

LABOR-MANAGEMENT AGREEMENT

U.S. Merchant Marine Academy

and

American Federation of Government Employees

Local 2116

2005 - 2008

U. S. Department of Transportation
Maritime Administration
U.S. Merchant Marine Academy
Kings Point, New York 11024

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ARTICLE I

STATEMENT OF PURPOSE

Section 1.

This Agreement between the United States Merchant Marine Academy (the Academy) and AFGE Local 2116 (the Union) was achieved through a non-adversarial, "win/win" approach. Traditional styles of position-based bargaining and posturing were discarded in order to explore common interests and concerns.

Section 2.

The Academy and the Union agree that a constructive and cooperative working relationship between labor and management is essential to achieving the Academy's mission and to ensuring a quality work environment for all employees, The parties recognize that this relationship must be built on a solid foundation of trust, mutual respect, and a shared responsibility for organizational success.

Therefore, the parties agree to work together in partnership and through this Labor-Management Agreement to identify problems and craft solutions, enhance productivity, and to promote and improve the efficient administration of the federal service and to provide for amicable discussion of matters of mutual interest and adjustments of disputes regarding personnel policies, practices, procedures and working conditions.

This Agreement is intended to maintain a safe, healthy, and quality workplace, and to help create an atmosphere where the people of the Academy are treated fairly and equitably, respect one another, and work together to fulfill the promise and accomplish the mission of the Academy.

ARTICLE 2

PARTIES TO THE AGREEMENT

In accordance with the provisions of Title VII of the Civil Service Reform Act of 1978 the following Labor-Management Agreement (Agreement) is entered into between the U.S. Merchant Marine Academy of the Maritime Administration, U.S. Department of Transportation (hereinafter referred to as the Academy or the Employer), and the American Federation of Government Employees, Local 2116 (hereinafter referred to as the Union or the Local).

ARTICLE 3

RECOGNITION AND UNIT

Section 1.

The Academy recognizes the Local as the exclusive representative of all bargaining unit employees, as defined in Section 2. Below. Such recognition will continue as long as the Local is the exclusive representative of the employees under the criteria set forth by Title VII of the Civil Service Reform Act of 1978 (the Act).

In all articles and sections of this Agreement, unless otherwise specifically indicated, the term "employee(s)" is defined as meaning employee(s) in the Bargaining Unit

Section 2.

The recognized bargaining unit includes, and this Agreement applies to, all Federal civilian employees of the U.S. Merchant Marine Academy, except:

- a. All management officials as defined in the Act;
- b. All supervisors as defined in The Act;
- c. All professional employees as defined in the Act (unless a majority of the professional employees vote for inclusion in the unit), including but not limited to all members of the faculty and non-supervisory librarians;
- d. Employees who act in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;
- e. Employees engaged in administering the provisions of the Act;
- f. Employees engaged in administering personnel work in other than a purely clerical capacity.

ARTICLE 4

PRINTING AND DISTRIBUTION OF AGREEMENT

Section 1. Initial Copies and Distribution

Management will provide a copy of the final Agreement and the computer disc to the Union. The Union will make sufficient copies for its membership and Management, and distribute to its members and Management. Academy facilities and equipment will be used for these purposes, as will official time.

Section 2. Distribution to New Employees

Management will notify the Union of each new unit members' name, department and appointment date. The Union will provide Management with a sheet listing union contacts, and Management will provide the sheet to each new unit employee. The Union will be responsible for providing the employee a copy of the agreement.

ARTICLE 5

LABOR-MANAGEMENT COOPERATION

Section 1.

The purpose of this article is to promote a cooperative relationship between the parties with the expressed goals of improving efficiency of the government service, encouraging productive innovation, and providing a better working environment for employees.

Section 2.

The Academy and the Union agree to continue the joint Labor-Management Committee. Meetings will be scheduled as needed and requested by either party, and will be held at a location agreed upon by the parties. The requesting party will submit an agenda not later than five (5) working days prior to the requested date of the meeting. Union and Academy representatives attending these meetings will be kept to a reasonable number (normally not to exceed three (3) each) consistent with the subject(s) to be discussed. In the event that unforeseen circumstances prevent a member of either party's team from attending a scheduled meeting, the meeting can be rescheduled for the next mutually available date. For work scheduling purposes, the Union will notify the supervisor(s) of Union representatives who will attend the meeting as soon as possible, but no later than five (5) working days before the meeting.

Section 3.

The committee will discuss matters such as employee working conditions, correcting conditions that could rise to the level of a grievance, improvement in employee/supervisor relationships, promotion of education and training and improved productivity of employees. It is mutually agreed that active grievances will not be taken up during committee meetings.

Section 4.

The parties will consider joint dissemination of information concerning a variety of topics, including status of any negotiations, agreements between the parties, etc. Minutes of committee meetings shall be prepared by the party requesting the meeting and forwarded to the other party for review and acceptance.

