the Union, upon request. Information on all completed cost comparisons will be made available, upon request, at the appropriate level, i.e., national or local, where the comparisons were accomplished.

ARTICLE 28
REDUCTION-IN-FORCE (RIF)/STAFFING ADJUSTMENTS

Section 1 - Purpose

The Department and the Union recognize that unit employees may be seriously and adversely affected by a RIF or Staffing Adjustment (Title 38). Management recognizes that attrition, reassignment, furlough, hiring freeze and early retirement are among the alternatives to RIFS and Staffing Adjustments that may be available. This article describes the exclusive procedures the Department will take in the event of a RIF or Staffing Adjustment. It is also intended to protect the interests of employees while allowing the Department to exercise its rights and duties in carrying out the mission of the Department.

Section 2 - Applicable Laws and Regulations

For purposes of Title 5 and hybrid employees, the policies, procedures and terminology described in this Article are to be interpreted in conformance with 5 USC § 3501-04, 5 CFR Part 351, and other applicable government-wide laws and regulations.

For purposes of Title 38 employees, the policies, procedures and terminology of this Article are to be interpreted in conformance with VA Directive and Handbook 5111.

Section 3 - Application

The Department agrees to fairly and equitably apply this Article and any laws or regulations relating to any matter in this Article.

Section 4 - Union Notification

- A. Directors of VA facilities shall be responsible for properly notifying the Union in conjunction with RIFS or Staffing Adjustments.
 - 1. A facility-based action affecting the interests of one local Union shall require notice to the President of that Local.
 - 2. A facility-based action affecting the interests of two or more local Unions shall require notice to a party designated by the NAGE national office.
- B. In the event of a RIF or Staffing Adjustment, the Department agrees to notify the Union as described in Paragraphs A (1) and (2) in this Section at the earliest possible date consistent with the time frames in Article 10, National Consultation Rights and Mid-Term Bargaining.
- C. All notices per Sections A and B above will be given prior to any notice to affected unit employees. Verbal notices will be confirmed in writing.
- D. A properly constructed notice to the Union under this Section shall consist, at a minimum, of the following information:
 - 1. The reason for the action;

2. The approximate number, types, and geographic location of positions affected; and
3. The approximate date of the action.

Section 5 - Definitions

For the purposes of this Article, the following items are defined in law and regulations and are included for informational purposes:

Reduction-In-Force (RIF)

When the Department releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work, shortage of funds, insufficient personnel ceiling, reorganization, the exercise of reemployment rights or restoration rights, or reclassification of an employee's position due to erosion of duties when such action will take effect after the Department has formally announced a reduction-in-force in the employee's competitive area and when the reduction-in-force will take effect within 180 days.

Title 38 Staffing Adjustments

A Staff Adjustment is a formal procedure used to modify organizations through changes in staff patterns or levels. Staffing adjustments may impact Title 38 employees through separation or reassignment to other facilities or commuting areas, changes in assignments or reassignment within the facility, and changes to a lower grade or pay.

Competitive Area

An area in which employees compete for retention is known as a Competitive Area. A Competitive Area must be defined solely in terms of the Department's organizational services or units and geographical location, and it must include all employees within the Competitive Area.

Competitive Level

Positions in a competitive area are in the same grade (or occupational level) and classification series that are so alike in qualification requirements, duties, pay schedule, and working conditions that the incumbent of one position can successfully perform the critical elements of any other position in the level upon assignment to it without undue interruption is known as a Competitive Level. Competitive Levels for Title 38 employees will be determined in accordance within VA Directive and Handbook 5111.

Section 6 - Freezing of Vacancies (RIF)

The Department will freeze all relevant vacant positions within the facility 60 days prior to the effective date. When the Department decides to fill a vacant position after the effective date of the RIF, whether previously frozen by virtue of RIF or in the creation of new vacancies, employees who have been demoted will be offered the vacancy, provided the employee is qualified or has been given a waiver of qualifications for the intended position.

Section 7- Employee Notification

An individual employee who is adversely affected by a RIF or Staffing Adjustment shall be given a specific notice not less than 60 days prior to the effective date of the action. All such notices shall contain information required by OPM, 5 CFR Part 351 and VA Directive and Handbook 5111.

Section 8 - Content of Notice

A. RIF

The content of the specific notice shall include the following information:

1. The specific action to be taken;
2. The effective date of the action;
3. The employee's competitive area, competitive level, subgroup and service date, and the annual performance ratings of record for the applicable three years;
4. The place where the employee may inspect the regulations and records pertinent to his or her case;
5. The reasons for retaining a lower standing employee in the same competitive level because of a continuing and temporary exception;
6. Grade and pay retention information; and
7. The employee's appeal rights.

B. Staffing Adjustments

In accordance with VA Directive and Handbook 5111, the content of the specific notice shall include the following information:

1. Reassignments to Another Facility or Commuting Area:
 - a. The reason(s) for the reassignment.
 - b. Information about the new assignment, its location, and the effective date.

- c. The employee's appeal rights.
 - d. The opportunity to accept or decline the reassignment.
2. Separations:
- a. The reasons for the staff adjustment.
 - b. Notification that the employee's position has been determined to be in excess of local needs.
 - c. Notice that an assignment is not available and the employee will be separated not less than 60 days from the date of the advance general notice.
 - d. Information regarding outplacement activities.
 - e. Notice that the separation may be cancelled if an assignment becomes available prior to the effective date of separation.
 - f. The employee's appeal rights.

Section 9 - Employee Information

The Department shall:

- A. Inform all employees in the competitive area as fully and as soon as possible of any plans for RIFS and Staffing Adjustments.
- B. Inform all affected employees of the extent of the affected competitive area, the regulations governing such action and the kinds of assistance provided to affected employees.
- C. Maintain and publicize a list of vacancies Department-wide and maintain a copy of any available government-wide job bulletins and websites.
- D. Conduct a placement program within the Department to minimize the adverse impact on employees who are affected by RIF or Staffing Adjustments. The placement program will include counseling for employees by qualified personnel on opportunities and alternatives available to affected employees.

Section 10 - Personnel Files

The Union may review any bargaining unit employee's personnel folder at the employee's request in writing if the employee believes that the information used to place the employee is inaccurate, incomplete, or not in accordance with law, rules, regulations or provisions of this Article.

Section 11 - RIF Retention Register

A copy of the RIF retention register and any updates will be made available to the Union at the earliest possible time.

Section 12 - Employee Use of Authorized Time and Department Facilities

Employees who are identified for separation or change to a lower grade as a result of a RIF or Staffing Adjustment shall be entitled to reasonable time while otherwise in a duty status without charge to leave for:

- A. Preparing, revising and reproducing job resumes and/or job application forms.
- B. Participating in employment interviews.
- C. Using the telephone to locate suitable employment.
- D. Reviewing job bulletins, websites, announcements, etc.
- E. Such employees will also be entitled to reasonable use of the available facilities and/or services for the purpose of locating suitable employment: telephone/FTS, reproduction equipment, interagency mail, E-mail, typing and counseling.
- F. The determination as to what is reasonable time will be determined through local bargaining. Release of Title 38 employees under this section will be subject to direct patient care needs as determined by management.

Section 13 - Performance Appraisals (RIF)

Except for employees who are re-rated after a period allowed in 5 CFR Part 432, annual performance appraisals for the purpose of retention standing will be frozen 60 days prior to the effective date of the action. The three latest annual appraisals of record prior to the freeze will be used to determine eligibility for additional credit toward an employee's service computation date. To be credited under this Section, an appraisal must have been issued to the employee with all appropriate reviews and signatures and must be on record.

Section 14 - Release from Competitive Level (RIF)

When an employee is to be released from the employee's level, the "best offer" is made. The offer will be as close to the employee's current grade as possible and in the same commuting area if possible.

Section 15 - Employee Response to Specific Notice

Upon receipt of specific notice informing the employee that he or she is offered a reassignment or change to lower grade or will be released from his or her competitive level, the employee shall have 14 days in which to accept or reject the offer made.

Section 16 - Repromotion Rights of Affected Employee

Repromotion rights of affected employees are subject to government-wide rule and regulations and VA Directives and Handbooks 5005 and 5111 and subject to local bargaining to the extent required by law.

Section 17 - Reassignments to Different Geographic Area

Reassignments outside an employee's commuting area are subject to government-wide rules and regulations and VA Directives and Handbooks 5005 and 5111 and subject to local bargaining to the extent required by law.

Section 18 - Displaced Employees

The Department shall provide employees to be separated by RIF or Staffing Adjustment with the appropriate information regarding unemployment benefits available to them.

Section 19 - Transfer of Function

- A. Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area.
- B. When a transfer of function occurs, the Department will first solicit qualified volunteers for transfer from among those employees in positions that have been identified for transfer. If there are not enough qualified volunteers from among these affected employees, the Department will solicit qualified volunteers from the losing competitive area.
- C. If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, preference will be given to the volunteers with the highest retention standing. In the event there are not enough volunteers for the transfer, the employee(s) with the lowest retention standing will be selected.
- D. Whenever possible, affected employees who do not volunteer to be transferred shall be reassigned to vacant positions within the competitive area for which the employee is qualified and which management has determined to fill.
- E. If a transfer of function affects Title 38 employees, the policies and procedures of VA Handbooks and Directives 5005 and 5111 will apply.
- F. Other issues relating to transfer of function is subject to local bargaining to the extent required by law.

Section 20 - Reorganization

- A. A reorganization is the planned elimination, addition or redistribution of functions or duties in an organization.
- B. Issues related to reorganization are subject to local bargaining to the extent required by law.

ARTICLE 29
TITLE 38 – ASSIGNMENTS

In keeping with the expectation that employees have a continuing interest in professional growth, it is in their interest to develop and/or enhance their professional skills. In order to ensure the best patient care possible, Management will assist in the overall development of its Title 38 employees by making such opportunities available. This includes, but is not limited to, details, training offerings, and placement in another assignment. Employees are encouraged to bring their particular interests or concerns to the attention of the appropriate management official.

**ARTICLE 30
TITLE 38 - PROFICIENCIES**

Section 1

Employees will be notified 90 days prior to the due date of their proficiency, with the exception of special reports. Special reports shall be prepared in accordance with applicable Department policy.

Section 2

Employees will have the opportunity to provide information that will be used in their proficiency, not later than 60 days prior to the due date. This does not apply to special reports.

Section 3

Employees will receive current copies of criteria for promotion and special advancement on initial employment. Employees will receive updated copies of the promotion and special advancement criteria when changes are made.

Section 4

Where employees are not promoted and upon request, they will receive a written explanation regarding those specific elements in which they are deficient.

Section 5

- A. The parties recognize that employees whose proficiencies have been delayed beyond the timeframes specified in VA regulations, and who would have been advanced but for the delay, should be made whole pursuant to VA regulations.
- B. Failure to issue proficiencies by the due date in VA regulations (anniversary date of grade) may be grieved.
- C. This section is not intended to allow for arbitration or other third party review other than that referred to in (B) above.

**ARTICLE 31
TITLE 38 - ADVANCEMENT**

Section 1

Any pay change resulting from advancement will be made within two pay periods from the effective date of the advancement.

Section 2

Notice of decisions on advancement shall be communicated in writing within ten workdays of the action taken.

Section 3

Supervisors shall monitor and review performance in order to determine progress or problems and to provide employees with information concerning performance. Discussions about performance will be held as often as needed, as determined by the employee and the supervisor.

**ARTICLE 32
TITLE 38 - VACANCY ANNOUNCEMENTS**

Section 1 - General

Management will post, for 15 calendar days, a notice of vacancies so all unit employees will have an opportunity to be considered for positions. Once a selection has been made, the Local may request a list of those who have applied for a specific position. However, when there is evidence of a critical staffing shortage or a lack of qualified internal candidates, management may fill the position prior to the expiration date of the announcement.

Section 2 - Contents of Vacancy Announcement

The qualifications for the position and the educational/certification level will be kept current and clearly defined on the vacancy announcement. If the requirements of the job/position change, the vacancy announcement will be reposted reflecting the changes.

Section 3 - Vacancy

- A. All employees will have a fair and equitable opportunity to be considered for selection of a posted vacancy advertised under this section. Applicants will be asked the same core questions during an interview; however, follow-up questions may vary, based upon the applicant's response.
- B. At the request of the employee, the selecting official will advise the employee why he/she was not selected for the position.

Section 4 - Title 38 Position Qualifications

- A. Prior to the implementation of new qualification standards, the Union may submit written recommendations for criteria to be used in the development of those standards.
- B. The Local will be provided copies of all position qualifications for vacant positions.

ARTICLE 33
TITLE 38 - LOCALITY PAY SURVEY/PREMIUM PAY

Section 1 - Nurse Pay Survey

- A. In accordance with 38 USC § 7451 and Department regulations, Title 38 nurse pay surveys shall be limited to the labor market area or other areas, as authorized by regulations.
- B. The Local shall be entitled to a representative on each Title 38 nurse pay survey team. The Local representative will have proper training and, preferably, will have previous experience with a locality pay survey.
- C. Surveys shall be done consistent with the provisions of 38 USC § 7451 and Department regulations.
- D. In gathering data in accordance with 38 USC § 7451, and wherever feasible, survey data for Title 38 nurse pay surveys shall be collected based on site visits.

Section 2 - Adjustment to Nurse Pay

- A. In accordance with 38 USC § 7451 and Department regulations, an adjustment in Title 38 nurse pay shall be made on an annual basis whenever adjustments are made in the General Schedule pay.
- B. Whenever an adjustment in Title 38 Nurse pay is delayed due to administrative error, a nurse shall be retroactively compensated for any lost salary in accordance with law.

Section 3 - Premium Pay

Nurse premium pay is governed by 38 USC § 7453, which provides as follows:

- A. Evening: A nurse performing services on a tour of duty, any part of which is within the period beginning at 6:00 p.m. and ending at 6:00 a.m., shall receive additional pay for each hour of service at a rate equal to ten percent of the nurse's hourly rate of basic pay if at least four hours fall between 6:00 p.m. and 6:00 a.m. When less than four hours fall between 6:00 p.m. and 6:00 a.m., the nurse shall be paid the differential for each hour of service performed between those hours.
- B. Weekend: A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Friday and ending at midnight Sunday, shall receive additional pay for each hour of service at a rate equal to twenty-five percent of such nurse's hourly rate of basic pay.
- C. Federal Holidays: A nurse performing service on a holiday designated by Federal statute or Executive Order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

- D. Overtime: A nurse performing officially ordered or approved hours in excess of 40 hours in an administrative work week, or in excess of eight hours a day, shall receive overtime pay for each hour of such additional service. The overtime rate shall be one and one-half times such nurse's rate of hourly basic pay.
- E. Compensatory Time: Compensatory time off in lieu of pay for services performed under the overtime provisions of Title 38 USC shall not be permitted unless voluntarily requested in writing by the nurse in question.
- F. On-Call Duty: A nurse who is officially scheduled to be on call outside his/her regular hours or on a holiday designated by Federal statute or Executive Order, shall be paid for each hour of such on-call duty, except for such time as he/she may be on call back to work, at a rate equal to ten percent of the hourly rate for overtime service.
- G. Employees may be entitled to higher rates of premium pay based on local labor market conditions in accordance with applicable laws and policy. Management shall provide the Local with written notice of any decision to pay higher rates of premium pay.

ARTICLE 34
TITLE 38 - PHYSICAL STANDARDS BOARDS

Section 1

In the event that the management believes that a Title 38 employee is physically or mentally incapable of performing his or her duties, the employee shall be entitled to meet with the recommending medical official and to provide any oral and written evidence before a recommendation is made. In any such meeting, the employee is entitled to a union representative and should be provided such notification.

