



**Negotiated Agreement between the National Institutes of Health and  
Local 2419 American Federation of Government Employees AFL-CIO**

**The Federal Service Labor-Management Relations Statute Title VII**

*Civil Service Reform Act  
AFGE Consolidated Bargaining Unit  
Case WA-RP-60078*

The effective date of this Agreement is August 14, 2001

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## PREAMBLE.

This Agreement is made by and between the National Institutes of Health, Department of Health and Human Services, hereinafter called the "Agency" and the American Federation of Government Employees, AFL-CIO, Local 2419, hereinafter referred to as the "Union," and collectively referred to as the "Parties." It is the intent and purpose of both Parties to this Agreement to promote and improve the efficient administration of the National Institutes of Health and the major role it plays in the advancement of biomedical research and the nation's health, and the well-being of employees within the meaning of Title VII of the Civil Service Reform Act of 1978, PL, 95-454. To further establish a basic understanding relative to personnel policies, practices and conditions affecting their employment and to provide a means for amicable discussion and resolution of matters between the Parties at the National Institutes of Health. Therefore the Parties do hereby agree to:

- A. Actively engage each other in the resolution of issues in a timely and professional manner;
- B. Recognize and respect the needs of the other party;
- C. Consider opportunities to improve the relationship between the Parties; and
- D. Recognize that employees are a valuable resource.

This agreement, and any such supplemental agreements thereto, shall constitute a collective bargaining agreement between the parties.

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# Article 1.

## Recognition and Coverage of Agreement

**Section 1.** The Agency recognizes that Local 2419, American Federation of Government Employees, AFL-CIO, is the Exclusive Representative of all employees in the bargaining units as defined in Section 2 below, and Local 2419 recognizes its responsibility for representing the interest of all such employees, without discrimination or regard to Union Membership or status.

**Section 2.** The bargaining unit, pursuant to the Certificate of Consolidated Units, dated March 3, 1997, case No. WA-RP-60078, consists of the following units:

A. Maintenance Engineering Section, DES, ORS

All Wage Grade employees of the National Institutes of Health (NIH), Division of Engineering Services (DES), Maintenance Engineering Section (MES), Office of Research Services, located at the Bethesda, Maryland campus, excluding all Management Officials, Supervisors, Professional Employees, and Employees described in 5 U.S.C. 71 12(b)(2), (3), (4), (6) and (7).

B. Printing and Reproduction, DSS, ORS

All Employees of the Printing and Reproduction Branch (PRB), Division of Support Services (DSS), ORS, NIH, but excluding all Management Officials, Supervisors, Professional Employees, and Employees described in 5 U.S.C. 71 12(b)(2), (3), (4), (6) and (7).

C. Medical Arts and Photography, DIRS, ORS

All employees of the Medical Arts and Photography Branch (MAPB), Division of Intramural Research Services (DIRS), ORS, NIH, but excluding all Management Officials, Supervisors, Professional Employees, and Employees described in 5 U.S.C. 71 12(b)(2), (3), (4), (6) and (7).

D. Nutrition Department, CC

All Federal Wage System employees and General Schedule employees Health Technicians (Dietetic), GS-640, employed in the Nutrition Department, NIH, Clinical Center (NDCC), Bethesda, Maryland, but excluding all Management Officials, Supervisors, Professional Employees, and Employees described in U.S.C. 71 12(b)(2), (3), (4), (6) and (7).

E. Library Branch, DIRS, ORS

All employees in the Library Branch (LB), DIRS, ORS, but excluding all Management Officials, Supervisors, Professional Employees, and Employees described in 5 U.S.C. 71 12(b)(2), (3), (4), (6) and (7).

**Section 3.** The Units shall be known collectively as the "Bargaining Unit." However, it is agreed that when it is appropriate to name a specific unit (MAPB, PRB, MES, LB, NDCC) within a section, then the agreement will refer to that unit and declare that section applies solely to the named unit.

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## Article 2.

### Matters Appropriate for Consultation and Negotiation

**Section 1.** It is agreed that matters appropriate for consultation or negotiation between the Parties are conditions of employment, i.e., personnel policies, practices and matters affecting working conditions which are within the discretion of the Agency. Such matters include safety, training, labor management cooperation, employee services, methods of adjusting grievances, appeals, leave, promotion plans, demotion actions and hours of work to the extent permitted by higher authority.

**Section 2.** It is further agreed that the Agency will provide the Union with the opportunity to negotiate on negotiable subjects when changes are being considered in existing benefits, personnel policies and practices as they affect the working conditions of employees.

**Section 3.** The Employer agrees that prior to making changes on personnel policies and practices or matters affecting general conditions of employment in the unit, the Employer will provide the Union with a copy of the proposed change and will provide an opportunity for discussion between the Parties. The Agency agrees that it will serve any such proposed change to the President of the Union with copies to all the Union Officers. A list of officers will be provided to LRO in accordance with Article 5A. The method of notification will be made by regular mail, interoffice mail, email, FAX or any other recognized method of delivery. The Union may, within twenty-one (21) calendar days of the receipt of the proposed changes, request to negotiate, furnish written proposals thereto, or request a meeting to discuss those matters submitted by the Employer. The Employer agrees to give full consideration to views expressed by the Union. Exceptions to these time factors may be emergency situations that are beyond the control of the Employer.

**Section 4.** In the administration of all matters covered by this Agreement, officials and employees are governed by existing and future law and government regulations, including policies set forth in the Federal Personnel Manual or its successor. Subsequently published policies and regulations issued by appropriate authorities, or required by a higher agency level which are in conflict with this Agreement, will have no effect on unit employees until the expiration of this Agreement. However, the Parties may reopen by mutual Agreement the contract should a conflict arise between this Agreement and subsequently published regulations.

**Section 5.** Past practices between the Parties shall continue under this Agreement except as expressly superseded herein and except as the continued observance of such practices may have been rendered unreasonable by changes in their underlying conditions. It is understood that the party which seeks to rely on an asserted practice has the burden of proving the existence of such a practice. For the purposes of this Agreement a past practice is defined as a practice that has gone on with the knowledge of management, i.e., second-line supervisor or above, for a period in excess of three years.

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## **Article 3.**

### **Rights of Agency**

**Section 1.** In accordance with the Civil Service Reform Act of 1978 the Employer retains the authority:

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the agency.
- B. In accordance with applicable laws:
  - 1. To hire, assign, direct, lay off and retain employees in the agency or to suspend, remove reduction 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 agency operations shall be conducted;
  - 3. With respect to filling positions, to make selections for appointments 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 agency mission during emergencies.

#### **Section 2. Exceptions**

Nothing in this proposal shall preclude the Agency and the Union from negotiating:

- A. Procedures which management officials of the Agency will observe in exercising any authority under this Section;
- B. Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management; or
- C. At the election of the Agency, 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.

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# Article 4.

## Employee Rights

### ***Section 1. Respect in the Workplace***

It is the intent of the Parties that all employees shall be treated with fairness, dignity, mutual respect and courtesy.

### ***Section 2. Compliance With Rules, Regulations, and Agreement***

Rules, regulations, and the provisions of this Agreement should be enforced by management, and employees are expected to comply with them. Where management finds that employee conduct is inconsistent with applicable rules, regulations, or the provisions of this Agreement, and that this conduct has been due to lack of enforcement, management should apprise the employee of what is expected prior to starting to enforce that rule, regulation, or provision of this Agreement.

### ***Section 3. Right to Join or Assist Union***

Employees covered by this Agreement shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided in the Civil Service Reform Act of 1978, such rights include the right:

A. To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of Agencies and other officials of the Executive Branch of the Government, the Congress or other appropriate authorities; and

B. To engage in Collective Bargaining with respect to conditions of employment through the Union as provided by law and this Agreement.

### ***Section 4. Conflict of Interest***

Nothing in this Section, or this Agreement, authorizes participation in the management of a labor organization by a management official, or a confidential employee, except as specifically provided in the Civil Service Reform Act of 1978, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

### ***Section 5. Right to Remedial Relief for Employees in the Bargaining Unit***

In seeking remedial relief under this Agreement, the grievant and the duly designated Union representative, if any, shall be free from restraint, interference, coercion, discrimination, and reprisal.

### ***Section 6. Following Supervisory Orders and/or Instructions***

Employees have an obligation to follow and carry out a supervisor's lawful order and/or instruction (s). Failure to carry out a lawful order and/or instruction(s) may result in disciplinary action up to removal.

An employee who believes that the supervisor's order and/or instruction(s) is unlawful, may do any or all of the following:

- A. Give the supervisor a written statement expressing the employee's objection to the order;
- B. Report the alleged violation to the HHS - Office of Inspector General or 1-800-447-8477; or
- C. Verbally inform the supervisor of his concerns.

### ***Section 7. Employees Right to a Representative of Their Choice***

Nothing in this Agreement shall be construed to preclude an employee from:

- A. Being represented by an Attorney or other Representative, other than the Exclusive Representative, of the employee's own choosing in any grievance or appeal action; or
- B. Exercising a grievance or appellate rights established by law, rule, or regulation; except in the case of grievance or appeal provisions contained in this Agreement.

### ***Section 8. Private Lives vs. Official Duties***

- A. The Agency recognizes that an employee's financial obligations or obligations alleged by any creditor are private matters. In the event of a dispute between an employee and a private individual or firm with respect to an alleged debt or financial obligation, the Agency will not take any action against the employee which is contrary to law, rule, or regulation.
- B. Any NIH official who has authority to take, direct others to take, recommend, or approve any personnel action, shall not discriminate for or against any employee on the basis of conduct which does not adversely affect the performance of the employee or the performance of others; except that nothing in this Subsection shall prohibit the Agency from taking into account in determining suitability or fitness any conviction of the employee for any crime under the laws of any State, the District of Columbia, or the United States.
- C. No employee will be required to perform work without being in an official duty status. Private lives and off duty hours of employees will not be infringed upon, to the maximum extent feasible, by the Agency except for bonafide management reasons, in accordance with government wide rules, regulations or law.

### ***Section 9. Campaigns or Drives - Solicitation of Employees in the Bargaining Unit.***

- A. Definition - For the purpose of this Article; solicitation of employees in the bargaining unit means requests for contribution for the Combined Federal Campaign, participation in savings bond drive, blood drive, or other Agency approved solicitations which have been announced in generally published Agency directives.
- B. Participation - Contributions from employees in the Bargaining Unit and participation by employees in the unit to solicit contributions shall be voluntary. There shall be no discrimination against any employee in the unit for nonparticipation or for any level of contributions. An employee in the bargaining unit may be requested to volunteer to solicit contributions. A management or supervisory employee may participate in direct solicitation of employees in the Bargaining Unit which are not under their direct supervision.

C. Contributions for gifts for supervisors, management officials or fellow employees will be strictly voluntary, as provided by law.

### ***Section 10. Studies***

The Union shall be notified in advance of studies by management affecting conditions of employment. The Union may request to negotiate on issues related to the studies which impact on the Bargaining Unit to the maximum extent permissible by law. The Union will request bargaining in accordance with the time frames established in Article 2, Section 3. The results of any such study that will create a change in the conditions of employment shall be shared with the Union, in its capacity as the employee's representative, upon completion of the study. Either independently or through the Union, an employee has the right to respond to any such study conducted by the Agency.

### ***Section 11. Use of Personal Audio Devices***

Employees have the right to play radios, cassettes, etc., on the work site so long as the use does not disturb the productivity of the employee or other employees within the work site and does not distract clientele. The use of audio devices will be limited where safety becomes a major concern.

### ***Section 12. Supervision and Assignment of Work***

Consistent with the management's right to assign work to employees and to determine methods and means of performing work, employees can normally expect assignments to be made consistent with grade level, position description, and performance. Employees will usually receive instructions from and make reports through established supervisory/managerial channels as described or depicted in pertinent position descriptions, organizational charts, and directives. Exceptions to these practices will not be done on a routine basis, unless in accordance with Article 21, Training. Employees in the unit will be informed of whom they are to look to for supervision and performance appraisal.

### ***Section 13. Polygraph Tests***

The Agency will not ordinarily request or require an employee in the bargaining unit to submit to a polygraph test.

### ***Section 14. Personnel Records***

- A. The Official Personnel Folder will be maintained, and retained, in accordance with law, Government-wide regulations, and this Agreement.
- B. Employees may be granted reasonable amounts of time, upon approval of the Supervisor, to:
  - 1. Examine any of the records in their Official Personnel Folder (SF-66). Any documents that are part of an employee's Official Personnel Folder (OPF) will be available for review upon request of the employee; and
  - 2. Submit to the appropriate Personnel Officer responses to material placed in the records.

### **Section 15. Presenting Disputes**

Any employee or group of employees in the unit may present disputes to the Employer under the negotiated dispute resolution procedure set forth in Article 31 and have them adjusted, without the intervention of the Union, as long as the adjustment is not inconsistent with the terms of this Agreement and the Union is notified in advance of all meetings and given the right to be present during the dispute resolution proceeding. The Union will be given copies of all dispute replies in such cases. Employee disputes may not proceed to grievance or arbitration without the consent of the Union.

### **Section 16. Reporting Waste and Abuse**

An employee covered by this Agreement may, without fear of penalty or reprisal, engage in the disclosure of information which the employee reasonably believes evidences:

- A. A violation of any law, rule, or regulation; or
- B. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.
- C. Alleged violation may be reported to OIG on 1-800-447-8477.

### **Section 17. Representation**

An employee covered by this Agreement shall be given an opportunity to be represented by the Union at:

- A. Any formal discussion between one (1) or more representatives of the Employer and one (1) or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general conditions of employment; or
- B. Any examination of an employee in the unit by a representative of the Employer 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 employee requests representation.

### **Section 18. Searches**

Employees' work areas, lockers, desks, etc. will not be searched without just cause. If a search becomes necessary, the employee may request Union Representation in accordance with Section 17 of this Article.

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## Article 5.

### Union Rights

**Section 1.** The Union is the exclusive representative of the employees in the Bargaining Unit and is entitled to act for, and represent the interests of, all employees in the unit.

**Section 2.**

A. The Union shall be given the opportunity to be represented at any formal discussion between one (1) or more representatives of the Employer and one (1) or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

B. The appropriate Union representative will receive reasonable advance notice of such formal discussions. For purposes of this Agreement, the appropriate Union representative will be commensurate with the management level which initiated the formal discussion. i.e., Union Steward at the local unit level. The Union President will be the official representative at Bargaining Unit level formal discussions.

C. At any formal discussion, the appropriate Union representative will be identified and has the right to ask questions, comment, speak and make statements related to the subject matter addressed by the Employer at that meeting and shall not seek to take charge of or disrupt the meeting.

D. The Union shall be provided with any relevant information that is going to be presented at any formal meeting as far in advance as is practicable.

**Section 3.** The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the employer in connection with an investigation if:

A. The employee reasonably believes that an examination may result in disciplinary action against the employee; and

B. The employee requests representation.

**Section 4.** The Union shall have the right to present its views, either orally or in writing, to the Employer on any matters of concern regarding personnel policies and practices, and matters affecting working conditions.

**Section 5.** When new employees are hired and arrive at their duty station the Agency will introduce them to their respective Union Steward. The Parties will provide the employee with a copy of the negotiated Agreement and jointly explain the work policies, procedures and the conditions of the employment, and how they are implemented in accordance with the contract.

**Section 6.** The Parties agree to recognize Labor Recognition Week on an annual basis at an agreed upon time. During that week, the Union may use bargaining unit common facilities, such as break rooms and meeting rooms, where they exist, to set up exhibits that publicize the contributions of organized labor, including AFGE Local 2419, to society. This provision does not grant official time to employees for participating in this event. This shall not limit the Union's access to facilities that are outside the bargaining unit.

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## Article 5A.

### Union Representation

**Section 1.** The Agency recognizes the Union Steward system for the purpose of promoting an effective relationship between supervisors and employees by helping to settle problems at the lowest possible level. Stewards, as representative of the Union, recognize that the supervisor is responsible for determining the quality, quantity and timeliness of work performed.

**Section 2.** The Union shall designate and the Agency agrees to recognize one steward and one alternate from each organizational segment of the bargaining unit (for example, NDCC, LB, MAPB, PRB, Animal Center Unit, Building Maintenance Unit, Clinical Center Maintenance Unit, Automated Systems Unit, Office of Resource Management, and Power Plant Unit). The alternate will function for the regular steward only in cases where the steward is on extended leave. There will be one Chief Steward recognized from the bargaining unit. The stewards will be designated in writing to the Labor Management Branch, and the designations will be kept current.

**Section 3.** Local 2419 shall give the agency LRO, a list of Officers, Stewards, and other designated Union Representatives, within thirty (30) days after each general election. AFGE Local 2419 shall notify the Agency whenever any changes are made to this list.

**Section 4.** The Parties agree that the function of the steward is to gather pertinent facts regarding employee complaints and grievances in their designated area of stewardship and to attempt to resolve them through established lines of supervision. A steward's area of stewardship, including representation under the grievance procedure, shall be within the organizational unit in which he/she is employed. The President of Local 2419 or their designee, may assign a steward from another organizational unit on a case-by-case basis if a special need exists in an individual case. It is understood that such an assignment will not be made routinely. The President of Local 2419 will notify the Labor Relations Officer, ORS, and the Labor Management Branch, OHRM, as appropriate, in advance of such exceptions.

**Section 5.** The steward will be allowed time away from their job to transact authorized functions as noted in Section 4 above, after requesting and receiving permission from their immediate supervisor. The Agency agrees to provide official time to process grievances, and for Union Officials to perform representational duties in accordance with Article 6, Official Time. The steward will inform the immediate supervisor where he/she plans to go and will indicate the time required. The urgency of the workload at the time of the request will be the controlling factor in granting the request. The steward also must obtain permission from the supervisor of the employee with whom he/she wants to meet. Upon completion of their business, the steward and the employee will report back to their respective immediate supervisors.

**Section 6.** The Parties agree that time away from the assigned work area granted to stewards and employees will not be used for discussion of matters connected with the internal management or operation of the Union; the collection of dues or assessments, the solicitation of memberships, campaigning for elective office in the Union; the distribution of literature or authorization cards; or the solicitation of grievances or complaints. The Union recognizes its responsibility to ensure that the stewards do not abuse this authority by unduly absenting themselves from their assigned work areas and the stewards will make every effort to perform their authorized functions in a proper and expeditious manner.

**Section 7.** All internal Union business will be conducted during the non-duty hours of the

employees concerned. Official working hours include rest periods or breaks, but do not include lunch periods.

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## Article 6.

### Official Time

#### **Section 1. General**

Local 2419 and NIH management commit themselves to the development of a workplace culture and climate where Union representatives and management officials, in all appropriate units of the Agency, have a good working relationship and mutual respect. The Agency and Local 2419 recognize that reasonable time spent by Union officials in the conduct of union-management business under the statute contributes to the development of orderly and constructive labor-management relations.

#### **Section 2. List of Officers, Stewards, and Other Representatives**

Within thirty (30) days after each general election, Local 2419 shall give the Agency a complete list of all officers, stewards, and other representatives. Within the first five (5) days of each month, Local 2419 shall notify the Agency of any change in the list within the preceding month.

#### **Section 3. Performance of Union Functions and Stewards' Area of Jurisdiction**

Officers, Stewards, and Other Representatives of Local 2419 are authorized to perform duties properly assigned to them by the Local subject to the restrictions on use of official time provided in Section 4 of this Article.

#### **Section 4. Bank Hours**

The Union will be allowed an annual bank of 2400 hours. These hours are all inclusive for all matters related to Official time activities. The bank of hours will be administered by the LRO and Union President jointly. The usage of the hours must be submitted by the requesting official via an electronic version of form NIH 2789 through the e-mail. The e-mail will be sent simultaneously to the immediate supervisor, the LRO, and Union President, and the supervisor of any other employees, if applicable. Paper requests using the form NIH 2789 will be made when the e-mail system is not working.

All requests will normally be made two (2) work days in advance of the usage of the time requested. The Agency will normally respond to all requests within twenty-four (24) hours and will normally approve requests made. The Agency may turn down requests when the manning of the work group is so severely impacted by the anticipated use of official time that the Agency is unable to meet the needs of its customers or carry out its mission, and is of such importance that rescheduling of the time usage is preferred. The Union officials will normally be exempt from shift work duties and will normally be assigned to the day shift. This is done to allow them the ability to work with Agency Management and other Agency officials as needed to perform the duties of the position.

#### **Section 5. Recording Official Time**

A. Scheduling of official time will be made by submitting form NIH 2789 in accordance with Section 4 above, to the immediate supervisor of the person making the request. The amount of official time must be recorded on the Record of Official Time log. These forms are included in this agreement as Appendix A and B respectively.

B. The supervisor and Union representative shall maintain their respective forms. Each time official representational time is used, the supervisor and representative shall fill out and initial the forms. At the end of each month the supervisor and Union representative shall sign both forms.

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# ARTICLE 7

## Notice To Employees

**Section 1.** An employee who receives a personally addressed notice, proposal or correspondence from the Employer concerning disciplinary or adverse actions, shall receive an additional copy which will be identified as a "union copy provided to the employee."

**Section 2.** When management conducts formal orientation sessions, a local steward will be afforded an opportunity to be present. The local steward may also distribute at this time, material on its benefits and services, descriptive material about the Union, and a local 2419 announcement card, its constitution and by laws and a list of its officers and steward. These materials shall contain no adverse or derogatory information about the Employer. Any material distributed must conform to the requirement of law and regulations concerning information which may be distributed on Federal property.

**Section 3.** All new employees will be informed by the Employer that the Union is the exclusive representative of employees in the unit. Each employee shall receive a copy of any jointly signed statement of labor relations goals and responsibilities.

**Section 4.** Each employee will be furnished on a bi-weekly basis a payroll statement showing the employee's total cumulative earnings and total cumulative deductions from the first yearly pay period in each standard category. The notice shall also contain annual leave and sick leave balances. Any award monies will be accompanied by an explanation statement on the statement or separately.

**Section 5.** The Employer agrees to provide an employee who is injured while on duty status with a copy of the Department of Labor brochure, e.g., CA 550, and all the appropriate forms within a reasonable period of time after the reporting of the job accident or injury. At a minimum, when the employee sustains a job-related injury which requires medical treatment, management shall promptly authorize treatment by giving the employee a properly executed CA-1 within four (4) hours of the report. A CA-2 will be provided in lieu of the CA-1 if the employee is reporting an occupational illness.

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# **Article 8**

## **Annual Leave**

### ***Section 1. General Provisions***

Employees accrue and have a right to use annual leave in accordance with applicable laws and regulations and this agreement. The determination as to the time and amount of leave granted at any specific time is made by the supervisor, considering employees desires, staffing, workload, and training requirements as determining factors. The minimum charge for annual leave is fifteen (15) minutes with additional charges in multiples thereof.

Requests for annual leave will be submitted in duplicate on an application for leave SF-71, or electronically, where appropriate, to the Leave Approving Official who will advise the employee of its approval or disapproval.

Supervisors will expeditiously inform employees of their approval/disapproval of advance requests for annual leave. The Employer will provide each employee the opportunity to use all earned annual leave in order to avoid forfeiture. All use or lose leave will be scheduled prior to the end of pay period twenty-four (24) each year. The supervisor will not cancel or modify previously approved leave except for bonafide management reasons. The reason(s) will be explained to the employee. Employees may request annual leave for any duration, for any time and in any pattern they desire.

### ***Section 2. Scheduled Leave (Vacation)***

The Agency agrees to schedule annual leave for eligible employees for vacation purposes, normally of one (1) or two (2) weeks duration after March 30 of each year on requests received prior to March 30. Schedules for use of such annual leave will be constructed on the basis of employee preference and workload, and skill needs of the bargaining unit. Conflicts in employee preference will be resolved on the basis of length of service in the bargaining unit. An employee will not be permitted to change their selection if it disrupts the selection of another employee unless the latter is agreeable thereto and approved by their Supervisor. These leave requests will be reviewed and a decision communicated to employees by April 15.

### ***Section 3. Unscheduled Leave***

Annual leave may be granted upon request by an employee if reasonable notice (normally twenty-four [24] hours) is given, and when the workload permits. Requests for annual leave will be submitted in duplicate on an Application for Leave (SF-71) or electronically, to the leave approving official who will advise the employee of its approval or disapproval (normally twenty- four [24] hours).

### ***Section 4. Emergency Annual Leave***

Leave requests for emergency reasons will be considered on the circumstances of the individual request. An emergency for annual leave purposes is defined as:

- A. A condition which came to the employee's attention after he/she has left work;
- B. A situation of such a serious nature as to justify the employee's decision not to report; or
- C. A situation arising during duty hours that necessitates the employee's immediate absence from duty.

Normally annual leave for emergency reasons will be approved only for the amount of time necessary to satisfy the emergency. When requesting emergency annual leave the employee must indicate the amount of leave needed. If the emergency extends beyond the period for which leave was originally requested, the employee must again notify the Employer and request additional leave.

### ***Section 5. Emergency Annual Leave Procedures***

Requests for Emergency Annual Leave submitted as provided herein shall not be considered officially approved until acted upon by the leave approving official. Requests which are not approved will be charged as AWOL.

Employees other than those assigned to shift work, desiring Emergency Annual Leave are normally required to call their immediate supervisor within the first hour of the scheduled tour of duty unless there are extenuating circumstances beyond the control of the employee. However, the employee is required to call as soon as possible. If the immediate supervisor is not available, the employee shall leave a phone number at which they can be reached during their scheduled tour of duty. The request for leave will not be approved until the immediate supervisor discusses the situation with the employee and takes official action. Denials of requests for emergency annual leave will be for bonafide management reasons.

With the exception of the NDCC unit, shift workers requiring Emergency Annual Leave must normally notify their duty station no later than two (2) hours before the beginning of the scheduled shift to permit arrangements for replacement personnel, including but not limited to holding employees to work over their regular tour. In addition, normally the employees are required to call their immediate supervisor/shift head during the first hour of the scheduled tour of duty unless there are extenuating circumstances beyond the control of the employee. However, the employee is required to call as soon as possible. If the immediate supervisor/shift head is not available, the employee shall leave a phone number at which they can be reached during their scheduled tour of duty. The request for leave will not be approved until the leave approving official discusses the situation with the employee and takes official action. Denials of requests for emergency annual leave will be for bonafide management reasons.

#### **NDCC Unit rule:**

Early shift employees (shifts that start before 8 a.m.) are to call within the first hour of their scheduled tour of duty.

Late shift employees (all shifts starting after 8 a.m.) are to call one hour prior to the time that they are scheduled to work.

Employees must call in personally to make their request for Emergency Annual Leave. If the employee is unable to call, the supervisor will accept calls from an alternate provided the person identifies himself and they can provide the information required. However, the employee must call as soon as possible and may be required to furnish documentation for the period in which he/she was unable to call in personally.

The number of requests for Emergency Annual Leave will be held to a minimum because of the effect on essential operations and inconvenience to other employees who must be required to serve as substitutes.

### ***Section 6. Use or Lose Leave***

Employees faced with the possibility of loss of leave shall notify the Employer of their leave requests for the balance of the leave year before the end of pay period 24. Employees may donate annual leave under the Voluntary Leave Transfer Program. If leave is forfeited due to no fault of the employee, it will be restored in accordance with appropriate regulations.

***Section 7. Advanced Annual Leave***

Requests for advanced annual leave may be made by employees to their supervisor and will be considered in a fair and objective manner in accordance with applicable rules and regulations.

***Section 8. Annual Leave for Internal Union Functions***

Union officials may request annual leave to conduct internal Union business. Approval is subject to work site requirements.

**List of Articles**

## Article 9.

### Sick Leave

**Section 1.** Employees will earn sick leave in accordance with applicable law, rules, and regulations. Sick leave will be charged in one quarter (1/4) hour increments. The Parties recognize the importance of sick leave and the obligation of the employee, as well as the advantage to the employee to utilize it only when incapacitated for duty by sickness, injury, or other valid reasons. The Parties agree to jointly encourage employees to conserve such leave so that it will be available to the employees in the event of an extended illness.

**Section 2.** Approval of sick leave will be granted to employees when it is determined they are incapacitated for performance of their duties such as sickness, injury, or pregnancy. Sick leave is also appropriate when requested in advance for medical, dental or optical examination or treatment and will normally be granted. The employee will request the sick leave at least one week in advance if the employee has that much notice of the examination or treatment. Sick leave will also be approved when as determined by health authorities having jurisdiction or by a health care provider that the employees presence on the job would jeopardize the health of others because of exposure to a communicable disease.