Section 2

Once Management removes an employee from his or her position or duties for physical or mental inability to perform, the employee, consistent with Title 38, shall be able to use the appropriate appeals procedure.

Section 3

Confidentiality must be maintained throughout the review process.

ARTICLE 35
TITLE 38 PROFESSIONAL STANDARDS BOARDS (PSBs)

Section 1 - Recommendations

The Local may submit names of candidates for Professional Standards Boards (PSBs). Management will give serious consideration to appointing from the candidates recommended by the Local.

Section 2 - Representation

Consistent with VA Handbook 5021, Part III, Chapter 1, an employee may request representation at any hearing before a Title 38 Disciplinary Board or whenever a probationary employee appears before a PSB in a termination proceeding. A representative at a PSB hearing may do those things an employee is entitled to do under regulations.

**ARTICLE 36
CLINICAL RESEARCH**

Section 1

The parties recognize the benefits of participation in clinical research projects.

Section 2

The Union will be notified prior to implementation of any clinical research that impacts working conditions of bargaining unit employees.

Section 3

Participation in research projects will be voluntary, consistent with staff rights/policies and Management right to assign work. Employees will receive training and written instructions regarding the intent and requirements of the research project prior to implementation.

Section 4

Staff involved in clinical research may be recognized for their participation/contribution to the project by the annual performance evaluation and other means (i.e., monetary awards, acknowledgment in papers).

**ARTICLE 37
RESEARCH GRANTS**

Section 1

Employees who have made funding or other project applications will be notified as soon as practicable of the approval/disapproval. The notification will include the project ranking.

Section 2

Management will fully advise an employee of the impact upon his or her employment status as a result of approval, described above, as soon as possible prior to the effective date of the change in employment status.

ARTICLE 38
RESEARCH PROGRAMS & DEMONSTRATION PROJECTS

Section 1 - Definitions

- A. "Research program" means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.
- B. "Demonstration project" means a project conducted by the Office of Personnel Management or under its supervision to determine whether a specified change in personnel management policies and procedures would result in improved Federal personnel management.

Section 2 - Project Initiation

- A. When a demonstration project is considered, the Union and the Department are encouraged to jointly request demonstration authority from OPM and jointly develop the details of the demonstration project.
- B. When the Department receives notification from OPM, another Federal agency, or some other public or private organization that a research program and demonstration project will be conducted, the Department shall immediately notify the Union and the appropriate Local.
- C. The Department will not enter into any research program or demonstration project affecting unit employees without first meeting its obligation to negotiate with the Union, as appropriate.
- D. Upon request the Union shall receive:
 - 1. Information concerning research projects provided to the Department by OPM or other entities, which concern research projects affecting unit employees;
 - 2. Data and reports of research provided to the Department by OPM or other entities, concerning a research program or demonstration project affecting unit employees.

Section 3 - Comments on Reports

Whenever the Department submits an evaluation report to OPM or other entity concerning a research program or demonstration project affecting unit employees, the Union shall be provided an opportunity to submit its views in an accompanying report.

**ARTICLE 39
PATIENT ABUSE**

Section 1

The Parties are committed to a patient environment consistent with the highest standard of medical care, comfort, and well being for each patient. It is a fundamental and closely guarded policy of the VA that patients are not to be mistreated, or abused in any way, physically, or verbally, by any employee.

Section 2

Each facility will develop an information sheet on patient abuse that makes clear to employees the kinds of activities, which cannot be condoned. All employees will be furnished a copy of this sheet, and will sign a copy of it, which will be maintained by the facility. New employees will be provided a copy as soon as possible after entry on duty but no later than during orientation.

Section 3

An annual reminder concerning the VA policy on patient abuse will be distributed to all employees.

ARTICLE 40 INVESTIGATIONS

Section 1 - General

- A. As exclusive representative, the Local shall be given the opportunity to be present at any examination of an employee in the bargaining unit(s) by a representative of Management, including any officials of the Inspector General's Office, in connection with an investigation if:
 - 1. The employee reasonably believes that the examination may result in disciplinary action against the employee, and
 - 2. The unit employee requests representation.
- B. The right to union representation is not intended to interfere with the routine interaction between supervisors and employees in the normal course of a workday.
- C. Management shall annually inform its employees of their right to union representation under 5 USC § 7114(a)(2)(B) by posting notice of such rights on bulletin boards and through other appropriate means.
- D. If any supervisor or management official, in advance of, or during the questioning of an employee, contemplates the likelihood of disciplinary action, the employee shall be informed of their right to union representation prior to further questioning. If an employee in the bargaining unit requests union representation, Management will reschedule the meeting as soon as possible, and the Local will be given the opportunity to be present to represent the employee.

Section 2 - Investigations

- A. Management agrees that before employees conduct a formal investigation, they shall be properly trained.
- B. Management will inform the Local, in writing, in advance of a formal administrative investigation when a bargaining unit employee is the subject of, or a witness in, the investigation or inquiry.
- C. Investigations should consider all facts, circumstances, and human factors. An investigation must be completed in an expeditious and timely manner.
- D. If an employee is the subject of an investigation, the employee will be informed, in writing, of the right to union representation prior to being questioned or asked to provide a statement. The employee will also be informed, in writing, of the nature of the allegation(s). Once an employee requests union representation, except in very rare and unusual circumstances, no further questioning will take place until the union is present.
- E. Supervisors, employees, and union representatives will not, except as specifically authorized, disclose any information about an investigation. A copy of the statement of the employee will be given to the employee and/or the employee's representative upon

request. If Management initiates no action as a result of this investigation, the employee, who was the subject, will receive the written findings in a timely manner.

- F. The statement of employee rights and obligations will be consistently applied throughout the NAGE bargaining unit. That statement will be consistent with this Agreement and include the following:
 - 1. The employee's right to representation by NAGE;
 - 2. The right of an employee to a copy of his/her personal statement or testimony; and
 - 3. The right of employees not to incriminate themselves.
- G. When an employee has requested union representation in an investigative proceeding, the union representative may fully and actively represent the employee and is not limited to the role of an observer.
- H. Consistent with section (e)(5) of the Privacy Act (5 USC § 552a(e)(5)) and 5 USC § 7114(b)), when action has been proposed against an employee, the employee and/or the employee's representative shall receive a complete copy of all evidence used to support Management's action. This includes, but is not limited to, copies of all tapes, testimony/transcripts, recommendations and/or findings, and photographs in the evidence file. Upon request, any witness is entitled to a copy of the transcript and/or tape recording of his or her testimony at the time it was made. Management will make every effort to provide additional information requested by the employee's representative. Management will provide a written explanation of any denial of information requested, normally within 30 days of receipt of the request.
- I. The participation of bargaining unit employees on an ABI will be with the consultation of the Local.
- J. If Management details an employee who is the subject of an investigation, Management will, when practicable, detail the employee to an assignment which will not result in the loss of any benefits, pay or differentials.

**ARTICLE 41
DISCIPLINE AND ADVERSE ACTIONS**

Section 1 - General

- A. It shall be the policy of the Department to effect disciplinary and adverse actions only for just cause and in a fair manner. Disciplinary and adverse actions shall be consistent with the punishable act, the degree of the severity of the act, the employment record of the employee, and the principle of consistency of discipline.
- B. Disciplinary and adverse actions taken against Title 38 employees based on professional conduct or competence, as determined by the Under Secretary for Health, are outside the scope of bargaining and are not intended to be governed by this Article.

Section 2 - Definitions

For purposes of this Article, the following definitions are used:

- A. For Title 5, Title 38 § 7401(3) Hybrid and Veterans Canteen Service employees:
 - 1. A disciplinary action is defined as an admonishment, reprimand, or suspension of 14 calendar days or less; and
 - 2. Adverse actions are removals, suspensions of more than 14 calendar days, reduction in pay or grade, or furloughs of 30 calendar days or less.
- B. For Title 38 employees:
 - 1. A disciplinary action is defined as an admonishment or reprimand taken against an employee for misconduct or deficiency in competence; and
 - 2. A major adverse action is a suspension, transfer, reduction in grade, reduction in basic pay, or discharge based on conduct or performance.

Section 3 - Removal of Disciplinary Actions

- A. Records maintained by supervisors must conform to the requirements for officially approved systems of records. Supervisors may keep personal notes as a reminder in carrying out their supervisory responsibilities. Any notes that are used to support an official agency action must have been discussed with the employee at the time they were made.
- B. A written counseling for conduct may only be retained for a period of no longer than six months unless there is an additional occurrence within that period, then it may be retained up to one year, and will not be filed in the employee's personnel folder.
- C. Letters of Admonishment will be removed from the personnel folder after a one year period. Upon the employee's request, an admonishment may be removed after six months if, in the opinion of the supervisor, the letter of admonishment has served its purpose.

- D. Letters of Reprimand will be removed from the personnel folder after a two year period unless additional occurrences have occurred and then they may be maintained for three years.

Section 4 - Alternative and Progressive Discipline

The Parties agree that the use of alternative discipline shall be a subject for local supplemental bargaining. The Parties also agree to the concept of progressive discipline, which is discipline designed primarily to correct and improve employee behavior, rather than to punish.

Section 5 - Timeliness and Investigation

- A. Management will investigate an incident or situation as soon as possible to determine whether or not discipline is warranted. The decision to discipline shall be initiated within a reasonable time after completion of any investigation.
- B. Discipline will be applied fairly and equitably.

Section 6 - Processing Admonishments and Reprimands

- A. An employee against whom an admonishment or reprimand is proposed is entitled to 14 calendar days advance written notice, unless the crime provisions are invoked. The notice will state the specific reasons for the proposed action. Management agrees that the employee shall be given up to eight hours of duty time, to review the evidence on which the notice of disciplinary action is based and that is being relied on to support the proposed action. Additional time may be granted on a case-by-case basis. Upon request, one copy of any document(s) in the evidence file will be provided to the employee and their designated representative.
- B. The employee or their representative may respond orally and/or in writing as soon as practical but no later than ten calendar days from receipt of the proposed disciplinary action notice. The response may include written statements of persons having relevant information and/or appropriate evidence. Extensions for replying to proposed disciplinary actions may be granted for good cause.
- C. The Management official will issue a written decision at the earliest practicable date. The written decision shall include the reason for the disciplinary action and a statement of findings and conclusions as to each charge. For Title 38 employees, the decision shall also include a statement as to whether any sustained charges arose out of "professional conduct or competence", and a statement of the employee's appeal rights.

Section 7 - Processing Suspensions, Adverse Actions, and Major Adverse Actions

- A. An employee against whom a suspension, adverse action, or major adverse action is proposed is entitled to 30 calendar days advance written notice, except when the crime provision has been invoked. The notice will state specific reasons for the proposed action. The employee shall be given the opportunity to use up to eight hours of duty time to review the evidence on which the notice is based and that is being relied on to support the proposed action. Additional time may be granted on a case-by-case basis.

Upon request, one copy of any document(s) in the evidence file will be provided to the employee and their designated representative.

- B. The employee and/or representative may respond orally and/or in writing as soon as practical but no later than 14 calendar days from receipt of the proposed action notice. The response may include written statements of the persons having relevant information and/or other appropriate evidence. Management has the right to restrict the response time to seven calendar days when invoking the crime provision. Extensions for replying to proposed adverse actions and suspensions may be granted when good cause is shown.
- C. The management official will issue a written decision at the earliest practicable date. The written decision shall include the reason for the disciplinary action and a statement of findings and conclusions for each charge. For Title 38 employees, the decision shall also include a statement as to whether any sustained charges arose out of "professional conduct or competence", and a statement of the employee's appeal rights.
- D. Adverse action notices must be in writing and be consistent with applicable law, regulation and policy.

Section 8 - Notice of Final Disciplinary or Adverse Actions

- A. Notice of a final decision to take disciplinary or adverse action shall be in writing and shall inform the employee of appeal and grievance rights and their right to representation. The employee will be given two copies of the notice; one copy may be furnished to the Local by the employee. Management will inform the Local, in writing, when it takes a disciplinary or adverse action against a unit employee.
- B. Notice shall explain in detail the reasons for the action taken and all evidence relied upon to support the decision. The notice will also advise the employee how long the action will be maintained in his/her file. The supervisor shall discuss the notice with the employee. If the employee elects to have a Local representative present, the discussion will be delayed until the Local has an opportunity to furnish a representative.

ARTICLE 42
OFFICIAL RECORDS

Section 1 - Official Records and Files

No personnel record(s) may be collected, maintained or retained on employees except in accordance with law, government-wide regulations, Department regulations, and this Agreement or its Supplements. All personnel records are confidential and shall be known or viewed by officials only with a legitimate need to know for the performance of their duties. They must be retained in a secure location. Employees shall be advised of the nature and purpose of their Official Personnel Folder (OPF) or Merged Records Personnel Folder and its location.

Section 2 - Access to Records

- A. During normal duty hours, upon request, employees and their representative(s), designated in writing, shall have the right to examine and copy records personally identified to the employee. Management shall authorize the employee duty status during such review. Employees or their representative(s), designated in writing, may receive at no cost copies of personally identified records, which have not been previously furnished during the duration of this Agreement. Additional copies will be provided; however, there may be a charge in accordance with the Department fee schedules in effect at the time of request.
- B. Each bargaining unit employee is entitled to review his/her own medical records. When a request for access involves medical or psychological records that the Systems Administrator, or designee, believes requires special handling, the requester should be advised that the material will be provided only to an authorized healthcare provider designated by the employee. Upon receipt of the designation and upon verification of such provider, the records will be made available to the provider, who will have full authority to disclose those records to the employee, when appropriate. Management will, within 30 days after the effective date of this agreement, provide each Local the identified position designated by the Systems Administrator and will update such identification, as needed.
- C. The employee shall have the right to prepare and enter a concise statement of disagreement concerning his/her records as authorized by applicable regulations. Doing so, however, does not negate or waive the employee's right to grieve any matter or take other appropriate action.
- D. Access to personnel records of the employee by the employee or the representative designated in writing will be granted when requested if such records are maintained on the facility where the employee is located. If the records are not so maintained, the appropriate Administrative Office will initiate action to obtain the records from the location within three working days of the request and make them available to the

employee or designated representative. At the request of the employee or designated representative, any pertinent time frames shall be held in abeyance pending receipt of the requested information.

Section 3 - Outdated Records

- A. All personnel folders shall be purged and information disposed of in accordance with appropriate regulations.
- B. When personnel folders are purged, personal materials provided by the employee shall be returned to the employee.
- C. The appropriate Administrative Office will maintain a system of follow-up to assure that any written counseling, disciplinary, or similar action with a time limit on it is removed on the proper date and returned to the employee.
- D. If any outdated or unauthorized material is accidentally left in a file, it may not be used to support any personnel action detrimental to the employee.

ARTICLE 43 ALTERNATIVE DISPUTE RESOLUTION

Section 1 - General

The Department and NAGE support the concept of the use of Alternative Dispute Resolution (ADR) problem-solving methods to foster a good labor/management relationship. Union and Management at all levels should support the use of ADR problem-solving methods as an alternative to resolve disputed matters. Those involved in the development and use of an ADR system shall be trained in the principles and methods of ADR.

Section 2 - Definitions and Intentions

- A. Alternative Dispute Resolution (ADR) is an informal, voluntary process, which seeks early resolution of employee, union, and management disputes.
- B. Any ADR process must be jointly designed by Union and Management. ADR should be effective, timely, and efficient. It should focus on conflict resolution and problem solving and foster a cooperative labor and management relationship. Participation of all parties in the ADR process must be voluntary.
- C. ADR shall be a process available to Partnerships.
- D. The Parties agree to ongoing evaluation to improve the process.