#### **Section 3. *Unscheduled Sick Leave Procedures***

Where unscheduled sick leave is requested the following procedures will be followed:

- A. If the need arises while the employee is at work, the employee shall notify the Supervisor of the nature of the illness, the anticipated extent of their absence, and seek the Supervisor's approval for sick leave or leave without pay;
- B. If the employee is unable to report for duty due to an illness or other acceptable medical emergency, they must notify their supervisor prior to the beginning of the shift. Where the employee's supervisor is not normally available, the employee must contact the supervisor within the first hour of the start of the shift, if possible; or
- C. Situations that prevent the employee from being able to call will be addressed on a case by case basis. This would include instances where the employee is incapacitated and unable to call. In these instances, the supervisor will accept calls from an alternate provided the person identifies himself/herself and he/she can provide the information required. In these cases medical documentation will be required.

#### **Section 4. *Documentation to Support Absences***

An employee shall not normally be required to furnish a doctor's certificate to substantiate requests for approval of sick leave unless such sick leave exceeds three working days of continuous duration. Absences of three (3) days or less may be self certificated by the employee by submitting an SF-71, except in individual cases where an employee has been placed on Special Leave Procedures or the leave approving official has reason to question the validity of the sick leave request. Medical certificates must be submitted upon return from sick leave.

#### **Section 5. *Chronic Conditions***

Employees who are suffering from a chronic condition which may require the use of unscheduled

sick leave on a regular and recurring basis, must establish the chronic nature of their illness with medical documentation. The documentation shall indicate how often it is anticipated that the employee may be incapacitated by the chronic condition and the likelihood that the condition may or may not continue and/or its expected duration. In those instances, the employee will not normally be required to provide medical documentation for additional sick leave usage, related to the chronic condition.

### ***Section 6. Advance Sick Leave***

An employee may request up to 240 hours advanced sick leave. Advanced sick leave approval will be at the appropriate level. An employee who is under Special Leave Procedures, may or may not be granted advance sick leave. For other employees advanced sick leave will be given when all of the following conditions are met:

- A. The employee is eligible to earn sick leave;
- B. There is no reason to believe the employee will not return to work after having used the leave;
- C. The employee has provided acceptable medical documentation of the need for advanced sick leave; and
- D. There is reason to believe that the employee will accrue enough sick leave to pay the advance back.

### ***Section 7. Confidentiality***

The employer will treat as confidential any medical information related to the employee in support of a request for sick leave. The Employer may disclose such information subject to its Privacy Act obligations for work related reasons on a need to know basis only.

### **List of Articles**

## Article 10.

### Miscellaneous Leave and Excused Absence

#### **Section 1. Court Leave**

A. Court Leave will be granted in accordance with applicable regulations. The court may be a federal, state, District of Columbia or municipal court. When the employee is called as a witness, they shall notify their supervisor promptly so that proper arrangements may be made for their absence from duty.

B. Employees called for jury duty, or jury qualification, will be granted court leave consistent with regulations. When called, the employee shall notify the Leave Approving Official promptly and shall submit a true copy of their Summons for jury service. Upon completion of their service, the employee shall present to the Leave Approving Official satisfactory evidence of time served on such duty.

C. Duration of Jury Service. An employee who is under proper summons from a court to serve on a jury should be granted court leave of absence with pay for the entire period, from the date stated in the summons on which he is required to report to the court to the time he is discharged by the court, regardless of the number of hours per day or days per week he actually serves on the jury during the period. However, the term of jury service does not include time during which the employee is excused or discharged by the court for an indefinite period subject to call by the court or for a definite period in excess of one (1) day.

D. Interim Excuse from Jury Duty. When no hardship would result, it is within the administrative discretion of the agency to require an employee entitled to court leave because of jury service to return to duty or suffer a charge against their annual leave if he is excused from jury service for one day or even a substantial part of a day. The employee may not, however, be required to return to duty if it would work a hardship on them; for example, an employee engaged on night duty or one who lives or works a long way from the place where the court is held.

#### **Section 2. Administrative Leave**

##### **A. Blood Donations**

An official with delegated authority may approve excused absence for an employee who is donating blood without compensation for a reasonable amount of time for purposes of donation and recovery, normally two (2) hours. Additional time may be excused if appropriate because of the location of the donation site, the type of donation program (e.g., donation of blood platelets), or other factors determined by leave-approving official.

##### **B. Agency issued Traffic Citations**

When an employee receives a traffic or parking ticket from the Agency police force, the employee has the right to defend such tickets in court. In cases where the employee's citation is rescinded and/or the employee is completely exonerated in their case on the merits before the court or liaison, the Agency will convert any annual leave the employee requested to defend him/herself to administrative leave. This includes time required to report to, attend, and return from court. This provision will only apply to Agency issued traffic and parking

violations.

### **Section 3. Military Leave**

A. Permanent and career-conditional employees who are members of the National Guard, or any reserve unit of the Armed Forces (that is, Army, Navy, Air Force, Marines, or Coast Guard), shall be entitled to military leave for each day of active duty in such organizations up to a maximum of fifteen (15) calendar days in any fiscal year (prorated for part-time employees). Military leave, not to exceed fifteen (15) days, which is unused at the beginning of succeeding fiscal year will be carried forward for use in that fiscal year only. This gives a full-time employee the potential for thirty-day (30) military leave during a fiscal year (less for part-time employees, also prorated).

B. Approval of military leave provided in the foregoing shall be based on a copy of the orders directing the employee to active duty and a copy of the certificate on completion of such duty.

C. Military leave shall be without loss of pay.

D. Employees are not entitled to military leave to use for weekend drill. However, employees should request accommodations to attend weekend drill by rescheduling a conflicting tour of duty, annual leave or leave without pay as far in advance as possible.

### **Section 4. Voting and Registration**

A. Excused absence will be given employees to vote in national, state and local municipal elections or referendums in accordance with B. below.

B. An employee living within normal commuting distance will be given time as necessary to vote, without charge to leave, which will permit them/her to report to work within three (3) hours after the polls open or leave up to three hours before the polls close, whichever requires the least amount of excused absence.

C. If the employee's voting place is beyond normal commuting distance and absentee balloting is not permitted he/she may be granted sufficient time off to vote not to exceed eight (8) hours.

D. In jurisdictions where registration in person is required, excused absence to register will be granted on the same basis as for voting, except that no time shall be granted if registration can be accomplished on a non-workday.

E. The employee has a responsibility to make arrangements with their leave approving official in advance for time off to vote or register.

### **Section 5. Leave Without Pay**

A. Leave without pay is a temporary non-pay status and absence from duty granted upon an employee's request. All requests for leave without pay, regardless of duration, are subject to approval by the appropriate authority. A period of leave without pay shall not exceed one (1) year for each application.

B. Current employees who are subsequently elected to a Union office or appointed to serve as a delegate to a Union convention which requires their absence from work may request

LWOP to fulfill their obligations. Internal union business which requires absence from the Agency's premises, may also be appropriate for a request for LWOP. All requests will be considered subject to workload considerations. The Employer may grant leave without pay for such employee(s) provided the request is submitted not less than thirty (30) days prior to the day the absence is to begin. Leaves of absence granted under this provision for employees elected to a Union office may be for a period of time concurrent with the term of the office.

C. The Agency recognizes the obligation to return an employee to duty at the expiration of approved leave without pay in a position and rate of pay to which the employee is entitled in accordance with government-wide rules and regulations.

D. Employees in an approved leave without pay status shall accrue all rights and privileges with respect to retirement status and coverage under the Federal Employees Group Life Insurance and Federal Employees Health Benefits Program (FEHB) to the extent they are entitled such benefits. The Agency will continue to pay its share of the FEHB premium for the first 365 days of LWOP. The employee is responsible for the employee's contribution in accordance with government-wide rules or regulations. Employees are encouraged to seek advice from their personnel office on this issue.

E. Employees on LWOP will be afforded the right to compete for their position during a reduction in force according to government-wide rules and regulations.

#### List of Articles

# ARTICLE 11

## Special Leave Procedures

**Section 1.** Whenever an employee's attendance record is considered unsatisfactory due to unauthorized absences or frequent requests for emergency leave (annual leave, sick leave, LWOP) he/she may be required to follow prescribed procedures to support all requests for leave. This may occur even though approval of previous individual leave requests may not have been withheld when considered by themselves at the time of submittal. The employee will be given a statement in writing serving as notice that certain prescribed procedures for granting leave will be followed. It is agreed that Special Leave Procedures are an attempt to aid employees in establishing appropriate leave use, and it is not an adverse or disciplinary action. As such, the placement of an employee on Special Leave Procedures may be used as a basis for future adverse or disciplinary action.

**Section 2.** No employee shall be given a written notice placing him/her on special leave procedures without prior discussion of the reasons for such action and given an opportunity to improve their record. No employee will normally be placed on Special Leave Procedures unless the leave abuse as described in Section 1 meets or exceeds as a general guide six (6) incidents within a six-month (6) period. Each employee's individual case must be based on its own merits and evidence.

**Section 3.** The record of each employee on Special Leave Procedures will be reviewed for no more than four (4) months following the date of the letter imposing the Special Leave Procedures. Upon review of the case the employee will be notified in writing of the decision for continuance or discontinuance of the Special Leave Procedures. If there are no occurrences of abuse within the four-month (4) period, the employee may be relieved of the requirement to follow Special Leave Procedures. Special Leave Procedures will continue in effect until such written notification is received.

List of Articles

## Article 12.

### Personnel Records

**Section 1.** Official Personnel Folders will be maintained in accordance with applicable laws, regulations and this agreement. Only information authorized by law or regulation will be maintained in the Official Personnel Folder.

**Section 2.**

A. Each employee or his personal representative designated in writing, will, upon request, be provided a copy of any document contained in his Employee Performance File (EPF)/Official Personnel Performance File (OPF)/Employee Relations (ER) record.

B. The photocopy of documents made available under Subsection 2A may be charged for in accordance with Title 5, Code of Federal Regulations. Section 297.206 in cases where the EPF/OPF/ER records are voluminous.

**Section 3.** There will be no unauthorized access to employee EPF/OPF/ER records, files, and/or documents.

**Section 4.** Requests for access to Official Personnel Folders shall be made in writing to the servicing personnel office. The review of the Official Personnel Folder will normally take place at the requesting employee's servicing personnel office. Where this is not feasible, it will take place at a site mutually agreed upon by the employee and/or Union representative and the Employer.

**Section 5.**

A. Records, notes or diaries maintained by a supervisor with regard to their work unit or employees are merely extensions of the supervisors memory, and may be retained or discarded at the supervisor's discretion.

B. Records, notes or diaries shall not be used as the basis to support any disciplinary or adverse action against an employee unless the employee has been shown and provided a copy when generated.

C. Records, notes or diaries shall not be used as a basis to support the following unless the employee has been shown and provided a copy when generated:

1. A performance evaluation of marginal or unacceptable;
2. The denial of a career ladder promotion;
3. The denial of a within-grade increase; or

D. If an employee is shown a note, record or diary as part of the administrative process he may submit a written response.

**Section 6.**

A. All EPF/OPF/ER records shall be maintained and located in accordance with applicable regulations and this Agreement.

B. Information not required for personnel, operational or other official reasons shall not be maintained in the EPF/OPF/ER record.

List of Articles

# Article 13.

## Hours of Work

**Section 1.** For the purposes of this Article, the following definitions shall apply:

- A. Administrative Workweek means a period of seven (7) consecutive calendar days designated in advance by the Employer;
- B. Regularly Scheduled Administrative Workweek for full-time employees, means the period within an administrative workweek when these employees are regularly scheduled to work. For part-time employees, it means the officially prescribed days and hours within an administrative workweek during which these employees are regularly scheduled to work; or
- C. Basic Workweek for full-time employees, means the forty (40) hour workweek established for employees.

**Section 2.** Where continuing services on Saturdays, Sundays or outside the basic workweek is required, the Agency will endeavor when establishing tours of duty and shift assignments provide for employee rotation in accordance with Article 16.

**Section 3.** The Agency reserves the right to schedule basic workweeks, establish or reschedule tours of duty, and make assignments in the interest of effective management of operations. Nevertheless, the Agency will endeavor to schedule workweeks, tours of duty and assignments so that all employees will have two (2) consecutive days off each week.

**Section 4.** For employees assigned to work where special conditions may be encountered such as in scheduling the work or gaining access to the work site, it is agreed that special work schedules for small groups of employees may be arranged. Work groups will be selected on a volunteer basis from all qualified employees. If a sufficient number of employees to perform the required duties cannot be acquired by volunteers then management may select the appropriate number required, giving work selection preference, and selection/non-selection rights to the employee with most senior time in the bargaining unit. The Agency will notify the Union Steward, and he/she will be allowed to be present during discussions with employees when selections are being made.

**Section 5.** The Agency will consider and, if possible, approve all reasonable requests by employees for rescheduled tours of duty to allow employees to actively participate in grievance and arbitration procedures as provided by Articles 31 and 32 of this contract on appeals procedures provided by regulation, or for NIH or Union sponsored training.

### **Section 6. Work Schedules**

A. When the head of an agency establishes a flexible or compressed work schedule under Section 6122 or Section 6127 of Title 5, United States Code, he or she shall establish a basic work requirement for each employee as defined in Section 6121 of Title 5, United States Code. A flexible or compressed work schedule is a scheduled tour of duty and all work performed by an employee within the basic work requirement is considered regularly scheduled work for premium pay and hours of duty purposes. The following shall apply to all others.

Establishment of work schedules.

1. Except when the head of an agency determines that the agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he or she shall provide that:

- a. Assignments to tours of duty are scheduled in advance of the administrative workweek over periods of not less than one (1) week;
- b. The basic 40-hour workweek is scheduled on five (5) days, Monday through Friday when possible, and the two (2) days outside the basic workweek are consecutive;
- c. The working hours in each day in the basic workweek are the same;
- d. The basic non-overtime workday may not exceed eight (8) hours;
- e. The occurrence of holidays may not affect the designation of the basic workweek; and
- f. Breaks in working hours of more than one (1) hour may not be scheduled in a basic workday.

### ***Section 7. Variations in Schedules for Educational Purposes***

A. Notwithstanding the provisions of Section 5 above, the Agency may authorize a special tour of duty of not less than forty (40) hours to permit an employee to take one or more courses in a college, university, or other educational institution when it is determined that:

1. The courses being taken are not training under Chapter 41 of Title 5, United States Code;
2. The rearrangement of the employee's tour of duty will not appreciably interfere with the accomplishment of work to be performed;
3. Additional costs for personnel services will not be incurred;
4. Completion of the course will equip the employee for more effective work in the Agency.

**Section 8.** Employees shall be compensated for hours of work in accordance with applicable laws and regulations.

**Section 9.** Basic workweek for the sections of MES as of the effective date of this Agreement are:

#### Elevator Unit

Day crew: 8:00 a.m. to 4:30 p.m. with a 30 minute unpaid lunch period. Employees on an alternative work schedule are scheduled from 7:00 a.m to 4:30 p.m. on their 9 hour days and 7:00 a.m. to 3:30 p.m. on their 8 hour day.

Second shift employees: 4:00 p.m. to 12 midnight, with an unspecified lunch period during working hours when they may be spared from their duties.

#### Power Plant Unit

Day maintenance crew, day electricians, instrument lab, shop planners: 7:30 a.m. to 4 p.m., with a 30-minute unpaid lunch period. Employees on an alternative work schedule are scheduled from

6:30 a.m. to 4 p.m. on their 9-hour days and 6:30 a.m. to 3 p.m. on their 8-hour day.

Shift Leader and Electrician (High Voltage) Employees: 6 a.m. to 2 p.m.; 2 p.m. to 10 p.m.; and 10 p.m. to 6 a.m., with an unspecified lunch period during working hours when they can be spared from their duties. Shift Boiler Plant Operator's hours will remain on their current tour which is: 7 a.m. to 3 p.m.; 3 p.m. to 11 p.m.; and 11 p.m. to 7 a.m., with an unspecified lunch period during working hours when they can be spared from their duties.

#### Building Maintenance Unit Hours of Work:

Day Crew: 8 a.m. to 4:30 p.m., with a 30-minute unpaid lunch period. Employees on an alternative work schedule are scheduled from 7 a.m. to 4:30 p.m. on their 9-hour days and 7 a.m. to 3:30 p.m. on their 8-hour day.

Shift employees: 7 a.m. to 3 p.m.; 3 p.m. to 11 p.m.; and 11 p.m. to 7 a.m., with an unspecified lunch period during working hours when they may be spared from their duties.

#### 1. Miscellaneous Provisions

A. Each employee will be at their normal mustering station attired for work in clothing appropriate for the job to be accomplished and prepared to begin their duties at the designated starting time of their work day or shift and at the conclusion of the lunch period.

B. Employees assigned to shifts will have no scheduled lunch period, but such employees will be allowed an unspecified period of time during their tour of duty to eat lunch at such times as they can be spared from their duties.

C. The officially recognized lunch period for day working personnel will be: BMU, CCMU, Poolesville 12 noon - 12:30 p.m. and Power Plant Station 11:30 - 12 noon.

D. For the purpose of clean-up time for MES employees at the end of the work day it is agreed; 30 minutes of clean-up time (taking showers) will be allowed to be utilized for personal hygiene at the end of the work day. However, employees who do not utilize clean-up time for personal hygiene will be expected to remain on the job site performing work until their shift is completed, except for such time as to change clothes.

MES employees assigned to shift duties may be required to clean-up in rotation. Shift employees may be recalled during clean-up to their duty stations during critical operating situation or may not be allowed any clean-up time under such circumstances. NDCC employees will be allowed 15 minutes at the end of the workday, for personal hygiene. However, employees who do not utilize the clean-up time for personal hygiene will be expected to remain on the job site performing work until their shift is completed, except for time allowed to change clothes.

Employees assigned to remote work sites will be allowed an appropriate amount of travel time to return to their normal mustering station or designated cafeteria and break areas prior to the beginning of lunch.

All employees are encouraged to take breaks and lunch periods in designated cafeteria and break areas. Consumption of food and beverages outside those recognized areas is strongly discouraged. All employees will return promptly to their work at the end of the lunch or break period.

E. Breaks in working hours of two (2) twenty-minute breaks will be observed, Generally, breaks will be approximately halfway between the start of the day and lunch, and halfway from the end of lunch to the end of the workday, workload permitting.

F. All employees in the following units are considered emergency personnel. In DES: Building Maintenance Unit, Clinical Center Maintenance Unit, Power Plant. Those designated on the list below are expected to report for work during normal working hours, regardless of news media instructions. All other employees of the bargaining unit, regardless of news media instructions are required to call in within the first hour of the scheduled work day to determine if they are needed at that time. The supervisor will instruct the employees to report to work or standby at home for call-in if needed during normal work day hours. If an employee does not report or does not call in, he will be charged AWOL.

When emergencies warrant early dismissal, all MES employees are considered essential. No employee will be released until notified by the office of your Unit Chief. Employees will not unduly be called or retained at work after the government is closed without justifiable need.

MES personnel required to report on time regardless of news media instructions:

Building Maintenance Unit:

Shift Personnel  
Senior Building Engineers  
Shop Planners

Clinical Center Maintenance Unit:

Shift Personnel  
Senior Building Engineers  
Lead Journeymen  
Shop Planner

Power Plant Unit:

Shift Personnel  
Animal Center Unit. NMEU:  
Shift Personnel  
Senior Building Engineer  
Waste Water Plant Operator  
Electrician

Automated Systems Unit:

Automated Systems Group Leader  
Elevator Mechanic Leader  
Primary Elevator Mechanic (Clinical Center)  
Primary Elevator Mechanic (North Side)  
Primary Elevator Mechanic (South Side)  
Electronics Leader  
Electronics Mechanic  
Door Systems Leader

Door Systems Mechanic  
Fire Alarm Electrician  
Elevator Mechanics and Electricians (4-12 Shift)

G. The Parties agree that shift assignments must be properly staffed twenty-four 24 hours per day, seven (7) days per week. When extreme weather conditions result in shift personnel not being relieved and thereby required to work for extended periods of time (more than sixteen [16] hours), the shift supervisor or shift head will make every reasonable effort to find a relief for the employee. Employees that are called in under these circumstances will make every reasonable effort to report to work. The shift head or shift supervisor will not be limited to only those employees currently assigned to shift work but will call all qualified employees in the section until someone is found that can relieve the shift.

H. Employees who are required to work more than two (2) consecutive shifts may request from their supervisor the opportunity to rest in an NIH provided bunk or sleeping area. The normally designated bunk/sleeping area will be the Fire Station Bunk Room or arrangements will be made at the Clinical Center on a space available basis.

I. Employees shall be compensated for hours of work in accordance with applicable laws and regulations.

J. When the Agency has a need to change the employees schedule, two (2) weeks advance notice will be given, when possible.

K. Work schedules and any changes thereto shall be posted on all official bulletin boards within the applicable area.

**Section 10.** Basic workweek for the Nutrition Department, CC, as of the effective date of this Agreement are:

Subsection 1. The Employer and the Union agree that the following condition of employment exists and that they are made known to all employees including persons accepting employment in the Nutrition Department, CC unit.

A. Generally, employees will be assigned to an early shift (starting time 6 a.m. to 8 a.m.); a late shift (starting time 8 a.m. to 11:30 a.m.); or as a relief (early and late shifts). Employees assigned to an early or late shift may rotate starting times within these shifts. When it is necessary to change shifts, normally a two-week (2) notice of the change will appear via posted schedules. Schedules may be altered to accommodate emergency situations.

B. Hours of duty will be assigned according to the needs of the Nutrition Department.

C. Employees are assured of at least every other weekend off. A weekend is defined as Saturday and Sunday. Exceptions to this are the relief positions. Employees who repeatedly fail to work their assigned weekend tour will be scheduled to an equal amount of additional weekend tours.

D. A thirty minute (30) lunch period for employees of the bargaining unit will be established for every position by the Employer. Changes in the lunch period may be made by the Employer to provide adequate staffing or to maintain continuity of the work flow.

E. Breaks in working hours of two (2) twenty-minute (20) breaks will be observed. Generally, breaks will be approximately halfway between the start of the day and lunch, and halfway from the end of lunch to the end of the workday, workload permitting.

F. One week of schedules will be posted on Friday of each week, fourteen (14) calendar days in advance of becoming effective. Posted work schedules will not be changed, except in emergency situations, or in circumstances that would seriously handicap the employer in accomplishing its functions or would substantially increase costs.

G. All bargaining unit employees are designated as emergency employees, and are governed by the Clinical Centers policy for emergency employees. Emergency employees are expected to report to work in order that essential patient services are met despite the temporary closing of NIH work places either by early dismissal or by the declaration of a non-workday.

Subsection 2. No employee will be required to remain beyond the end of their scheduled shift for the purpose of putting away government property and equipment necessary for their work. Employees are not to leave the duty area until the end of their shift.

Subsection 3. Employees are required to obtain approval from their supervisors before leaving their assigned place of work during duty hours. In emergency situations of short duration, i.e., rest room, etc., where no supervisor is immediately available, the employee will inform a co-worker at the job site of their need to leave the job site. Employees absenting themselves from the job site of their assigned duties without authorization may be charged absence without leave (AWOL).

## **Section 11.**

Basic workweek for the Library Branch Unit as of the effective date of this Agreement are:

Subsection 1. The NIH Library is open to NIH staff and the public 365 days a year. At least one Library Circulation Unit staff member is on duty at all times. For the great majority of the Library staff, however, the basic workweek is Monday through Friday.

Subsection 2. Library employees who work in the Circulation Unit have set shifts to assure that at least one (1) permanent staff member is on duty at all times the Library is open.

Subsection 3. The Library management reserves the right to schedule basic workweeks, establish or reschedule tours of duty, and make assignments in the interest of effectively carrying out the mission of the Library.

Subsection 4. In the event Circulation Unit staff are not able to cover all hours the Library is open, volunteers will be solicited from other permanent staff. If this requires a volunteer to work more than forty (40) hours, or evening and weekends, they may elect to receive compensatory time, or be paid overtime plus the appropriate shift differential for the time worked.

Subsection 5. Basic workweek for all Library employees, except Circulation Unit employees, is Monday through Friday. With the approval of their supervisor, employees may elect a tour that begins as early as 7 a.m. and as late as 9:30 a.m., and that ends no earlier than 3:30 p.m. and no later than 6 p.m. Approval is dependent upon need to staff service and reception desks between 8:30 a.m. and 5 p.m.

## Circulation Unit

To assure the Library is staffed during all hours the Library is open, the following tours have been assigned to the employees assigned to this unit:

- Tour 1: 6:00 a.m. to 2:30 p.m. Monday through Friday
- Tour 2: 9:30 a.m. to 6:00 p.m. Monday through Friday
- Tour 3: 8:30 a.m. to 5:00 p.m. Monday through Friday
- Tour 4: 1:30 p.m. to 10:00 p.m. Tuesday through Thursday  
8:30 a.m. to 5:00 p.m. Friday  
8:30 a.m. to 6:00 p.m. Saturday
- Tour 5: 12:30 p.m. to 10:00 p.m. Monday  
8:30 a.m. to 6:00 p.m. Tuesday through Thursday  
1:00 p.m. to 5:00 p.m. Sunday

## Subsection 6. Miscellaneous Provisions

- A. Each employee will be at their workstation and prepared to begin their duties at the beginning of their tour, or shift, and at the conclusion of the lunch period.
- B. Employees assigned to shifts will have a scheduled meal period. When a permanent staff member cannot relieve them, a contractor employee will do so.
- C. All employees are encouraged to take breaks and lunch periods in designated cafeteria and break areas. Lunch is no more than thirty (30) minutes. Two (2) twenty-minute (20) breaks also may be taken any time during the day, except they can be taken no earlier than one (1) hour after the employee's tour begins, and no later than one (1) hour before the tour is scheduled to end.
- D. All Circulation Unit staff are considered essential. However, since only one (1) person is needed to open the Library, a written schedule listing which person in the Unit is essential on any particular day is prepared and shared in advance with all Circulation Unit staff members. During a weather-related emergency, when the government is "shut down," the Library is open from 1 p.m. to 5 p.m. The Circulation Unit employee who is essential on that day is expected to report to work in time to open the Library by 1 p.m. All others may stay home. When local news media report that OPM has authorized Unscheduled Leave, non-essential employees must call in within the first hour of the scheduled workday to inform the supervisor or their designee that they will not be coming to work. If an employee does not call in or report to work when required, he may be charged AWOL. Staff may be dismissed early when emergencies warrant; however, no Library employee will be released until notified by the Branch Chief or their designee.

Subsection 7. It is understood by the Parties to this Agreement that the Library is responsible, via the supervisors and timekeepers, for collecting and certifying the attendance of employees for payroll purposes. This may involve leave approval, approved overtime/compensatory time forms, and/or other documentation deemed appropriate, and may require timekeeping and attendance procedures involving sign in/sign-out cards or sheets, or mechanical timekeeping devices.

**Section 12.** Basic workweeks for the MAPB Unit as of the effective date of this Agreement are:

Subsection 1. The basic workweek will consist of five (5) days of eight (8) hours each, Monday through Friday, with a 30-minute unpaid lunch period. Employees may be allowed to work according to one of the following tours of duty which are subject to the approval of the supervisor:

- a. 7:30 a.m.- 4:00 p.m. M-F
- b. 8:00 a.m.- 4:30 p.m. M-F
- c. 8:30 a.m.- 5:00 p.m. M-F
- d. 9:00 a.m.- 5:30 p.m. M-F

Employees may participate, at management's discretion, in Compressed Work Schedule (CWS) provided that a sufficient number of employees are available during the core business hour of 8 a.m. to 5 p.m. to perform the functions vital to the MAP mission. MAPB utilizes the 5/4/9 Compressed Work Schedule. Employees participating in CWS will work eighty (80) hours per pay period, eight (8) 9-hour days, one (1) 8-hour day, with a 30-minute unpaid lunch period and one (1) day off. The CWS tour choices for nine-hour (9) days are subject to the approval of the supervisor are:

- a. 7:00 a.m. - 4:30 p.m. M-F
- b. 7:30 a.m. - 5:00 p.m. M-F
- c. 7:45 a.m. - 5:15 p.m. M-F
- d. 8:00 a.m. - 5:30 p.m. M-F
- e. 8:30 a.m. - 6:00 p.m. M-F

Based on prior scheduling and required office coverage, day off choices subject to the approval of the supervisor are:

- a. First or second Monday of pay period
- b. First or second Wednesday of pay period
- c. First or second Friday of pay period

All requests for participation or change in an employee's CWS must be reviewed by the respective Division Director. All request must be approved by the Executive Officer as the ORS AWS Coordinator.

Supervisors maintain the right to revoke CWS or any tour that has a negative impact on the MAPB mission, or if employees abuse the privilege.