Section 3 - Rights and Responsibility

- A. The Parties have the responsibility of informing employees and management officials of the ADR option to resolve disputes. ADR should be undertaken in good faith and not circumscribed by formal rules and regulations.
- B. Employees may utilize the ADR process to resolve individual concerns with the mutual consent of Union and Management.
- C. Disputes resolved by ADR are final when written and signed. Union and Management will have the right to participate in all stages of the ADR process. This is in addition to an employee's right to union representation.
- D. ADR resolutions shall not be precedential unless agreed to by the Parties. Resolutions under ADR cannot conflict with or supersede agreements between the Parties.

Section 4 - Implementation:

- A. ADR is an appropriate subject matter for local negotiations.
- B. ADR agreements must state the objectives of all Parties as well as a commitment from all Parties to resolve their disputes in a non-adversarial environment.
- C. The Parties at all levels may jointly adopt an ADR problem-solving method that will include mutually agreed upon third Parties. ADR methods may include, but are not

limited to, early neutral evaluation mediation, interest-based problem solving, peer review, conciliation, facilitation, and neutral fact-finding.

- D. ADR methods may be used prior to or during a grievance/arbitration or statutory appeal. In the use of ADR processes, contractual time frames will be stayed by mutual agreement. Statutory time frames cannot be stayed.

**ARTICLE 44
GRIEVANCE PROCEDURE**

Section 1 - Definition

Grievance means any complaint:

- A. By any unit employee concerning any matter relating to the employment of the employee;
- B. By the Union /Local concerning any matter relating to employment of unit employees;
- C. By any unit employee, the Union/Local or the Department/Management concerning:
 - 1. The effect or interpretation, or a claim of breach of this Agreement; or
 - 2. Any claimed violation, misinterpretation or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 2 - Purpose

- A. This negotiated grievance procedure shall be the sole procedure available to the Union/Local, the Department/Management and the unit employees for resolving grievances over the interpretation or application of this Agreement, its amendments, supplements, or for unit employees over any dissatisfaction with their working conditions.
- B. The Parties may negotiate procedures at the local level involving the use of Alternative Dispute Resolution in connection with this Article.

Section 3 - Exclusions

- A. This Article shall not govern a grievance concerning:
 - 1. Any claimed violation relating to prohibited political activities (Subchapter III of Chapter 73 of Title 5);
 - 2. Retirement, life insurance, or health insurance;
 - 3. A suspension or removal in the interest of national security under Section 7532 of Title 5;
 - 4. Any examination, certification or appointment;
 - 5. The classification of any position which does not result in the reduction in grade or pay of an employee;
 - 6. The separation of an employee during his/her probationary period;
 - 7. Non-selection for promotion from a group of properly certified candidates;
 - 8. Proposed disciplinary/adverse actions;
 - 9. Matters appealable to the Merit System Protection Board;
 - 10. EEO Complaints;
 - 11. Termination of temporary appointments; and
 - 12. Grievances over appointments or advancements for Title 38 hybrid employees appointed under the authority of 38 USC § 7401(3) or 38 USC § 7405(a)(1)(B), except to the extent that such grievances assert only that DVA failed to follow its own promotion

procedures. (Such grievances may only be filed following the promotion reconsideration procedures set forth in VA Directive/ Handbook 5005.)

Note 1: A temporary appointment is a non-permanent appointment with a pre-determined time limit. This includes appointments of one year or less, term appointments of more than one year but not more than four years, and excepted appointments of one to three years.

B. Under Title 38 Section 7422, the following additional exclusions apply:

1. Any matter or question concerning or arising out of professional conduct or competence such as direct patient care or clinical competence;
2. Any matter or question concerning or arising out of peer review; and
3. Any matter or question concerning or arising out of the establishment, determination, or adjustment of employee compensation under Title 38.

Note 2: The Language in Paragraph B in the Section shall only serve to preclude a grievance where the Secretary, or a lawfully appointed designee of the Secretary (currently the Under-Secretary of Health) determines in accordance with 38 USC § 7422 that the grievance concerns or arises out of one or more of the three items listed above. Any determination under this language by the Secretary or his/her designee is subject only to judicial review pursuant to 38 USC § 7422(e).

Section 4 - Informal Resolution

Most grievances arise from misunderstanding or disputes which can be settled promptly and satisfactorily on an informal basis. The Parties agree that every effort will be made to settle grievances at the lowest possible level. Reasonable time during work hours will be allowed for employees and Union representatives to discuss, prepare for, and present grievances, including attendance at meetings with Management officials concerning the grievance.

Section 5 - Extensions

The Parties may extend any and all time limits in this Article by mutual written agreement.

Section 6 - Procedure

Employees and/or their representatives are encouraged to informally discuss issues of concern to them with their supervisors at any time. Employees and/or their representatives may request to talk to other appropriate officials about items of concern without filing a formal grievance if they choose. In the event of a formal filing of a grievance, the following steps will be followed:

Step 1 - An employee and/or the Local shall present the grievance to the immediate or acting supervisor in writing within 30 calendar days of the date from the date of the act or occurrence, or the employee's awareness thereof or at any time if the act or occurrence is of a continuing nature. The grievance must state the basis for the grievance and the corrective

action desired. The immediate or acting supervisor will make every effort to resolve the grievance immediately, but must meet with the employee and the union representative and provide a written answer within 14 calendar days of receipt of the grievance. If the Service Chief or equivalent is the immediate supervisor, the Step 2 grievance will be submitted, if unresolved, to the next higher management official below the Director or equivalent.

Step 2 - If the grievance is not satisfactorily resolved at Step 1, it shall be presented to the Service/Division Chief, or equivalent management official or designee, in writing, within seven calendar days of receipt of the Step 1 supervisor's decision. The grievance must state the basis for the grievance and the corrective action desired. The Service/Division Chief, or equivalent management official, or designee, shall meet with the employee and his/her representative and provide a written answer within seven calendar days.

Step 3 - If no mutually satisfactory settlement is reached as a result of the second step, the aggrieved Party or the Local shall submit the grievance to the Director or equivalent, or designee, in writing, within seven calendar days of receipt of the decision of Step 2. The Director or equivalent, or designee, will meet with the aggrieved employee and his/her representative within ten calendar days to discuss the grievance. The Director or equivalent, or designee, will render a written decision to the aggrieved Party and the Local within ten calendar days after the meeting. If the grievance is not satisfactorily resolved in Step 3, the grievance may be referred to arbitration as provide in Article 45, Arbitration.

Grievance/Arbitrability issues will be resolved as the threshold issues of arbitration, but must have been raised no later than the time the Step 3 decision is given.

Note 3: For Veterans Canteen Service (VSC) employees, Step 2 will be eliminated at those facilities where two levels of supervisors are not present. In Step 3, the VCS Field Chief Executive Officer, or his/her designee, will be the deciding official. The meeting will be at the duty station of the aggrieved employee and with an official higher than the Canteen Chief.

Note 4: For National Cemetery Administration (NCA) employees, where there are two levels of supervision, Step 1 will be the immediate supervisor, Step 2 will be an Assistant Cemetery Director, where one exists, and Step 3 will be the Cemetery Director. Where there is only one level of supervision, Step 1 will be the Cemetery Director and Step 1 time limits will apply, Step 2 will be eliminated, and Step 3 will be the Director, Memorial Service Network (MSN), or designee.

Note 5: Filing at Various Steps

It is agreed that grievances should normally be resolved at the lowest level possible. However, there will be times when a grievance may be more appropriately initiated at the second or third step of the grievance procedure. Filing at such steps is appropriate, for example, when a disciplinary action is taken by a Service Chief or higher level, when the supervisor at the lower level clearly has no authority to resolve the issue, or when the Local

grieves an action of a management official other than a Step 1 supervisor. When a grievance is initiated at a higher step, the time limits of Step 1 will apply.

The appropriate management official or designee (secretary, administrative assistant, etc.) shall acknowledge in writing receipt of all grievances.

Note 6: An employee may terminate his/her grievance, in writing, at any time. If an employee resigns, dies, or is separated by an action other than removal before a decision is reached on a grievance being processed and no compensation issue is involved, the action may be stopped. (If compensation is involved, the grievance will not be terminated). All interested Parties will be notified that, because of separation, the case is being closed without a decision. In the instances above, if the grievance is identified to be of a nature where it would provide relief for employees other than the grievant, the Local may elect to continue the grievance.

Section 7 - Failure to Respond in a Timely Manner

Should Management fail to comply with the time limits of Step 1, the grievance may be advanced to Step 2. Should Management fail to comply with the time limits for rendering a decision at Step 2 or Step 3, the grievance shall be resolved in favor of the grievant, provided the following exists:

1. Receipt of the grievance has been acknowledged, in writing by Management at the appropriate step in the grievance procedure; and
2. That the remedy requested by the grievant is legal and reasonable under the circumstances.

Section 8 - Management Authority

At any step of the negotiated grievance procedure, when a management deciding official designates someone to act in his/her behalf, that designee will have the complete authority to render a decision at that step and will render the decision. The designee will not be someone who decided the issue at any previous step.

Section 9 - Representation

Unit employees may present a grievance, which may be adjusted with or without representation at the grievant's discretion. The Local has the right to be present during any meeting where the grievant is present which discusses the grievance or adjustment. Management shall provide the Local with notice as soon as possible after a grievance is filed and shall provide the Local with the opportunity to be involved in the scheduling of each meeting between the grievant and the management official. The right to individual representation does not include the right to take the matter to arbitration, unless the Local agrees to do so.

Section 10 - Local Grievances

Local initiated grievances shall be filed with the Director or equivalent within 30 calendar days from the date of the act or occurrence, or the Local's awareness thereof. The written grievance will identify the matter grieved and the relief sought. The Director or equivalent or designee will meet with the Local President or designee within ten calendar days to discuss the grievance. The Director or equivalent or designee will render a written decision to the Local within 30 calendar days after the meeting.

Section 11 - Management Grievances

Management initiated grievances shall be filed with the Local President or designee and shall constitute Step 3 of the negotiated grievance procedure. Such grievances must be filed within 30 calendar days of the act or occurrence, or when management became aware of the act or occurrence. The Local President or designee will meet with management within 10 calendar days to discuss the grievance. The Local President or designee will render a written decision to management within 30 calendar days after the meeting.

Section 12 - National Level Grievances

A grievance affecting more than one facility may be brought by the NAGE National office or VA Headquarters. A national grievance may also be filed in cases where management at a single facility does not have the authority to resolve the issue. The grievance will be filed with the respective designated representative as follows:

- A. Within 45 calendar days of the acts or occurrence or within 45 days from the date of the act or occurrence, or the Party's awareness thereof, or at any time, if the act or occurrence is continuing, the aggrieved Party may file a written grievance. The grievance shall specify the basis for the grievance and the corrective action sought.
- B. Upon receipt of a grievance, the Parties will communicate with each other in an attempt to resolve the grievance. A final written decision, including any position on grievability or arbitrability must be rendered within 45 days of receipt. If a decision is not issued within such time limit or if the grieving Party is dissatisfied with the decision, the grieving Party may proceed to arbitration in accordance with this Agreement. Unless otherwise agreed to by the Parties, arbitration hearings will be held in VA Central Office.
- C. The Department agrees to pay travel and per diem expenses for up to three employee witnesses to provide testimony in connection with the arbitration proceeding, and the Union employee representative presenting the grievance/arbitration. Travel and per diem for additional witnesses will be by mutual agreement of the Parties. The Parties also agree to explore the use of audio and videoconferencing to save costs.

Section 13 - Multiple Grievances

Multiple grievances over the same issue may be initiated as either a group grievance or as separate grievances at any time during the time limits of Step 1. Grievances may be combined and decided as a single grievance at the later steps of the grievance procedures by mutual written consent. When identical grievances are combined, Management's decision is binding on all cases.

Section 14 - Review of Information

Upon the filing of a grievance, the employee and his or her representative shall be allowed to review any and all documentation, allowable by law and regulation, considered to support the grieved action. This should be provided at the earliest possible time after requested. Upon request, an employee or his/her representative will be provided a copy of any such material.

ARTICLE 45 ARBITRATION

Section 1 - Invoking Arbitration

- A. If the parties fail to satisfactorily resolve a grievance, either party may invoke binding arbitration by informing the other, in writing within 30 calendar days after receipt of a final decision, pursuant to the Grievance Article.
- B. If neither party invokes arbitration within the time period described in subsection A above, the parties will accept the grievance as resolved with no further rights to advancement to Arbitration. The parties may, however, extend the time limitation by mutual agreement.

Section 2 - Arbitrator Selection

- A. The parties should jointly request a list of seven impartial arbitrators from the Federal Mediation and Conciliation Service (FMCS) within ten calendar days from the date of receipt of the request to invoke arbitration. Representatives of the Parties should meet within ten calendar days of receipt of the list of arbitrators to select one to hear the grievance (unless an extension is mutually agreed upon). Each side will strike one name from the list in turn. The name remaining after each side has struck three, shall hear the grievance. A flip of a coin will decide which party strikes first. After an arbitrator has been selected, the parties should submit the name to the FMCS within seven calendar days. When the selected arbitrator notifies the parties of his/her availability to conduct the hearing, the parties should meet within seven calendar days to reach agreement on the hearing date. The arbitrator should be promptly notified of the date.
- B. If either party refuses to participate in the selection process, the other Party may unilaterally request a list of arbitrators within 20 calendar days from the date of receipt of the request to invoke arbitration. The party shall serve such request upon the opposing party within three calendar days. If after receipt of the list, a party refuses to participate in the selection of an arbitrator, the opposing party may unilaterally select an arbitrator from the list within 14 days of receipt. The party shall serve such request upon the opposing party within three calendar days.
- C. Notwithstanding Sections 2A and 2B above, and unless otherwise agreed to by the parties, if an arbitration has not been scheduled within 12 months from the date arbitration was invoked, the grievance will be considered terminated. Exceptions to this time period will be made in circumstances beyond either party's control, including, but not limited to the following examples: third party proceedings that have a direct bearing on the outcome of the grievance, or inability or refusal of the arbitrator to schedule the hearing.

Section 3 - Hearings

Arbitration hearings will be held during regular day shift duty hours at the facility where the grievance was filed. Employees who are necessary witnesses will be allowed to testify on duty time.

Section 4 - Witness Lists

At least ten calendar days prior to the arbitration hearing, the parties will exchange their witness lists and inform the other party as to whom their representative will be. These lists will ordinarily not be amended except in the event of unforeseen circumstances such as sudden unavailability of a witness or the identification of other witnesses found to have additional vital information. The Local will be provided 48 hours advance notice, in writing, prior to meeting with the witness.

Section 5 - Cost

The filing fee and the cost of the arbitrator and his/her expenses will be borne equally by the parties. Transcripts of arbitration proceedings are not required. The full cost of transcription service will be borne by the party requesting a transcript. If both parties desire a transcript, the cost will be shared equally.

Section 6 - Authority

The arbitrator will derive his/her authority from this negotiated agreement and, in rendering a decision, must not add to, subtract from, nor modify any terms of this Agreement.

Section 7 - Decision

The arbitrator will be requested to render his/her decision within 30 days.

Section 8 - Decision on the Record

In matters when both parties stipulate the issue(s) in dispute as well as the precipitating facts, a brief in support of each party's position may, by mutual agreement, be submitted to the arbitrator for a decision on the record in lieu of an evidentiary hearing. Simultaneous service of briefs of each party will be accomplished by the arbitrator.