In selecting tours scheduling short days and days off, it is required that full office coverage and "Client Services" be provided during core business hours of 6 a.m. to 5 p.m. Monday through Friday.

CWS While on Travel or During Training:

Prior to the actual activity period, the employee and supervisor will determine the impact that the activity will have on CWS tour and put in place suitable solutions for both work coverage and assure that a full forty-hour (40) week is worked. In general, particularly when travel and/or training is off site and more than one (1) or two (2) days in duration, the employee will return to a normal work week.

Employees will endeavor to maintain coordination of services and products produced. The other employees on CWS while not having to actually do the absent employee's work, agree

to the following as a condition of CWS participation:

- A. Answer general questions about absent employee's duties, endeavor to answer questions about status of work in progress for which the absent employee is responsible to return "emergency" phone call for the absent employee;
- B. Handle any essential or emergency request or task for the absent employee; and
- C. Convey all necessary information on pertinent activities to employee when the employee returns.

Subsection 2. Agency will maintain stable work schedules when practicable, and will whenever possible provide employees advance notice of any change in work schedules.

Subsection 3. The Agency has the authority to terminate CWS and other tour participation for an entire organization or for an individual employee. An employee can also request termination of their participation in CWS or other tour at any time. Participation in CWS or other tours is totally voluntary. Executive Officer (Division Director) approval is not required for termination of CWS participation, however the Executive Officer (Division Director) should be notified, in writing.

***Section 13. Basic workweek for the PRB Unit as of the effective date of this Agreement is:***

Subsection 1.

The basic workweek will consist of five (5) eight-hour (8) days, of normally Monday through Friday 8 a.m. to 4:30 p.m. with a thirty-minute (30) unpaid lunch period.

Employees on an alternative work schedule are scheduled from 8 a.m. to 4:30 p.m. on their nine-hour (9) days and 7 a.m. to 3:30 a.m. on their eight-hour (8) day.

Subsection 2. Tours of duty and shifts already established by the Employer will remain in effect. Except in the case of emergencies neither the basic workweek nor regular hours of work will be changed without prior notification to the Union, except as directed by regulations from higher authority.

Subsection 3. Employees are expected to report to their respective designated duty stations ready to begin work promptly at the start of the scheduled tour of duty, at the end of breaks, and the end of the of the luncheon break. When excused to attend cultural functions and/or recognized official functions employees will report to work promptly after the end of the function or expiration of authorized excused time.

Subsection 4. No employee's tour of duty will be rescheduled to avoid the payment of overtime. However, tours of duty may be rescheduled to provide for employee participation in grievance and arbitration procedures.

Subsection 5. Adequate time will be provided for employees to put away government property and equipment necessary for their work. In order to maintain machines in proper operating condition, employees operating machines will be provided adequate time to clean and inspect the equipment, perform first echelon maintenance, and maintain the immediate work area in a clean and orderly condition. When an emergency arises an employee may continue operating

without clean up until the end of the work day. No employee will be required to remain beyond the end of their work day for this purpose.

Subsection 6. A reasonable amount of time will be allowed for cleanup before lunch. All employees will return promptly to their work at the end of their lunch period. Reasonable changes in the lunch period may be made by supervisors to cover emergencies, or to maintain continuity on a project.

Subsection 7. Two (2) twenty-minute rest periods may be observed unless unusual workload conditions will not permit, one (1) period approximately two (2) hours after the start of work and the other approximately two (2) hours before the end of the shift.

Subsection 8. When administrative excused leave is authorized for NIH employees because of inclement weather, breakdown of equipment, or other emergency situations, designated employees of the bargaining unit must report for work unless they have been advised by their supervisor that their services are not needed. Employees on duty whose services cannot be utilized and who are not required to stand by or provide essential services shall be excused without charge to leave.

Subsection 9. It is understood by the parties to this Agreement that the Employer is responsible for collecting job cost data and accurately certifying attendance of employees for payroll purposes, and may require timekeeping and attendance procedures involving sign-in/out cards or mechanical timekeeping devices. It is agreed that the Employer will not change the timekeeping procedures without prior notification to the Union.

#### ***Section 14. Flexible and/or compressed work schedules***

A. Within 120 days of the signing of this agreement a flextime pilot program will be implemented for PWB in one work area agreed upon using Interest Based Bargaining (IBB) principles pursuant to the Partnership Article.

B. Changes in existing flexible and/or compressed work schedules within each segment of the bargaining unit will be considered on a case-by-case basis.

#### **List of Articles**

## Article 14.

### Time Keeping and Attendance

In order to foster a work environment based on mutual respect, trust, and the Secretary of HHS memorandum, "Strategy to Improve Quality of Work Life," dated December 23, 1996, the parties have developed and agree to the following policy guidelines concerning time keeping and attendance. These guidelines conform to the requirements 5 CFR 610.404 and Part 1 of Chapter 3 of Title 6, GAO Policy Procedures Manual.

#### **Section 1. Methods of Time Accountability**

The parties agree that the following methods will be used to account for employees time and attendance:

- A. Computer check in or electronic key card system at agreed upon sites;
- B. Integrated Time and Attendance System (ITAS);
- C. Visual check by supervisors;
- D. Team Captains validate attendance;
- E. In/out boards for centrally located employees; and
- F. Time keeping by exception.

#### **Section 2. Implementation**

- A. Prior to any changes to the existing methods of accounting for time and attendance, employees will be provided informational packages regarding the change. The informational packages will be distributed not less than fourteen (14) days before the change. Management of the affected units will meet with employees regarding the change. The Union will be given an opportunity to be present at the meeting and participate.
- B. Management and the Union will meet in order to obtain a full understanding on new methods of accounting for time and attendance.
- C. Management will be responsible for maintaining all time and attendance records.
- D. The Union will be notified prior to any changes in the existing methods of accounting for time and attendance.

#### **Section 3. Guidelines**

- A. Information packages provided to employees will contain specific procedures to be followed when implementing new methods of accounting for time and attendance.
- B. Employees violating the trust and procedures for time accounting and attendance, may be subject to the following;

1. Special time and attendance reporting requirements developed by management for a limited period of time (normally not to exceed four (4) months).
2. Employees who fail to improve or follow required time and attendance procedures prescribed by management may be subject to continued restrictions.
3. Failure to follow prescribed procedures may result in disciplinary action in accordance with Article 30 on Disciplinary and Adverse Actions.

***Section 4. Miscellaneous***

- A. Training and equipment will be provided as needed.
- B. Supervisors are responsible to clearly communicate concerns related to time and attendance procedures with employees.
- C. The Union and Management agree to meet and discuss issues related to the interpretation, application, or any other matter related to this Article.

**List of Articles**

## Article 15.

### Retirement

**Section 1.** The Employer will provide retirement counseling to be made available on an as needed basis, but not less than annually in which all employees in the unit nearing eligibility for retirement may voluntarily participate. It will include counseling assistance, informational material, and/or group sessions.

**Section 2.** Each employee who separates voluntarily or involuntarily (except by retirement) will be informed by the Employer as to:

- A. Their rights to file for disability retirement;
- B. The possibility of applying for a discontinued service annuity;
- C. Eligibility for deferred annuity; and
- D. All the options regarding the contributions he has made to the retirement funds and the Thrift Saving Plan, as appropriate.

**Section 3.** An employee may withdraw a resignation or retirement application at any time prior to its effective date, provided the withdrawal is communicated to the Employer in writing and received by the Employer. Employees who have resigned or retired may request that they be considered for re-employment to their recently vacated position in accordance with government-wide rules and regulations.

**Section 4.** The parties recognize that final decisions concerning retirement applications and issuance of retirement checks are the responsibility of the Office of Personnel Management. The Employer agrees to process and transmit all necessary paperwork in connection with retirement applications in a timely fashion. Employees are responsible for notifying the Human Resources Branch of their intent to retire at least eight (8) weeks prior to the effective date.

**Section 5.** Upon receipt of a written request from an employee who is eligible to retire, or who is within 120 days of such eligibility, the Employer agrees to provide a statement setting forth an estimate of the employee's monthly compensation upon retirement, types of retirement options available, and the procedures for continuing any health or life insurance policies. This information will be updated at the employee's request, but not more frequently than once a year.

List of Articles

## Article 16.

### Shift Assignment/Rotation Policy

#### MES Bargaining Unit Employees

**Section 1.** The Agency will endeavor to provide a fair and equitable rotation policy for employees of the bargaining unit, MES, when being assigned/reassigned to or from shift work from the day work maintenance shift.

**Section 2.** Employees will be assigned to standard shifts with an eight-hour tour of duty and no scheduled lunch period. Such employees will be allotted a reasonable period of time, normally one-half hour during the tour to eat lunch at such time as they can be spared from their duties. Each shift will work a specific tour of duty.

**Section 3.** Employees wishing to change to another shift or day work, may request to do so in writing 30-days prior to the beginning of the open season (January 1, May 1, and September 1). Employees will be notified two (2) weeks before the beginning of the open season of the approved change and starting date. The starting date will be the beginning of the next work schedule change after January 1, May 1, or September 1. When changes are not approved, employees will be provided with a written explanation. Shift changes affecting day work maintenance will be limited to 25% of the personnel regularly assigned to that shift and who would be eligible for shift changes.

Example:

1 - 5 employees per shift = 1 employee for open season

6 employees per shift = 2 employees for open season

Employees may choose to elect day work (maintenance) schedule or volunteer to stay on shift.

**Section 4.** Changes between shifts can only occur when vacant positions are created or occur on shift during the year. Such positions will first be offered to existing qualified shift personnel. Only employees currently assigned to the Unit where the vacancy occurs will be given consideration for the reassignment. Only one such request per vacancy will be honored with the most senior employee in the bargaining unit given preference. Employees experiencing personal situations impacting their work shift, i.e., attending school, child care etc., may request an exception to the shift changes procedures at any time throughout the year through normal supervisory channels.

**Section 5.** The assignment of day work or maintenance personnel (non-shift) to shift, if needed, will be done according to the following procedure. The Agency will first solicit qualified volunteers for assignment to shift. If there are no qualified volunteers or an insufficient number as requested by the Agency to fill a shift vacancy, personnel will be assigned from a rotation list of day working maintenance personnel with a straight rotation of top to bottom on the list. Personnel coming off of shift assignment will have their names placed on the bottom or end of the list.

**Section 6.** Day work maintenance employees with their supervisor's approval, may arrange for trading shifts with other qualified day crew personnel who volunteer to accept their tour of duty. The employee arranging the trade will have their name marked off that shift. The employee accepting the trade will have their name put on for that shift. When the employee returns from the trade, their name will be added to the bottom of the list.

Employees who are deferred from shift due to unique/special skills, will only be granted one (1) such deferment, after which this employee will be the next employee to be assigned to shift work.

The Union or any aggrieved employee will be provided, upon request, a written explanation as to what unique/special skills required the deviation from normal rotation policy.

**Section 7.** Employees who are reassigned to accommodate performance deficiencies or conduct problems or who may be involved in the Employee Assistance Program or other documented rehabilitation programs, may be excluded from these procedures for up to one (1) year. The time period may be extended for medical reasons, if administratively acceptable medical documentation is received by the Agency and concurred with by the Occupational Medical Services (OMS). The Agreement excludes employees designated as "Trainee" or "Apprentice" who are already covered by existing training or apprenticeship programs.

**Section 8.** Eligible or "qualified" shift personnel include, but is not limited to, an employee who meets OPM classification requirements, possesses the skills required for the job or duties assigned, is appropriately graded for the position, etc.

The parties recognize that management has the right to assign and make the final determination regarding qualifications necessary for the performance of jobs within the Maintenance Engineering Section (MES).

**Section 9.** Relief shift employees who work hours that are primarily day work, will have an unspecified lunch period during working hours when they may be spared from their duties. These employees work an eight-hour (8) tour of duty.

#### **FOR NDCC Bargaining Unit Employees**

**Section 1.** The Agency will endeavor to provide a fair and equitable rotation policy for employees of the bargaining unit when being reassigned to or from their early or late shift. Generally employees will be assigned to an early shift or a late shift. The early shift starting times range between 6:00 a.m. and 8:00 a.m., the late shift starting times range between 8:00 a.m. and 11:30 p.m.

**Section 2.** When there is an imbalance in staffing, management will assign individuals to the shift where there is a shortage. Assignments to the imbalanced shift will be made by reverse seniority in the NDCC. Both full and part-time employees will be assigned in accordance with this procedure. When the staffing imbalance is resolved, the employee who was reassigned will be offered the opportunity to return to the original tour.

**Section 3.** Employees experiencing personal situations impacting their work shift, i.e., school attendance, child care etc., may request reassignment to another shift. Employees with their supervisors' approval, may arrange for trading shifts with other qualified personnel who volunteer to accept their tour of duty.

#### List of Articles

## Article 17.

### Facilities for Breaks and Meals

**Section 1.** The Agency will provide adequate facilities for the work force to take breaks and meals that comply with applicable rules and regulations.

**Section 2.** There will be one lunchroom in areas of the bargaining unit that have employees who work shifts. For the purpose of this article, the term shift does not apply to the NDCC. Each lunchroom will be equipped with adequate supply and exhaust ventilation, refrigerator, microwave oven, conventional oven/stove, sink, ice machines, tables and chairs.

**Section 3.** The equipment will be maintained in safe/good working order by the employer. Employees should report any equipment problems when identified.

**Section 4.** Employees share a responsibility to maintain a clean and healthy environment in break and lunchrooms.

**Section 5.** The Union will be allowed to provide microwave ovens in designated areas, other than the lunchrooms identified in Section 2 above. The Union will be responsible for maintaining the equipment in safe working order.

List of Articles

## Article 18.

### Holidays

**Section 1.** Employees shall be entitled to all holidays in accordance with applicable laws and Executive Order.

**Section 2.** Employees working on a holiday shall be paid holiday pay, shift differential, and/or overtime in accordance with applicable regulations.

**Section 3.** Tours of duty shall not be established or modified solely for the purpose of avoiding the payment of holiday pay.

**Section 4.** It is agreed that as the mission of the Agency dictates, employees will be required to work on holidays.

List of Articles

## Article 19.

### Safety and Health

**Section 1.** The Employer will, consistent with the mission of the agency and the inherent hazards of the work to be performed, provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so. The Agency will comply with the provisions of Executive Order 12196, 29 CFR 1960, and appropriate NIH Safety Instructions. The Union shall cooperate and encourage members of the Unit to observe safety precautions and to work in a safe manner.

#### **Section 2.**

A. In addition to industrial and/or business safety standards and regulations, the parties recognize, in filling its obligations in Section 1 above, that safety standards and regulations may be developed specific to the unique job related conditions within the bargaining unit that are appropriate to the Employer's operations. In issuing such standards and regulations, Section 19 of the Occupational Safety and Health Act of 1970, Executive order 12196, 29 CFR 1960, and appropriate orders and issuances promulgated thereunder, shall be used as a guide.

B. The Union may make safety and health suggestions which offer practical and feasible ways of improving safety and health conditions for consideration by the NIH Occupational Safety and Health Committee.

**Section 3.** It is recognized that supervisors, employees, and the union, share the responsibility for safety and health. All are obligated to know and observe safety rules and practices as a measure of protection for himself/herself and others. In the course of performing their normally assigned work, employees will be alert to observe unsafe conditions in their immediate areas. When unsanitary, unsafe, or unhealthful conditions are observed by the employees, it is their responsibility to report them at once to the immediate supervisor. The agency will insure that all employees are adequately trained in all areas of Occupational Safety and Health as needed to perform the official duties of their respective positions.

**Section 4.** The Agency agrees to respond to employee reports of unsafe or unhealthful working conditions and require an inspection within twenty four (24) hours for potential serious conditions and five (5) workdays for other conditions. Any unsafe or unhealthy working condition not corrected in the prescribed time period will be resolved jointly by the Union and Agency Safety Representatives. Any employee or steward is authorized to request an inspection of the workplace when he/she believes an unsafe or unhealthful condition exists. The Agency agrees to post notices of hazardous conditions discovered in any workplace. This notice shall be posted at or near the location of the hazard and shall remain posted until the cited condition has been corrected. Such notices shall contain a warning, and description of the unsafe or unhealthful working conditions and all required precautions required by applicable regulations. The Agency agrees to assure prompt abatement of unsafe or unhealthful working conditions. When this cannot be accomplished, the Agency agrees to develop, following consultation with the Union, an abatement plan setting forth a timetable for abatement and a summary of interim steps. Employees exposed to such conditions shall be informed of the abatement plan and the Union shall be consulted during the implementation of the plan.

**Section 5.** The Agency shall make available in each work area copies of Material Safety Data

Sheets (MSDS), where required, for review by the employees or the Union. Upon request, the Agency will allow the Union or an employee to make a reasonable number of copies of a MSDS.

**Section 6.** When the Agency has made a determination that the need exists and, requires the use of special equipment, the wearing of uniforms, protective clothing, or special wearing apparel to protect the employee from the environment, or as a means of identification, these specified items will be provided by the Agency. All special equipment, uniforms, protective clothing, or special wearing apparel must be used and or worn as prescribed by the Agency.

**Section 7.**

A. Annual inspections of bargaining unit employees' work environments will be conducted by a designated safety representative of the Employer and the Union Safety and Health Officer. Facilities that are industrial in nature (i.e., Power Plant and machinery spaces) will be inspected on a more frequent basis as agreed to, or monthly. At the conclusion of each inspection, the official in charge of the facility shall be advised of any apparent unsafe or unhealthful conditions. Employee reports of unsafe or unhealthful working conditions shall be addressed in accordance with 29 CFR 1960.28 (Appendix C). Nothing in this section waives any rights the Union may have pursuant to law, rule or regulation. A copy of all reports will be sent to the AFGE local 2419 Union Office upon completion but in no case more than five (5) days upon completion.

B. Any employee or Union representative who believes that any unsafe or unhealthful condition exists at their facility shall report such conditions to appropriate supervisory authority and request an inspection.

C. During the course of any inspection, an employee may bring to the attention of the safety inspectors any unsafe or unhealthful condition which he believes to exist.

D. A representative or designee of the Union shall be provided with reasonable advance notice and an opportunity to accompany the safety inspector(s) on official time during any inspection conducted by the Employer or by the safety representative described in Subsection 7A. The Employer will pay mileage costs if applicable, for Union representatives who are bargaining unit employees for travel to and from inspections under this Section.

**Section 8.**

A. The Employer and the Union will cooperate in the continuing effort to eliminate accidents and health hazards. To this end, there shall be established a Consolidated Bargaining Unit Safety & Health Committee (CBUSHC) at the National Institutes of Health. Employees will be represented by their local designee to coordinate safety and health issues within their work areas.

B. The Consolidated Bargaining Unit Safety and Health Committee (CBUSHC) shall be composed of ten (10) members to be selected as follows:

Five (5) representatives of the Employer, one manager from each segment of the consolidated bargaining unit;

Five (5) employee representatives (Safety Reps) to be selected by the Union, one (1) employee representative from each segment of the consolidated bargaining unit. The Consolidated Bargaining Union Safety and Health Officer will be designated as one of the

above five (5) employee representatives. The Chairperson for this committee will be elected by the committee and will be rotated between the Union and Management as often as the committee determines, but in no case shall one term exceed two (2) years.

C. The parties agree that Safety Reps should be given sufficient time, training, resources and encouragement to perform their duties as outlined in the NIH Health and Safety Guidelines.

D. Proposed enhancements or changes to (e.g., policies, procedures) the Local safety programs may be, as needed, referred to the NIH Safety Committee. These proposed changes do not supercede any safety requirements mandated by law.

E. The CBUSHC shall meet at least quarterly three (3) months, or at such other times as are agreed to by the parties. The Committee Chairperson shall provide a written report of each meeting to the NIH Safety Committee and designated Union representatives, as appropriate.

### **Section 9.**

A. The CBUSHC established pursuant to this Article shall be advisory in nature, and will advise, and will be consulted by the NIH Occupational Safety and Health Committee.

B. The NIH Safety and CBUSHC shall monitor the performance of the NIH Occupational Safety and Health Programs, and are encouraged to review accident trends, recommend specific training needs, review adequacy of emergency evacuation procedures, and make recommendations to the NIH Occupational Safety and Health Committee.

C. The NIH CBUSHC shall have full access to all existing information relevant to their advisory and monitoring functions.

D. Since the joint safety and health committees are established as management advisory committees, committee members shall receive a reasonable amount of official time, and necessary travel and per diem expenses, to take part in the deliberations of the committee.

E. The Union Occupational Safety and Health Officer shall be allotted official time as needed to review, respond to, and follow-up on all safety reports and issues (i.e., filing, data collection, abatement follow through, reports and reviews). Official time allotted for this purpose shall be deducted from the Union's bank of hours identified in Article 6. This official time excludes Agency-initiated meetings and safety inspections.

F. The Union Occupational Safety and Health Officer will be allowed official time up to forty (40) hours annually for union sponsored training. The DES Safety Officer will notify the Union of any changes in rules or regulations related to safety and health that require additional time needed for training. The agency will provide such additional time as needed.

### **Section 10.**

A. The Employer will, to the extent practical and available locally from government sources, continue to offer whatever health services are obtainable for employees.

B. In any work location where health facilities are not available on the premises, the Employer agrees to provide and maintain standard GSA authorized first aid kits.

**Section 11.** Employees who are sent to a medical facility for treatment as a result of occupational illness or injury, and a qualified medical authority determines that the employee is unable to return to work, shall be released from duty for the remainder of the day without charge to sick or annual leave, in accordance with applicable law and regulations.

**Section 12.** If it becomes necessary for an employee to leave work because of an incapacitating illness or injury, and normal transportation is not available or within the employee's capacity, the Employer agrees to assist in arranging transportation to a medical facility or to the employee's home, at the request of or on behalf of the employee. The Employer's pecuniary and tort liability is governed by law, regulations, Federal court decisions, and/or decisions of the Comptroller General and the Employer assumes only such responsibility or liability allowable by law, regulation or such decisions.

**Section 13.** When an employee is injured in the performance of their duties, he should report the injury to their supervisor within forty-eight (48) hours. The Employer will provide the injured employee with forms and information provided for in Article 7, Section 5. Additional inquiries concerning other available benefits, including disability compensation, will be referred to the servicing Personnel Office.

**Section 14.**

- A. An employee who sustains a disabling job related traumatic injury, unless electing to utilize leave, is entitled to the continuation of their regular pay for a period not to exceed forty-five (45) calendar days in accordance with applicable law and regulation.
- B. Should an employee suffer a recurrence of disability and again stop work, the employee may elect to continue regular pay, providing the forty-five (45) calendar days were not all exhausted during the initial period of disability. This is applicable, however, only during a forty-five (45) day period beginning from the date the employee first returned to work following the initial disability.
- C. Subsequent absences necessary for examination, treatment, and therapy may be charged against the forty-five (45) days in accordance with applicable laws and regulations.
- D. If an employee stops work under the provisions of this Section for only a portion of a day or shift (other than the day or shift when disability began), such day or shift will be considered as one (1) calendar day.

**Section 15.** Safety equipment and protective devices shall be provided to employees as required and prescribed by applicable directives and regulations.

**Section 16.**

A. The Employer may require an individual who has applied for, or occupies a position which has physical medical standards for selection or retention, or which is a part of an established program of medical surveillance related to occupational or environmental exposure or demands, to report for a medical evaluation under the following circumstances:

1. Prior to appointment or selection (including, re-employment on the basis of full or partial recovery from a medical condition);
2. On a regularly recurring periodic basis; and

3. Whenever there is a direct question about an employees continued capacity to meet the physical or medical requirements of the position.

B. The Employer may require an employee who is receiving worker's compensation benefits, or is assigned to limited duties as a result of an on-the-job injury, to report for a medical evaluation when the employer has identified an assignment or position (including the employee's regular position) which the employer reasonably believes the employee can perform consistent with the medical limitation of their condition.

C. The Employer may require an employee who has been released from their competitive level in a reduction in force to report for a medical evaluation when the positions to which the employee has reassignment rights requires specific physical capacities to perform the duties of the job, and those physical capacities are different from those required in the employee's present position. The Employer shall be aware of the affirmative obligations which require reasonable accommodation of a qualified employee who is disabled.

D. When the Employer orders an employee to undergo a medical examination, it shall inform the employee in writing of its reasons for ordering, the examination and the consequences of failure to cooperate.

E. The Employer shall designate the examining physician, or other appropriate practitioner, for all examinations ordered or offered by the Employer. In addition, at their expense, the employee has the opportunity to submit medical documentation from their personal physician which the employer shall review and consider before making a final determination on medical suitability or fitness for duty.

F. The Employer may order a psychiatric examination or psychological assessment only when:

1. The results of a general medical examination which the agency has ordered show no physical basis to explain actions or behavior which may affect the safe and efficient performance of the individual or others, or

2. A psychiatric examination is specifically required by medical standards or a medical evaluation program.

G. The Employer will pay all expenses incurred for agency ordered or offered medical examinations. Employees must pay for a medical examination conducted by a private physician or practitioner where the purpose of the examination is to secure a benefit sought by the employee (e.g., reassignment based on personal need, extended sick leave).

H. Employees required to undergo a medical examination will be provided copies of all medical documentation generated in conjunction with the examination upon written request from the employee. The documentation will be released by the Employer unless the information contained in the documentation concerns medical conditions of such a nature that a prudent physician would hesitate to inform a person suffering from those conditions of their exact nature or probable outcome. In the latter case, the information will be released to a licensed physician designated in writing by the employee.

I. Nothing in this section shall be construed or applied in a manner that would expand or diminish the parties rights and obligations under applicable law and regulation.

**Section 17.** The Employer shall, through coordination with Health and Human Services (HHS), perform periodic monitoring of asbestos levels in the Employer's buildings that have been identified by HHS as having potential asbestos problems. The results of the monitoring shall be provided to the Union. In the event such monitoring reveals a level of exposure in excess of the standard established by the Office of Safety and Health Administration (OSHA), through coordination with HHS, the Employer agrees to move exposed employees to work sites that do not have excessive exposure as soon as practicable. To the maximum extent permitted by law and regulations, affected employees will be paid hazardous duty pay or environmental differential pay during the period of exposure. For purposes of this agreement "period of exposure" means the time between the receipt of a conclusive report indicating a level of exposure above the standard pursuant to Article 44 (EDP) and the time affected employees are removed from such exposure.

**Section 18.** The Employer will assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or others of any right afforded by Section 19 of the Occupational Safety and Health Act, Executive Order 12196, or 29 CFR 1960. These rights include, among others, the right of an employee to decline to perform their assigned task 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 seek effective redress through normal hazard reporting and abatement procedures established by the Employer.

**Section 19.** The CBUSHC will be responsible for acquiring information about Safety and Health programs relevant to their work environments, and for determining whether such programs are needed. The NIH Occupational Safety and Health Committee will provide the CBUSHC with information, encouragement and technical assistance, financial resources, to support, their safety and health program development activities.

**Section 20.** The Union will be given space at the NIH Health Fair and Open Season to provide information describing the Union's optional insurance and benefit plans. The Union will also be allowed to distribute these brochures to employees using the Employer's internal mail system.

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## Article 20.

### Position Classification

**Section 1.** A position consists of all the current major duties and responsibilities assigned or delegated by management.

**Section 2.** The position description is a written record of the principal duties and responsibilities assigned to a position and which comprise the work assigned to an employee. The position description shall clearly state what work is to be performed.

**Section 3.** A position description must state the principal duties, responsibilities and supervisory relationships in a manner necessary for proper classification. However, position descriptions are not expected to contain a comprehensive or exhaustive listing of each and every task or duty which is performed by an employee. Minor duties may be omitted from the position description or covered by a brief statement showing that minor duties may be performed.

**Section 4.** A group of like positions, those similar in principal duties, responsibilities and supervisory relationships, may be covered by a single position description.

**Section 5.** Neither the listing of duties in a position description nor the inclusion or omission of a statement regarding the performance of other duties as assigned controls or in any manner affects the right of the Employer to assign duties to an employee or to assign, change or eliminate part or all of the duties and responsibilities that have been grouped together to constitute a position.

**Section 6.** It is the obligation of the Employer to periodically review position descriptions to ensure that they reflect the currently assigned duties of the employee, and to ensure that significant changes in duties and responsibilities are reflected in the position description.

**Section 7.**

A. An employee will be provided with a copy of their position description when he reports for duty in the position; when changes are made in the position description; and upon appropriate request.

B. The Employer will also provide the Union with copies of proposed classification standards referred to the Employer by the Office of Personnel Management for comment.