Section 9 - Greivability/Arbitrability Issues

Grievability/arbitrability issues will be resolved as threshold issues of arbitration, but must have been raised no later than the time the Step 3 decision is given.

Section 10 - Appeals

Either party may appeal an arbitrator's ruling pursuant to statute.

Section 11 - Back Pay Act

- A. Whenever an employee is entitled to receive back pay resulting from the final determination of an arbitrator's award or settlement by the parties, such pay will be provided to the employee within 30 calendar days of the final determination of the award or effective date of any written settlement agreement. In the event that Management fails to timely pay the employee, interest shall accrue, commencing on the 31st day, at the rate in effect under the Internal Revenue Code.
- B. Within 14 calendar days of compliance with Subsection A above, Management will provide the Local with copies of appropriate documents to demonstrate compliance has been accomplished.
- C. The arbitrator's decision shall conform to the provisions of the Back Pay Act, 5 USC § 5596, where applicable. Such decision will include the payment of back pay, interest and attorney's fees, when appropriate.

**ARTICLE 46
EQUAL EMPLOYMENT OPPORTUNITY**

Section 1 - Policy

The Department and the Union affirm their commitment to the policy of providing equal employment opportunities to all employees and to prohibit discrimination because of race, color, religion, sex (including sexual harassment), sexual orientation, national origin, age (40 years of age and over), or disabling condition.

Section 2 - Equal Employment Opportunity Program

The Department's Equal Employment Opportunity (EEO) Program is designed to promote equal employment opportunity in every aspect of the Departmental personnel policy and practice in accordance with applicable law and Government-wide rules and regulations. The program includes, but is not limited to, the following:

- A. Providing reasonable job accommodation for qualified disabled employees;
- B. Reviewing selection processes and staffing procedures to identify those which are inconsistent with governing Federal EEO rules and regulations and taking corrective actions consistent with such rules and regulations in those instances where adverse EEO impacts are found;
- C. Procedures that allow for the redesigning of jobs, where feasible and desirable, and which do not create an undue hardship to achieve the Department's mission to utilize to the maximum extent possible the present skills of qualified disabled employees;
- D. Making reasonable accommodations for the religious needs of employees when such accommodations can be made without undue hardship to the conduct of Department programs;
- E. Commitment to the prevention of sexual harassment; and
- F. Affirmative Employment Plan(s).

Section 3 - Reasonable Accommodations for Employees with Disabilities

- A. In accordance with Section 501 of the Rehabilitation Act of 1973, as amended, and other Government wide rules and regulations pertaining to the employment of individuals with disabilities, the Department is committed to affirmative action for the employment, placement, and advancement of qualified individuals with disabilities, including disabled veterans.
- B. Management will offer reasonable accommodation to known physical or mental limitations of qualified individuals with a disability regardless of the type of appointment, unless Management can demonstrate that the accommodation would impose an undue hardship on the operation of the Department's program as defined in 29 CFR § 1614.203.

- C. The Parties recognize that individual accommodations will be determined on a case-by-case basis, taking into consideration the employee's specific disability, the employee's suggestions for reasonable accommodations, existing limitations, the work environment, and undue hardship imposed on the operation of the Department's program as defined above. Qualified employees with disabilities may request specific accommodations. However, Management is not required to provide the employee's accommodation of choice as long as Management provides a reasonable accommodation.
- D. The Parties agree that reasonable accommodation means an adjustment made to a job and/or the work environment that enables a qualified person with a disability to perform the essential duties of that position. Management will promptly consider requests for reasonable accommodations for employees with disabilities. Such accommodations will be evaluated on a case-by-case basis with regard to the merit of the request.
- E. Should a non-probationary employee become unable to perform the essential functions of their position even with reasonable accommodation due to a disability, Management shall offer to reassign the employee when a funded vacant position for which the employee qualified is available, subject to all conditions in 29 CFR § 1614.203(g) being met.
- F. For employees with disabilities, job restructuring is one of the principal means by which some qualified workers with disabilities can be accommodated. The principal steps in restructuring jobs are:
1. Identify which factor, if any, makes a job incompatible with the worker's disability.
 2. If a barrier is identified in a nonessential job function, the barrier may be eliminated so that the capabilities of the person may be used to the best advantage.
 3. Job restructuring does not alter the essential functions of the job; rather, any changes made are those which enable the person with a disability to perform those essential functions.
- G. The Parties agree that in many cases, changes in the work environment and other accommodations enable persons with disabilities to more effectively perform their job duties. Alterations and accommodations may be, but are not limited to, the following:
1. Rearranging files or shelves,
 2. Widening access areas,
 3. Maintaining hazard-free pathways,
 4. Raising or lowering equipment,
 5. Moving equipment controls from one side to the other, or modifying them for hand or foot operations,
 6. Installing special holding devices on desks, benches, chairs or machines,

7. Providing qualified interpreters for the hearing impaired, and
8. With respect to the modernized systems environment, examples of accommodations are:
 - a. The surface that holds the terminal will be adjusted to a level suitable to the employee's needs.
 - b. The keyboard will have "light touch," guards, and other adaptive devices that will be considered.
 - c. Visually impaired employees will be permitted to label "home" keys.
 - d. Operational and training materials will be available in Braille.
 - e. Lap trays will be considered.
 - f. Computer based voice-output systems or VDT screen enlargers or other appropriate devices will be provided for visually impaired employees.
 - g. Hardware and software will be configured to accommodate color blindness (blinking cursor, highlighting).
 - h. Printer switches will be available in "light touch" and located in an easily accessible location.
- H. An employee may be provided assistive devices if Management determines that the use of the equipment is necessary to perform official duties. Such equipment does not cover personal items which the employee would be expected to provide such as hearing aids or eyeglasses.
- I. The Department facilities shall be accessible to employees with disabilities.
- J. Management will be liberal in granting leave to accommodate the handicapping condition of employees. For example:
 1. Leave without pay may be granted for illness or disability, and
 2. Sick leave can be appropriately used by a handicapped individual (who uses prosthetic devices, wheel chairs, crutches, guide dog, or other similar type devices) for equipment repair or guide dog training or medical treatment.
- K. Management will provide handicapped employees full consideration for all training opportunities. Once an employee is selected for training, Management will provide reasonable accommodations to the employee to attend and complete the training. It is the intent of the Department to provide on-the-job training opportunities to qualified handicapped employees on the same basis as non-handicapped employees consistent with operational needs.

- L. For the purpose of continuing to provide reasonable accommodations for hearing-impaired employees, Management agrees to provide interpreter services for those employees who seek Local assistance and/or representation for their individual concerns. To the extent possible, interpreter services should be arranged in advance unless the employee wants to retain confidentiality.
- M. To provide employees with disabilities equal opportunity to perform official business travel, certain additional travel expenses necessarily incurred to reasonably accommodate the employee's disability may be reimbursed under the Federal Travel Regulations.
- N. Employees with disabilities may, where appropriate as a reasonable accommodation, utilize work-at-home accommodations or telework setting.

Section 4 - Affirmative Employment Plans

The Parties shall develop Affirmative Employment Plans.

- A. Affirmative Employment Plans may include provisions for reviewing individual services to ensure that affirmative employment policy is apparent within the service.
- B. The Union, at the national level, will be given an opportunity to consult on National Affirmative Action Program Plans. At the national level, the Department will inform the Union of changes required by the Equal Opportunity Commission or the Office of Personnel Management in national affirmative action program plans, and will give the Union a copy of such changes. The Department will also provide the Union with copies of the Annual Reports of Accomplishments on Affirmative Action Programs submitted to EEOC or OPM.
- C. Locals will be given an opportunity to participate on facility-level EEO Committees in the formulation of facility-wide Affirmative Action or Employment Plans.

Section 5 - Information, Data and Reports

- A. Management agrees to provide employees copies of written information describing the discrimination complaint procedures and their facility's Affirmative Employment Plan(s).
- B. The Department will ensure information pertaining to the EEO Complaint process will be posted on designated facility bulletin boards and on the Department's Website. Such information will include the toll-free telephone number and the address of the appropriate field office of the Office of Resolution Management (ORM) to enable employees the opportunity to obtain assistance. The Department shall also provide this information to each Local. Appropriate representatives in the ORM field offices will be available to advise employees who seek their assistance of all procedures involved in processing an EEO complaint under the statutory appeals procedure. This may include advice on time limitations.
- C. The Department agrees to provide the Union with copies of the National Affirmative Employment Plan and any other reports submitted to EEOC, including statistical data, in a timely manner.

- D. Each facility preparing an Affirmative Employment Plan and any other reports will provide a copy of the same, including statistical data, to the Local(s) in a timely manner.

Section 6 - Complaints

- A. Any employee who wishes to file or has filed an EEO complaint shall be free from coercion, interference, dissuasion, and reprisal.
- B. Management will make all employees aware of the process and procedures for contacting the Office of Resolution Management (ORM) when they feel that discrimination has taken place.
- C. The representative designated in writing by the EEO complainant will have the same access to information as the complainant and will receive a copy of all documentation forwarded to the complainant.

Upon request, Management agrees to provide the Local current statistics concerning discrimination complaints filed by employees consistent with applicable law rules, regulations regarding the release of information.

Section 7 - Committees

- A. The Parties shall encourage each facility to maintain operations of Equal Employment Opportunity (EEO) Committees.
- B. The subject of Local representation on EEO Committees is an appropriate matter for local bargaining.

**ARTICLE 47
SEXUAL HARASSMENT**

Section 1

Sexual harassment is a form of employee misconduct, which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes in the work productivity of its victims and coworkers.

Section 2

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment, or
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- C. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Section 3

In order to ensure compliance with this Article, Facility Directors will distribute to all service chiefs and supervisors a copy of the VA Policy Statement and Directive on Sexual Harassment.

**ARTICLE 48
SAFETY, HEALTH AND ENVIRONMENT**

Section 1 - General

It shall be the responsibility of the Department to establish and maintain an effective and comprehensive Occupational Safety and Health Program in accordance with Public Law 91-596, the Occupational Safety and Health Act of 1970 (referred to as the Act), Executive Order 12196, 29 Code of Federal Regulations (CFR) Part 1960 and VA Directives 7700 and 7700.1. The Department shall furnish places and conditions of employment which are free of recognized hazards and unhealthful working conditions.

Section 2 - Union Participation

- A. The Union may designate two representatives at the facility level, intermediate levels, and the National level who will represent the interests of the Union and the employees in the development and implementation of the Occupational Safety and Health Program. Time spent serving as a union representative with management officials in the following activities will be considered official time: during safety and health inspections, as a member of a Safety and Health Committee or its subcommittees, developing plans for abatement of materials, investigating accidents, and safety-related committee assignments.
- B. NAGE will designate two National Safety and Health Representatives who will each be on 50% official time. They will work with the Department's national-level safety and health officials in developing and implementing the Program. The National Safety and Health Representatives will represent the interests of the Union and employees in the development and implementation of all aspects of the Department's occupational safety and health program. The National Safety and Health Representatives will be the point of contact for any safety and health initiatives at the national and intermediate levels that impact employee safety and health. The parties will develop joint training programs and materials in safety and health for bargaining unit employees.
- C. The representatives will provide training and assistance to Locals in the performance of their responsibilities under the program. The National Safety and Health representatives may visit facilities within the bargaining unit to work with Locals on safety and health matters. Notice of such visits will be given to the Director of each facility.
- D. The National Safety and Health Representatives will be given copies or provided electronic access to all Designated Agency Safety and Health Official (DASHO) letters and other national-level communications to the field on safety and health matters as well as all safety manuals and publications.
- E. The Department will pay tuition, travel, and per diem expenses for the National Safety and Health Representatives to attend at least one conference each year.

- F. NAGE may designate additional representatives to work on individual projects of mutual interest to the parties. NAGE may designate representatives at appropriate intermediate levels within the Department to develop and implement the Safety and Health Program at that level.
- G. All Safety and Health Representatives shall be authorized the use of FTS, MS Exchange, and conference call capabilities.
- H. Each Local may designate a local Safety and Health Representative who will serve as point of contact for safety and health matters. Functions of Local Safety and Health Representatives include, but are not limited to the following:
 - 1. Conduct joint inspections;
 - 2. Issue joint reports regarding inspection findings to the appropriate management official;
 - 3. Participate in safety, health and environmental inspections conducted by entities outside the Department's control, including JCAHO (unless the entity explicitly prohibits such participation);
 - 4. Receive and investigate employee reports of unsafe or unhealthy conditions. Employees should submit such reports to both the Local and Management representative;
 - 5. Develop and monitor abatement plans needed to correct local conditions, as appropriate;
 - 6. Refer matters to OSHA or NIOSH, as appropriate;
 - 7. Receive copies of any written notice referred by a facility official in response to an employee report of an unsafe or unhealthy condition;
 - 8. Monitor preventive maintenance plans for HVAC system components;
 - 9. Receive all reports of security incidents involving threats to employees, their offices, and property. Such reports may be sanitized as appropriate;
 - 10. Receive all accident reports; such reports may be sanitized as appropriate.
- I. Each facility will have a Safety and Health Committee. The Local will be afforded representatives on such Committees, the number of which is subject to local negotiation. The facility's Committee may establish subcommittees in any service/location, and the Local will be represented on each subcommittee. The Local will have a representative on any other committee that relates to the safety and health issues of the bargaining unit. These will include, but not be limited to, Blood Borne Pathogens and Infection Control Committees.
- J. The Local will be given the opportunity to participate in all scheduled workplace inspections, which are intended to detect hazards to employee safety and health, whether conducted by Department Safety and Health personnel, non-Department employees acting on behalf of the Department, OSHA and Environmental Protection Agency (EPA) personnel, or other regulatory agencies and bodies.

Section 3 - Standards

- A. Management shall comply with occupational safety and health standards issued under Section 6 of the Act and/or where the Secretary of Labor has approved compliance with alternative standards in accordance with 29 CFR § 1960. The Department will notify the Union prior to the submission of any alternate standards to the Secretary of Labor. On a case-by-case basis, the Parties may adopt more stringent safety or health standards to address specific concerns
- B. Personal Protective Equipment (PPE), as required by appropriate OSHA standards to protect employees from hazardous conditions encountered during the performance of their official duties, will be provided at no cost to employees required to wear specific PPE. Hazard assessments to determine the need for PPE will be conducted by each facility for each workplace. These assessments will also evaluate the need for, and feasibility of, engineering controls or other devices designed to reduce workplace injuries and illnesses or eliminate the need for PPE. These assessments will be documented and a copy provided to the Local. When assessments determine the appropriateness of PPE, affected employees will have the opportunity to choose from available styles and sizes to optimize employee comfort and protection. Employees will receive training on the proper use and care of PPE.

Section 4 - Report, Evaluation and Abatement of Unsafe and Unhealthful Working Conditions

- A. Any employee, group of employees, or representatives of employees who believe that an unsafe or unhealthful working condition exists in any workplace have the right to report such condition to the appropriate supervisor, the facility Director, the appropriate Management Safety and Health Official, or the Local. In the case of immediate threat to life or danger of serious physical harm, the employee shall immediately report the situation to the supervisor or Safety and Health personnel.
- B. Safety and Health personnel and the Local safety representative will evaluate employee reports of unsafe or unhealthful working conditions in accordance with 29 CFR § 1960. The Local will be formally notified of all serious hazards as defined in 29 CFR § 1960.
- C. Management agrees to ensure prompt abatement of unsafe and unhealthful working conditions.
- D. If there is an emergency situation in an office or work area the first concern is for the employees and customers. Should it become necessary to evacuate a building, Management will take precautions to guarantee the safety of employees. Individuals will not be readmitted until it is determined, in conjunction with expert resources, that no danger exists to the evacuated personnel.