**Section 8.**

A. An employee has the right to appeal the classification of their position at any time.

B. When the classification of a position results in the reduction in grade or pay of an employee, the employee may appeal to the Merit Systems Protection Board under such regulations as the Merit Systems Protection Board may prescribe.

C. Proposed changes in position descriptions will be provided to the Union for comment.

**Section 9.** An employee may file a classification appeal directly or designate in writing a representative to process their appeal for him.

**Section 10.**

- A. A General Schedule (GS) employee may file a classification appeal directly with the Office of Personnel Management or through the Appeals Procedure established by the Agency.
- B. A Prevailing Rate (WG) employee may file a classification appeal directly with the Office of Personnel Management only after appealing through the Appeals Procedure established by the Agency.

**Section 11.** The following steps explain the process for employees wishing to file a classification appeal:

Step 1. (WG employees must file their appeal at this step first.)

- A. The appeal must be made in writing and forwarded to the Director, OHRM, NIH, or designee.
- B. The appeal must contain the following information:
  - 1. Organizational location of the position;
  - 2. Title (or requested title), series and grade;
  - 3. Reasons why the position is believed to be incorrectly classified; and
  - 4. A statement of any relevant circumstances, information, or classification standards which have a bearing on the appeal.
- C. An appeal decision will be provided to the employee following a reasonable investigation and evaluation period not to exceed thirty (30) days. If no decision is rendered within this time frame, the employee may proceed directly to step 2.

Step 2. (GS employee may file directly to this step.)

- A. An employee who has filed and is dissatisfied with the decision of the Director, OHRM, NIH, may appeal to the Office of Personnel Management within fifteen (15) days of the agency decision. GS employees may file directly to the OPM and by pass the step 1 procedure, if they so chose.
- B. The appeal may be filed through the Director, OHRM or OPM and contain the following:
  - 1. A copy of the appeal decision sent to the employee;
  - 2. A copy of the official position description and evaluation report;
  - 3. An organizational chart showing the location and grades of the appellants and related positions; and
  - 4. Any other information which is pertinent to the appeal.

\* See OPM position classification appeals: Employee fact sheet for other required information.

C. An appeal decision will be provided to the employee following a reasonable investigation and evaluation period.

**Section 12.**

A. Appeals will be canceled:

1. Upon the written request of the appellant;
2. When the appellant vacates the position being appealed unless there is the possibility of a retroactive benefit; or
3. On failure to prosecute, when the appellant does not furnish requested information and duly proceed with the advancement of their appeal. OPM may reopen a canceled appeal at its discretion on a showing that circumstances beyond the control of the appellant prevented them from prosecuting the appeal.

**Section 13.**

- A. Office of Personnel Management appeals decisions are final and binding upon the Agency.
- B. The final classification determination of an appeal will be effected no later than the beginning of the second full pay period following the receipt of the decision.

**Section 14.**

- A. An employee who has filed a classification appeal shall be entitled to a Union Representative, if requested, at any desk audit or meeting with any agency representative concerning the appeal.
- B. An employee who has filed a classification appeal shall not be subject to any penalty, reprisal, discrimination, or harassment because he has filed such an appeal.
- C. For the purposes of this section a grade reduction as a result of a classification appeal is not considered a penalty, reprisal, discrimination, or harassment.

**Section 15.** Each position which has the same level or grade controlling duties and responsibilities will be classified at the same grade level in accordance with applicable law, rule, or regulation.

**Section 16.**

A. Except as set forth in Section 11, above, the procedures set forth in this Article are the sole procedures for processing classification appeals. B. All other complaints other than classification appeals alleging a violation of this Article or appropriate position classification regulations shall be subject to the grievance and arbitration provisions of this Agreement.

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## Article 21.

### Training and Employee Development

**Section 1.** The Employer and the Union agree that the training and development of employees within the unit is a matter of significant importance. In conjunction with this concept, the Employer, within budgetary limitations, will make available to an employee the training the Employer determines will improve individual and organizational performance and assist in achieving the Employer's mission and performance goals. This would include, but not be limited to, training for newly assigned positions, different positions, and positions which have collateral duties. The Employer and the Union agree to continue encouragement of self-initiated development efforts of individual employees consistent with the terms of this Article, Government-wide rule/regulation, or law.

**Section 2.** Employees will be selected for training in a fair and impartial manner, i.e., consistent with law and regulation. Training opportunities will be offered without regard to race, color, religion, national origin, age, sex, lawful political affiliation, marital status, physical disability, or membership in a lawful labor organization.

#### **Section 3.**

A. Mandatory training which is required by the Agency to ensure that employees maintain adequate proficiency to perform the duties of their position will be conducted during the regular duty hours of the employee. If that is not possible the employees duty hours will be adjusted to allow them to attend the required training.

B. Where optional training (training which is job related and requested by the employee, but attendance is not required) is approved by the Agency, the Agency shall make reasonable adjustments to the employee's shift or work schedule to allow him to attend such training on regular duty hours.

C. When reasonable adjustments to the employee's work schedule that will permit him/her to attend optional training during their regular duty hours cannot be made, the requesting employee will be notified and given the opportunity to attend the training on their own time.

**Section 4.** The Employer will maintain information about its in-service or Employer-sponsored educational resources. This information will be made available to all bargaining unit employees. Employees seeking counseling and guidance regarding the in-service training program should discuss the matter with their immediate supervisor and/or the appropriate training office.

**Section 5.** The Employer agrees that when an employee is reassigned due to their position being eliminated, sufficient training, as determined by the Employer will be given to the employee to enable him to perform the duties of the new position. When training is determined to be necessary for new jobs and skills, the Agency will endeavor to utilize existing eligible employees in the unit.

**Section 6.** When an employee requests non-government training, the Employer will pay authorized expenses for such training at a facility approved by the Employer when the following conditions have been met:

A. The training has been requested in writing on an Employee Request for Training Form (Appendix D) and approved in advance;

- B. The training will improve individual knowledge, skills, personal performance, organizational performance and assist in achieving the Employer's mission and performance goals;
- C. Existing training programs within National Institutes of Health will not adequately meet the training need;
- D. It is not feasible to establish a new training program to meet the need effectively;
- E. Reasonable inquiry has failed to disclose the availability of a suitable and adequate program elsewhere in Government;
- F. Funds are available to pay for the training;
- G. The course is not being taken solely for the purpose of obtaining a degree; and,
- H. The approval of such training will not create an undue interference with operational requirements or an imbalance in staffing patterns.

**Section 7.** Any employee who receives in excess of eighty (80) hours of training in one (1) non-Government training program must sign an agreement using the appropriate form to continue in National Institutes of Health employment for a period three (3) times the actual amount of the time spent in training. Employees who fail to successfully complete the training or comply with the requirements of the agreement may be obligated to reimburse the government. However, when an employee fails to attend or academically pass a training course due to circumstances beyond the employee's control, they will not be expected to reimburse the government for the cost of that training. Examples: unforeseen severe weather or road conditions, failure by Agency to notify employee in advance of scheduled training, simultaneously scheduled employee training or assignments, and illness.

**Section 8.** When training is given by the Employer primarily to prepare employees for promotion, selection for the training will be made under the competitive promotion procedures contained in the Agreement. This would include selection under the Career Opportunities Training Agreement (COTA).

**Section 9.** Where the Employer offers in-service training to enhance job proficiency, excluding required and remedial training, the following procedures will apply:

- A. The Employer will post announcements sufficiently in advance of the training to allow the employees to make a request.
- B. In the event of a posting failure which affects a group of employees, the remedy available under this Agreement shall be limited to priority consideration when such training is offered again.

**Section 10.** In cases where training cannot accommodate all interested employees or the needs of the Employer preclude recommending all interested employees, the Employer will seek to provide alternate training opportunities for those interested employees. The Employer will seek to make available such training to bargaining unit employees that enhances the employee's job proficiency and development.

**Section 11.** The Employer agrees to reimburse employees for all travel, per diem, and other costs directly related to training in accordance with applicable laws and regulations.

**Section 12.** Employees required to attend training other than at their duty station will be given notification as far in advance as possible and, absent unusual circumstances, at least two (2) weeks prior to the commencement of such training. This requirement may be waived by the employee.

**Section 13.**

A. Employees whose duties require certification and/or a licence in order to be retained in their current position must successfully complete a training course and/or pass an examination. Failure to successfully complete the training course and/or pass an examination may subject the employee to removal from the position, or, if practicable, be reassigned to a vacant position to which the employee qualifies. Any such action will be taken in accordance with law and the terms of this agreement.

B. In order to determine the quality of training, an evaluation through questionnaires may be conducted by the Employer after any training.

**Section 14.** Training given during regular duty hours will have a direct effect on production and expenditure of funds. Therefore, the Agency must approve or disapprove all requested training and establish schedules for all approved training.

**Section 15.** All training authorized by the Agency and documented will be made part of the employee's Official Personnel Folder.

**Section 16.** Supervisors at all levels should stimulate the interest of employees in self-development and give employees encouragement, guidance and assistance.

**Section 17.** Once annually, management and the Union will meet to review training data for the bargaining unit. Any discrepancies, obvious training deficiencies or suggestions will be discussed and considered at this time. All problems concerning training will be mutually addressed. Both parties will develop a plan of action to be used to implement any proposed changes. Quarterly training reports for bargaining unit employees, will be provided to the Union. Requested is: last four (4) digits of SSN, date, hours, cost, type or title of training and employees cumulative total training hours for the year.

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## Article 22.

### Performance Management System

This Article represents the Parties' implementation of the National Institutes of Health, Office of the Director, Performance Appraisal Program Plan (PAPP), dated June 6, 1996, which will serve as the basis for this Article for all ORS Bargaining Unit employees and the Clinical Center Performance Enhancement Program Plan (PEP) for Bargaining Unit employees assigned to the Nutrition Department, Clinical Center. The Agency agrees to comply with law, applicable government-wide regulations, the PAPP, PEP, and this Article. These requirements are established under and to be used in conjunction with:

1. 5 U.S.C. Chapter 43;
1. 5 C.F.R. Part 430;
2. HHS Instruction 430-7, dated November 9, 1995.

#### **Section 1. Purpose and Objectives of Performance Appraisal System**

The purpose of the performance appraisal system is to accomplish the following objectives:

- A. Provide for periodic appraisals of job performance which are objective, fair, and reasonable;
- B. Recognizing and rewarding employees whose performance so warrants in accordance with Article 25;
- C. Provide for employee participation in establishing elements and standards as appropriate;
- D. Provide employees with oral and/or written feedback, as necessary, in order to keep them apprized of what is expected of them and how well they are meeting those expectations; and provide assistance in improving performance and furthering individual development; and
- E. Use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

#### **Section 2. Critical Element**

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. Individual Performance Plans will contain only critical elements.

#### **Section 3. Performance Standards**

- A. Performance standard means a statement of the expectations or requirements established by management that defines the acceptable level for a critical element. A performance standard may include, but is not limited to, such factors as quantity, quality, timeliness, and manner of performance. A performance standard will, to the maximum extent feasible, permit

the accurate evaluation of the job performance on the basis of objective criteria related to the job in question for each employee or position.

B. A performance standard will not be written in a manner in which a single failure results in unacceptable performance unless a single failure to meet the standard could result in death, injury, breach of security, or great monetary loss.

C. A performance standard should not address the usage of leave, tour of duty, or any other nonperformance related matter.

D. When a performance element(s) or standard(s) containing several components are developed and may be an appropriate vehicle for capturing the various dimensions of a job, each of which may be important in accomplishing the overall assignment and mission, the employee will be advised as to the relative importance of the criteria contained within the standard.

#### **Section 4. Criteria for Identifying Job Elements and Establishing Performance Standards**

In identifying elements, due consideration will be given to consistency with mission and function statement, Agency goals and priorities, employee input, position descriptions, existing elements, elements for similar positions, and other relevant materials. Section 5. Initiating Appraisal Periods and Performance Plans

A. Within thirty (30) calendar days of assignment of a bargaining unit employee to a new supervisor or a change in the employee's position or duties; or change in the elements or standards related to the position; or following the issuance of the formal annual rating of record, the immediate supervisor will fully discuss the position description, new or revised elements, standards, and the acceptable level of performance with the employee. The immediate supervisor will assure that the employee has a copy of the current position description, and the standards and elements developed in accordance with Section 3 of this Article.

B. Prior to implementation of the performance plan, the employee will receive in writing the critical element and performance standards for the employee's position. At the time that the supervisor furnishes a copy of the written performance plan, the supervisor and employee shall meet to discuss the critical elements and performance standards. If the employee disagrees with them, the supervisor shall discuss those disagreements with the employee in an attempt to resolve them. However, it is management's right to set the performance standards.

#### **Section 6. Grievability and Arbitrability of Job Elements and Performance Standards**

The identification of job elements and the establishment of performance standards are a management right. Management agrees to formulate the job elements and performance standards fairly, reasonably, and objectively. The job elements and performance standards are not grievable. However, employees may grieve the application of the job elements and performance standards as related to their final rating of record.

#### **Section 7. Annual Rating of Record**

A. Employees will be appraised at least once a year and given a rating of record. The rating of record is completed at the end of the rating period established by the Agency. The final rating

of record summarizes the employee's performance over the entire rating period including interim rating.

B. In addition to the annual rating of record, other interim ratings may be prepared. All interim ratings will be summarized in the employee's final rating of record. An interim rating will be prepared when there is a significant change in the employee's performance plan as a result of a change of position, duties, program objectives or priorities, prior to WIGI, etc., and if the employee has served for the minimum 120-day appraisal period. Employees will be provided a copy of all interim ratings.

C. A reasonable period of observation shall be a requisite condition for preparing a performance appraisal. The period may not be less 120 days.

D. Employees will only be evaluated on work which they have been assigned.

E. When an employee's performance exceeds an acceptable level, the supervisor will normally utilize the generic statement(s) as outlined in Article 25. The supervisor may substitute a narrative for the generic statements that demonstrates the employee's performance exceeds what is required for acceptable. The supervisor will nominate that employee for an award in accordance with Article 25.

### **Section 8. Details**

A. On a detail or temporary promotion of less than 120 days, the employee will be given a summary of achievements accomplished on the detail/temporary promotion. When employees are detailed or temporarily promoted within the Department, and the length of detail or temporary promotion is expected to last 120 days or longer, the gaining supervisor shall provide written critical elements and performance standards to employees at the beginning of the detail or temporary promotion. A copy of the ratings on critical elements will be forwarded to the supervisor of the employee's permanent position and must be considered in assigning an employee's next rating of record.

B. However, in the case of an extended period of detail or temporary promotion during a rating period (for example, a detail of 246 days or more), the supervisor of the temporary position will provide a complete performance plan and prepare the rating of record.

### **Section 9. Feedback to Employees**

The objectives of the PAPP and PEP are met through feedback, the midyear performance review, and the final rating of record. The feedback is intended to keep employees informed on how they are doing in their job performance. Feedback is provided by regular communications between the employee and the supervisor. The midyear performance review and the final rating of record are required. However, the supervisor or the employee may confirm in writing a discussion regarding performance. Both parties will initial the confirmation if in agreement. This does not preclude the supervisor from documenting their own interpretation of the discussion. Section 10. Special Circumstances Supervisors will not use or hold against the employee, when evaluating performance, any of the following:

A. Factors or changes which affect performance and are beyond the control of the employee; and

B. Authorized absences (including Union representation) during the course of the working

hours.

### **Section 11. Rating Certification**

A. The employee should acknowledge receipt of the rating by signing and dating the final rating of record. An employee's signature on the final rating of record form shall not constitute Agreement with the rating or indicate that the employee will not appeal the appraisal.

B. When an employee refuses to sign or acknowledge the rating, the unsigned rating becomes the final rating of record.

### **Section 12. Information Sharing**

A. Management agrees to share Agency proposed new elements and standards for similar or common positions within the bargaining unit with the Union.

B. Upon request, the Agency will provide the Union with information related to bargaining unit performance appraisals in accordance with Title 5 U.S.C. 7114 (b)(4).

**Section 13.** Upon request, the Selecting Official will discuss existing or tentative elements and performance standards for vacant positions, within the bargaining unit, with candidates referred for selection.

### **Section 14. Improving Unsatisfactory Performance**

A. As early as possible, the employee's attention will be called to areas of performance needing improvement and steps will be initiated to assist the employee in meeting performance standards. Such actions as determined by the supervisor may include regular and careful review of work or on-the-job and/or classroom training.

B. When informal efforts discussed above do not result in acceptable performance, a Performance Improvement Plan (PIP) will be developed with the participation of the employee. In order to give the employee a reasonable opportunity to demonstrate acceptable performance, a PIP period of a minimum of forty-five (45) calendar days will be started for employees whose performance on one (1) or more elements would result in a rating of Unacceptable. The PIP period may be extended by the supervisor responsible for monitoring the PIP if circumstances warrant such an extension.

C. The PIP will be developed in writing and the employee will be given an opportunity to review the PIP, ask questions, and/or comment on the PIP, and/or seek counsel of a Union representative seven (7) calendar days prior to its implementation. Final authority for the establishment and the content of the PIP rests with management.

D. The PIP will include the following:

1. Notice that the employee's performance is at the unacceptable level;
2. The element and the standard that the employee was unacceptable;
3. What the employee must do to reach an acceptable level of performance;
4. The assistance that will be provided;

5. The length of the PIP; and

6. The action that may be initiated if the employee does not improve to the acceptable level of performance at the completion of the PIP.

E. At a minimum, the PIP shall provide for regular biweekly feedback by the supervisor of the employee's progress in meeting the required level of performance.

#### **Section 15. Removal of Outdated Performance Information in the Employee Performance Files**

If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed and the employee's performance continues to be acceptable for one (1) year from the date of the employee is placed on a PIP, then any entry or other notation with regard to the "unacceptable" performance for which the action was proposed shall be removed from any Agency record relating to the employee.

#### **Section 16. Documents**

No document shall be placed in the Employee Performance File unless the employee has an opportunity to review the document beforehand.

#### **Section 17. Assuring Deliverance of Performance Appraisal**

A. The Union may initiate consultation on any matter involving overdue appraisals with the Agency Labor-Management Relations Committee.

B. The Union may initiate a grievance on any matter involving overdue appraisals of any employee in the unit.

#### **Section 18. Other Provisions**

The performance appraisal system will be consistent with applicable laws and regulations. In implementing this system, management agrees not to commit any prohibited personnel practices. Management further agrees to refrain from:

A. Creating a performance standard which requires the performance of overtime work unless the employee is notified of that fact at the beginning of the appraisal period (which is not to question management's right, as such, to require the performance of overtime work);

B. Requiring the performance of work for which employees are not compensated;

C. Requiring the use of an employee's personal possessions (e.g., cameras and calculators) for the accomplishment of job tasks; and

D. The Agency will give the Union two (2) weeks advance notice of all position description reviews, updates, audits, etc. within the Bargaining unit. The Union will be allotted one (1) person to participate and comment on the review of all position descriptions within the Bargaining Unit.

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## Article 23.

### Within Grade Increases

#### **Section 1. General**

Pursuant to 5 U.S.C. 5335, an employee is entitled to receive a within-grade increase subject to completion of the appropriate waiting period and a determination that the employee's work is of an acceptable level of competence. Such determination will be made in accordance with applicable law and regulation.

#### **Section 2. Advance Notice**

The supervisor will provide the employee with a copy of the level of competence certification at the time the supervisor receives it to serve as notice that the WIGI is due.

#### **Section 3. When Performance is Less than Acceptable**

- A. The basis for a determination of acceptable level of competence will be the employee's rating of record.
- B. When the supervisor believes that the employee's work is not "acceptable," the supervisor shall follow the provisions of the Performance Management System Article.
- C. When an employee's WIGI is withheld, he/she shall be provided with an opportunity to improve as provided for in Performance Management System Article.

#### **Section 4. Negative Determination**

- A. When a determination is made that an employee's work is not an acceptable level of competence (negative determination), the employee will be notified in writing, as soon as possible after completion of the waiting period:
  - 1. Of the basis for the negative determination;
  - 2. Of the employee's right to secure reconsideration of the negative determination; and
  - 3. Of the time limits within which the employee may request reconsideration.
- B. Employees in the bargaining unit may be represented by Local 2419 at any stage of the reconsideration process.

#### **Section 5. Withholding a Within-Grade Increase**

- A. After a within-grade increase has been withheld, the Employer will grant the within-grade increase at any time after he determines that the employee has demonstrated sustained performance at an acceptable level of competence.
- B. After withholding a within-grade increase, the immediate supervisor shall determine, at a minimum, whether the employee's performance is at an acceptable level of competence after twenty-six (26) calendar weeks following the original due date for the within-grade increase. If

the new determination is again negative, the employee must again be so notified.

**Section 6.** Appeals under this Article are subject, at the discretion of the employee, to be grieved in accordance with law and this contract.

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## Article 24.

### Reduction in Grade and Removal Based on Unacceptable Performance

#### **Section 1. Employees Covered**

This Article applies to the following bargaining unit employees:

- A. Employees in the competitive service.

#### **Section 2. Applicability of this Article**

This Article applies to reduction in grade and removal actions based on unacceptable performance which management has chosen to process under Title 5 C.F.R. Part 432.

#### **Section 3. General**

The Agency will administer actions covered by this Article in accordance with law and applicable government-wide regulations.

#### **Section 4. Appeal Rights**

A. Except in cases where there is an allegation of discrimination on the basis of race, color, religion, sex, national origin, age, or disability in connection with the action, an employee covered by this Article may appeal an action taken under this Article through the negotiated grievance procedure or to the Merit Systems Protection Board (MSPB), but not both. The employee shall be deemed to have exercised his or her option to raise the matter under either the negotiated grievance procedure or the MSPB procedure at such time as the employee files a grievance or an appeal with the MSPB.

B. In cases where there is an allegation of discrimination on the basis of race, color, religion, sex, national origin, age, or disability in connection with the action, an employee covered by this Article may appeal an action taken under this Article through the negotiated grievance procedure, to the MSPB, or through the Equal Employment Opportunity (EEO) complaint procedure. An employee who has elected to pursue the matter through the EEO complaint procedure or the MSPB appeal procedure may not appeal the matter through the negotiated grievance procedure. The employee shall be deemed to have elected the forum under which he/she wishes to proceed at the time he/she files a grievance, an appeal with the MSPB, or a formal EEO complaint.

#### **Section 5. Employee Right to Review Material**

An employee in the bargaining unit has the right to review such documentary evidence (including the notice of reduction in grade or removal) as may be relied upon in support of an action based on unacceptable performance.

#### **Section 6. Initial Procedures**

- A. At any time during the performance appraisal cycle that an employee's performance

becomes unacceptable in one (1) or more critical elements, the Agency shall inform the employee as provided in Article (performance article) of this Agreement. The Agency should also inform the employee that unless their performance in the critical elements improves to and is sustained at a minimally acceptable level, as defined in 5 C.F.R. 432, the employee may be reduced in grade or removed.

B. The employee will be afforded a reasonable opportunity to demonstrate acceptable performance in accordance with Article 22, Section 14 of this Agreement.

### ***Section 7. Notice of Proposed Action***

A. When management issues a notice of proposed action under this Article, the notice will state a reasonable time, not less than fourteen (14) calendar days, by which the employee's reply to the notice of proposal must be made. This time frame will start when the employee personally receives their official copy of the proposed action.

B. When management issues a notice of proposed action under this Article, the notice will include a statement that the employee is entitled to representation, including representation by Local 2419.

### **List of Articles**

## Article 25.

### Employee Awards

#### **Section 1. Eligibility**

Beginning with the effective date of this agreement, employees will be nominated for a Staff Recognition Award (SRA) in accordance with Article 22 and Article 25 Section 4. In addition, employees may be nominated for other monetary and non-monetary awards in accordance with the following references:

- A. National Institutes of Health, Office of the Director, Employee Awards Program, dated December 17, 1996, for all ORS Bargaining Unit employees;
- B. National Institutes of Health, Clinical Center, Employee Recognition and Awards Program, dated December 17, 1996, for Bargaining Unit employees assigned to the Nutrition Department, Clinical Center;
- C. Title 5, Code of Federal Regulation, Parts 430, 451 and 531;
- D. HHS Personnel instruction 430-7, Performance Appraisal System, dated November 9, 1995;
- E. HHS Personnel Instruction 451-1, Incentive Awards, dated August 10, 1996;
- F. 29 CFR, Part 430 and 451; and
- G. 5 CFR, 4505a.

#### **Section 2. Funding**

The employer retains the right to determine how much of its budget will be allocated for monetary recognition for bargaining unit employees. All such recognition will be in the form of a lump-sum payment.

#### **Section 3. Objectives**

The parties agree that the awards and recognition program should:

- A. Foster the confidence of employees that the program recognized employees based on merits of their accomplishments and contributions;
- B. Generate understanding and openness by publicizing the awards and recognition criteria, processes and results;
- C. To the extent possible and within financial management controls, be designed to recognize accomplishments throughout the year, and as close in time to the accomplishment as feasible; and
- D. Further the goals of the Agency and reward those individuals or groups/teams whose achievements personify and reinforce the core values of the National Institutes of Health.

#### **Section 4. Award Categories**

A. Staff Recognition Awards are meant to recognize employees or groups/teams of employees who perform a single action or series of actions that have been sustained for an extended period, either within or outside normal duties, which are so significant that special recognition is clearly justified. The achievement must have occurred during the twelve-month (12) period prior to nomination, unless it is in conjunction with the annual Rating of Record. Eligibility criteria for Staff Recognition Awards may be any or all of the following:

1. The achievement of the employee or group/team of employees substantially surpasses established performance goals;
2. The employee or group/team materially improves its performance over the prior comparable period;
3. Unit costs are reduced by such direct action as minimizing waste or spoilage of materials, highly expert and efficient performance of assigned tasks, better utilization of manpower or facilities, either office layout or more efficient arrangement of workflow, or revised operating procedures or unusually skill in application of present procedures;
4. Makes significant contributions to the accomplishment of Agency and group/team goals; and
5. Exhibits behavior that exemplifies the Agency's core values.

B. The parties agree that annual performance ratings be utilized to nominate bargaining unit employees for Staff Recognition Awards. The employee's performance must exceed the fully acceptable level as determined by management in accordance with Article 22 and this Section. Employees who meet these criteria will be nominated using the following generic statements or the supervisor may substitute their own written narrative statement if they so desire:

1. Generic grade statement to implement an award at Level I: It is hereby recognized that your performance exemplifies the highest standards of service and dedication to duty. Therefore, you have been nominated for a Level I Performance Award.
2. Generic grade statement to implement an award at Level II: It is hereby recognized that your performance has exceeded what is required to be rated at the acceptable/pass level. Therefore, you have been nominated for a Level II Performance Award.

#### **Section 5. Disbursement of Staff Recognition Awards for Annual Performance**

The Agency will, to the maximum extent feasible, distribute payment for SRA annual performance, normally, no later than sixty (60) calendar days after the employee is given the final rating of record. Management agrees to proportion the distribution of award funding between SRA and all other monetary awards as follows: seventy (70) percent for SRA for annual performance and thirty (30) percent for other awards. SRA for annual performance will be distributed in each budgeted area (i.e., PRB, NDCC, MES, MAPB, and LB), within the constraints of the budget, using the formula: LEVEL I AWARD TWO (2) SHARES LEVEL II AWARD ONE (1) SHARE When the total awards for the year are determined, and the total shares derived from such determinations are made, then the total amount of funds available for SRA in each budgeted area will be calculated to determine the value per share. The Union will be provided statistical data (percentage targeted for awards, title,

series grade, step, and work area) annually on awards for all employees in the effected budgeted area (i.e., PRB, NDCC, MES, MAPB, and LB). A meeting may be requested by the Union to discuss any concerns or issues it may have regarding the data.

List of Articles

## Article 26.

### Outside Employment

#### **Section 1.**

A. The Employer agrees that an employee may engage in outside employment, or participate in or be associated with a business enterprise, so long as such activity will not:

1. Interfere with their efficient performance of their duties or their availability for duty;
2. Result in a conflict of interest or the appearance of a conflict with their official NIH duties; or
3. Bring discredit upon or lower public confidence in the National Institutes of Health.

B. Approved outside employment, or association with a business enterprise, shall not interfere with an employee's availability for overtime, detail or any other assignment whether or not such activity or assignment is scheduled in advance.

#### **Section 2.**

A. Employees desiring to accept or undertake outside employment, or to engage in or be associated with a business enterprise, shall obtain prior approval of the Employer by forwarding a request on Outside Activity Request (HHS520). The Employer agrees to act on the request no later than fifteen (15) working days of receipt of the form; however, it will aim to respond as soon as possible, generally by the fifth (5) day. If the employee has not received approval or a written order not to begin the employment, the employee shall contact the Employer to inquire as to the status of their request and the Employer shall issue a final decision within ten (10) days. If no response is received by that date, the employee may take the matter directly to expedited arbitration.

B. If the Employer's response is to disapprove the request it will provide an explanation, in writing, of the statutory, regulatory and/or contractual basis for the denial.

C. If the employee has not changed positions, he need not reapply for approval simply because the approving official has changed.

D. Employees are encouraged to ask for and the Employer further agrees to provide guidance and specific interpretative assistance on questions concerning outside employment when requested in writing by the employee.

**Section 3.** When the Employer determines that any approved outside employment or association with a business enterprise is inconsistent with the criteria for approval, the employee shall be directed to terminate their employment or association within a reasonable period of time and the employee shall terminate their outside employment by that date. This will be done by a written notice which includes an explanation for the basis of the denial.

**Section 4.** The granting of approval for an outside activity does not relieve the employee of the obligation to abide by all applicable laws governing employee conduct nor does approval constitute a sanction of any violation. Approval involves an assessment that the general activity as described

on the submission does not appear likely to violate any criminal statutes or other ethics rules. Employees are reminded that during the course of an otherwise approvable activity, situations may arise, or actions may be contemplated, that nevertheless, poses ethical concerns.

**Section 5.** If the employee challenges the Employer's decision to deny or discontinue such outside employment, then the matter may be appealed directly to expedited arbitration. The Employer may introduce in this arbitration relevant evidence concerning the employer's need to require the employee to be available for overtime, detail or any other assignment, whether or not such activity or assignment is scheduled in advance. Furthermore, while awaiting the arbitration decision, the parties will arrange for the original denial decision to be reconsidered in a meeting between the parties.

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## Article 27.

### Temporary Promotions, Details, and Reassignments

#### **Section 1.**

**Section 1.** It is agreed as a matter of principle that employees should be paid at rates commensurate with the duties to which they are assigned (equal pay for equal work). Therefore, the Agency agrees that the use of details to positions of higher grade or step effecting pay will be held to a minimum.

**Section 2.** Whenever possible, the duties of a position that is vacant for a period of fourteen (14) days or less will be assumed by another employee of the same or higher grade as the employee being replaced. When this is not practicable, an employee of lower grade can be assigned. When a position is anticipated to be vacant for fourteen (14) days to twenty-eight (28) days, it will be covered by a detail and documented by a memo to all affected employees. Assignments to a position of a higher grade that are expected to last more than twenty-eight (28) days will be filled by a temporary promotion. For purposes of this Section, days shall be defined as calendar days.

**Section 3.** Employees selected for temporary promotions must meet the requirements for basic eligibility in accordance with applicable regulations of the Office of Personnel Management. They need not however, be selected under competitive promotion procedures unless the promotion is for more than 120 days.

**Section 4.** Temporary positions that are expected to last more than 120 days will be advertised and filled using competitive selection. If a temporary promotion which was not advertised and filled using noncompetitive selection (i.e., a temporary promotion that was not expected to last more than 120 days) and it is later determined that it will exceed the one hundred and twenty (120) days, will be advertised for competitive selection at that time.

**Section 5.** The use of repetitive 120 days or less (noncompetitive temporary promotions) will not be utilized to avoid merit procedures, or the requirements of Section 4 above.

**Section 6.** When a position exists, which employees may be detailed into at a higher grade for more than 120 days, the Agency shall advertise and competitively establish a best qualified list. This list will be forwarded to the selecting official. Applicants will be rotated in 120 day increments and will be based on seniority in the bargaining unit. Non-bargaining unit employees who qualify for the positions will be considered after bargaining unit employees. If it is determined that the position will be made permanent it will be advertised for competitive selection.

**Section 7.** Employees may be detailed, in accordance with applicable regulations, between specialized position categories to take care of situations such as temporary workload imbalances or to prevent the need for reductions in force.

**Section 8.** Upon termination of a temporary promotion, the employee will be returned to the position from which he/she was promoted, at the pay rate to which he/she would have been entitled had he/she not received the temporary promotion.

**Section 9.** A temporary promotion may not be made primarily:

1. For training or evaluation of an employee in a higher-graded position;

2. To give an employee a trial period before permanent promotion;
3. To decide among candidates for permanent promotion; or,
4. To train an employee in higher-grade duties.

**Section 10.** Employees may submit advance requests for noncompetitive reassignment to positions within the Bargaining Unit for which they are qualified. Management will consider all such requests.

List of Articles

## Article 28.

### Temporary and Probationary Employees

#### ***Section 1. Temporary Employees***

- A. This Section applies to temporary employees whose appointment are for more than four (4) months. Such employees are in the bargaining unit.
- B. Temporary employees in the bargaining unit will be given not less than one (1) pay period notice of the termination of their appointment. This will not preclude the Agency taking any action it deems appropriate for disciplinary and/or performance reasons.
- C. Temporary employees will be provided a copy of their official position description and be told of the conditions of employment upon entrance on duty.
- D. The Union has the right to consult with management concerning the use of temporary employment.
- E. Temporary employees will not be used to circumvent the merit promotion procedure.

#### ***Section 2. Probationary Employees***

- A. The purpose of this Section is to clarify certain rights of probationary employees where those rights may not be clear elsewhere in this Agreement.
- B. The Agency agrees to provide probationary employees a reasonable and fair opportunity to improve job performance.
- C. The Agency agrees to evaluate the performance of probationary employees during the probationary period and to counsel the employee concerning performance deficiencies. The Agency will give the employees the results of any interim review.
- D. Probationary employees will usually be given a one-pay period's notice of their separation. This will not preclude the Agency taking any action it deems appropriate for disciplinary and/or performance reasons in accordance with government-wide rules and regulations.

#### List of Articles

## Article 29.

### Reduction in Force

#### **Section 1. General**

A. This article governs:

1. The separation, demotion, reassignment requiring displacement of another employee, or furlough for more than thirty (30) calendar days of bargaining unit employee(s) by reduction in force from their respective levels; and
2. Transfers of function, when applicable, and in accordance with Article 40 Transfer of Function.

B. This article concerns the impact and implementation of the government-wide regulations on reduction in force (RIF), which may occur during the life of the Agreement, with respect to employees in the Local 2419 bargaining unit. It is the sole procedure to be used in implementing reduction in force and transfer of function which effect bargaining unit employees. Reductions in force will be accomplished in accordance with statutory requirement, civil service rules and regulations, and this Agreement.

C. No reduction in force action may be taken until every position in the affected competitive area is assigned to a competitive level.

#### **Section 2. Notification**

A. Preliminary Notification to Local 2419 of Reduction in Force or Transfer of Function

1. When it is anticipated that transfer of function out of the commuting area or reduction in force affecting bargaining a unit employee(s) will be necessary, Local 2419 will be given preliminary notification in writing. This notification will be given as soon as practicable, but no less than fifteen (15) calendar days, after the determination by management that a RIF or TOF is necessary.
  - a. The reason for the reduction in force or transfer of function;
  - b. The approximate number of employees who may be affected initially;
  - c. The competitive areas and level that may be involved initially in a reduction in force; and
  - d. The anticipated effective date that action will be taken.
2. The Union may submit a request to bargain on the Impact and Implementation on all issues not covered by this agreement relevant to RIF and TOF.

B. Notice to Employees

1. Affected employees will be given a specific notice in writing no less than sixty (60) calendar days prior to the implementation date of a reduction in force or transfer of function out of the commuting area unless circumstances dictate otherwise as explained in paragraph (2) of this Subsection. The notice period begins the day after the employee receives the notice.
2. The notice will advise employees that they should update their Official Personnel File (OPF) to ensure that their current experience, training, and qualifications are accurate.
3. When a reduction in force is caused by circumstances not reasonably foreseeable, the Office of Personnel Management (OPM), at the request of the Agency, may authorize a notice period of less than sixty (60) days before the effective date of release.

### **Section 3. Retention Registers**

- A. At least two (2) workdays before the issuance of initial specific notices, Local 2419 will be provided a copy of the annotated retention register(s) to be used to issue specific notices. Amended or revised retention registers will be provided to Local 2419 as soon as possible.
- B. The retention register will include:
  1. The employee's tenure group, competitive level, and original service date;
  2. The ratings of record used to compute credit for performance;
  3. The amount of credit for performance; and
  4. The adjusted service date.
- C. Employees and/or their designated representative will be permitted to review the retention register so that the employee may consider how the competitive level was constructed and how the relative standing of the employee was determined. This includes the right to review the complete retention registers for other positions that could affect the composition of the employee's competitive level, and the determination of the employee's assignment rights.
- D. Employees' performance ratings of record, due prior to the issuance of specific RIF notices, will be submitted to the servicing personnel office in sufficient time for retention standing to be determined. The due date would ordinarily be no more than fifteen (15) calendar days prior to the issuance date of specific notices.
- E. When employees affected by RIF are in the same competitive level with the same length of service, as augmented by performance credit, and the same subgroup, ties will be broken in the following order:
  1. Time in grade; and if a tie remains;
  2. Length of time in the Bargaining Unit; and if a tie remains;
  3. Length of service at the National Institutes of Health.

- F. Employees service computation dates for RIF purposes shall be adjusted for performance in accordance with government rules and regulations.

#### **Section 4. Competitive Areas for Positions in the Bargaining Unit**

Competitive areas for unit position in the Agency, in the Washington, D.C. metropolitan area are: National Institutes of Health (NIH); Bethesda, Rockville, Poolesville, MD.

#### **Section 5. Review of Position Descriptions and Official Personnel Files**

Prior to initiating any reduction in force action, position descriptions shall be reviewed for accuracy and official personnel folders must be updated to reflect employees' latest experience and training as submitted by the employee on an OF-612 or its equivalent for use in determining qualifications for other positions. As deemed necessary, the Employer may request employees to update their OF-612 or equivalent.

#### **Section 6. Release From Competition**

- A. When it becomes necessary to release employees from a competitive level, noncompeting employees shall be released first. After all employees who are not competing employees are eliminated, the Employer shall select competing employees for release in the inverse order of their retention standing beginning with the lowest; i.e., all employees in Group III are selected for release before any in Group II, and all employees in Group II are released before any in Group I. Within each Group, all employees in Subgroup B are released before any in Subgroup A, and all employees in Subgroup A are released before any in Subgroup AD.
- B. Noncompeting employees will be listed apart from the retention register but on the same document. They will be removed by means other than reduction in force from positions in the competitive level before releasing any competing employee from the level through reduction in force action. Noncompeting employees are those:
1. Serving in a position under a specifically leave alone limited temporary appointment or temporary or term promotion;
  2. With a written decision under 5 CFR Part 432 of removal for performance reasons.
- C. Employees with a written decision of demotion under Title 5 C.F.R. Part 432 will compete from the position to which demoted.
- D. The only exceptions to the above procedures will be those afforded by government-wide rules and regulations.
1. The Employer may provide a temporary exception for up to ninety (90) days for bonafide administrative reasons (e.g., an employee on extended sick leave or an absent employee who did not receive their notice on the same date as higher standing employees) so long as the rights of higher standing employees are not adversely affected.
  2. Where the Employer has made exceptions to the normal order of selection as outlined above, notice shall be provided as follows:

- a. In cases of a continuing exception (more than ninety [90] days), written notice of the exception and the reasons for the exceptions will be given to each higher standing employee reached for release from the same retention register;
- b. In cases of a temporary exception (up to ninety [90] days), written notice of the exception and the reason for the exception including the date the lower employee's retention will end, will be given to each higher standing employee reached for release from the same retention register;
- c. The Employer will notate on the retention register the reason for any exception to the regular order of release. In addition, when a temporary exception is made the retention register will also reflect the date the retention will end;
- d. All exceptions will be made in a fair and objective manner;
- e. Group I or II employees who are selected for release from their competitive level, shall be offered to be assigned to a position for which they are qualified in another competitive level which requires no reduction, or the least possible reduction, in a representative pay rate when a position in the other competitive level is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group AND is no more than three (3) grades or grade intervals below the position from which released; or with lower retention standing in the same tenure group and subgroup AND is not more than three grades or grade intervals below the position from which released (except that for a preference eligible with a compensable service connected disability of thirty [30] present or more the limit is five [5] grades intervals) AND is the same position or an essentially identical one, previously held by the released employee in a Federal agency.
- f. An employee is entitled to only one (1) offer of assignment, and the Employer shall select which of two (2) or more positions with the same representative rate it wishes to offer. An employee is entitled to no further offers when:
  1. They accept an offer;
  2. They reject an offer;
  3. (They fail to reply to an offer within a reasonable time; or
  4. An employee will be given ten (10) working days in which to accept or reject a reassignment offer made pursuant to this Section.

#### ***Section 7. Content of Notice of Release***

1. The action to be taken, the reasons for the action, and its effective date;
2. The employee's competitive area, competitive level, subgroup, service date, and three (3) most recent ratings of record received during the last four (4) years;
3. The place where the employee may inspect the regulations and record pertinent to this case;
4. The reasons for retaining a lower-standing employee in the same competitive level under

351.607 or 351.608 of Title 5 C.F.R.;

5. Information on re-employment rights, except as permitted by 351.803(a) of Title 5 C.F.R.; and
6. The employee's right, as applicable, to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations or to grieve under a negotiated grievance procedure. The agency shall also comply with 1201.21 of Title 5 C.F.R. of this title.
7. When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of OPM's retention regulations found in part of 5 CFR 351 of this chapter.

**Section 8.** Where an employee is proposed for separation or assignment to a lower grade level, the employee and/or their designated Union representative shall have the right to inspect retention records and other records pertinent to their case, including Office of Personnel Management and NIH/ORS reduction in force regulations. The employee and/or their Union representative are entitled to inspect the registers listing employees who may be entitled to displace him, as well as the registers of employees they may be entitled to displace.

**Section 9. Re-employment Priority**

- A. The Employer shall establish and maintain a reemployment priority list for each competitive area in which it separates Group I or II employees by reduction in force. The name of each separated employee shall be entered on the list for all competitive positions in the commuting area for which they are qualified and available.
- B. An employee who has declined assignment to a full-time, nontemporary, competitive position with a representative rate no lower than that of the position from which separated, shall not have their name placed on the list.
- C. The name of a separated Group I employee shall remain on the list for two (2) years, while the name of a separated Group II employee shall remain on the list for one (1) year from the date separated.
- D. An employee's name shall be deleted from the list when:
  1. The employee so requests, in writing;
  2. The employee accepts a non-temporary, full-time competitive position;
  3. They decline a non-temporary, full-time competitive position with a representative rate no lower than that of the position from which separated by reduction in force; or
  4. Establish and maintain a Re-employment Priority List for the affected competitive area (s).

**Section 10.** Employees separated from the Agency by reduction in force actions shall be advised in writing by the Employer of their rights to severance pay, if any; a lump sum payment for all accrued annual leave; their eligibility to apply for the Office of Personnel Management Displaced Employee Program; their Quality for placement on the re-employment priority list; their eligibility for discontinued service retirement; and the effect of the reduction in force on life and health insurance

coverage.

**Section 11.** An employee who is placed as a result of a reduction in force action in a lower grade position than the previous position, and who is otherwise eligible, shall receive grade and pay retention benefits in accordance with Title 5 U.S.C. 5362 and 5363.

**Section 12.** NIH Career Transition Assistance

A. Policy

In making personnel adjustments resulting from program and organizational changes, it is the objective of the Agency that it will make every reasonable effort to place all employees affected by the RIF or TOF in continuing positions for which they are qualified at NIH. Where it is determined to be appropriate by Management, consideration will be given to retraining effected employees to enable them to qualify for continuing positions.

B. Personal Interview; Special Problems

The Agency will give affected employees a personal interview and will treat each as an individual to try and resolve special problems.

C. Displaced Employee Assistance Program

1. This program applies to all employees in the bargaining unit of the Agency except those having temporary appointments and those falling in Group III under Part 351 of OPM Regulations.
2. Employees displaced by reduction in force will be assisted by the Agency in finding other suitable positions as explained in this Article. This includes Employees who are affected by TOF and are unable to accept assignment to another commuting area.
3. The procedures for assisting displaced employees are as follows:
  - a. When an employee is released from the Agency by RIF action, every effort will be made to seek placement of the employee in another position for which the employee is qualified and available at the same or lower grade from which the employee was displaced.
  - b. The employee's name will be entered on an NIH Displaced Employee List (DEL) or its equivalent. The employee's name will be automatically referred for consideration for all NIH vacancies for which he or she is qualified. If the employee is not selected, the selecting official will provide a written explanation for non-selection.

**Section 13.** When an employee or the Union believes the Employer has incorrectly applied applicable law, regulation, or this Article in a reduction in force action, a dispute may be filed pursuant to Article 31.

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## Article 30.

### Disciplinary and Adverse Actions

**Section 1.** It is agreed that all disciplinary and adverse actions must be based on such cause as will promote the efficiency of the service and handled in compliance with applicable laws and regulations. In all actions the rights and dignity of the employee should be maintained.

**Section 2.** The provisions of this Article are applicable to:

1. Letters of reprimand;
2. Suspensions of fourteen (14) days or less; and
3. Removal, suspensions for more than fourteen (14) days, reduction in grade or pay, or furlough for thirty (30) days or less pursuant to Chapter 75, 5 U.S.C.

**Section 3.** The Union shall be given the opportunity to be represented pursuant to Chapter 71, 5 U.S.C. section 7114 (a) (2), including any formal discussion and/or investigation if:

1. The employee reasonably believes may result in disciplinary action against the employee; and
2. The employee requests representation.

**Section 4.** The Agency agrees to discuss with the employee the basis for any proposed disciplinary or adverse action prior to the issuance of a proposal, unless an emergency or employee's unavailability precludes such a discussion. In the event the employee is issued a notice of decision on a disciplinary or adverse action which is unfavorable to him, such notice shall normally be delivered at least seventy-two (72) hours prior to the effective date of the action.

**Section 5.** The Parties agree that similar penalties should be imposed for similar offenses in similar circumstances. The Agency further agrees to examine and take into consideration all pertinent mitigating circumstances when considering the initiation of disciplinary or adverse action or an appropriate penalty in accordance with OPM regulations, Table of Offenses and Penalties.

**Section 6.** The Agency will issue a written proposal of a disciplinary or adverse action. The notice shall include: the specific charges; proposed penalty; the name of the person to whom replies are to be directed; where the employee may review the material upon which the action is proposed; the right to be represented by the Union or by someone of the employee's own choosing as long as no conflict of interests exists; and the time limit for the receipt of a reply.

**Section 7.** The employee shall be given an extra copy of any proposal for disciplinary or adverse action. The employee may wish to make this available to their representative.

**Section 8.** A reasonable amount of time will be given to the employee to prepare a reply.

**Section 9.** Notices of decisions to effect disciplinary actions shall advise the employees of their grievance/appeal rights, rights to representation, the address to which the grievance/appeal be directed and the appropriate time limits.

**Section 10.** Stale Actions: The agency will endeavor to prevent proposed actions from becoming stale. Decisions, will be acted upon in a timely manner, but normally will not be allowed to continue past ninety (90) calendar days of the proposed action.

**Section 11.** If an employee is to be served with a warrant or subpoena, the Agency will make every effort to assure privacy of delivery.

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## Article 31.

### Grievance Procedure

#### ***Preamble***

The Parties wish to foster an atmosphere of cooperation and mutual respect between supervisors and employees. To that end, supervisors and employees are encouraged to communicate regularly with each other and discuss any problems or concerns and try to resolve them informally. If such informal efforts are unsuccessful, employees may utilize the grievance procedure as prescribed in this Article. A grievance is any dispute, difference, disagreement, or complaint between the Agency, an Employee/s or the Union relating to conditions of employment. A grievance will include, but is not limited to, a complaint of an employee or the Union which involves the interpretation, application of, or compliance with the provisions of this Agreement, laws, Memorandum(s) of Understanding, and local and government wide rules and regulations in existence when this agreement is effected .

#### ***Section 1. Purpose***

- A. The purpose of this Article is to provide a mutually acceptable method for a prompt and equitable settlement of grievances.
- B. This shall be the procedure through which a just, speedy, and inexpensive determination of such grievances are secured. Therefore, the Parties agree that grievances processed through this procedure should be resolved as early as feasible and at the lowest organizational level practicable.
- C. This shall be the exclusive procedure available to the Parties and employees in the Unit. .

#### ***Section 2. Coverage and Scope***

- A. A grievance means any complaint:
  - 1. By any employee concerning any matter relating to the employment of the employee;
  - 2. By Local 2419 concerning any matter relating to the employment of any employee; or,
  - 3. By the Agency concerning:
    - a. the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or
    - b. any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- B. An employee who alleges a prohibited personnel practice under Title 5 C.F.R. 2302(b)(1) which also falls under the scope of this Article may raise the matter under a statutory procedure or this Article, but not both. Similarly, with respect to adverse actions and performance based actions, employees may raise such matters under applicable appellate procedures or this Article, but not both.

### **Section 3. Exclusions**

A. Excluded by Statute from the grievance procedure are:

1. Any claimed violation of Subchapter III of Chapter 73 of Title 5 of the U.S. Code (relating to prohibited political activities);
2. Retirement, life insurance, or health insurance;
3. A suspension or removal under Section 7532 of Title 5 of the U.S. Code (for National Security reasons);
4. Any examination, certification, or appointment; or
5. The classification of any position which does not result in the reduction in grade or pay of an employee.

B. Further, this Article does not apply to:

1. A binding decision made by an authority outside the Department;
2. Termination of an employee on a temporary appointment;
3. Filling a position outside the bargaining unit;
4. A preliminary warning notice of an action which if effected would be covered under the grievance procedure; or
5. Any action which is administratively appealable pursuant to 5 U.S.C. Chapter 75.

### **Section 4. Rights**

- A. Nothing in this Agreement shall be construed as precluding discussion between an employee and their immediate supervisor of a matter of interest or concern to either of them. Once a matter has been made the subject of a grievance under this procedure,
- B. Nothing herein shall preclude either party from attempting to resolve the grievance informally at the appropriate level.
- C. An employee or group of employees in the bargaining unit filing a grievance under this procedure may be represented by a Union representative. An employee or group of employees in the bargaining unit may present a grievance under this procedure without representation and have it resolved without intervention of the Union as long as the resolution is not inconsistent with the terms of this Agreement and the Union is given an opportunity to be present during the grievance proceeding.
- D. In presenting a grievance, the grievant and the duly designated Union representative, if any, shall be free from restraint, interference, coercion, discrimination, and reprisal.
- E. If in an active duty status, a grievant and/or duly designated Union representative shall, upon request, be allowed a reasonable amount of official time during regular working hours without charge to leave, when such time is required for obtaining, preparing, and assembling

information pertinent to the presentation of the grievance.

- F. Similarly, a reasonable amount of official time shall be allowed for the presentation of the grievance to the appropriate management official or third party. For this purpose, "reasonable time" is construed to be that amount of time actually needed to appear and present pertinent documents and information relating to the grievance. This includes a reasonable amount of time to travel to and from such presentation.

### **Section 5. Definitions**

A. "Employee" means an employee in the bargaining unit or such former bargaining unit employees who have a timely grievance.

B. A "personnel action" is an action which requires issuance of a formal document (SF-50) through which a change in the employment conditions or status of an employee is requested, recorded, and documented.

### **Section 6. Grievance Form**

A. The negotiated standard form is to be used for the filing of grievances under this Article except where the circumstances are such as, by reasonable view, to preclude the use of the form. The grievance is to be signed by the grievant(s), dated, and shall include the information specified in Section 7.B.1. for Step 2 contained in this Article.

B. Trivial or clearly mechanical errors not affecting the substantial rights of a party shall be disregarded at every stage of the proceedings under this Article. A properly filed grievance form shall be accepted and processed promptly. To be properly filed all signatures on the form must be original, photocopied signatures will not be accepted. An incomplete form will not be a basis for rejecting the grievance, but will be returned to the grievant or the Union for proper completion before processing. For purposes of timeliness, the grievance will be considered filed when the form is first received by the appropriate management official. However, the time for response will not begin until the properly completed grievance form is received by the appropriate official.

C. A grievance is properly filed when prepared in accordance with Subsection A of this Section and shall be accepted by the Agency when it is postmarked or personally delivered to the appropriate official within the time limits established in this Article.

### **Section 7. Procedures**

#### **A. Informal Procedures**

The Agency and the Union agree that every effort will be made to settle grievances at the lowest possible level. Most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. In the informal stage the Employee has fourteen (14) calendar days to attempt to resolve the dispute and/or grievance before proceeding to the formal grievance procedure. The employee may use either or both of the following methods:

Employee/Supervisor Discussions: speak directly with the management official/supervisor;

Alternative Dispute Resolution: engage the use of Alternative Dispute Resolution (ADR) (See Article 54)

Employee/Supervisor Discussions: Before proceeding to any formal grievance procedures, employees will discuss such issues with their supervisor. This will allow an informal resolution to be achieved regarding any problem which the employee feels the supervisor needs to address. The employee, if they so desires, may be accompanied and represented by the union steward or a representative of their choice. As a way to encourage resolving the matter at this level, the employee is responsible for submitting a written statement of concerns to the management official. The management official must provide the employee with a written response to the employees concerns whether they are resolved or not.

#### Alternative Dispute Resolution:

The Center for Alternative Dispute Resolution (CADR) offers employees the opportunity to resolve any dispute in an informal manner. The Parties encourage the use of the CADR in accordance with Article 54 (Alternative Dispute Resolution) as an enhancement for the informal step of the grievance procedure.

#### Step 1

1. A grievance must be filed within fourteen (14) calendar days after the informal step of the grievance procedure has been exhausted. It is the responsibility of the aggrieved party to meet this time frame. Matters of continuing violation may be grieved by the employee/union as long as the violation exists and will not be subject to the Step 1 submission time limits. The initiating party has the burden of proving the existence of a continuing violation.
2. Generally, all grievances shall be filed in writing with the first-line supervisor who was the respondent in the informal proceeding. The only exception to this practice will be if the responding official in the informal step was at a higher level of management than the first-line supervisor. In that case, the formal Step 1 would proceed to that level for formal resolution and then proceed to the next appropriate level, if necessary, to resolve a grievance. Regardless, the first step, Step 1, of the formal procedure would be with the official who made the informal response or decision. This would allow the grievance to be formally resolved at the lowest possible level. Any questions regarding or disagreements on the respondent, other than the first-line supervisor, will be referred to the servicing LRO. They shall make a decision and inform the Local President.
3. When filing a grievance at Step 1, the grievant shall provide the basic facts, issues, or concerns on the grievance form, Appendix E. The responding management official shall have seven (7) calendar days to respond to the grievance.
4. Representation at the formal Step 1 shall be provided by any steward in the same Section as the griever.
5. If no decision is rendered in a timely fashion, the griever or Union may appeal to Step 2.

#### Step 2

1. A grievance may be appealed to Step 2 of this procedure within fourteen (14) calendar days of receipt of a unsatisfactory Step 1 response or from the date the response was due. The grievance must include the following:

- a. Date of occurrence;
  - b. Name of grievor;
  - c. Official to whom appealed;
  - d. Basic facts, issues, or concerns submitted at Step 1;
  - e. Provisions of the Agreement alleged to have been violated;
  - f. Remedy sought; and
  - g. Name of the on sight Union representative.
2. 2.The Step 2 appeal shall be filed with the second-line supervisor of the aggrieved employee. The second-line supervisor shall have fifteen (15) calendar days to provide a written response to the grievance. The grievance will be rejected if any portion of the required information is missing.
  3. 3. If no decision is rendered by the above time frame, the aggrieved party may appeal to Step 3.

### Step 3

1. If the grievance is not satisfactorily resolved at Step 2, the aggrieved party may forward the grievance to the appropriate section chief, branch chief, or Division Director, as appropriate. This Step 3 grievance must be received within seven (7) calendar days of the time frames pursuant to Step 2 above or receipt by the employee and their representative of the Step 2 decision. The Step 3 official there will issue a decision within fourteen (14) calendar days after receipt of the grievance.
- 2.If no decision is rendered by the above time frame, the aggrieved party may refer the matter to arbitration.

### **Section 8. Invocation of Arbitration**

Upon receipt of the final Step decision or if no decision is rendered in a timely fashion, the Union may refer the matter to arbitration in accordance with Article 32.

### **Section 9. Termination of Grievance**

A grievance shall terminate only upon a determination that the grievance does not meet the requirements pursuant to Section 7 B. 1. above, or by the Union not to proceed with the grievance; for failure to proceed to the next step in a timely fashion; if an arbitrator rendered a decision; or, a final decision is rendered on an appeal from the arbitrators decision.