"Expert resources" may include, but are not limited to, local police departments, the Federal Protective Service, local fire departments and appropriate health authorities. The Local Health and Safety Committee members or Local Health and Safety Representative(s) will be notified as soon as possible regarding the emergency situation.

- E. An abatement plan will be prepared if the abatement of an unsafe or unhealthy working condition will not be possible within thirty calendar days. Such plan shall contain a proposed timetable for the abatement and a summary of steps being taken in the interim to protect employees from being injured as a result of the unsafe or unhealthy working conditions.
- F. When abatement action is dependent upon GSA or other lessors, the abatement must be prepared in conjunction with appropriate members of that group. The Health and Safety Committee will be timely notified and consulted, and all personnel subject to the hazard shall be advised of interim measures in effect and shall be kept informed of subsequent progress on the abatement.
- G. Prior to the establishment of the official abatement plan, the safety and health official will request that the supervisor take interim steps for the protection of the employees. The supervisor shall comply with this request.
- H. Any equipment, devices, structures, clothing, supplies, tools, or instruments that are found to be unsafe will be removed from service, locked-out, and/or tagged-out or rendered inoperative, as appropriate.

Section 5 - Comprehensive Analysis of Injuries and Illnesses

- A. Management agrees that a comprehensive analysis will be performed to determine causes and appropriate corrective actions concerning patterns of injuries and illnesses that occur at each facility. The analysis will examine such factors as: the general conditions under which the affected employee's job is performed; the processes and procedures involved in the performance of that job; and any unusual factors that may have contributed to the injury or illness. Recommendations to correct the conditions that contributed to the injury or illness will be included in the written results of this analysis and presented to the facility safety committee. Management shall provide a copy of any and all analyses performed within 15 days of completion.
- B. Management shall pay particular attention where patterns of injuries or illnesses are found in a given occupation. Experience in correcting hazards will be shared within the Department in an effort to find optimal ways of reducing injuries and illnesses.

Section 6 - Imminent Danger Situations

- A. The term "imminent danger" means any condition or practice in any workplace which is such that a danger exists which could reasonably be expected to cause death or serious

physical harm immediately or before the imminence of such danger can be eliminated through normal procedures.

- B. In the case of imminent danger situations, employees shall make reports by the most expeditious means available. The employee has a right to decline to perform his/her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to effectively seek redress through normal hazard reporting and abatement procedures. In these instances, however, the employee must report the situation to his supervisor or another supervisor who is immediately available.
- C. If the condition can be corrected and the corrected condition does not pose an imminent danger, the employee must return to work. If the supervisor cannot correct the condition or does not feel that an imminent danger condition exists, the supervisor shall request an inspection by facility safety or health personnel. While awaiting an inspection and the completion of any repairs resulting from the inspection, Management may require that the employee perform alternative tasks for which the employee is qualified.
- D. A Local representative will be given the opportunity to be present during the inspection by the safety and/or health personnel representative. Management shall investigate all instances where the safety or health personnel have failed to notify the Local and provide an opportunity to be present during inspections. Management shall provide the Local with a written explanation stating the reason(s) for such failure and any corrective actions taken. If the safety or health personnel representative decides the condition does not pose an imminent danger, the instruction to return to work shall be in writing and contain a statement declaring the area or assignment to be safe. Refusal to perform an assignment after the safety or health personnel representative has deemed it to be safe may result in disciplinary action.
- E. When Management receives a report that a dangerous, unhealthful or potentially dangerous or unhealthful condition is present at a particular work site, Management shall notify the Health and Safety Committee and the Local Health and Safety representative(s) of the alleged dangerous or unhealthful condition.

Section 7 - Training

- A. Management shall provide safety and health training for employees, including specialized job safety training appropriate to the work performed by the employee. This training will address the Department's and the facility's Occupational Safety and Health Program, with emphasis on the rights and responsibilities of employees.
- B. Management will provide basic and specialized safety and health training for Local Safety and Health Representatives.

Section 8 - Allegations of Reprisal

No restraint, interference, coercion, discrimination, or reprisal will be directed against an employee for filing a report of an unsafe or unhealthful working condition, for participating in Department Occupational Safety and Health Program activities or because of the exercise by an employee of any right afforded by Section 19 of the Occupational Safety and Health Act, Executive Order 12196, 29 CFR § 1960 or VA Directive 7700 or Handbook 7700.1.

Section 9 - Use of Insecticides and Other Like Chemicals

There will be no application of insecticides and other like chemicals during working hours, however, exceptions may be made in emergency situations in sensitive hospital areas. Such other chemicals include paint, carpet glue, HVAC cleaning agents, and similar construction or maintenance chemicals. Whenever pesticides are used in a large-scale application, the Health and Safety Representatives, as well as employees, will receive advance notice about the spraying. Individuals with special health needs will be reasonably accommodated.

Section 10 - Leases

The parties recognize the potential impact of solicitations of offers from GSA. The Local or Union, as appropriate, will be notified timely of these situations. This provision is not a waiver of the right to request additional information, consultation, and bargaining.

Section 11 - Temperature Conditions

Temperature conditions in and around work areas can have a direct bearing on employees' health. The problem of temperature extremes, either hot or cold, and appropriate measures to reduce the risk of exposed employees are appropriate matters for referral to established Health and Safety Committees or to the Local Health and Safety Representatives.

Section 12 - Asbestos

- A. Management shall conduct an inspection at each facility to determine the existence of asbestos. Consistent with PL 100-368, PL 101-367, and related OSHA regulations, qualified inspectors will inspect the facility for asbestos under appropriate EPA/OSHA guidelines and standards.
- B. Management will review all construction, space modification contracts or work orders to determine if asbestos is present and, if so, how to proceed with appropriate removal or containment.
- C. Management will notify the Local in writing prior to initiating procedures for asbestos removal. In case of emergency, management will notify the Local within two administrative workdays after the emergency occurs.

- D. Where it has been determined that friable asbestos exists, Management will conduct air sampling.
- E. If air sampling indicates that airborne concentrations of asbestos fibers exceeds regulatory levels, exposed employees will be notified in writing of the exposure within five days after discovery of the excessive asbestos concentration. Management will assist affected employees in filling out and filing the appropriate OWCP forms.
- F. If the airborne asbestos concentration amounts are exceeded, Management will protect employees through abatement of the asbestos hazard pursuant to 29 CFR § 1910.1001(f).
- G. Local Union Health and Safety representatives will be given training on asbestos removal and permitted to monitor removal procedures.
- H. Local Union Health and Safety Representatives will be given a copy of all tests monitoring asbestos levels. Privacy Act protected information may be redacted.
- I. Asbestos abatement plans may include the discontinuance of work or the shifting of employee work location. Notice of such abatement action will be provided to the Local in advance, except in an emergency situation, in which the Local will be notified as soon as possible. Management will meet its bargaining obligations in both instances.
- J. Asbestos will be managed and monitored in accordance with EPA/OSHA criteria.
- K. Asbestos and asbestos-contaminated material shall be collected, and disposed of, in accordance with appropriate EPA/OSHA regulations.
- L. Management will institute a medical surveillance program in accordance with applicable regulations (federal, state and local) and policies for all employees engaged in work involving asbestos for 30 or more days per year.
- M. Management will make available medical examinations and consultations to each employee prior to assignment to an area containing asbestos which requires that negative pressure respirators be worn.
- N. When an employee is assigned to an area where asbestos exposure exceeds OSHA permissible exposure limits 30 or more days per year, a medical examination must be given within ten working days following the 30th day of exposure.
- O. Upon request of any bargaining unit employee exposed to asbestos above OSHA regulatory limits, Management shall make available, at no cost to the employee, pulmonary function tests and x-rays, as appropriate and consistent with OSHA regulations, but no less than once every five years.

- P. Management shall record all measurements taken to monitor employee exposure to asbestos, including tremolite, anthophyllite and actinolite. Such records shall be maintained with applicable laws and Government regulations. The records will include information such as the date of measurement, the operation which caused exposure, the sampling method employed by the Department, the number, duration and results of the samples, type of protective devices worn, and name of the employee exposed.
- Q. Management will initiate a maintenance program in all location(s) that contain asbestos. Such a maintenance program will include:
1. Inventory of all asbestos-containing materials in a location;
 2. Periodic examinations of asbestos-containing materials to detect deterioration;
 3. Written procedures for handling asbestos materials;
 4. Written procedures for asbestos disposal;
 5. Written procedures for dealing with asbestos related emergencies;
 6. Training of those required to handle asbestos containing material in safe handling procedures; and
 7. Training of all affected personnel in prohibited activities which would enhance dangerous exposure.
- R. Management must inform all affected employees regarding the standards contained within this Section regarding asbestos. Such information must be provided to each employee on a yearly basis and include instructions regarding safe asbestos handling. Also, access to information regarding exposure records and medical records must be provided on a yearly basis.

Section 13 - Use of Respirators

Situations requiring employees to wear respirators for safety shall be a subject for local bargaining, which will include a process for respirator fit testing.

Section 14 - Emergency Preparedness

- A. Each facility shall have an emergency preparedness plan. This plan will publish the chain of command, which will identify a member of Management who will be physically present for employee direction during all scheduled work hours in each facility. The plan will also cover employee procedures in the event of fire, earthquake, bomb threat, tornado, flood, hurricane, or similar emergency. Evacuation drills will be conducted quarterly.
- B. Management agrees to make reasonable efforts to assure that each facility has adequate personnel available to administer cardio-pulmonary resuscitation (CPR). All clinical personnel and other employees required to respond to Code Calls will become familiar with all work site locations within the facility.

1. The Management will provide CPR shields and masks for those employees administering CPR.
 2. Training for CPR certification and/or recertification will be at no cost to the employees.
- C. Management agrees that the first concern when an employee is injured on the job is to make certain that the employee gets prompt emergency medical aid. Doubts over whether medical attention is necessary will be resolved in favor of arranging medical aid.
- D. When it is necessary to assist an employee to return home because of illness or incapacitation or to provide transportation to a medical facility, Management will arrange for transportation. If a co-worker is required to transport the employee, there will be no charge to leave for the co-worker.
- E. Management agrees to maintain adequate first aid supplies at each permanent facility. All employees will have reasonable access to these supplies.

Section 15 - Smoking Cessation Program

- A. The parties will attempt to make smoking cessation programs available to each and every employee who wishes to participate in them. The mechanics of the programs are an appropriate subject for local bargaining. Programs will include or be similar to programs conducted by the American Lung Association or the American Heart Association.
- B. Employees who wish to stop smoking but who are unable to successfully complete a smoking cessation program, or who have quit smoking but are experiencing related difficulties, may seek additional assistance through the Employee Assistance Program. Employee participation in assistance or cessation programs is strictly voluntary.
- C. Employees assigned to work in management designated smoking areas of the facility will receive additional compensation in accordance with applicable regulations.

Section 16 - Video Display Terminals

"Video Display Terminal" (VDT) refers to a word processor or computer terminal which displays information on a television-like screen (cathode ray tube).

- A. The policy of the Department is to provide safe and healthful workplaces for all employees. In keeping with the policy, the Department acknowledges that there are certain ergonomic and environmental factors that can contribute to the health and comfort of VDT users. These factors involve the proper design of workstations and the education of managers, supervisors, and employees about the ergonomic job design and organizational solutions to VDT problems as recommended in various studies published by the National Institute for Occupational Safety and Health (NIOSH).

- B. The Department agrees that employees should be provided information about ergonomic hazards and how to prevent ergonomically related injuries. This information could be provided by Occupational Safety and Health Administration (OSHA) Safety and Health Guidelines and other available literature. Management agrees to provide, to the maximum extent possible, equipment (chairs, tables, workstations, lighting, keyboards and screens, printers, etc.) which meets ergonomic design criteria. When equipment is purchased, to the extent possible, training should be provided by vendor on how to safely and properly operate that equipment.
- C. Management will achieve this policy by:
1. Accruing VDT's and accessory equipment that, to the maximum practical extent, provide comfort to the user and keyboards, worktables, and chairs that are height-adjustable and provide proper back support;
 2. Consulting with employees prior to purchase about furniture for use with VDTs;
 3. Seeking and acquiring information and technical assistance, as needed, from appropriate resources on methods for most effectively designing VDT work station layouts;
 4. Laying out workspaces that are properly illuminated to reduce glare and ensure visual comfort to VDT users while providing adequate lighting for traditional clerical tasks;
 5. Educating employees about the proper and safe operations of VDT's, including the value of interspersing prolonged periods of VDT use with other work tasks requiring less intensive visual concentration (Where there are prolonged periods of VDT use and no other work tasks available, those employees should be given a rest break.);
 6. Distributing information to all employees on a periodic basis on VDT's and ergonomic furniture and identifying Department resources for more information; and
 7. Reviewing the set-up of equipment and furniture for VDT workstations as a regular part of safety and health inspections.
- D. VDT Emissions Test. In accordance with standards for acceptable radiation emissions of VDT's, Management will conduct periodic tests of terminals for any emissions. Any terminal that tests above standard will be repaired to meet the standard or it will be removed from service.
- E. Non-VDT Work Reassignment Request. If a pregnant employee requests reassignment for all or some portion of her pregnancy and, has a written recommendation from her physician, Management will reassign that employee to work that does not involve the use of a VDT.
- F. VDT Breaks. Where an employee uses a VDT or other keying device for at least one hour, the employee shall receive a 10-minute break for every hour of utilization. Such breaks will be in addition to regularly scheduled rest periods. This does not preclude employees from receiving rest breaks when suitable non-VDT work is not available.

Section 17 - Indoor Air Quality

- A. All employees are entitled to work in an environment containing safe and healthful indoor air quality.
- B. The Department shall provide safe and healthful indoor air quality by conforming to laws, guidelines, regulations, and policies issued by Federal regulatory agencies such as OSHA, EPA, and GSA.
- C. On-site investigations/inspections will be conducted when a problem concerning indoor air quality or building related illness is brought to Management's attention. These investigations/inspections shall meet the criteria of the GSA Federal Property Management Regulations and the American Society of Heating, Refrigerating and Air Conditioning Engineers, the protocols of OSHA, and the American Conference of Government Industrial Hygienists.
- D. In compliance with engineering standards, the Management shall maintain ventilation efficiency.
- E. Management shall ensure that:
 - 1. All measures will be taken to minimize and/or eliminate the impact of contamination from outside sources such as garages, cooling towers, and building exhausts. Where the levels of such contaminants become health threatening, Management will either seek to relocate or evacuate the facility.
 - 2. Management will make reasonable efforts to provide comfortable humidity and temperature control.
- F. Microbial Contamination
 - 1. Management agrees to eliminate or control all known and potential sources of microbial contaminants by assessments and appropriate response to all areas where water collection and leakage has occurred, including floors, roofs, HVAC cooling coils, drain pans, humidifiers containing reservoirs of stagnant water, air washers, fan coil units, and filters. Such response will normally require prompt cleaning and repair of contaminated areas.
 - 2. Management shall:
 - a. Clean and disinfect or remove and discard porous organic materials that are contaminated; and
 - b. Clean and disinfect non-porous surfaces where microbial growth has occurred with detergents, microbicides, or other biocides and insuring that these cleaners have been removed before air handling units are turned on. In any leased space the Department will deal with the lessor or GSA to achieve these objectives.