### **Section 10. Modification of Procedures**

The time limits delineated in this Article may be modified by mutual Agreement of the Parties. The Parties may mutually agree in writing to waive Step 1 or 2 of this procedure only if the authority to resolve the grievance extends beyond those management officials.

List of Articles

## Article 32.

### Arbitration

**Section 1.** If the Agency and the Union fail to settle any grievance processed under the negotiated grievance procedure, such grievance shall be submitted to arbitration upon written request by either party within twenty-one (21) calendar days after issuance of final decision.

**Section 2.** Within fourteen (14) calendar days from the date of the request for arbitration, either party shall request the Federal Mediation and Conciliation Service to provide a list of seven (7) impartial persons qualified to act as arbitrators. The Parties shall meet within seven (7) calendar days after receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then the Agency and the Union will each alternately strike one arbitrator's name from the list of seven (7) until one name remains who shall be the duly selected arbitrator.

**Section 3.** The Federal Mediation and Conciliation Service shall be empowered to make a direct designation of an arbitrator to hear the case in the event:

- A. Either party refuses to participate in the selection of an arbitrator; or
- B. Upon inaction or undue delay on the part of either party.

**Section 4.** If the Parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate statement of the issue(s). The arbitrator shall make a final determination of the issue(s) to be heard.

**Section 5.** The arbitrator's fee and the expenses of the arbitration, if any, shall be born equally by the Agency and the Union. The arbitration hearing will be held if possible, on the Agency's premises during the regular day shift hours of the basic workweek. All participants in the hearing shall be in a duty status. The Union may have one observer for training purposes. This individual must be a representative of the Union and will be allowed official time to attend.

Either party may call expert witnesses to testify. An expert witness is not classified as an observer as the duties of the expert witness are significantly different from that of an observer. The observer has no say in the arbitration proceeding and is present only to observe the proceedings. An expert witness testifies and gives advice during the Arbitration according to their field of expertise.

Only those issues and evidentiary documentation submitted during the grievance procedure pursuant to Article 31 will be considered by the Arbitrator. All witnesses will attest only to those issues that were submitted for consideration to the Step 1 grievance official pursuant to Article 31.

**Section 6.** The arbitrator will be requested to render their decision as quickly as possible, but in any event not later than thirty (30) calendar days after the conclusion of the hearing unless the Parties mutually agree to extend the time limit.

**Section 7.** The arbitrator's award shall be binding on the Parties subject to the provisions of Chapter 71, Title 5 of the U.S. Code. Any disagreement by either party over the application of an arbitrator's award shall be returned to the arbitrator for settlement including remanded awards.

**Section 8.** Any exception to an arbitrator's award must be filed with the Federal Labor Relations Authority in accordance with the provisions of Chapter 71, Title 5 of the U.S. Code.

**Section 9.** Except as mutually agreed otherwise by the Parties, arbitration will be conducted as oral proceedings with provision for a verbatim transcript. The requesting party shall pay for the transcript and it shall be their property.

**Section 10.** The arbitrator shall hear arguments regarding arbitrability and the merits of the case at the same hearing. If the Parties agree otherwise, the merits of the case will be deferred by the arbitrator pending resolution of the arbitrability issue.

List of Articles

## Article 33.

### Contracting Out

**Section 1.** The Agency agrees to inform the Union as soon as possible, but in no case less than sixty (60) days prior to a review of the activity being conducted for the purposes of possible contracting out services currently being provided by bargaining unit employees.

**Section 2.** When the Agency determines that bargaining unit work will be contracted out, the Agency will meet and confer with the Union concerning the impact on bargaining unit employees. The Union will be provided a copy of the performance work statement and contract solicitation document as soon as they are available. The Union's recommendations will be solicited and reviewed during the study concerning the most efficient organization and performance work statement.

**Section 3.** The Agency agrees to exert maximum effort to find suitable employment for bargaining unit employees who are displaced as a result of contracting out including:

- A. Giving them priority consideration for suitable positions within DHHS in accordance with the policies established by the Deputy Assistant Secretary for Human Resources.
- B. Paying reasonable costs for training and relocation when these will contribute directly to placement.
- C. Arrange for gradual transition when conversions are made to provide greater opportunity for attrition and placement; and,
- D. Coordinating with DHHS and other agencies to obtain private sector employment for separated employee. (General Administration Manual, Chapter 18-10-80[6]).

**Section 4.** The Agency agrees to abide by all government-wide rules, and regulations with respect to contracting out activity.

**Section 5.** Once a determination has been made to contract out services currently being conducted by the Bargaining Unit, the Union shall be notified of the solicitation for bids. The Union may submit bids to perform the services, at their discretion.

**Section 6.** Segments of the bargaining unit (ie: MES, MAPB, PRB, NDCC, LB) shall not be reorganized for the sole purpose of circumventing the requirement of OMB Circular A-76.

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## Article 34.

### Technology

**Section 1.** The Agency prior to implementing any mechanical or electrical/electronic device in the Bargaining Unit based on new technology, which may impact on employees in the bargaining unit, the Agency will notify the Union thirty (30) calendar days in advance, and when requested, bargain over the effect. Among the principal considerations of such bargaining will be appropriate training so as to enable affected employees to maintain their present job status. The Agency will balance manning levels and the use of technology in a manner that does not adversely affect the safety of Bargaining Unit employees.

**Section 2.** It is understood by both Parties that the advancement in technologies is not intended to replace the human element, but merely enhance the performance of the employee and their abilities to provide a safer, more rapid, and greater economical service to the Agency.

**Section 3.** It must also be recognized that limited training opportunities exist for this process, therefore, first priority in assignment shall be given within trades assigned with responsibility to repair such devices.

**Section 4.** Examples of such new technologies are: Video display terminals, high-tech test equipment, advanced motor controls, computer controlled utility systems, variable frequency drives, laser alignment equipment, occupant sensors, fire alarm systems, security systems, energy conservation systems/devices.

**Section 5.** Subject to budgetary limitations, technological advancements installed in areas shall be distributed evenly throughout all areas to prevent unbalanced technical advantage from one section to another, allowing for technological training to keep pace with installation.

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## Article 35.

### Trade Jurisdiction

**Section 1.** The Agency retains the basic right to assign work and the Union acknowledges said right. The Agency shall endeavor when exercising said right upon bargaining unit employees to insure that the duties are accurately reflected by current position descriptions.

**Section 2.** Employees who perform duties outside their position description shall receive proper orientation or training (including OJT), as appropriate, to allow them a fair opportunity to perform the duties safely and achieve the highest level of performance for the Agency.

**Section 3.** The Agency will not assign duties which would normally be considered as outside the position description in a punitive or disparate manner. Such duties will normally be rotated among the various employees on a particular work project or tour of duty.

**Section 4.** Employees will normally work within the scope of their position description. Occasionally, employees may be required to perform duties which are beyond the scope of the position description. Management will endeavor to limit these occurrences to a minimum and evenly distributing these duties between all qualified employees.

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## Article 36.

### Voluntary Dues Withholding

**Section 1.** Members of the Union employed in the Bargaining Unit may make a voluntary allotment for union dues through payroll deductions provided that the employee is a member in good standing and has a regular bi-weekly salary sufficient to cover the amount of the authorized allotment after the deduction of other legal and required amounts.

**Section 2.**

A. Dues will be withheld on a bi-weekly basis conforming to the regular pay periods. The deductions will be initiated with the first full pay period following receipt of the assignment form (Standard Form 1187) in the Workforce, Performance and Measurement Division of OHRM (Building 31, Room 3B40) or ORS Personnel Office, as appropriate, and necessary processing into the DHHS payroll system. Deductions will continue until terminated as provided in this Article.

B. A member may revoke their authorization by submitting Standard Form 1188 in duplicate to the OHRM or ORS Personnel Office, as appropriate. Revocations may not become effective until the first anniversary date of the initial allotment and annually thereafter, the first full pay period following September 1, provided that the revocation has been received prior to the designated effective date and the necessary processing into the DHHS payroll system has been completed.

**Section 3.** The Union has the responsibility to certify to the LRO when there is a change in the amount of union dues. Changes shall not be permitted to be made more frequently than once every twelve (12) months or in accordance with Title 5 U.S.C. Chapter 71.

**Section 4.** Management will notify the Union of dues deductions that are terminated for employees who are no longer eligible pursuant to Title 5 U.S.C. 7115 (b) within ninety (90) days of termination. In cases where the Agency fails to stop deductions or notify the Union, the Agency will reimburse the employee for all overpayments made in excess of the ninety (90) day period.

**Section 5.** The Agency will make Electronic Funds Transfer to the appropriate Union account. Deposits will be made every pay period and correspond to the employees pay periods.

**Section 6.** The Agency will provide the Union a listing of the names of employees from whom payroll deductions were made and the amount of the bi-weekly deductions.

List of Articles

## Article 37.

### Publicity

**Section 1.** A copy of this Agreement shall be posted by the Union on the bulletin board within each organizational segment of the bargaining unit.

**Section 2.** The Agency agrees that bulletin board space shall be provided in designated areas within the bargaining unit for the display of union literature, notices, etc.

**Section 3.** The Union may post literature as it arrives; however, it must not violate any laws, the security of the activity, or contain scurrilous or libelous material.

**Section 4.** The Union assumes responsibility for maintaining information posted on the bulletin boards in an orderly and current status.

**Section 5.** The Union will also be allowed to use all public access bulletin boards for Union related material. Such postings will be allowed to remain up for a period of not less than fourteen (14) calendar days. The Union will be responsible for placement and removal of all such postings and will maintain all such postings in a professional manner. The Union will be allowed to use existing public announcement systems in accordance with existing policies and procedures.

**Section 6.** The Agency agrees to provide a copy of this Agreement to each employee on duty as of the date of this agreement; and to all employees entering on duty after the date of this agreement. The agency agrees to provide fifty (50) additional copies of this agreement to the Union for their use; the Union may request additional copies from the Agency as needed.

**Section 7.** If a management official has reasonable belief that any item posted on the union bulletin board is not appropriate, then he will request that the appropriate LRO review it. The LRO will inform the Union of the decision and, if appropriate, meet with the Union President or their designee to discuss items which appear to be in violation of this Article. If the parties cannot come to an agreement, the appropriate LRO shall make the decision whether to allow the item to be posted.

**Section 8.** The Agency will allow the Union to maintain a hyperlink on the NIH web site that will link to the NIH AFGE 2419 Local web site.

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## Article 38.

### Video Display Terminals

#### **Section 1. General**

The provisions of this Agreement apply to Video Display Terminals (VDTs) and VDT users using their VDTs as a routine part of their duties. "Video Display Terminals" refers to a word processor or computer terminal which displays information on a television like screen (cathode ray tube).

#### **Section 2. Policy**

The policy of the Agency is to provide safe and healthful workplaces for all NIH employees. In keeping with the policy, the Agency acknowledges that there are certain ergonomic and environmental factors that can contribute to the health, safety, and comfort of VDT users. These factors involve the proper design of work stations and the education of managers, supervisors, and employees about the ergonomic, job design and organizational solutions to VDT problems as recommended in various studies on VDT usage.

The Agency agrees that employees should be provided information about ergonomic hazards and how to prevent ergonomically related injuries. The Agency agrees to provide, as it replaces existing equipment (chairs, tables workstations, etc.) with equipment which meets ergonomic design criteria. It is also agreed that the equipment, when purchased, to the extent possible, training should be provided by the vendor on how to safely and properly operate the equipment.

The Agency will achieve this policy by:

- A. Acquiring VDTs and accessory equipment that, to the maximum practical extent, provides comfort to the user and keyboards, worktables, and chairs that are height-adjustable and provide proper back support;
- B. Consulting where practical with employees, about furniture for use with VDTs prior to purchase;
- C. Providing funding for the layout of work spaces that are properly illuminated to reduce and ensure visual comfort to VDT users while providing adequate lighting for traditional clerical tasks;
- D. Seeking and acquiring information and technical assistance, as needed, from appropriate resources on methods most effectively designing VDT work station layouts;
- E. Educating employees about the proper and safe operation of VDTs, 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 not other work tasks available, those employees should be given a rest break;
- F. Distributing information to all employees on a periodic basis on VDTs and ergonomic furniture and identifying Agency resources for more information; and
- G. Reviewing the set-up of equipment and furniture for VDT work stations as a regular part of safety and health inspections.

### **Section 3. VDT Emissions Test**

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.

### **Section 4. Non-VDT Work Reassignment Request**

Employees who have legitimate medical reasons to request reassignment from VDT duties or activities will provide documentation in accordance with Article 47 (Medical Qualifications and Determinations). All requests for accommodation will be fully considered.

### **Section 5. Breaks**

A. The following is a guideline for proper break procedures when using VDTS:

Note: The National Institute for Occupational Safety and Health (NIOSH) recommends a ten-minute (10) rest break after two (2) hours of continuous VDT work for operators under moderate visual demands; and a fifteen (15) minute rest break after one (1) hour of continuous VDT work where there is a high visual demand or repetitive work task. (OSHA 3092, dated 1997).

B. The above referenced break periods are defined as those where the employee will perform duties other than VDT related work.

C. Definitions for the above.

Moderate visual demands: VDT operation where the need for constant employee attention to the terminal is not required and brief stoppages of VDT work is a routine part of the job duties or functions.

High visual demand: VDT operation of such nature that constant attention to the VDT work or repetitive continuous entries must be conducted.

### **List of Articles**

## Article 39.

### Responsible Labor Management Relations

**Section 1.** The Union shall not call or participate in a strike.

**Section 2.** The Union shall not picket the Employer in a labor-management dispute if such picketing interferes with the Agency mission. Informational picketing which does not interfere with the Agency mission is permitted.

**Section 3.** The parties agree to the establishment of a consolidated Labor Management Relations Committee to confer in good faith to seek mutual understanding on problems arising under this Agreement or concerning other matters of employee management relations. Individual grievances, complaints or disputes will not be the subject of these meetings.

#### **Section 4. Membership**

Members of the Labor Management Relations Committee will be comprised of the following:

- A. President of the Union;
- B. Labor Relations Officer, ORS;
- C. One management representative from each segment (MES, MAPB, PRB, LB, NDCC) of the bargaining unit;
- D. One Union Representative from each segment of the bargaining unit; and
- E. One mutually agreed upon chairperson/facilitator.

The Parties agree to designate all members and alternates prior the first meeting.

#### **Section 5. Attendance and Meetings**

All designated members are encouraged to attend all meetings. A quorum of at least fifty (50) percent from management and the Union must be present to call a meeting to order. An agenda must be submitted by either or both parties one week prior to the scheduled meeting to the committee chair NIH. If no agenda is submitted, the meeting will be canceled.

#### **Section 6. Meeting Schedule**

The Parties will meet bi-weekly for whatever time is required to complete the meeting, but unless mutually agreed to not to exceed two (2) hours.

#### **Section 7. Conduct of the Meetings**

The Parties agree that IBB principals and practices will be used to resolve disputes. It is recognized that, at times, not all issues can be resolved using this method. Any outstanding issues not resolved using IBB may be referred to traditional methods such as grievance, negotiations, etc. by either Party.

### **Section 8. Records**

The meeting minutes will be recorded and may be posted in any locations as determined by the committee. All committee minutes will be kept for no less than one (1) year by each party. Either party may independently keep the records longer than one (1) year if they so chose. The chairperson/facilitator shall be responsible for the conduct of the meeting and determining a method of recording the minutes. The minutes from the previous meeting will be reviewed at the beginning of the next meeting for concurrence on the accuracy of the contents.

### **Section 9.**

Employees' attendance at the meetings will be on official time and during times which they would normally be in a duty status. Employees may request, subject to supervisory approval, that their tour be adjusted to allow attendance.

### **List of Articles**

# Article 40.

## Transfer of Function

### **Section 1.**

A. A transfer of function is 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) effected; or the movement of the competitive area in which the function is performed to another commuting area.

B. A function is all or a clearly identifiable segment of the mission of NIH, including all integral parts of that mission, regardless of how it is performed, but generally excluding an individual job or task.

### **Section 2.**

A. The Employer retains the right to determine the organization of employees within the Agency, and in accordance with applicable law, regulations and this Agreement, to assign, release and retain employees within the Agency, to remove or reduce in grade such employees.

B. Transfers of function shall be carried out in accordance with applicable law, regulations and this Agreement.

### **Section 3.**

A. When an employees work transfers, they are entitled to transfer with it only if the lack of an opportunity to do so would result in their demotion or separation from the Agency.

B. The Employer retains the right to reassign employees to different duty stations for just cause. For all actions invoked under this section, the Employer will pay all associated expenses to maximum extent allowable under law.

### **Section 4.**

A. When a transfer of function is to be effected, the Employer will identify employees for transfer with a function in the losing competitive area. Employees to be transferred will be identified as follows:

(1) METHOD ONE - A competing employee will be identified with a transferring function if the employee performs the function during all or a major part of their work time; or, regardless of the amount of time the employee performs the function during their work time, if the function performed includes the duties controlling the employees grade or rate of pay. Method One will be used to identify each position to which it is applicable.

(2) METHOD TWO - Competing employees who perform the function during less than half of their work time will be identified with a transferring function in the inverse order of their retention standing for reduction in force purposes unless the procedure would result in the separation or demotion of an employee with a higher retention standing, in

which case the losing competitive area must identify competing employees in the order of their retention standing. Method Two will be used only when Identification Method One is not available.

B. As the needs of the Agency allow, volunteers in the losing competitive area will be allowed to transfer in place of those employees identified for transfer of function under Method One or Two provided:

1. The volunteers are in the same competitive level(s) as the employees identified under Method Two; and
2. No competing employee identified for transfer under Method One or Method Two will be separated or demoted solely because a volunteer transferred in their place to the gaining competitive area.

C. When the Employer determines that employees in more than one competitive level are interchangeable for transfer of function purposes, competitive levels will be combined for the purpose of allowing for volunteers.

D. Selections for transfer will then be made in the order of the volunteer's standing on the retention register for their competitive level(s), up to the maximum number of employees the Employer has determined will be transferred with their function. If there are insufficient volunteers to make up this number, Method One or Two, as appropriate, will be used to identify the remaining employees to be transferred.

**Section 5.** Adverse action procedures pursuant to Article 30 may be used to separate an employee who declines to transfer with a function.

#### **Section 6.**

A. When a transfer of function occurs while a reduction in force is already in progress in the losing competitive area, the Employer may determine that the movement of employees with the function is not essential to the continuity and efficiency of the function. In such circumstances, at the discretion of the Employer, reduction in force procedures may be used to release from their competitive levels those employees who have declined to move with their function. Any separations and displacements will be treated as part of the concurrent reduction in force.

B. Reduction in force procedures will not be used to separate employees who decline to move with their function unless a reduction in force is already in progress in the losing competitive area and the Employer determines that reduction in force procedures rather than adverse action procedures will be used.

C. When the losing competitive area identifies and transfers more employees than the gaining competitive area needs to carry on the function, the gaining competitive area will follow reduction in force procedures if necessary to relieve the surplus, in accordance with government-wide rules and Article 29, if applicable.

1. After competing employees in the losing competitive area have indicated whether they will accompany their function, the rights of employees who have decided to accompany their function will be determined by combining the retention registers of the segment being transferred with the appropriate registers of the competitive area

receiving the function. A determination of the rights of the incoming employees will not require a physical relocation or a paper transfer to the gaining competitive area.

2. Those employees in the losing competitive area who compete unsuccessfully for retention in the gaining competitive area will not be transferred, either on paper or physically relocated, to the gaining competitive area in order to be separated. They will be separated from the losing competitive area acting as agent for the gaining competitive area.

D. A transfer of function will not result in personnel actions affecting employees of the gaining competitive area when the transfer does not require a reduction in force on the gaining end.

### **Section 7.**

A. The Employer shall provide a specific written notice to each employee identified for transfer with a function at least sixty (60) calendar days prior to the effective date whenever possible and practicable. The notice will advise employees of the transfer of function and request their decision as to whether they will accompany their function to the new location. The notice will include all information available on the date of issuance, such as the title, grade, and location of the new position; what action is being taken; the effective date of the action; and what is involved in acceptance or rejection of the offer of transfer.

B. It is recognized that in some situations, information such as the title or grade of the position to which an employee is being transferred will not be available. Such a circumstance will occur when a reduction in force is necessary in the gaining competitive areas as a result of a transfer of function. This notice will advise them that they will be afforded applicable reduction in force rights if the offer to transfer the function is accepted. Under such circumstances employees will be given an opportunity to review a combined retention register for affected competitive levels which would be in effect in the gaining competitive area.

C. Employees will be given a minimum of thirty (30) work days, but more time when practicable, in which to accept or reject an offer of transfer with a function.

**Section 8.** The Employer shall provide assistance in obtaining other employment to those employees identified for transfer who decline to accompany their function to the new location. Between the date employees decline to accompany a transfer of function and the date of their separation from the Agency, the Employer will provide the following assistance:

A. The Employer has determined that it will designate an out placement coordinator to serve as the focal point for all assistance activities;

B. A file of OF-612s or equivalent submitted by declining employees will be maintained for distribution to prospective Employers when possible. When requested by the prospective Employers, these applications will be provided;

C. Eligible employees, who have submitted an OF-612 or equivalent, will be registered in the Office of Personnel Management Displaced Employee Program; and

D. Eligible employees will be registered on the NIH Re-employment Priority List for the losing competitive area. Employees separated for declining to transfer with a function will be entered on such lists for placement after Group I and Group II employees separated by reduction in force procedures.

**Section 9.** The Employer shall advise, in writing, employees separated from the Agency for refusal to transfer with a function of their rights to severance pay, if any; any lump sum payment for all accrued annual leave; their eligibility to apply for the Office of Personnel Management Displaced Employee Program; their eligibility for placement on the NIH Re-employment Priority List; their eligibility for discontinued service retirement, if applicable; and the effect of separation on the health and life insurance coverage.

**Section 10.**

A. When an employee or the Union believes the Employer has incorrectly applied applicable law, regulation, or this Article in a transfer of function action, a dispute may be filed pursuant to Article 31.

B. An employee separated under adverse action procedures as a result of a transfer of function may appeal that action under the procedures in Article 30.

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## Article 41.

### Injury Compensation

#### ***Section 1. Liaison***

To ensure that workers' compensation claims are properly processed, the Agency has appointed a Workers' Compensation Specialist to provide guidance and assistance as needed, to supervisors and employees on the procedures for filing workers' compensation claims and employees and supervisors' rights and responsibilities concerning such claims. The Agency will periodically publish the names, locations, and phone numbers of the Agency Workers' Compensation Specialist.

#### ***Section 2. Reporting Injuries***

Employees injured on the job will report injuries, no matter how slight, in writing to the supervisor, preferably before leaving the work site on the shift during which the injury occurred but not later than 48 hours after the injury or if exposure to occupational disease occurred while on duty. Such report shall be made on OFEC Form CA-1. Employees who subsequently learn that they have a disease which may be occupationally related, have three (3) years from the date they become aware to report it. The employee's claim for occupational disease shall be made on OFEC Form CA-2. If the employee's injuries prevent them from making this report, the report must be submitted by the supervisor. When an employee on duty required treatment away from the activity because of occupational accident or occupational disease, the Employer will provide transportation for the employee to the facility for treatment/examination on the day that the accident or illness occurs. Further, the applicable provisions of the Workman's Compensation Act as administered by the Office of Federal Employees Compensation, Department of Labor, will be made available to the employees. The immediate supervisor or designee will assist the employee at their request in filing all necessary forms.

#### ***Section 3. Counseling***

When an employee claims that an injury or illness is work-related, appropriate information and counseling will be provided by management.

#### ***Section 4. Leave Buy-Back***

In accordance with appropriate regulations concerning the Federal Employees Compensation Act, 5 U.S.C. 8100, the Agency will whenever practicable provide for employees to buy back annual or sick leave used in lieu of injury compensation. List of Articles

## Article 42.

### Job Sharing

In today's labor market, Local 2419 and management recognize that more flexible work schedules are necessary to attract and maintain a quality work force. Job sharing is a way to permit employees to work part-time in positions where full-time coverage is required.

#### ***Section 1. Definition***

Job sharing is a form of part-time employment in which the tours of duty of two (2) or more employees are arranged in such a way as to cover a single full-time position.

#### ***Section 2. Status***

Although they share the duties of a full-time position, job sharers are considered to be individual part-time employees for purposes of appointment, tour of duty, pay, classification, leave, holidays, benefits, position change, service credit, record keeping, reduction in force, adverse actions, grievances, and personnel ceilings.

#### ***Section 3. Tour of Duty***

Specific work schedules depend on the nature of the job and the needs of the office and job-sharing team. Almost any reasonable arrangement is possible if it meets the needs of the supervisor and the job sharers. Scheduling should take advantage of the fact that two (2) people rather than one (1) are filling the job; these possibilities include overlapping time, split shifts, or working in different locations at the same time. Work schedules for job sharers can be from sixteen (16) to thirty-two (32) hours per week and can be varied in the same way as other part-time employees. The amount of scheduled overlap time depends on the needs of the particular position.

#### ***Section 4. Employee Requests***

Employee requests for part-time employment in order to participate in job sharing, must be made in writing to the employees immediate supervisor. The Employer will give fair and objective consideration to the employee's request for part-time employment and grant such requests based on the Employer's need for the employee's services, the suitability of the position for part-time employment, availability of resources, and the impact on the efficiency of the Agency. Requests will be approved or disapproved within thirty (30) days of receipt by the immediate supervisor. In the case of a disapproval, the supervisor will inform the employee in writing and provide the reason for the denial.

#### ***Section 5. Information on Impact of Conversion to Part Time Employment***

Employees who have been approved to convert to part-time employment for the purposes of job sharing may request information concerning the impact of the conversion from full-time to part-time employment in the areas of retirement, reduction in force, health and life insurance, promotion and step increases. This information will be provided to the employee in the form of a written fact sheet. The employee will be required to sign a statement indicating that they received this information.

#### ***Section 6. Changes in Job Sharing Situations***

Job sharing situations may change from time to time. For example, one employee who shares a position with another might leave the program. This may have an adverse affect on the remaining employee who shares the position. In these instances management will fully consider the affect on the remaining employee and their needs. The remaining employee will be allowed fifteen (15) workdays, if practicable, from receiving written notice from the Employer to find another employee, acceptable to management, to share the position. If no employee can be identified or is not acceptable to management, the remaining employee will resume full-time employment. The final decision for all changes in job sharing situations shall be made by management.

***Section 7. Limitation on Job Sharing***

No more than 5% of each organizational segment (MES, PRB, NDCC, MAPB, LB) in the bargaining unit will be allowed to participate in job sharing initiatives at any one time.

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## Article 43.

### Duration and Changes

**Section 1.** This Agreement shall remain in full force and effect for a period of four (4) years from the date of approval.

**Section 2.** The Agreement shall be automatically extended for six (6) month periods unless: (1) either party gives the other party written notice of its intention to terminate or renegotiate this Agreement no less than sixty (60) nor more than ninety (90) calendar days prior to its termination date, or two (2) at any time it is determined that the Union no longer is entitled to exclusive recognition for the Unit covered hereunder. Negotiations shall begin no later than forty-five (45) days after notification of intent to renegotiate the Agreement. If renegotiation of the Agreement is in progress but not completed upon the termination date of this Agreement, this Agreement will remain in full force and effective during renegotiation of said Agreement and until such time as a new Agreement is approved.

**Section 3.** Amendments to this Agreement may be required because of changes in applicable laws, or government-wide rules, regulations or policies issued by higher level authority after the effective date of this Agreement. In this event the Parties will meet for the purpose of negotiating new language that will meet the requirements of such higher authority. Only those parts of the contract affected by the change will be subject to renegotiation.

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## Article 44.

### Environmental Pay

**Section 1.** The Agency will make every effort to eliminate or to reduce to allowable levels established by OSHA and this Agreement, all hazards, physical hardships, and working conditions of an unusually severe nature. When the Agency does not reduce the hazard, physical hardship, and/or working condition of an unusually severe nature to a level at or below the applicable standard, an environmental differential will be paid. The designation of a situation as being appropriate for payment for an environmental differential is not intended to condone work practices which circumvent Federal safety laws, rules, or regulations, nor does it excuse employees from following DES/MES safety procedures including wearing proper protective/safety equipment as required.

**Section 2.** In accordance with FPM Supplement 532-1, Appendix J (Schedule of Environmental Differentials Paid for Exposure to Various Degrees of Hazards, Physical Hardships, and Working Conditions of an Unusual Nature), the appropriate environmental differential will be paid to any unit employee(s) who are exposed to a hazard, physical hardship, and/or working condition of an unusually severe nature.

#### **Section 3.**

A. When a supervisor knows that an employee will be assigned to one of the authorized work situations described in Section 4 of this Article, he will notify the employee at the time of the assignment.

B. If an employee has not been so notified, and if during a job assignment, an employee believes they have been assigned to one of the authorized work situations for which EDP is warranted they will bring the matter to the attention of the supervisor as soon as possible. The immediate supervisor and/or the next level supervisor will make a determination and so advise the employee. Disputes arising from such determinations may be submitted for resolution under the negotiated grievance procedure in this Agreement.

C. Upon certification by the supervisor that the employee is performing work in an authorized work situation for which environmental differential pay is warranted, he will provide the employee with a copy of the DES-EDP form.

#### **Section 4.** Authorized work situations (cite Appendix J, Category definitions)

##### A. Hot Work 4% Pay

1. Working in confined spaces wherein the employee is subjected to temperatures in excess of 110 degrees Fahrenheit.

2. Working in confined spaces wherein the employee is subjected to temperatures in excess of 110 degrees Fahrenheit where such exposure is not practically eliminated by the mechanical equipment or protective devices being used.

##### B. Cold Work 4% Pay

1. Working in cold storage or other climate-controlled areas where the employee is

subjected to temperatures at or below freezing (32 degrees Fahrenheit).

2. Working in cold storage or other climate-controlled areas where the employee is subjected to temperatures at or below freezing (32 degrees Fahrenheit) where such exposure is not practically eliminated by the mechanical equipment or protective devices being used.

#### C. Dirty Work 4% Pay

Performing work which subjects the employee to soil of body or clothing:

1. Beyond that normally to be expected in performing the duties of the classification; and
2. Where the condition is not adequately alleviated by the mechanical equipment or protective devices being used, or which are readily available, or when such devices are not feasible for use due to health considerations (excessive temperature, asthmatic conditions, etc.); or
3. When the use of mechanical equipment, or protective devices, or protective clothing results in an unusual degree of discomfort.

#### Examples:

The Parties agree that when the following tasks are performed that the employees performing such work will receive dirty pay, these pre-agreed upon tasks will not prevent the agency from identifying and paying dirty pay for other tasks that may be identified to meet the criteria of Section 4. C. 1, 2, 3.

1. The cleaning, removal, or collection of soot or combustion byproducts from the boiler fire sides, or ash ejector where the employee is required to enter the boiler or ash ejector.
2. Internal work in oil tanks, voids, pits, manholes, sumps, wells.
3. Employees involved in major oil spill containment and cleanup, and maintenance of oil spill containment cofferdams, dikes, or dams, sewer and or storm drains.

#### D. Asbestos 8% Pay

Working in an area where airborne concentrations of asbestos fibers may expose employees to potential illness or injury and protective devices or safety measures have not practically eliminated the potential for such personal illness or injury.

#### Example:

Working in areas where air tests reveal that levels of above 0.1 ff/cc exists as an eight-hour time weighted average. The Agency will conduct an ongoing program of monitoring air in work areas for asbestos. The Union may however conduct its own tests at its expense for asbestos subject to below conditions set by the NIH Office of Occupational Safety and Health. Those conditions include:

1. Test must be done by a certified Industrial Hygienist.

2. Lab work must be done by an EPA certified testing lab.

3. NIH has no liability for injury or illness to the testing firm or lab personnel

**E. Poisons (toxic chemicals) - High Degree Hazard 8% Pay**

Working with or in close proximity to poisons (toxic chemicals) other than tear gas or similar irritants, which involves potential serious injury such as permanent or temporary, partial or complete loss of faculties and/or loss of life including exposure of an unusual degree to toxic chemicals, dust, or fumes or equal toxicity generated in work situations by processes required to perform work assignments wherein protective devices and/or safety measures have been developed but have not practically eliminated the potential for such personal injury (Any chemical or substance identified as a Level 3 or above for any category of ratings of the NFPA 704 Hazard Identification System) when the container is opened and direct exposure can occur.

Examples:

Handling and storing toxic chemical agents including monitoring the areas to detect presence of vapor or liquid chemical agents; examining of material for signs of leakage or deteriorated material; decontaminating equipment and work sites; work relating to disposal of deteriorated material (exposure to conjunctivitis, pulmonary edema, blood infection, impairment of the nervous system, possible death). Renovation, maintenance and modification of toxic chemicals; guided missiles, and selected munitions. Operating various types of chemical engineering equipment in a restricted area such as reactors, mixers, filters, stripping units, fractionating columns, blenders, mixers, pumps and the like utilized in the development, manufacturing, and processing of toxic or experimental chemical warfare agents. Demilitarizing and neutralizing toxic chemical munitions and chemical agents. Handling or working with toxic chemicals in restricted areas during production operations. Preparing analytical reagents, carrying out calorimetric and photo metric techniques. Injecting laboratory animals with compounds having toxic, incapacitating or other effects. Recording analytical and biological tests results where subject of above types of exposure. Visually examining chemical agents to determine conditions or detect leaks in storage containers. Transferring chemical agents between containers. Salvaging and disposing of chemical agents.

**F. Poisons (toxic chemicals) - Low Degree Hazard 4% Pay**

1. Working with or in close proximity to points (toxic chemical other than tear gas or similar irritating substances) in situations for which the nature of the work does not require the individual to be in as direct contact with, or exposure to, the more toxic agents as in the case with the work described under high hazard for this class of hazardous agents.

2. Working with or in close proximity to points (toxic chemical other than tear gas or similar irritating substances) in situations for which the nature of the work does not require the individual to be in as direct contact with, or exposure to, the more toxic agents as in the case with the work described under high hazard for this class of hazardous agents and wherein protective devices and/or safety measures have not practically eliminated the potential for personal injury. (This will be paid for any chemical or substance identified as a three [3] or above for any category of rating of the NFPA 704 Hazard Identification System) when the containers remain factory sealed and only accidental exposure could occur.

Example:

Handling for shipping, marking, labeling, hauling and storing loaded containers of toxic chemical agents that have been monitored.

G. Micro-Organisms High Degree Hazard 8% Pay

Working with or in close proximity to micro-organisms which involves potential personal injury such as death, or temporary, partial, or complete loss of faculties or ability to work due to acute, prolonged, or chronic disease. These are work situations wherein the use of safety devices and equipment, medical prophylactic procedures such as vaccines and antiserums and other safety measures do not exist or have not been developed but have not practically eliminated the potential for such personal injury. Employees who are required to enter laboratories designated as three (3) or higher by the biosafety publication DHHS (CDC) 93-8395 will receive this pay.

Examples:

Direct contact with primary containers of organisms pathogenic for man such as culture flasks, culture test tubes, hypodermic syringes and similar instruments, and biopsy and autopsy material. Operating or maintaining equipment in biological experimentation or production. Cultivating virulent organisms on artificial media, including embryonated hen's eggs and tissue cultures where inoculation or harvesting of living organisms is involved for production of vaccines, toxides, etc., or for sources of material for research investigations such as antigenic analysis and chemical analysis.

H. Micro-Organisms Low Degree Hazard 4% Pay

3. Working with or in close proximity to micro-organisms in situations for which the nature of the work does not require the individual to be in direct contact with primary containers of organisms pathogenic for man, such as culture flasks, culture test tubes, hypodermic syringes and similar instruments, and biopsy and autopsy material

4. Working with or in close proximity to micro-organisms in situations for which the nature of the work does not require the individual to be in direct contact with primary containers of organisms pathogenic for man, such as culture flasks, culture test tubes, hypodermic syringes and similar instruments, and biopsy and autopsy material and wherein the use of safety devices and equipment and other safety measures have not practically eliminated the potential for personal injury. (This pay will be authorized when employees enter and work in secure level laboratory areas of Level 2) as designated by biosafety publication DHHS (CDC) 93-8395.

**Section 5.** If any new or changed categories or differential rates are authorized by OPM regulations during the term of this Agreement, the Parties will negotiate appropriate changes or additions to this Agreement in accordance with the procedures outline in Article 60, Midterm.

**Section 6.**

A. If, after this Agreement is in effect, either party believes that an EDP situation, in addition to those authorized in Section 4, has developed, the Parties will attempt to resolve such issues through negotiation between the Parties.

B. The Parties agree that if an Agreement is reached, the Agreement may include a retroactive EDP adjustment to any unit employee who has worked in the agreed upon work situation during the thirty-day (30) period before the beginning of the negotiations.

**Section 7.**

A. An employee subjected at the time to more than one hazard, physical hardship, and/or working condition of an unusually severe nature as listed in the Agreement or Appendix "J" shall be paid for the exposure which results in the highest differential, but shall not be paid more than one differential for the same hours of work.

B. When an employee is entitled to an environmental differential which is paid on an actual exposure basis, he/she shall be paid a minimum of one hour's pay for exposure. For exposure beyond one hour the employee shall be paid in one quarter hour increments.

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## Article 45.

### Office and Equipment for the Union

**Section 1.** The Agency will provide adequate office space, approximately 400 square feet, equipment and furniture for the Union office.

**Section 2.** The Union shall be provided use of intra-office mail system and electronic mail on the ORS network. All Stewards and Officers will have access to an agency computer for e-mail usage. They will have separate e-mail accounts and will be provided basic computer training. The use of these shall not be for internal Union business.

**Section 3.** The Agency will provide desks, chairs, file cabinets, copy machine, and telephone. Maintenance of the office equipment is the responsibility of the Union. The replacement of old or aging equipment will be the responsibility of the Agency. The Union will meet the requirements for accountability of personal property for the office equipment provided for their use. Conference room will be made available for the Union's use during non working hours.

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## Article 46.

### Part Time Employment

#### **Section 1. Annual Survey**

The Union will conduct an annual survey of employees in the bargaining unit to determine their interest in part-time employment. The survey form will include information on the rights and benefits of part-time employment. The Union will consult with the Agency on the content of the survey form and share the results of the completed survey with the Agency.

#### **Section 2. Part-Time Employment**

Qualified Bargaining Unit employees will be given priority consideration for any part-time positions within the bargaining unit.

#### **Section 3. Conversions**

- A. If a full-time employee wishes to convert to part time, they shall make a request to their supervisor.
- B. Conversion from full-time to part-time employment and the reverse can be made only with the employee's written request and management approval. Employees will be given a copy of the position description upon management approval of the conversion and shall know the grade of that position before accepting conversion to part time.
- C. Employees who accept or convert to part-time positions have no guarantee they will be subsequently converted to full-time employment, but management agrees to make good faith efforts to accommodate the employee's request.
- D. An employee who is denied a conversion from full time to part time or vice versa shall be notified in writing of the reasons.

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## Article 47.

### Medical Qualifications and Determinations

#### **Section 1. General**

The Agency will follow law, applicable government-wide regulations, and this Article in all medical examinations related to an employee's ability to perform their official duties.

#### **Section 2. Prerequisite Conditions**

When there are reasonable grounds to believe that a health problem is causing performance or conduct problems of an employee, the employee shall be given an opportunity to provide medical evidence documenting the health problem affecting their performance or conduct and/or an opportunity to voluntarily request reasonable accommodation or initiate an application for disability retirement on their own behalf.

#### **Section 3. Procedures**

A. Notice to the Individual. When the Agency orders or offers a medical examination or requests medical documentation, it must inform the employee in writing of:

1. The reasons for the examination or request for medical documentation;
2. The consequences of failure to report for examination, if so ordered; and
3. The individual's right to submit medical information from their own physician or practitioner, and the Agency's obligation to consider such information.

B. Informing the Physician. The Agency will ensure that the physician knows exactly what medical information is required, the duties and requirements of the position (including environmental considerations), and any other pertinent factors directly relevant to determining the individual's ability to perform safely and efficiently, without hazard to them or others. If an employee has been under medical treatment, this fact should be communicated to the examining physician by the employee or their designated representative. The results of the examination should take account of the examining and treating physician's diagnoses and/or conclusions, the examining physician should make a concerted effort to account for such inconsistencies and to discuss their implications for the person's employability.

#### **Section 4. Counseling**

When the Agency determines that the performance or conduct of an employee may be health-related, the employee may be encouraged to seek counseling through the Employee Assistance Program.

#### **Section 5. Accommodations**

When the results of a medical examination reveal that the employee cannot satisfactorily perform their regularly assigned job, the Agency will consider reasonable accommodation for the employee under the applicable regulations regardless of whether or not the injury or medical condition occurred on or off the job.

**Section 6.** All medical records shall be considered sensitive and will be maintained and used in accordance with the applicable provisions of 5 CFR 339.

#### List of Articles

## Article 48.

### Employee Investigations and Interviews

When an employee is interviewed they will be informed of the general nature of the matter being investigated and whether or not the interview is related to possible administrative action and/or criminal misconduct by them. The Agency will encourage all supervisors to inform employees of their right to representation during these types of interviews.

Employees should refer to Appendix F which contains definitions of their rights related to investigations.

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## Article 49.

### Family Leave

Request for leave under this Article must specify if the leave requested is FMLA or FEFFLA and will be in writing in advance when possible. Use of the SF-71 is an acceptable method of written request.

#### **Section 1. Family and Medical Leave Act of 1993**

A. Pursuant to the Family and Medical Leave Act (FMLA) and its implementing regulations, an eligible employee who has completed at least twelve (12) months of service as an employee shall be entitled to a total of twelve (12) administrative workweeks of leave without pay (LWOP) during any twelve-month (12) period for one or more of the following reasons:

1. The birth of a son or daughter of the employee and the care of such son or daughter;
2. The placement of a son or daughter with the employee for adoption or foster care;
3. The care of a spouse, son, daughter, or parent of the employee who has a serious health condition; or
4. A serious health condition of the employee that makes the employee unable to perform the essential functions of their position.

B. If leave taken under this Act is foreseeable based on an expected birth, placement for adoption or foster care or planned medical treatment, the employee shall provide notice to Management of their intention to take leave not less than thirty (30) days before the date the leave is to begin. If the date of the circumstances requires leave to begin within thirty (30) days, the employee shall provide such notice as is practicable.

C. An employee can substitute accrued annual or sick leave, consistent with current laws and regulation, for any part or all of the twelve-week (12) unpaid leave entitlement.

D. If the need for leave taken under this Act is foreseeable based on planned medical treatment, the employee shall consult with Management and make a reasonable effort to schedule medical treatment so as not to unduly cause disruption to the operations of the unit, subject to the approval of the health care provider.

E. An employee may be required to provide acceptable medical documentation as provided by the law.

F. An employee who takes FMLA leave is entitled to continue their health benefits coverage. An employee may pay the employee share of the premiums on a current basis or pay upon their return to work.

G. An employee who takes FMLA leave is entitled to be returned to the same or equivalent position, with equivalent benefits, pay status, and other terms and conditions of employment.

#### **Section 2. Federal Employees Family Friendly Leave Act of 1994**

A. Pursuant to the Federal Employees Family Friendly Leave Act and its implementing regulations, employees may use sick leave in order to:

1. Provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth;
2. Provide care for a family member as a result of medical, dental, or optical examination or treatment; or
3. Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

B. A covered full-time employee may use forty (40) hours of sick leave each leave year for these purposes. An employee is entitled to use an additional sixty-four (64) hours per leave year provided the employee maintains a balance of at least eighty (80) hours of sick leave.

C. Part-time employees may also use sick leave for these purposes. The amount of sick leave permitted under the Act is prorated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

D. A family member is defined as:

1. Spouses, and parents thereof;
2. Children, including adopted children and spouses thereof;
3. Parents;
4. Brothers and sister, and spouses thereof; and
5. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

E. An employee may be required to provide acceptable documentation as provided by the law.

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## Article 50.

### Merit Promotion Plan

#### **Section 1. Preamble**

The purposes and intent of this Article are to ensure that employees are given full and fair consideration for advancement and to ensure selection from among the best qualified candidates. The Agency and Local 2419 agree to fill positions in the bargaining unit on the basis of merit in accordance with systematic and equitable procedures adopted for this purpose. As a general rule, depending on the requirements of the job to be filled and on the number of highly qualified candidates within the Agency, positions will be filled from within the NIH. It is further agreed that this Article must be administered in such a way as to develop maximum possible employee confidence and to achieve the purposes of this Article as simply and efficiently as possible.

#### **Section 2. Introduction**

A. Statement of Objectives. The statement of objectives and the principles governing merit promotion in the NIH Merit Promotion Plan are hereby incorporated into this Article by reference. The Parties specifically affirm the goals of maximum utilization of employees, of the necessity of providing incentives for improved performance, and of the need to deal fairly with employees, while avoiding undue delays and unnecessary paperwork.

B. Exceptions to Merit Promotion. Competitive merit staffing procedures apply to all personnel actions to fill positions in the competitive service in the bargaining unit, except as otherwise indicated below.

##### 1. Appointments Excepted from Competitive Merit Promotion Procedures.

a. Re-employment of persons exercising re-employment rights whose names were submitted for consideration and who were selected for promotion while absent for military duty or whose positions were reclassified upward during such absence.

b. Re-employment to former positions when employee is exercising re-employment rights.

c. Re-employment from the Reduction in Force (RIF) Re-employment Priority List to same or lower grade.

d. Appointments required by law, regulation, or as a remedy or voluntary settlement reached in connection with a grievance complaint, or appeal.

e. Conversion of employee serving under VRA or disabled appointments when the statutory or regulatory requirements have been fulfilled.

f. Reinstatement to the same or lower grade to a position with no further promotion potential.

##### 2. Promotions Excepted from Competitive Merit Promotion Procedures.

a. Upgrading as result of new classification or new classification standard.

- b. Career ladder promotions.
- c. Promotion under approved training Agreement.
- d. Re-promotion after demotion without personal cause.
- e. Temporary promotions not to exceed 120 days.
- f. Promotion required by law, regulation, or as a remedy or voluntary settlement reached in connection with a grievance complaint, or appeal.

3. Other Actions Excepted from Competitive Merit Promotion Procedures.

- a. Reassignments provided the reassignment is not to a position of greater known promotion potential.
- b. Reassignments under an approved training Agreement to the target position.
- c. Demotions to positions of no greater promotion potential.
- d. Details not to exceed 120-days within one year to higher grade positions.

**Section 3. Definitions**

A. Entrance-Level Position - Entrance-level position is the lowest grade of the position.

B. Positions with Known Promotions Potential - Positions with known promotion potential include:

- 1. Career-ladder positions below the level of full performance;
- 2. Positions filled at a grade below the established or anticipated grade; and
- 3. Trainee positions.

Career Ladder - A career ladder is a series of positions of increasing difficulty in the same line of work through which a group of employees may progress from the entrance levels to the first level of full performance. They are all given grade-building experience and are promoted as they demonstrate ability to perform at the next higher level.

C. Full-Performance Level - The grade level in an occupational career ladder to which the employee has noncompetitive promotion potential based on satisfactory ability to perform at that level.

D. Apprenticeship-Trainee Position - An apprenticeship-trainee position is one involving a well defined training program (which includes both on-the-job and classroom training) of a definite duration, and the performance of assigned tasks on a rotating or non-rotating basis under close guidance and instruction with promotion scheduled upon satisfactory completion of the training period.

E. Detail - A detail is the temporary assignment of an employee to a different position for a specified period, with the understanding that the employee will be returning to their regular

duties at the end of the detail.

F. Advertising - Advertising is the timely posting of vacancy announcements on appropriately placed bulletin boards, or the circularizing of special issuances to employees with sufficient notice to allow qualified employees within the area of consideration to learn of the vacancy and to apply for it.

#### **Section 4. Locating Candidates and Publicizing Vacancies.**

Agency candidates shall be normally located through advertising. No position in the bargaining unit, except those specifically excepted herein from merit promotion competition, will be filled except as a result of the advertising for the particular vacancy or vacancies. In addition to applying for advertised vacancies, any employee may make advance application for a particular vacancy by providing the appropriate completed application materials to the supervisor prior to the employee going on leave or other authorized absence from the work place for submission to the appropriate Personnel Office. The supervisor's obligation to submit the application ends when the employee returns to duty.

A. Local 2419 and Employees Copies of Advertised Vacancies: Copies of all advertised vacancies shall be furnished to Local 2419. A copy of any NIH vacancy announcement for the Washington, D.C., metropolitan area will be furnished to employees upon request.

B. Area of Advertising: The area of advertising for positions within the bargaining unit, at a minimum, will be ORS or CC wide as applicable.

C. Extending the Search: The minimum area of advertising will be extended to the extent practicable, when the minimum area is unlikely to or fails to produce any highly qualified candidates and further advertising is likely to produce additional highly qualified candidates.

D. Vacancy Announcement: A vacancy announcement shall be used in advertising and shall include the following information about the position to be filled.

1. Title and grade
2. Geographic and organizational location
3. Summary statement of duties
4. Knowledge, Skills, and Abilities (KSAs) or Job Elements
5. Qualifications (including any special qualification requirements)
6. Where applications and required forms should be sent.
7. Where additional information may be secured.
8. Vacancy announcements shall be open a minimum of 21 calendar days.
9. If the position to be filled is one with known promotion potential, this shall be explained in the announcement.
10. Salary Range/Grade

11. Whether any special requirements or conditions exist, shift work.

12. NIH is an equal opportunity employer

13. Area of consideration.

D. Announcement of Entrance Level Position: Vacancy announcements of entrance-level positions and those for which sustained recruitment outside the Agency is the practice, shall be issued or posted periodically.

E. Open Announcements: At the option of management, announcements may be open for up to one (1) year for positions for which it appears there will be a number of vacancies over a period of time.

### **Section 5. Determining Basic Eligibility**

Each employee who submitted an application shall be given notice in writing by the appropriate personnel office as to their eligibility for the position, and whether or not their application was referred to the QRB or selecting official.

A. Any selective factor(s) and/or screen-out factor(s) required in addition to mandatory Office of Personnel Management (OPM) standards must be approved by the appropriate personnel office and be included in the announcement. Such additional requirements must be essential to the proper performance of the duties of the position and shall be documented. Additional qualifications concerning condition will be approved only when required by the actual duties and working conditions of the position under requirements established by OPM. Changes in basic qualifications standards shall be available to employees for their inspection upon request. No candidate may be eliminated from consideration on the basis of an additional standard not specified in the announcement or listing.

B. All candidates shall be rated against the same standards without prejudicial regard to race, color, religion, sex, national origin, politics, marital status, non-disqualifying handicap; age, or membership or non-membership in an employee organization. Sex or physical condition will be a factor in determining eligibility only as specified in Subsection A. above.

C. An employee's present classification, per se, shall not be cause for disqualification from any vacancy in a higher level position in a different series if the employee otherwise meets the requirements for such vacancy.

### **Section 6. Grouping of Candidates**

C. General. Candidates shall be evaluated by a Qualifications Review Board (QRB) or personnelist. Standard application forms SF-171, OF-612, or resume, and the performance record and other required forms as noted on the vacancy announcement will be used for this purpose. Promotions made under merit promotion shall be in accordance with applicable NIH Merit Promotion Plan, Agency rules and regulations, and this Article. The QRB will be used for all WL, WD, WG-11 or higher, and all GS-10 or higher Bargaining Unit positions.

D. Qualifications Review Board. The QRB is composed of at least three (3) persons who are expert in, or have a significant knowledge of, the discipline or occupational category of the position being filled. They must be familiar with the qualifications required for the vacant position and with the provisions of the promotion plan. These persons will be at least one

grade higher than the vacancy unless it can be clearly documented that they are not now and will not ultimately, be in competition for the position, in which case they may be of the same grade as the vacancy. Evaluation of a candidate's training and experience requires considerable judgment.

Therefore, the employees who serve on the QRB must be selected carefully and be well trained in the use of the promotion evaluation rating plan so that the evaluations by different raters will be comparable and dependable. A representative of the appropriate personnel office and an EEO representative will serve as advisors to the QRB and ensure that the deliberations are carried out in a manner consistent with the objectives and procedures of this program and EEO objectives. The QRB will be appointed by the appropriate personnel office.

#### E. Procedures to be Used by Raters

1. Evaluations are to be made without prejudicial regard to race, color, religion, sex, national origin, politics, marital status, disability, age, or membership or nonmembership in an employee organization.
2. The QRB members or personnel specialist will confine themselves to the factors and their relative importance shall be applied uniformly to all candidates and made a matter of record. The summary evaluation for each candidate must be consistent with the factor evaluation.
3. Evaluations may be made jointly by the board or individually by the members. If the latter method is used, the board will prepare a composite rating from their individual ratings. The method used must be preserved.

D. Employees and Outside Candidates. Evaluation of all candidates, both employees and outsiders, will be based on a review of each individual's total background to determine the extent to which each meets the following criteria:

1. The best combination of education and experience required for the specific job to be filled; and
2. Past and present job performance as related to the requirements of the job to be filled.

### **Section 7. Certification and Selection**

#### A. Certification

The QRB will evaluate merit promotion candidates to determine the highly qualified group and forward the list to the selecting official. The selecting official and an interview panel, which normally consists of two subject matter experts (one of which is outside the work unit), will interview the highly qualified candidates and assign an overall score following a standard Interview Point Plan. Candidates' applications will be numerically rated and their names entered and ranked on the selection certificate in scoring order highest to lowest top to bottom. Ties in the numeric rating will be broken by seniority in the Bargaining Unit with the most senior employee entered first. Management has the discretion to interview all highly qualified candidates referred to on a valid merit promotion certificate. The interviews will be conducted utilizing a standard set of questions. Normally the selecting official will utilize the highest scoring candidate from the QRB list and interview process to fill the position. The

selecting official may choose not to fill the vacancy with the applicant who has the highest score, but in such cases, the selecting official will provide, upon request, bargaining unit applicants who were bypassed with a written explanation as to why such a determination was made and what the applicant can do to improve for future selections.

#### B. Selection

The selecting official is entitled to make their selection from the candidates on the certificate. Unless circumstances prevent the filling of the vacancy, the selecting official is expected to make their selection within a reasonable time following receipt of the certificate, normally thirty (30) days.

#### C. Validity of Certificates

1. Merit promotion certificates are valid for ninety (90) days. If a selectee declines or vacates the position within ninety (90) calendar days of the issuance of the certificate, the list of eligibles may be used again. Additional selections may be made from a properly issued promotion certificate within ninety (90) calendar days of the date the certificate was issued, provided the position(s) to be filled have the

same title, series, grade and are in the same geographic location as the position originally announced; and the qualifications requirements are the same.

2. Actions under a merit promotion plan, whether in identification, qualification, evaluation, or selection of candidates or any other phase of the promotion process, shall be made without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, disability, or age, and shall not be based on any criteria that are not job related, including favoritism based on personal relationship, patronage, or nepotism.

3. All competitive selections made in the bargaining unit shall be posted in the area of the vacancy.

### ***Section 8. Selection for Details***

See Article 27.

### ***Section 9. Career Ladder Promotion Process***

Identification of grade-building assignments. When the performance plan is prepared and discussed with the employee at the beginning of the appraisal period, the supervisor will discuss the type of grade-building assignments that may be assigned to the employee during the appraisal year, as well as what the supervisor expects concerning the employee's performance in order to be promoted to the next grade level.

### ***Section 10. Review of Merit Promotion Actions***

#### A. Notification

Each employee will automatically be notified in writing by the appropriate personnel office as to whether an application was received and whether selected/non selected for a vacancy for which he/she applied.

## B. Review and Explanation

1. If a vacancy cannot be filled for any reason, once a list of candidates has been certified for the vacancy, the agency will give an employee who has made inquiry under this Section or their designated representative the reason why the position cannot now be filled.
2. A Merit Promotion Plan vacancy announcement shall not be canceled for the purpose of avoiding conformance with the merit promotion plan or this Agreement.
3. Upon request, the Personnel Office will advise Local 2419 of the official with authority for a specific personnel action.

## ***Section 11. General***

A. This Article is applicable to all personnel actions filling competitive positions in the Local 2419 bargaining unit subject to the categories of exceptions stated in Section 2.B. of this Article.

B. This Article shall be interpreted in accordance with OPM regulations. Nothing in this Article shall in any way abridge the rights of the individual employee under such regulations, specifically, the employee's right to file a complaint.

## List of Articles

# Article 51.

## Travel

### Section 1.

A. Employees shall be reimbursed for travel on official business in accordance with law, regulation, and this Agreement in the maximum amounts permissible.

B. The parties agree that any changes in rates or reimbursement to Federal employees by law or regulation during the life of this Agreement are hereby made part of this Agreement.

### Section 2.

A. For the purpose of this Article, a "regular duty station" is defined as the specific work location (e.g., geographic location.) to which an employee is assigned permanently or as part of a predetermined rotational schedule. Repeated travel to another specific work location (either within or outside an agency, etc.) will be treated as travel to a temporary duty station.