Section 18 - Renovation and Construction

- A. Wherever Management decides to alter the physical work site of bargaining unit employees, the Local will be notified in advance.
- B. Management will:
 - 1. Isolate areas of significant renovation, painting, and carpet laying from occupied areas that are not under construction;
 - 2. Schedule this work to be performed during evenings and weekends, unless the work can be performed in such a way not to expose employees to environmental or occupational hazards;
 - 3. Ensure that contaminated concentrations are sufficiently diluted prior to occupancy;
 - 4. Supply adequate ventilation during and after completion of work to assist in dilution of the contaminant level; and
 - 5. In leased space, work with the lessor or GSA in order to achieve and maintain these standards.

Section 19 - Wellness Program

- A. Recognizing, minimizing, and coping with stress are essential parts of employee wellness. Management will provide training at least annually on stress reduction. This will be a part of each facility's Wellness Program.
- B. Employees who feel they are experiencing harmful levels of job-related stress may contact employee counseling services.
- C. Management will establish Wellness Committees or sub-committees to address wellness and health programs. The Local will be offered membership on the Committee(s).
- D. Management agrees to provide the following services:
 - 1. Emergency diagnosis and initial treatment of injury or illness that becomes necessary during working hours and that is within the competency of the professional staff and facilities of the health service units. If the injury or illness is work-related and the above-described services are not available, the employee will be transported to the appropriate medical facility.
 - 2. Provision for special health examinations for specific categories of employees whose work environment presents peculiar health hazards.
 - 3. Individual facilities will provide diagnosis and screening tests and health education programs for unit employees. It is understood by the parties that these services are secondary to the Department's primary mission of patient care, including outpatient obligations and budgetary considerations.

4. Referral of employees to private physicians, dentists, and other community health resources, upon request. An employee will be expected to notify his/her supervisor of his/her intention to seek medical treatment in health units. When this is not feasible, the employee may report directly to the health unit or person authorized to render emergency care.
5. Each facility where employees are exposed to chemical or biological hazards will implement a medical surveillance program in accordance with applicable regulations.

Section 20 - Equipment, Machinery, and Furniture

- A. Employees are encouraged to report equipment, machinery, or furniture that causes or has potential to cause injuries such as repetitive motion injuries. Management agrees to investigate such reports expeditiously and to implement appropriate corrective action.
- B. Management will insure that employees have been oriented to the use of new equipment or machinery and will ensure that this equipment or machinery has been inspected before initial use, when required.
- C. Only qualified personnel shall perform maintenance or repair on moving or operating machines. This does not preclude the normal or necessary adjustments to be made to machinery or equipment while in operation. Qualified personnel shall not be required to perform any maintenance or repair while the machine is in operation where it can be shown that there is a substantial risk of injury or a feasible alternative exists.

Section 21 - Workplace Violence

- A. Management shall adhere to VA Directive 7700 and Handbook 7700.1. Management shall provide all bargaining unit employees a copy of or access to these directives within 30 days after the effective date of this Agreement.
- B. Management will make reasonable efforts to protect employees from abusive and threatening occurrences and will take reasonable precautions to ensure such protections.
- C. Management will arrange for emergency protective assistance at each facility to enable employees to receive assistance if the situation requires.
- D. Whenever an employee is faced with a physically threatening situation, Management will provide appropriate assistance.
- E. Employees will not be required to divulge personally identifiable information to the public in individual circumstances where the employee reasonably believes harassment or physical abuse may result. In such cases, the employee should inform the supervisor in a timely manner.

- F. Management will equip reception areas with appropriate security devices to ensure employee safety, to the maximum extent possible.
- G. Labeling phones with emergency phone numbers may be a subject for local bargaining.

Section 22 - Safety and Health Records

- A. Management agrees to compile and maintain records required by the Occupational Safety and Health Act and VA Safety and Health Programs. Management agrees to ensure access to employees, former employees and Local representatives to records/logs of facility occupational injuries and illnesses (including copies of accident reports) and to the annual summary of these in accordance with 29 CFR § 1960, consistent with law.
- B. Management and the Local shall identify employees who occupy positions that carry potential risks to their health. The Parties will establish and maintain procedures for the medical surveillance of such employees.

Section 23 - Hazardous Duty Pay and Environmental Differential

- A. Environmental Differential (Federal Wage System)
 - 1. In accordance with 5 CFR Part 532, Subpart F, Appendix A, the appropriate environmental differential will be paid to an employee who is exposed to an unusually severe hazard, physical hardship, or a working condition.
 - 2. If, at anytime an employee or the Union believes that differential pay is warranted under 5 CFR Part 532, Subpart E, Appendix A, the matter may be raised at Step 3 of the negotiated grievance procedure.
- B. Hazardous Duty Pay
 - 1. Pay for irregular or intermittent duty involving physical hardship or hazard for GS employees will be paid in accordance with the provisions of OPM regulations (5 CFR, Part 550, Sub-part I).
 - 2. Any physical hardship or hazardous duties must be considered as part of position classification. Upon request, Management shall inform the employee and the Local whether or not such duties were taken into account in establishing the grade of the position and how the duties affected the grade established, including whether, absent those duties, the grade would have been lower.

Section 24 - Arrangements for Health Hazards Involving Communicable Diseases

Management will:

- A. Make appropriate arrangements for employees interviewing individuals with a known communicable disease.
- B. Take appropriate precautions when there is contact with a person who may have tuberculosis (TB). Employees with exposure or potential exposure to TB will be offered TB screening tests during working hours at no cost to the employees.
- C. Keep records of employees' exposure to active TB at the work site.
- D. Take appropriate precautions against the spread of infectious diseases. An employee, who reasonably believes that he or she has contracted a communicable disease, may file a claim for workers' compensation with the Department of Labor.
- E. Provide timely testing for employees who reasonably believe they were exposed in the course of their employment to a serious infectious disease. There will be no cost to the employees for leave, exam or treatment.

Section 25 - Pollution Prevention Strategy

- A. Management will maintain a current list of all hazardous materials in their respective sections/services and will be required to maintain paper copies of current Material Safety Data Sheets (MSDS) in each workplace.
- B. Management will identify each employee using hazardous chemicals in the performance of his/her duties.
- C. Assessments will be made for each of the hazardous chemicals and determine if there could be a less hazardous chemical which would fulfill the respective need.
- D. All chemicals or hazardous materials purchased shall require MSDS with purchase.
- E. Employees will be retrained at least annually on the handling and disposal of each hazardous chemical.
- F. The professional Industrial Hygienist will perform a physical inventory and audit January and July of each year and report to the facility Safety Committee on the compliance requirements, training needs of persons handling hazardous chemicals and disposals requirements.
- G. Types and quantities of hazardous waste generated at each health care facility and the methods used for disposal of each type of waste will be identified.

- H. The facility Safety and Health Committee will review methods used to dispose of hazardous waste for compliance with applicable criteria.
- I. All affected employees will be informed of each hazardous chemical they may have been exposed to and the risks associated with the hazardous chemicals.
- J. Monitoring is a proper subject for the Safety and Health Committee.

Section 26 - Health Screening Tests/Evaluations

Management agrees to provide health screenings consistent with law, Government-wide regulations, and Executive Orders.

ARTICLE 49
WORK RELATED AND NON-WORK RELATED INJURY/ILLNESS

Section 1 - Procedures

- A. Management agrees to process claims for on the job injuries in accordance with appropriate rules and regulations. Employees must report all on the job injuries to their supervisor, and will complete the appropriate form(s) in a timely manner or, if unable to do so, it will be done by the immediate supervisor. The supervisor will take appropriate action to ensure that the appropriate office(s) is/are promptly notified so that necessary reports and employee claims can be timely processed.
- B. Management will make a good faith effort to locate alternate duty work for employees who suffer from on the job injuries within a position that meets the physician's stated limitations. If no appropriate alternate duty assignment is available, the employee will elect either continuation of pay, if eligible, or an appropriate leave status.
- C. If requested, Management will provide assistance to employees in preparing necessary forms and documents for submission to the Office of Workers' Compensation Programs. Management agrees to post a notice on all facility-controlled bulletin boards advising employees of the appropriate forum or location for filing Worker's Compensation claims. Management will also distribute annual notices to all employees providing them the same information.
- D. Management will provide the Local notification when an employee, represented by a designated Local representative, has a claim which has been controverted and will state the reason for its decision in writing at the time it submits the document to the Office of Workers' Compensation Programs.
- E. Management and employee agree to fulfill their responsibilities as required by OWCP procedures (contained in 20 CFR, Parts 10 and 25). Management will, upon request, make available a copy of these procedures to the Local. Management will provide updates, as they occur, to the Local and all bargaining unit employees.

Section 2 - Placement of Workers' Compensation (OWCP) Claimants

- A. When an employee requests and supports his/her request with appropriate medical information, Management will make a serious effort to assign the employee on a temporary basis to duties consistent with the employee's medical needs, pending resolution of his/her claim.
- B. Where the employee requests and supports his/her request with an approved OWCP claim and appropriate medical information, Management will make a serious effort to assign the employee to duties consistent with the employee's medical needs. Any such action will be consistent with Article 22, Merit Promotion.
- C. If the Department of Labor, Office of Workers' Compensation, determines that an employee who was previously deemed disabled has now recovered and is medically able to be re-employed, Management will make a serious effort to offer appropriate employment.

Section 3 - Location of Services

Management will ensure the privacy, security and confidentiality of medical records.

Section 4 - Automated Safety Incident Surveillance and Tracking System (ASISTS)

- A. Management will adhere to VHA Directive 98-030 (June 30, 1998).
- B. Management will annually notify each bargaining unit employee, in writing, of the following rights concerning OWCP:
 - 1. The right to select the physician or facility to provide treatment for a sustained injury or illness. The VA facility is available for examination and treatment, but an employee is not required to use the VA facility. The employee has a choice to seek other medical care.
 - 2. The right to apply for compensation using the forms required by the Department of Labor.
 - 3. The right to Union representation at any time.
- C. The following information will be accessible to the Local:
 - 1. Ability to print the 2162 form after completion by supervisor and safety officer;
 - 2. Electronic mail notification of accident report recorded in ASISTS after stub is created;
 - 3. Electronic mail message that employee has initiated CA-1 or CA-2;
 - 4. Electronic mail message that Safety Officer has completed CA-1 or CA-2;
 - 5. Ability to print accident report status; and
 - 6. Access to OSHA logs of incidents.

Section 5 - Telework

Management will consider the use of Telework for employees receiving OWCP benefits when appropriate and feasible.

Section 6 - Non-work Related Injury/Illness

- A. Employees recuperating from illness or injury, who are temporarily unable to perform the full range of their assigned duties as certified by a physician, may voluntarily submit a written request to their supervisor for temporary assignment to duties commensurate with the illness or injury and the employee's qualifications.
- B. Management will consider all requests in a fair and equitable manner. Management will consider such requests in accordance with applicable rules and regulations and medical recommendations. Management may require that a Federal medical officer review such requests for appropriate recommendations.

- C. Management will, to the extent feasible, temporarily assign the employee to an appropriate vacancy or duties and responsibilities within his/her own service/section commensurate with the employee's illness or injury and qualifications.
- D. Management shall continue to consider employees for promotional opportunities for which they are otherwise qualified.

ARTICLE 50
VA DRUG-FREE WORKPLACE PROGRAM

Section 1 - General

- A. The Department agrees that its Drug-Free Workplace Program will be administered in accordance with Executive Order (E.O.) 12564, the Department of Health and Human Services (HHS) Mandatory Guidelines for Federal Workplace Testing Programs, and any subsequent changes thereto, other laws, rules and Government-wide regulations. For the purposes of this agreement, the terms "rules and regulations" shall mean those rules and regulations of authorities outside the Department, such as the Office of Personnel Management and HHS. The Parties agree that the testing referred to by the term "drug test" means "urinalysis."
- B. The Department shall not implement any subsequent proposed changes to these procedures that impact bargaining unit employees without first fulfilling its labor obligations with NAGE. By entering into this agreement, the Parties recognize that the Union is not authorized to waive, and does not waive, any legal challenge or Constitutional or legal rights employees may have regarding any facet of drug testing.
- C. A fundamental purpose of VA's drug testing program is to ensure VA patients are treated safely. The drug testing program was also established to assist employees who themselves are seeking treatment for drug use. For this reason, VA will not initiate disciplinary action against any employee who meets all three of the following "safe harbor" conditions:
- (1) Voluntarily identifies him/herself as a user of illegal drugs prior to being identified through other means;
 - (2) Obtains counseling or rehabilitation through an Employee Assistance Program; and
 - (3) Thereafter refrains from using illegal drugs.
- D. The provisions of this Article are intended to apply only to drug tests conducted under the Drug Free Workplace Program and to be interpreted consistently with applicable government-wide regulations.

Section 2 - Employees Subject To Testing

Testing will be conducted in accordance with applicable laws, rules, and regulations. E.O. 12564 provides for the following types of drug testing:

- A. Random testing for the use of illegal drugs by employees in sensitive positions;
- B. Voluntary employee drug testing;
- C. Reasonable suspicion testing;

- D. Injury, illness, unsafe, or unhealthful practice testing;
- E. Follow-up to counseling or rehabilitation for illegal drug use through the EAP;
- F. Applicant testing.

Section 3 - Positions Designated as Sensitive

- A. The designation of sensitive positions will be done in accordance with applicable laws, rules and regulations. E.O. 12564 states “the head of each Executive Agency shall establish a program to test for the use of illegal drugs by employees in sensitive positions. The extent to which such employees are tested and the criteria for such testing shall be determined by the head of each [Executive] agency, based upon the nature of the agency’s mission and its employees’ duties, the efficient use of agency resources, and the danger to public health and safety or national security that could result from the failure of an employee to adequately discharge his or her position.”
- B. Management will provide the appropriate Local President with a copy of changes to the list of Testing Designated Positions.

Section 4 - Reasonable Suspicion Testing

- A. Consistent with E.O. 12564, VA Handbook 5383.1, and applicable government-wide regulations, reasonable suspicion testing may be required of any employee in any position which is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable suspicion testing may also be required of any employee in any position when there is a reasonable suspicion of on-duty use or on-duty impairment. A reasonable suspicion of drug use or impairment may be based upon, among other things:
 - 1. Observable phenomena, such as direct observation of drug use or possession or the physical symptoms of being under the influence of a drug;
 - 2. A pattern of abnormal conduct or erratic behavior in the workplace setting indicative of illegal drug use;
 - 3. Arrest or conviction for a drug related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, or use or trafficking;
 - 4. Written information provided either by reliable and credible source or by an independently corroborated source; or
 - 5. Newly discovered evidence that the employee has tampered with a previous drug test.
- B. The decision to test an employee based upon reasonable suspicion of drug use requires review by a higher-level supervisor. The higher-level supervisor shall advise the supervisor in writing of concurrence or rejection of the decision in advance of the drug test. Furthermore, the supervisor must document in writing all reasons for claiming

reasonable suspicion prior to ordering the employee to take the drug test. This includes documentation of information addressed in paragraph 4A. above.

Section 5 - Injury, Illness, Unsafe, or Unhealthful Practice Testing

- A. VA is committed to providing a safe and secure work environment. It also has a legitimate interest in determining the cause of serious accidents so that it can take appropriate corrective measures. Post accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:
1. The accident results in a death or personal injury requiring immediate hospitalization; or
 2. The accident results in damage to government or private property estimated to be in excess of \$10,000.
- B. If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this decision to the facility Director for approval. Once approval has been obtained and arrangement made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

Section 6 - Volunteer Testing

Employees will not be coerced or required to participate in voluntary testing established under section 3(b) of E.O. 12564. Participation or non-participation in voluntary testing will neither advantage nor disadvantage employees in any aspect of their employment except as otherwise agreed to in a settlement or last chance agreement. To the extent that random testing may be conducted on volunteers, it must be conducted in accordance with applicable laws, rules and regulations.