B. For the purpose of this Article a "temporary duty station" is defined as any job site which is not the employee's regular duty station. The parties agree that the definition of temporary duty station is applicable for determinations of mileage and other related travel expenses subject to reimbursement (excluding per diem) in accordance with existing federal travel regulations.

### Section 3.

A. To the maximum extent practicable, the Employer shall schedule the time to be spent by an employee in a travel status away from their regular duty station within the regularly scheduled workweek of the employee. When travel is required outside the regularly scheduled workweek, the official involved shall furnish the employee, upon request, written reasons for their decision.

B. Time spent in a travel status away from the regular duty station of an employee is not hours of employment for pay purposes unless:

1. The time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

2. The travel:

- a. Involves the performance of work while traveling;

- b. Is carried out under arduous conditions;

- c. Incident to travel that involves the performance of work while traveling; or

- d. Results from an event which could not be controlled administratively. Local Travel

### Section 4.

A. After an employee places himself at their regular duty station, the cost to the employee of any local travel required for official purposes during regular hours of work or on overtime shall be reimbursed by the Employer. In this regard, once an employee arrives at their regular duty station, they will receive full mileage reimbursement for any subsequent travel to any temporary duty station.

B. When an employee travels from their residence to a temporary duty station and or from a temporary duty station to their home, the employee will be reimbursed for any mileage in excess of their normal round trip from their home to their regular duty station.

C. Examples of the rules set forth in Subsections A and B above include:

1. When an employee travels from their residence to a temporary duty station and then returns home, the employee shall be reimbursed for actual mileage and expenses in excess of the normal round trip distance between their residence and their regular duty station.

2. When an employee travels from their residence to their regular duty station, then travels from their regular duty station to a temporary duty station, then travels from the temporary duty station back to their home, the employee shall be reimbursed for the distance between the two (2) duty stations. If the distance between the employee's final temporary duty station and their home exceeds the distance between the employee's regular duty station and their home, the employee shall be reimbursed for the excess expense.

D. Subsections A and B above do not apply to or cover established rotational assignments through different duty stations. The site of each rotational duty assignment shall be the employee's regular duty station for the duration of the employee's rotational assignment at that specific job-site.

E. The local travel reimbursement policies set forth in Sections 3 and apply to overtime assignments as well as assignments during regular work hours of A & B above.

### Per Diem

#### **Section 5.**

A. Employees shall be eligible for per diem or actual subsistence allowance only when they travel to an assignment outside the local commuting area.

B. Employees traveling outside the local commuting area for a period of more than twelve (12) hours without incurring lodging costs are entitled to partial per diem.

#### **Section 6.**

A. When use of one privately owned vehicle is made by two (2) or more employees on official business, mileage reimbursement will be made to one employee.

B. When travel on official business could be performed by two (2) or more employees riding in one privately owned vehicle, and the employees elect to travel in separate automobiles, mileage reimbursement will be made only to one (1) employee.

C. When joint use of one (1) privately owned vehicle would be impracticable or cause unreasonable personal hardship, each traveler shall submit a written justification for the use of more than one (1) automobile. The Employer shall approve mileage reimbursement for separate vehicles when such justifications and requests are in accord with applicable law and regulation and this Agreement.

#### **Section 7.**

A. In the case of a voluntary return of a traveler to their regular duty station (or their place of residence from which he regularly commutes to their regular duty station), the employee will be reimbursed for the cost of the round trip home and back to their temporary duty station or the cost of per diem if he had remained at this temporary duty station, whichever is the lesser.

B. If an employee elects to remain at the site of their temporary duty assignment rather than return to their regular duty station for non-workdays, the employee will be reimbursed for the cost of the round trip home and back to their temporary duty station or the cost of per diem he incurs by remaining at their temporary duty station, whichever is the lesser.

#### **Section 8.**

A. When the Employer makes lodging available for an employee on official travel, the employee will have the option of remaining in the Employer-provided lodging or of securing other lodging.

B. If the employee elects to secure their own lodging, the Employer will reimburse the employee for the cost of the lodging provided by the Employer or the cost of the lodging secured by the employee, whichever is the lesser.

C. Where lodging is provided by the Employer, and remaining at the place of lodging is integrally related to, and necessary for, the accomplishment of the purposes for the official travel the employee may not exercise the option provided in Subsection B above.

#### **Section 9.**

A. An employee who regularly utilizes public ground transportation in the performance of official duties shall be reimbursed for the cost thereof upon submission of the appropriate expense voucher and in accordance with appropriate regulations. In the alternative, and where practicable, the Employer may issue bus tokens, fare cards, taxi fare books or other bulk vouchers.

B. The type of public ground transportation which may be used on a particular occasion shall be determined by the Employer.

C. If the employee elects to use a different but equally efficient type of public ground transportation, the employee will be reimbursed for the costs of ground transportation.

#### **Section 10.**

A. Upon timely application, the Employer will take all reasonable steps, consistent with current policies and procedures, to provide travel advances to employees prior to the date of departure on official travel.

B. In cases of emergency job related travel, the Employer will take all reasonable steps to provide travel advances to employees in accordance with current policies and procedures.

List of Articles

## Article 52.

### Equal Employment Opportunity

#### **Section 1. Statement of Purpose**

A. The Agency and Local 2419 recognize that the mere declaration not to discriminate in employment is not enough to ensure equality of opportunity. Therefore, the Parties agree that positive steps must be taken to provide equality of opportunity for all employees and to prohibit any discrimination because of race, color, sex, national origin, religion, age, marital status, political affiliation, disability or status as a veteran.

B. The Agency and Local 2419 agree to cooperate in providing equal opportunity for employment and promotion to all qualified persons, to cooperate in ending discrimination, and to promote the full realization of equal employment opportunity through a positive and continuing effort.

#### **Section 2. Management Commitment**

A. The Parties agree to work cooperatively to design and implement programs designed to achieve the fullest utilization of employee skills and potential on an equal basis. In this regard, such programs should be designed and implemented according to law and applicable higher-level regulations.

B. The Agency is committed to providing a workplace free of a "glass ceiling" in the National Institutes of Health. A "glass ceiling" is defined as those barriers based on attitudinal or organizational bias that prevent qualified individuals from advancing upward in their organization into management-level positions. The Agency agrees to work to identify and ultimately eliminate any such workplace barriers which may exist at the National Institutes of Health.

C. The Agency will assure equality of opportunity for current personnel and agrees that the application of equal employment principles and practices will include taking appropriate steps to assure equality for present employees. In addition, the Agency shall conduct a continuing program for recruitment of minority group members and women for positions in the Department to carry out the policy of eliminating under representation. The Agencies will direct special efforts at recruiting in minority group communities; in women's organizations; in educational institutions with a significant representation of women and minorities; and from other sources from which members of minority groups and women can be recruited.

D. The Agency agrees to provide the maximum opportunity within available resources and consistent with Agency needs for employees to enhance their skills. The Agency will advise employees on an equal basis of such programs and opportunities.

#### **Section 3. Sexual Harassment**

A. The Agency and the Union recognize that sexual harassment is a form of misconduct which undermines the integrity of the employment relationship and adversely affects employee opportunity. All employees must be allowed to work in an environment free from unwelcome sexual overtures. Therefore, the Parties mutually agree to identify and work to eliminate such occurrences.

B. Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment decisions affecting such individual; or
2. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

#### **Section 4. Training**

The Union may send one (1) steward per organizational segment of the bargaining unit (MES, MAPB, PRB, LB, NDCC) per year to EEO related training sponsored by the Office of Equal Opportunity, if conducted. The costs associated with such training will be borne by the Agency. Official time for attendance will come from the bank of hours set aside for stewards in Article 6, Section 4. Additional official time may be approved if appropriate. Section 5. Affirmative Employment Plans and Programs

A. The Agency shall review any employment practice or policy which has a disproportionate impact on members of minority groups and women with a view toward its elimination or validation.

B. The Agency shall develop a results oriented program for affirmative employment to resolve problems of under-utilization and under-representation of members of minority groups, women, and persons with disabilities. The affirmative employment plan will be developed in accordance with Equal Employment Opportunity Commission (EEOC) and Office of Personnel Management (OPM) guidelines.

C. Union input on the development of the Agency Affirmative Employment Plans shall be provided through the Agency EEO Committee or the Agency Labor Management Relations Committee (ALMRC). The Union can also use this forum to raise any other EEO concerns such as under representation in specific Agencies or occupations. Such discussions could include possible steps to resolve these issues. Such steps may include affirmative recruiting, additional training, or goals and timetables. At the conclusion of these discussions management will provide a response to the Union concerning what appropriate action, if any, management intends to take to address the Union's concerns.

D. The Agency will provide Local 2419 with a copy of the Agency's Affirmative Employment Plan. Upon request by an employee, the Agency shall make available for the review the employee's Agency's affirmative employment plan.

#### **Section 6. Committees and Consultations**

A. A semiannual meeting will be held between the ORS and CC EEO Officer, their designee and Local 2419 to discuss EEO matters and concerns. The Union will be entitled to a total of three (3) representatives at this meeting, unless the Parties agree otherwise. The time and place for such meetings shall be determined by mutual Agreement of the Parties.

B. If both Agency management and Local 2419 representatives agree, a special Agency EEO Committee may be established. Where this is not done, EEO concerns shall be brought before the ALMRC.

C. Upon request, the Agency will provide Local 2419 with workforce data pertaining to employees in the bargaining unit. This data will include the following:

1. Workforce composition (overall and by Agency) by race, sex, and grade level; and
2. Promotions EEO matters and concerns. The Union will be entitled to a total of three (3) representatives at this meeting, unless the Parties agree otherwise. The time and place for such meetings shall be determined by mutual agreement of the Parties.

D. Upon request, the Agency will provide Local 2419 with an annual report each fiscal year of the numbers and types of discrimination complaints filed that year against the Agency by bargaining unit employees.

### ***Section 7. Complaint Processing***

A. The Agency agrees to carefully, justly, and expeditiously consider and adjudicate complaints of discrimination filed through the EEO administrative complaint process or the negotiated grievance procedure. The Agency and Local 2419 agree to cooperate in attempting to bring about informal resolution of complaints.

B. Persons who allege discrimination or who participate in the presenting of such complaints will be free from restraint, interference, coercion, discrimination, or reprisal.

C. An employee may raise a complaint of discrimination through the Department's EEO administrative complaint process or through the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised this option when the matter that gave rise to the allegation of discrimination is made the subject of a timely filed grievance or formal EEO complaint, whichever event occurs first. Consultation with an EEO counselor pursuant to 29 C.F.R. 1613.213 does not constitute filing a formal EEO complaint.

D. Under the EEO administrative complaint process, a complainant has the right to be accompanied, represented, and advised by a representative of their choosing at any stage of the complaint process, except where there is a conflict of interest or position.

E. The Agency shall notify Local 2419 of all proposed remedial or corrective actions which impact on bargaining unit employees, to be taken as the result of informal or formal resolution of EEO complaints filed under the EEO administrative complaint process.

### **List of Articles**

## Article 53.

### Employee Parking

**Section 1.** The employer will provide parking facilities for all full-time and part-time employees. Employees who drive a personal motor vehicle to work on a regular basis will be issued a parking permit pursuant to existing NIH policies. Parking areas will provide for reasonable security and lighting.

**Section 2.** The Agency will inform the Union thirty (30) days in advance of any decision to implement paid parking for employees. The parties will negotiate the decision upon a timely request from the Union pursuant to Article 2.

**Section 3.** In areas where the employer has implemented contractor controlled and/or valet parking, the contractor will be responsible for any damages to vehicles which are left in their custody (keys are left with the attendant). Employees are encouraged to have their vehicles visually examined by the attendant prior to relinquishing their keys and request a copy of any form used to document the inspection. There will be no liability for personal property left in vehicles.

**Section 4.** Temporary parking permits for Union visitors on official business at NIH may be obtained from the NIH Parking Office. Union visitors must provide the name of the individual requesting parking space, the purpose of the visit, and license tag of the individual's vehicle.

**Section 5.** AFGE will receive one (1) reserved space in the parking area loading dock nearest the Union Office, if available. If no parking space is available in this area, the Employer will provide the Union with a reserved parking space in a mutually agreeable location nearest to the Union Office. This space will be for the sole use of the Union and its officials. Any disagreements regarding this matter will be addressed through the grievance/arbitration procedures.

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## Article 54.

### Alternative Dispute Resolution

The Office of Research Services and the American Federation of Government Employees, Local 2419, agree to implement Alternative Dispute Resolution (ADR) through ORS Center for Alternative Dispute Resolution (CADR). The addition of ADR to the existing negotiated grievance procedures will hopefully improve the overall work environment but is not meant to alter or change the collective bargaining agreement in any way except as noted specifically below:

1. The CADR will provide information to the Union on an ongoing basis concerning new developments in ADR and how those developments may impact ORS program;
2. Every six months, the Union will be provided information concerning bargaining unit employees who have gone to the CADR for assistance. Specifically, this report will include the number of bargaining unit employees who made contact with the CADR, how many resolutions were made and the number and general content of settlements made, if any;
3. If the CADR employs binding arbitration as an ADR tool for bargaining unit employees, arbitrators will either come from the Federal Mediation and Conciliation Service or will be members of the American Arbitration Association. If such binding arbitration is used, ORS will bear all associated costs;
4. When a bargaining unit employee reports to the CADR for assistance, they will be given a copy of the "Disclosure/Notice Form" before intake of the case begins;
5. Union representatives will be afforded equal access to all training opportunities so that the Union may keep abreast of ADR developments and trends;
6. All time frames related to the ORS Center for Alternative Dispute Resolution in (CADR) will be in accordance with Article 31, Section 7 A & B of the Grievance procedures;
7. The Union will be given the opportunity to consult over any future substantive changes concerning the ADR program; and
8. A copy of this Article will be posted in plan view in the CADR.

#### List of Articles

## Article 55.

### Labor Management Partnership

Within ninety (90) days of the signing of this agreement the Parties agree to be trained in Interest Based Bargaining (IBB) techniques. The IBB techniques learned will be used to consummate a partnership agreement and form a partnership at the consolidated unit and each organizational segment of the bargaining unit (MES, MAPB, PRB, NDCC, LB).

Two (2) representatives from Management and two representatives from the Union from each unit (MES, MAPB, PRB, NDCC, LB) will attend the training.

In the interest of partnership, the Agency and Union agree to collaborate on issues that arise during the course of the contract. The Agency will give full consideration to Union proposals. Agreement shall be reached by consensus through a process of discussion and interest-based negotiations or interest-based bargaining. The Union or the Agency may present for discussion issues such as the numbers of employees, types and grades of employees, positions assigned to any AFGE local 2419 organizational subdivision, work projects, tours of duty, technology used or methods and means of performing work within the Agency.

#### List of Articles

## Article 56.

### Overtime

**Section 1.** Assignment of overtime will be made in the light of the following considerations: special skills of the employees, familiarity with work assignment, particular work requirements subject to the mission of the National Institutes of Health. Whenever possible, overtime assignments will be handled on a volunteer basis. If no volunteers are available, the supervisor will assign overtime to the employees who meet the needs of the duties to be performed in a fair and equitable manner. Overtime assignments shall be made and rotated on a fair and impartial manner, i.e., consistent with law and regulations.

Management will, on a quarterly basis, review the overtime records to ensure that the assignment of overtime is made on a fair and equitable basis. The union will be provided feedback regarding overtime trends. The record, Appendix G, will contain information which shows overtime assignment trends i.e., the number of instances where employees worked or refused the opportunity to work overtime and the actual and available amount of hours employees worked overtime.

**Section 2.** Overtime will be assigned in accordance with law, applicable rules and regulation. It is understood that the Employer retains the right to hire, reassign, and detail employees in order to alleviate staffing imbalances which may occur within the bargaining unit. Employees will receive notice of overtime assignments as far in advance as possible.

**Section 3.** It is understood that all employees of the bargaining unit must be willing to accept assignments of overtime work in emergency situations upon short notice. The Agency agrees to make reasonable efforts to give employees advance notice before requiring them to work overtime. The Union recognizes that overtime is a condition of employment under law and regulation, and, further, that the refusal by an employee to perform overtime assignments may result in the employees reassignment, disciplinary action, or such other actions as deemed appropriate by the Employer.

**Section 4.** All hours of work in excess of eight (8) hours or the appropriate AWS day voluntarily agreed upon by the employee in a twenty-four hour period will be considered overtime, or all hours of work in excess of the forty (40) hours in their basic workweek shall be paid at overtime rates in accordance with applicable regulations.

#### **Section 5. Planned/Scheduled Overtime**

When work is planned in advance to be performed on an overtime basis on a day other than the basic workweek, the agency agrees to make a reasonable effort so as to provide at least six (6) hours of work for each employee.

#### **Section 6. Unscheduled/Unplanned Overtime**

An employee called in to work on shifts outside his basic workweek shall be excused promptly at such time as it is determined that their services are no longer needed. When the Employee is called back to work unscheduled overtime either after the completion of their workday or on a day outside their regularly scheduled workweek, they will receive a minimum of two (2) hours at the overtime rate in accordance with government-wide rules and regulations.

Shift Overtime When vacancies occur which require coverage of shift work and notice of 24 hours cannot be given, vacancies will be filled by offering overtime. The Building Maintenance Unit Day shift relief operators may be required to change shift because of absences when notified not less than 24 hours in advance.

**Section 7.** In computing all overtime pay, the employee's hourly rate shall include any applicable shift differential.

**Section 8.** Bargaining Unit employees will not normally be assigned any combination of overtime and/or regular assignments that does not allow for a rest period within each 24-hour period. The employee may not waive this provision.

**Section 9.** All overtime that is not classified as an emergency nature shall be classified as scheduled overtime. All overtime that is of a repetitive and consistent nature shall be considered scheduled in accordance with government-wide rules and regulations.

**Section 10.** Eligible Bargaining Unit employees may receive compensatory time in lieu of overtime in accordance with government-wide rules and regulations.

**Section 11.** Employees may exchange overtime assignment subject to supervisory approval and in accordance with Section 1 of this Article.

**Section 12.** Employees who are classified non-exempt by the Fair Labor Standards Act may not perform work outside normal working hours unless specifically ordered or authorized by the Employer to do so.

**Section 13.** No employees schedule or tour of duty will be changed or modified in order to off set or reduce the payment of overtime to them or any other employee.

**Section 14.** Employees who work overtime will normally receive one (1) twenty-minute (20) break per every four-hour (4) work period.

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## Article 57.

### Attire and Appearance

#### FOR MES Employees

**Section 1.** The parties mutually agree to the benefit of the employees and the agency to provide uniforms to designated employees. It is agreed that uniforms are not considered protective clothing. Uniforms provide no additional protection from chemical, biological, radiological, or mechanical hazards than similar street clothes. Uniforms do provide visual identity and standard appearance for employees. Special clothing (designed to provide protection from specific risks) does provide protection for the employee and will be issued on an "as needed basis."

**Section 2.** MES wage grade employees are required to wear uniforms in order to identify the staff as MES employees and present a standard appearance to the National Institutes of Health (NIH) community. Employees are expected to report for work in a clean government issued uniform.

**Section 3.** The uniform shall be the same for all MES units and shall consist of the following initial issue of standard items to each employee.

- A. Light blue shirts - long/short sleeve or combination (12 shirts) - as appropriate for the type of work performed. Individual MES unit patches shall be sewn above the left pocket of the shirt. Additional MES approved patches may be sewn on other designated locations.
- B. Dark blue trousers - (12 pairs)
- C. Black scratch less or garrison style belt ( 1 each )
- D. Dark blue light weight jacket with liner ( 2 each )
- E. Personnel approved for flame resistant clothing may not wear short sleeves.

The following optional items may be issued on an as-needed basis to the employee with the approval of the Section Chief:

- A. Optional light blue t-shirt with DES/Office of Research Services (ORS) logo silk screened above the left pocket (5 each).
- B. Optional dark-blue baseball style caps with DES/ORS logo (1 summer weight and 1 winter weight). Alternatively, an optional Union baseball style cap may be worn. But it may not be altered in any manner.
- C. Optional dark blue parka (1 each) and/or dark blue insulated and/or uninsulated coveralls (1 each) (as required for specific work).
- D. Additional quantities of optional items may be provided where working conditions warrant frequent changes of soiled uniforms during the shift.

**Section 4.** All standard uniform shirts and trousers will be manufactured of cotton and polyester blended fiber. The 100 percent cotton garments shall be issued to individuals only with OMS/OS medical justification and approval based on medical documentation from the employee's personal

physician. Personnel working with open flame welding equipment, high temperature steam or high voltage must, at all times, wear flame resistant clothing. As determined by the supervisor, such employees will be issued flame resistant uniforms. Flame resistant coveralls shall be provided as needed.

**Section 5.** To insure employees will have an adequate supply of clean uniforms, the uniforms are furnished and cleaned at government expense. Rental uniforms shall be returned to the vendor upon termination of employment or permanent reassignment to a position which does not require the uniform. Government purchased parkas and coveralls shall be returned to the issuing office.

**Section 6.** The Government provides lockers for all employees designated to wear uniforms and provides showers and changing facilities. Since the uniform is incidental to the work, employees shall change into the uniform before regular duty hours. Only clean uniforms (properly laundered by the agency) may be worn by employees commuting directly to and from work. Uniforms may not be worn at any other times or for any other purposes. The agency will provide the employees with information related to the hazards of transmitting health hazards from work to their homes on uniforms.

**Section 7.** The optional T-shirt shall not be worn as an outer garment in indoor public areas. T-shirts may only be worn as an outer garment in unoccupied construction areas, mechanical rooms, outdoor work assignments or shop areas. Regular uniform shirts are to be worn when leaving such work areas and re-entering public areas i.e., laboratories, offices, lobbies, or cafeterias.

**Section 8.** When wearing the uniform, only authorized uniform components or protective gear may be worn, i.e., personal hats are not permitted. No personal modifications or alterations of the uniforms are permitted, e.g., sleeves may not be cut off. The uniform is to be worn in a conventional manner as intended whenever the employee is in any NIH public area. Employees will wear uniforms in accordance with agency policies.

**Section 9.** Repeated loss or abuse of the uniform will result in the employee being charged the contract replacement unit price.

#### For NDCC Employees

**Section 10.** The Government provides lockers for all employees designated to wear uniforms and changing facilities. Since the uniform is incidental to the work, employees shall change into the uniform before regular duty hours. Only clean uniforms (properly laundered by the agency) may be worn by employees commuting directly to and from work. Uniforms may not be worn at any other times or for any other purposes. The agency will provide the employees with information related to the hazards of transmitting health hazards from work to their homes on uniforms.

**Section 11.** The uniforms for NDCC shall be the same for all employees engaged in food preparation and service of meals. The Agency will provide and maintain all uniform items issued to each employee. The initial issue of items to each employee will consist of a choice of the following to equal 12 sets.

##### A. Females: (all items are white)

Dress: skirts, pants, T-shirt, short sleeve buttoned-front shirt; short jacket  
Head coverings: (choice of) hairnets, surgical cap or teal colored caps

Female cooks may choose checkered pants and a cook's coat in lieu of white pants, short

sleeved shirts

Footwear - nonslip type

B. Male (all items are white)

Pants: white or checkered; shirts, buttoned front, short sleeves; short jackets

Head covering: caps, teal baseball, paper hairnet or surgical caps for head and beards.

Footwear - nonslip type

C. Aprons are the same for both male and female

D. Optional clean union baseball cap may be worn.

The following personal accessories may not be worn as part of the uniform: colored head coverings and ornaments, jewelry in excess of a watch and wedding ring, hoop earrings (no posts) and opened toe/heel shoes

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## Article 58.

### Smoking

**Section 1.** It is recognized that there is a portion of the NIH workforce that smokes. To eliminate as much as possible the exposure of non smoking employees and visitors of NIH to secondhand smoke, it is desirable to limit employees as to where they can smoke. We recognize that it is still an individual's right to smoke, as long as it is within the guidelines of the NIH Smoking Policy and this article.

**Section 2.** The Agency encourages and supports all employees who wish assistance in eliminating their dependence on the use of tobacco products to enroll in authorized Smoking Cessation Programs (SCP). Information about these programs will be publicized and communicated throughout the NIH community. The Agency shall pay the full cost of employee SCP participation sponsored by the NIH and successfully completed by the employees. NIH-sponsored SCP activities shall be conducted during duty hours of the employee, to the maximum extent possible.

**Section 3.** The Agency has the right to limit smoking activity within reason, to prevent the employees from taking excessive breaks or interfering with the rights of nonsmokers. The employee may elect to substitute a break for smoking in place of their normal break period. In no case does this have to be regimented or scheduled but will be equal to the time normally allotted for the employee's breaks. Supervisors will exercise discretion in this area and not discriminate against employees because they smoke.

**Section 4.** The NIH will allow employees who smoke to use existing areas that provide a reasonable degree of protection from the weather for smoking. Employees will be required to observe footage restrictions of not smoking within 25 feet of any public entrance, air or fan intake that is properly identified with signs. Signs will not be placed beyond the 25 foot restricted no smoking area.

**Section 5.** The employees and the union may report any areas incorrectly identified as a 25-foot no smoking area to the NIH Office of Human Resource Management (OHRM) for correction. OHRM will review and if appropriate, order correction of identified areas.

**Section 6.** The footage restrictions for the NIH Clinical Center will be 100 feet in accordance with the Clinical Center policy.

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## Article 59.

### Information Sharing

The Employer recognizes the Unions right under Title 5 U.S.C. 7114 (b) (4) to receive certain data for use in representational functions, e.g., negotiations, Grievances, appeals, hearings, submissions to congress, surveys of agency functions, dispute processing and representation of employees in mediation and adverse actions. The Employer will provide available and necessary information requested pursuant to Title 5 U.S.C. 7114 (b) (4) which is normally maintained by the Agency however, it is understood that the Union will not request, and the Employer will not be obligated to provide, information of a burdensome or voluminous nature or information requested solely or in part for the purpose of delaying negotiations or the effectuation of a proposed disciplinary or adverse action. The Federal Register will be made available for bargaining unit employees via e-mail. There will be a bargaining unit e-mail list developed with Union input. All bargaining unit employees will normally have an NIH e-mail box. In cases where employees do not have an e-mail box, the local manager will provide a copy of the weekly Federal Register to those employees. Only relevant parts of the Federal Register need to be reproduced. List of Articles

## Article 60.

### Midterm Negotiations

#### **Section 1. Statutory Obligation**

In prescribing regulations relating to personnel policies and practices and matters affecting conditions of employment, management shall negotiate with Union as prescribed.

#### **Section 2. Notice**

##### A. Impact and Implementation Midterm Negotiations

The Agency agrees to provide the Union with notification of changes in working conditions consistent with Article 2, Section 3. The Agency shall provide the changes in writing. The Agency acknowledges that managers will not implement changes in working conditions without complying with this article.

##### B. Midterm Bargaining

Midterm bargaining may be invoked by management on issues not covered by this Agreement, or on issues covered but found to be defective or unworkable, after the Agreement has been in effect for twenty-four (24) months. Notice will be given to the Union at least thirty (30) calendar days prior to the midterm point or to the date of the change. Included in that notice shall be an agenda of the issues to be negotiated.

#### **Section 3. Midterm Ground Rule Procedures**

A. Upon receipt of notice of proposed changes, the Union may, within ten (10) workdays, request negotiations (and a briefing if desired) concerning the proposed change. The Union must provide proposals in writing within seven (7) workdays after requesting negotiations. The Parties will meet to negotiate within three (3) workdays, or a mutually agreed upon date, after the Union has submitted its proposals. Reasonable extensions may be granted for just cause. Failure to make a timely request to negotiate, timely provide proposals in writing, or timely meet shall be deemed to constitute acceptance of the changes by the Union and Agency may proceed to implement the proposed change.

B. Changes that are negotiated or agreed to pursuant to this Section shall be duly executed by the Parties and shall become an integral part of this Agreement and subject to all of its terms and conditions.

C. If otherwise in a duty status, Union negotiators shall be placed on official time when traveling to the negotiation site and during the negotiation session, including mediation and impasse proceedings. The Union will provide all expenses for its bargaining.

D. The Union may have present on official time the same number of negotiators as the Agency has on Official time. The Union will not be barred from having a national officer, council officer, or legal representative at these proceedings. The Union agrees to inform the Agency in advance if a legal representative or national officer will be attending.

E. Negotiations will take place in space provided by the Agency and will be held as needed.

F. Either Party may request assistance from the Federal Mediation and Conciliation Service after either Party has declared impasse.

G. The Agency agrees to provide the Union with requested information and data as required by 5 U.S.C. 7114.

H. The only ground rules governing negotiations during the life of this Agreement shall be those contained in this Article.

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