Section 7 - Notification to Employees

- A. VA agrees to make every effort to fully inform employees about the goals, objectives, policies and procedures of any drug-testing plan.
- B. Sixty (60) calendar days prior to the implementation of VA's drug testing plan, VA will notify all employees in writing that testing for the use of illegal drugs will be conducted.
- C. The Department will give all employees an opportunity to attend briefings on the Drug-Free Workplace Program prior to the implementation of the testing component at each facility. At the training the employees shall have the opportunity to ask questions and get answers. Educational packages and any subsequent notices shall include the name and number of a contact person who will answer employees' questions. Training classes and educational materials shall include, but are not limited to the following:
1. Participation in the program does not necessarily imply suspicion of drug use;

2. Information about the Medical Review Officer (MRO) process as set forth in the HHS guidelines, including procedures for submitting documentation that may support a justification for a positive test result;
 3. The consequences of a positive test result;
 4. The reasons for the urinalysis test and the circumstances under which testing may occur;
 5. Notice of the opportunity for, and the consequences of, an employee voluntarily identifying himself/herself as a user of illegal drugs and willingness to undertake counseling or rehabilitation;
 6. Information about the testing procedures and the HHS guidelines regarding quality assurance, control and confidentiality;
 7. The availability of drug abuse counseling and referral services, including the name and telephone number of the local EAP Counselor(s);
 8. The fact that the employees have a right to Union representation as provided in the Master Agreement; and
 9. The consequences should they refuse counseling or rehabilitation.
- D. On the day of drug testing, the employee to be tested shall receive in writing the information set forth below. If the testing is to take place at a location other than the employee's duty station, the information shall be provided the employee prior to leaving the duty station. Otherwise the information shall be given to the employee prior to the scheduled collection time. Inadvertent failure to provide this information will not invalidate the results of an employee's drug test.
1. Whether the test is voluntary or mandatory;
 2. The reasons for ordering the drug test;
 3. How the employee was selected for the test;
 4. The consequences of a positive result or refusal to cooperate, including adverse actions;
 5. What drugs or class of drugs they are being tested for;
 6. The MRO process as set forth by HHS guidelines, including the procedures relating to the submission of information to justify a positive result caused by prescription medication, non-prescription medication or other substance;
 7. The location of drug abuse counseling and referral services available through the Employee Assistance Program to which he/she can submit prior to testing. (However the test will not be delayed to allow the employee to seek assistance);
 8. The fact that the employee has a right to Union representation only as provided in the Master Agreement; and
 9. The consequences should they refuse counseling or rehabilitation.

Section 8 - Methods and Procedures for Testing

- A. The Parties agree that methods and equipment used to test for abuse of drugs yield the best results when the most reliable laboratories are used. Therefore, Management will agree to review the Federal Register to ensure that its contractor remains an HHS-certified laboratory. In the event that the contractor is decertified in accordance with HHS guidelines, Management will cease any further testing at the decertified laboratory. Management will also cease further collections until an HHS-certified laboratory is available to accept employee specimens.

- B. The following procedures will be utilized subject to law, rules and regulations, to ensure drug testing is reliable and employee concerns are recognized:
1. The collection, handling and transportation of all specimens will be conducted strictly in accordance with HHS Chain of Custody Procedures, other HHS requirements, and any other pertinent laboratory requirements.
 2. The individual may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy in accordance with HHS guidelines. VA will make every reasonable effort to ensure that the specimen will be provided in a sanitary area.
 3. The urine sample will be split at the time of collection and in accordance with procedure, will be transmitted to the Department contractor with the primary specimen for storage in accordance with Chain of Custody Procedures. The split sample will be retained in an appropriate, refrigerated, and secure storage facility in accordance with HHS guidelines for a period of no longer than 15 days. The cost of conducting the split sample, the materials, postage, and storage costs are the responsibility of the Department.

Upon notification of a positive confirmatory test from the Department contractor, the MRO will notify the employee and he/she will have the opportunity to provide any/all relevant information that will assist the MRO in determining whether the positive test result is justified. At the employee's request, the MRO will request the split specimen be tested at an HHS-certified laboratory for the presence of drug(s) for which a positive result was obtained in the test of the primary specimen. The employee shall select a laboratory from a list of three HHS-certified laboratories. The Department will make the list available to the employee.

This confirmatory test will be conducted in accordance with HHS Guidelines regarding "Retesting of Specimens" and will not utilize cutoff levels. The cost of the confirmatory test will be borne by the Department. The MRO shall honor such a request if it is made within 72 hours of the employee's having received notice that he/she tested positive.

Should the employee-requested confirmatory test conducted by the second HHS-certified laboratory (utilizing the split sample) refute the original test, the original test will be negated.

4. If a sufficient volume of urine is not available to be provided in a reasonable period of time in accordance with HHS Guidelines, the collection site person will contact an appropriate authority within VA. Normally, "a reasonable period of time" should not extend beyond the employee's scheduled workday. Consideration will be given to re-scheduling the employee for testing at a later date.
5. VA will conduct in-house collection of all urine specimens. VA agrees to monitor the collection process to assure compliance with applicable HHS Guidelines.

6. Employees will not be required to reveal legitimate use of legal or prescription drugs at the time of collection. Employees may, however, provide this information if they so desire. This information is confidential and will only be released to the MRO.
7. Any employee who tests positive will be afforded an opportunity to justify the test results in accordance with HHS Guidelines, including the opportunity to present evidence of the legitimate use of prescription medication, non-prescription medication or other substance.
8. If the test is positive and the employee provides evidence that management concludes demonstrates a disabling drug dependency, management will provide any appropriate reasonable accommodations in accordance with applicable laws, rules and regulations. Follow-up testing conducted on employees who successfully complete a rehabilitation program will comply with applicable laws, rules and regulations.
9. Upon receipt of a positive test result resulting from the gas chromatography/mass spectrometry (GC/MS) confirmatory test conducted by the HHS-certified laboratory, the MRO, in accordance with HHS Guidelines, will examine alternate medical explanations for the test results. If the MRO concludes that the employee's medical documentation does not provide a legitimate medical explanation for the positive test result, the MRO must explain the basis for his/her rejection of the documentation in writing for the benefit of the employee. If the MRO determines that there is a legitimate medical explanation for the positive test result, he/she will determine that the result is consistent with legal drug use and will take no further action. The test result reported back to the Department would be "negative."
10. When requesting that collection times be scheduled for drug testing under Reasonable Suspicion testing and Injury, Illness, Unsafe or Unhealthful Practice Testing, where appropriate, the Authorizing Management Official will take into consideration leave and travel plans which have been scheduled and approved by the employees' supervisor. In the event that management cancels leave or travel orders to conduct a drug test, it shall reimburse the employee for any loss of funds, including but not limited to, airline tickets and hotel reservations, caused by the cancellation of the approved leave.

Section 9 - Confidentiality and Safeguarding of Information

The Parties recognize the responsibility to protect the confidentiality of employees under any drug-testing plan. The Department will use a serialized system of numbers assigned to employees to identify the specimen to the Department contractor for testing. The process shall include the following:

- A. The collection, handling and transportation of all specimens will be strictly in accordance with HHS Chain of Custody Procedures and other HHS requirements. Confidentiality and safeguarding of information will be handled in accordance with Section 8.B1.
- B. Employees will be assured confidentiality in all matters relating to drug testing. Information will only be released in accordance with law, rule or regulation.

- C. The Department shall destroy all Department records concerning non-confirmed or justified test results as required by laws, rules, or regulations.
- D. In accordance with all applicable laws, rules, regulations, guidelines and subsequent changes thereto, the employee who was subject to a drug test will receive copies of all records relating to his/her drug test within the control of the Department.
- E. In the event of evidence or allegation of a breach of confidentiality, management will promptly investigate such evidence or allegation and take appropriate corrective action, which may include disciplinary action, against the individual responsible for such breach of confidentiality. Management shall make a good faith effort to complete the investigation within 60 days of learning of the alleged breach of confidentiality. It shall provide the employee a written report and all information upon which the report is based within three days of the completion of the investigation report. Under no circumstances shall the alleged responsible individual participate in the investigation, except to provide testimony or evidence in support of his/her version of events.

Section 10 - Counseling and Rehabilitation

- A. Employees whose tests have been confirmed positive will be referred to an Employee Assistance Program Counselor for counseling and/or referral assistance for appropriate treatment and rehabilitation.
- B. Counseling and referral to rehabilitation services will be offered to employees and their families with substance abuse problems, and also to employees who have family members with substance abuse problems.
- C. After successful completion of rehabilitation, management will seriously consider returning the employee to the same or similar position as the one occupied before the drug problem was identified. Management shall take consistent disciplinary action against individuals who have tested positive and successfully completed rehabilitation. In the event management chooses to fire an employee even after successful completion of rehabilitation, it shall provide the employee in the notice of final department decision a detailed explanation indicating how the efficiency of the service is promoted by firing such employee

Section 11 - Acknowledgement Forms

No employee shall be required to sign any document stating that he or she agrees with a drug-testing program. This does not preclude an employee's agreement to submit to drug testing as part of a settlement or last chance agreement. Employees' signatures on any acknowledgement documents will merely signify notice of the terms of the document.

Section 12 - Employee Rights

- A. Employees may appeal disputes or conflicts in any appropriate forum.
- B. Any travel and/or per diem required in connection with drug testing will be provided by the Department in accordance with Federal Travel Regulations and VA's current travel policy.
- C. Employees subject to drug testing will not be charged leave for the time necessary to provide the required sample or to meet with the MRO, if necessary.

Section 13 - Union Rights

- A. Prior to local implementation, local management will fulfill its labor obligation.
- B. Upon request, management shall timely provide the union copies of all statistical data pertaining to drug testing, sanitized copies of reasonable suspicion determination notices to employees, and pertinent parts of its annual report to HHS/Congress which pertains to the Drug-Free Workplace Program. The reasonable suspicion notice to the employee will be sanitized to guarantee total anonymity to the employee.
- C. If the local NAGE president has a concern regarding the designation of the MRO or any aspect of the VA Drug-Free Workplace Program, he or she may bring these concerns to the attention of the facility Director/Chief Executive Officer.
- D. Union representatives will be granted official time during all aspects of representation of employees pursuant to this Program, in accordance with the Master Agreement and local supplemental contracts.

**ARTICLE 51
SILENT MONITORING**

Section 1

The primary purpose of monitoring public telephone conversations is not for evaluating performance or investigating misconduct, but to ensure that complete and accurate information is courteously provided to the calling public and to determine training requirements.

Accordingly, monitoring will not be used to evaluate performance unless the employee is notified in advance of the period during which monitoring will occur. Normally, this period shall not exceed one week. Management shall simultaneously notify the Local of such monitoring, location of the monitoring and the employee affected. In all cases, immediate feedback to the employee will be provided.

Section 2

Except where required for a criminal investigation or an internal security matter, the Department shall not record or monitor telephone conversations of the Local union offices.

ARTICLE 52
SURVEILLANCE

1. The Parties recognize that surveillance is conducted for safety and internal security reasons.
2. If the Department uses "covert" or "hidden" electronic camera surveillance during an investigation, the following shall apply if a disciplinary/adverse action is proposed against an employee represented by the Union.
 - A. The Union will be given a copy of all relevant evidence collected;
 - B. The Union will be provided a copy of the pertinent video tapes; and
 - C. The Union will be allowed to represent affected employees in any subsequent discussions or proceedings involving them.
3. The Local is not precluded from any further negotiations, as appropriate, on covert or hidden electronic camera surveillance.

**ARTICLE 53
EMPLOYEE ASSISTANCE**

Management agrees to implement and promote the VA Employee Assistance Program (VAEAP), which is a program for individuals having difficulties with alcoholism, drug abuse, emotional or other personal issues that may affect job performance. Employees and supervisors will be informed about the program.

Section 1 - Record of Participation

- A. Management will assure that no employee will have job security or promotion opportunities jeopardized by a request for counseling or referral assistance. Management will ensure that the confidentiality of medical records of employees with alcohol, drug or other personal problems will be preserved in accordance with current public laws and Office of Personnel Management regulations.
- B. After an employee is no longer participating in the program, records will be maintained confidentially and preserved in accordance with applicable laws and regulations.

Section 2 - Voluntary Participation and Employee Responsibility

Although the existence and function of counseling and referral programs will be publicized to employees, no employee will be required to participate or be penalized for merely declining referral to counseling services.

Section 3 - Confidentiality

- A. The Parties recognize all confidential information and records, including employee names, counseling and treatment, will be maintained in accordance with applicable laws, rules, and regulations.
- B. The Parties may not obtain information about the substance of the employee's involvement with a counseling program without an employee's specific written consent. Information obtained with the employee's authorization from such counseling programs may not serve as the basis for disciplinary or adverse actions.

Section 4 - Disciplinary Action

It is agreed that no employee who enrolls and participates in good faith in the VAEAP will be subject to disciplinary or adverse action as a result of their problem in the first instance so long as no criminal action is involved and until the employee has been given reasonable time and opportunity to be rehabilitated. However, this will not prevent discipline in the event of severe or egregious action.

Section 5 - Excused Absence

Employees undergoing a prescribed program of treatment under the VAEAP will be excused without charge to leave for a brief period of time of less than one hour.

Section 6 - Leave Associated with VAEAP

It is the policy of the Department to grant leave (sick, annual, or LWOP) for the purpose of treatment or rehabilitation of employees under the VAEAP in a manner similar to that granted for employees with any other health problem.

ARTICLE 54
STAFF LOUNGES & LOCKERS

Issues concerning staff lounges, break rooms and use of locker facilities are appropriate subjects for bargaining at the local level.

ARTICLE 55 CHILD CARE

Section 1 - Policy and Purpose

The Parties recognize that working parents may have special child care needs during working hours. The Parties recognize the need for such parents to secure appropriate child care arrangements. The Department will continue its efforts to secure adequate funding in order to support and foster child care services for its employees.

Section 2 - Child Care Activities

- A. The Department will continue to provide and/or support various activities in order to meet ongoing child care needs. These may include, but are not limited to, such things as child care and parenting information, child care resource and referral information, workshops, and counseling as available through the Employee Assistance Program.
- B. It is the Department's intention to utilize available funds nationwide to foster local solutions to child care needs. These may include construction of on-site facilities or near site facilities, participation in shared facilities with other Federal agencies, establishment of mini-centers, or other child care services.
- C. In accordance with 38 USC § 7809 and 5 CFR 792.200 – 792.233, the Department agrees to pay legally permissible expenses for training, conferences, or other meetings for child care employees. These training sessions, conferences and other meetings will be determined by the Department as necessary for child care employees and in connection with the provisions of child care services. The Department also agrees to pay similar expenses for Department employees who have oversight responsibilities for the operation of child care facilities, i.e., members of local Child Care Committees and Boards of Directors, if it is determined such training is relevant and necessary.
- D. The Head of each facility or appropriate designee will provide inquiring employees with current listings of the qualified, licensed child care centers in the immediate area. Recognizing that a broad range of child care needs exists in compiling such listings, Management will request specific information, i.e., age groups served, types of programs offered, and special needs program.

Section 3 - Local Child Care Committees

- A. When a site for a VA Child Care Center is selected, the Parties will establish a local committee comprised of one Management representative, one Local representative, parents, and other parties as appropriate. Management will have subject matter experts available to meet with the Committee on an as needed basis. The Committee will guide development of the local child care program, including development of marketing strategies, operating procedures, and admission priorities.
- B. The Committee will have the opportunity to review and make recommendations which will be considered in the design of the facility. The Committee will participate in the selection of the child care provider.

- C. Once the center becomes operational, the Committee will be replaced by a Board of Directors which the Committee will assist in establishing. The Local will designate one representative to serve on the Board of Directors.
- D. Bargaining unit employees will be on duty time when performing child care Committee/Board meetings or assignments.

Section 4 - Employee Needs

- A. It is agreed that the responsible official will grant emergency annual leave requests and may consider requests for leave without pay brought about by unexpected changes in child care arrangements, contingent upon operational exigencies.
- B. The Department agrees to utilize programs which may assist employees with child care needs; for example: part-time employment, job-sharing, leave, flextime, etc.
- C. The Department recognizes that it may be necessary for employees to contact child care providers during duty hours.

Section 5 - Facilities

In accordance with 40 USC § 490(b), Management will provide space, equipment, furnishings, and other services necessary to support the operation of each child care facility on Federal property.

Section 6 - Miscellaneous

The Parties agree that this Article will not delay or impact on any pending child care initiatives. The Local will be kept informed of the child care initiatives.

ARTICLE 56 PARKING AND TRANSPORTATION

Section 1 - Local Negotiations

Parking is a substantive subject for local supplemental negotiations to the extent not specifically covered in this Agreement. Each facility shall provide at least one parking space, in a clearly marked location convenient to the Union and reserved for twenty-four hours per day, for the use of each Local.

Section 2 - General

Where employees are not being charged for available parking upon the effective date of this Agreement, no charge will be initiated for the duration of this Agreement, except when required by law. The Parties agree that secure, adequate, and accessible parking for employees helps better serve customer needs and should be a consideration in local arrangements.

Section 3 - Relocation

Management agrees that if it relocates an office or should circumstances prompt changes in lease agreements that affect parking prior to the "solicitation for offers," Management will notify the Local.

Section 4 - Violations

An employee may receive two courtesy warnings and one counseling prior to receiving a parking citation by Department police, except where a vehicle is parked in clearly marked emergency lanes or parking spaces. All citations issued will be reviewed by the Director or designee who may make a recommendation to the Federal/city court. The citation or parking warnings will be purged in accordance with the VA Records Control Schedule.

Section 5 - Security

In parking facilities owned by the Department, Management will provide a safe and secure parking area for its employees, including, but not limited to, the following:

- A. Lighting - Adequate lighting in all parking areas throughout the facility;
- B. Security Service - For employee safety, VA police will provide escort service when available and if requested, to parking areas under VA jurisdiction, traffic control, and general facility security;
- C. Inspections - Inspections of grounds, including facility and parking areas, are to be regularly scheduled;
- D. Pedestrian Crosswalks - Crosswalk areas from parking area to facility will be clearly marked;

- E. Signage - Management will provide clearly understandable and unobstructed signs (traffic, pedestrian, etc.) consistent with GSA standards and guidelines and traffic safety engineering principles.

Section 6 - Commute Options

- A. The Parties agree to explore alternative commuting options and to encourage their use.
- B. Management will make appropriate arrangements for employees to advertise ride-sharing opportunities.

ARTICLE 57
UNIFORMS

Uniform issues shall be a subject for local bargaining; however, local bargaining does not waive national bargaining rights.

ARTICLE 58 DUES WITHOLDING

Section 1 - Technology Changes

In the event technology for the withholding, remittance or cancellation of dues becomes available, it may be authorized in lieu of existing forms.

Section 2 - Voluntary Allotment

Authorization for voluntary allotments of pay by employees for the payment of Union dues will be accepted and processed in accordance with applicable laws and regulation and this Agreement.

Section 3 - Allotment Forms

The Union shall provide the prescribed allotment forms (Standard Form 1187 or equivalent) to distribute the form and educate eligible employees on the program for allotments for payment of dues and the uses and availability of the required form.

Section 4 - Effective Date

An allotment authorization may be submitted to the Payroll Office (or designated office) at any time. Allotments will become effective at the beginning of the first pay period after receipt of the form in the Payroll Office (or designated office).

Section 5 - Termination of Allotment

The Employer shall automatically terminate an allotment when an employee leaves the unit as a result of any type of separation, transfer, or other personnel action (except details); upon loss of exclusive recognition by the Union; when this Agreement providing for dues withholding is terminated by an appropriate authority outside the Department of Veterans Affairs; or when the employee has been suspended or expelled from the Local, in which case the Local shall so notify the Payroll Office (or designated office) in writing.

Section 6 - Time Frame

An employee must submit any and all requests to terminate existing dues allotments between February 1 - 21st. An employee may voluntarily submit a Standard Form 1188 or equivalent request to terminate an existing allotment, which shall become effective one year from the date of membership and thereafter at the beginning of the first pay period after March 1st. Management shall provide the Local a copy of the revocation form or equivalent request within five working days of receipt.

Section 7 - Availability of Forms

Management shall maintain a supply of Standard Form 1188 or equivalent and will make this form available to employees upon request. It is the employee's responsibility to see that the form for revocation is received in the Payroll Office (or designated office) on a timely basis.

Section 8 - Remittance of Dues

The remittance of the dues withheld will be made payable to the Local Union and forwarded to the Comptroller Division, National Office, NAGE, 159 Burgin Parkway, Quincy, Massachusetts, 02169, within a reasonable period following the day on which the related salaries were paid to the members of the Union. A listing of employees' names and amount of dues withheld shall accompany each payment. The NAGE Washington, DC, Regional Office and the NAGE National Office will receive a copy of the listing.

Section 9 - Membership

Nothing in this Agreement shall require an employee to become or remain a member of a labor organization or to pay money to the organization, except pursuant to voluntary, written authorization by a member for the payment of dues through payroll deductions. The requirements of this section apply to all supplemental, implementing, subsidiary and informal agreements between the Department and the Union.

Section 10 - Service Fees

In accordance with statute, the Union will not be charged any service fee for the deduction of Union membership dues.

Section 11 - Changes in Dues

Changes in the amount of regular dues may be made not more frequently than once every six months. The National Office of the NAGE agrees to advise the Department in writing of the changes in regular dues. Notice shall be by Certified Mail, Return Receipt Requested. Within five working days of receipt, the Agency will notify the National Office of the NAGE of the pay period that the dues increase will be effective. The authorized change will become effective no later than the beginning of the third pay period after receipt of the Certified Mail notice of the increase in dues.

**ARTICLE 59
USE OF OFFICIAL FACILITIES**

Section 1 - Local Union Office Space

Management recognizes the importance and value of the Local's mission and purpose. Management shall furnish office space to the Local appropriate for carrying out its representational duties in locations easily accessible to employees and private citizens and of size (minimum 120 square feet), furnishings, and décor commensurate with other administrative offices within the facility.

Section 2 - Meeting Space

Management will, on an as-needed basis, provide conference rooms for discussions between employees and Local officials. Management will also provide suitable space for regular Local meetings. The Local agrees to exercise reasonable care in use of such space.

Section 3 - Telephone

Each office will be equipped with adequate, separate telephone lines for FTS telephone (two lines), facsimile and computer capabilities. Management will make internal telephones and FTS available to the Local for handling representational duties and conducting labor-management relations.

Section 4 - Equipment

- A. Management shall provide each Local office the following:
1. Facsimile machine;
 2. Personal computer with internet access, standard software, programs, and capabilities compatible with the facility's technology;
 3. Laser printer; and,
 4. Access to e-mail and administrative VISTA functions in the Local office.
- B. Management shall provide or make available a photocopier to each Local office.
- C. Management agrees to furnish the Local access to maintenance, shuttle service, and other customary and routine services and equipment such as the VANTS system for conference calls. Management will also make the public address system and electronic mail system available to the Local for appropriate use.
- D. Where Management has provided a means of communication such as electronic mail (e.g., MS Exchange, Outlook, VISTA, etc.), the parties may utilize such communication for official notifications, including grievances, policies, and other matters.

Section 5 - Bulletin Boards

At each facility, the Local will be provided space or bulletin boards in areas used for communicating to employees. Numbers and locations of bulletin boards will be determined locally. The material posted must be clearly identified as that of the Union or Local and must not be defamatory, scurrilous or inflammatory.

Section 6 - Metered Mail

Consistent with postal regulations, the Local shall have use of Department metered mail limited to representational matters. The Local shall not utilize metered mail for mass mailings.

Section 7 - Membership Drives

Management agrees to provide adequate facilities for membership drives at locations that will provide access to unit employees during break and lunch periods. Detailed arrangements may be negotiated at the local level.

Section 8 - Personnel Manuals

Management shall provide each Local President either access to or copies of Title 5 and Title 38 of the U.S. Code, including implementing regulations (Code of Federal Regulations) VA Directives/Handbooks. Management shall provide each Local either access to or copies of amendments to such publications and laws in a timely manner.

Section 9 - Transportation

- A. When travel to another location within the jurisdiction of a Local is necessary for representational activities consistent with the provisions of this Agreement and the law, the Local will be provided transportation on a space available basis.
- B. When a Local representative uses a privately owned vehicle because of the unavailability of a government-owned vehicle, travel reimbursement will be made pursuant to travel regulations if the activity is pre-approved and is within budgetary constraints.
- C. Associated travel and per diem is an appropriate subject for local bargaining.

**ARTICLE 60
INFORMATION AND UNIT MEMBERSHIP LISTS**

Section 1 - Membership Lists

- A. The Department shall furnish to NAGE twice a year, at six-month intervals, a list of names, positions/titles, occupation series, grades, work locations and duty stations of all employees in the bargaining unit. This information will be furnished beginning 15 calendar days after the effective date of the Master Agreement.
- B. Each facility shall furnish to each local Union, on a quarterly basis, a list of names, positions/ titles, occupational series, grades, service computation dates, work locations, and duty stations of all employees in the bargaining unit. Each facility shall, on a monthly basis, provide written notification to each local Union a listing of all new and separated employees.

Section 2 - Information

The Department/Management shall furnish to the Union/Local, upon request and to the extent not prohibited by law, data:

- A. which is normally maintained by the Department/Management in the regular course of business;
- B. which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and
- C. which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.

The Department/Management shall provide such information within a reasonable amount of time and at no cost.

**ARTICLE 61
WAGE SURVEYS**

Section 1 - Membership Survey Teams

Survey teams will consist of one member nominated by the local facility and one member nominated by the labor member of the local wage survey committee. Each will be selected on the basis of qualifications set forth under Federal Wage Survey System procedures. The number of teams needed to complete the surveys will be determined by the local committee.

Section 2 - Office Space

If VA is the host installation designated by the lead agency, VA will provide office space and telephone capability to local committee members and survey teams for the purpose of conducting the survey. The Department will provide such facilities where necessary.

Section 3 - Transportation

The Department will make every effort to provide official vehicles for the use of the survey teams and, if necessary, for committee members involved in the survey. In the event such vehicles are unavailable, Management will explore other alternatives to provide transportation for the survey team(s).

**ARTICLE 62
TIMELY AND PROPER COMPENSATION**

Section 1 - Timely Receipt

Employees are entitled to timely receipt of all wages earned for the applicable pay period. Employees shall receive their leave and earning statements in a secure manner and not later than payday, when available.

Section 2 - Errors in Payment

Employees should review their leave and earnings statements and notify their payroll representative of any unexplained changes. When there is an error in payment, the payroll representative will advise employees of the procedures available. Upon the employee's request, the payroll representative will provide the appropriate procedures for filing a request for waiver of all overpayment of pay and allowances received in good faith.

Section 3 - Salary Payments

- A. If the salary payments do not arrive in time for regular distribution, the Department will immediately contact the Treasury so that duplicate salary payments can be disbursed to the individual in the most expeditious manner. Whenever there is a delay, Management will distribute the salary payments as soon as possible after their receipt.
- B. In the event an original salary payment and a replacement salary payment are received, the employee will be responsible for returning whichever payment is received later.

Section 4 - Emergency Payments

- A. Whenever a Management error results in the failure of an employee to receive full salary payment on time, Management will take immediate action to promptly pay the employee. An emergency payment will be issued not later than the Friday following the payday on which the salary payment was not received by the employee. This will include payment from petty cash, duplicate salary payment, partial payment, etc., to the extent authorized. This will not apply to nominal errors that are routinely corrected through payroll adjustments.
- B. The amount of the emergency payment will be the employee's normal net salary (excluding overtime) as shown on the most recent leave and earnings statement.

**ARTICLE 63
DISTRIBUTION OF AGREEMENT**

Section 1

The Department shall publish this Master Agreement on its website. The Department shall provide the Union and each Local one computer disc containing the Master Agreement.

Section 2

New employees covered by this Master Agreement will, during in-processing, be offered a printed copy and advised where a copy may be reviewed electronically. Current bargaining unit employees will be offered a copy of the Master Agreement from management and will be advised that it will be available at the Local office or by electronic review. The Department shall provide the Union with 75 copies of the Master Agreement.

**ARTICLE 64
DURATION**

Section 1

This Agreement shall remain in full force and effect for a period of three years from the date of its approval by the head of the Agency or from the 31st day after execution, whichever is sooner. This Agreement will automatically be renewed for three-year periods thereafter unless written notice of a desire to renegotiate the Agreement is served by either party between the 105th and 60th day prior to expiration of the contract.

Section 2

This Agreement is also subject to reopening by mutual consent of the parties concerned or when new or revised laws or regulations of appropriate authority require changes to provisions of the Agreement. Before reopening, the party wishing to reopen will submit to the other party an agenda stating the reasons for reopening and the changes that are desired.

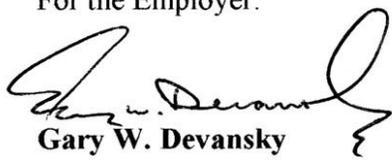
Section 3

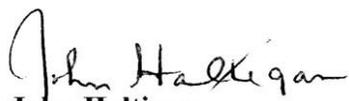
Notice under either Section 1 or Section 2 of this Article must come from an appropriate VACO officer or from a NAGE National official.

Section 4

When the renegotiation of this Agreement is pending or in process, and the parties are unable to complete such renegotiation by the termination date of the Agreement, the terms and conditions of this Agreement shall continue in effect until a new Agreement is effected.

For the Employer:


Gary W. Devansky
Chief Negotiator


John Haltigan
Member

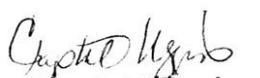

Robert W. Swanson
Member


Betty Alsop
Member


Meghan Serwin
Member

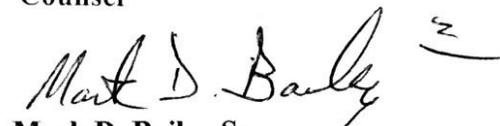

George R. Pearson
Member


Greg Nowak
Member (Retired)


Crystal Wiggins
Member

For NAGE:

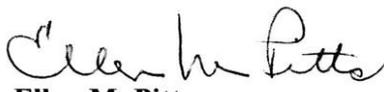

Gina Lightfoot-Walker
Counsel


Mark D. Bailey Sr.
Member


Susanne Pooler-Johnson
Member

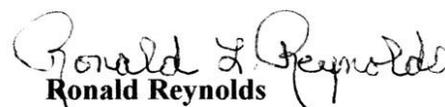

Susan F. Anderson
Member


Carolyn Westmoreland
Member


Ellen M. Pitts
Member


Kate I. Smith
Member


Fletcher Truesdell
Member


Ronald Reynolds
Member

Effective November 28, 2003

**Master Agreement Between
the Department of Veterans Affairs
and the National Association of
Government Employees**

**Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420**