Section 5.

The Union will be permitted a representative to participate on the following Academy committees:

- a. Incentive Awards Committee.
- b. Health and Safety Committee.
- c. Equal Employment Opportunity Committee.

ARTICLE 6

LAWS AND REGULATIONS

Section 1.

In accordance with 5 USC 7116 (a) (7) and 7117:

In the administration of all matters covered by this agreement, officials and employees are governed by Laws: and also by Government-wide regulations and agency regulations in existence at the time this Agreement becomes effective.

Section 2.

In the event of any change or addition of Government-wide regulations and/or agency regulations, that are in conflict with the Agreement, either party may notify the other, in writing, to request a meeting to discuss the impact and effect of the change or addition. If both parties agree to negotiate the provision(s) affected by the change or addition of Government-wide regulations and/or agency regulations, any negotiated changes to the Agreement will become an amendment to the Agreement and all other provisions will remain in effect. If no changes are negotiated, the Agreement will govern.

ARTICLE 7

CONTINUITY OF OPERATIONS

Section 1.

It is understood that employees covered by this Agreement are prohibited by law individually or collectively to strike, slow down, cease work, or otherwise interfere by individual or concerted action in any way with the expeditious accomplishment of assigned work or the mission of the Academy. The parties to this Agreement will not condone any such activity by failing to take appropriate action to prevent or stop it.

Section 2.

The parties shall cooperate in all efforts to insure a full day's work on the part of employees in the Unit; to actively combat absenteeism, carelessness, and waste of materials and supplies; to improve the quality of workmanship; to encourage submission of constructive work improvement and cost reduction ideas; to vigorously promote safety regulations; and to exert concerted effort to strengthen relations between the Academy and Unit employees.

ARTICLE 8

RIGHTS AND RESPONSIBILITIES OF THE PARTIES

Section 1.

The Union is responsible for representing the interests of all employees in the Unit without discrimination and without regard to labor organization membership.

Section 2.

The Academy agrees to give advance notice, except in an emergency, to the Union prior to placing officers, stewards, or representatives of the Union on special assignments and/or details when any of these actions would result in a change of duty station.

Section 3.

Union officers, stewards, and other Union representatives are authorized to perform and discharge the following duties and responsibilities which may be properly assigned to them by the Union under this Agreement:

- a. To meet with management officials and/or supervisors concerning employee management relations at mutually convenient times.
- b. To assist an aggrieved employee as *his* or her designated representative in the preparation and presentation of a grievance, complaint, or adverse action appeal.
- c. To encourage all employees in the Unit to make a diligent and serious effort to resolve all issues at the lowest level possible.
- d. In accordance with 5 USC 7121, to be present during a negotiated grievance proceeding where the employee has chosen to present a grievance on his/her own behalf.
- e. To participate in the functions of the Committees specified in Article 5, Section 5.

Section 4.

The Union President or his designee shall be given the opportunity to be present at formal discussions between management and employees concerning personnel policies, practices or general conditions of employment.

Section 5.

The Union President or his designee will be informed prior to any Academy changes in personnel policies, practices or matters affecting the working conditions of Unit employees. Should the Union desire, the Academy will negotiate on the implementation of these changes prior to their implementation.

ARTICLE 9

RIGHTS OF EMPLOYEES

Section 1.

Each employee shall have the right to form, join or assist the Union or to refrain from 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 Agreement and/or Title VII of the Civil Service Reform Act, the freedom of employees to assist the Union includes acting for the Union in the capacity of a representative and the right, in that capacity, to present the views of the Union to appropriate authorities.

Section 2.

Nothing in this Agreement shall require an employee to become or to remain a member of the Union, or to pay money to the Union except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions.

Section 3.

If an employee is to be served with a subpoena on academy grounds, it will be done in private whenever possible.

Section 4.

The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the agency in connection with an investigation, if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee request representation.

Section 5.

Nothing in this Agreement will preclude an employee from bringing matters of personal concern to the attention of appropriate officials, exercising statutory appeal rights without the intervention of the Local or choosing his/her own representative in the exercise of statutory appeal rights, and presenting a grievance on his/her own behalf.

Section 6.

No derogatory material can be placed in the Official Personnel Folder without the employee's knowledge.

Section 7.

In accordance with applicable laws and regulations, each employee and/or the employee's designated representative who has been so authorized in writing, shall, on request, have access to review or copy any document appearing in the employee's Official Personnel Folder (OPF).

ARTICLE 10

MANAGEMENT RIGHTS

In accordance with 5 USC S 7106:

- (a) Subject to subsection (b) of this section, nothing in this Agreement shall affect the authority of any management official of the Academy-
 - (1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
 - (2) in accordance with applicable laws-
 - (A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - (B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
 - (C) with respect to filling positions, to make selections for appointments from-
 - (i) among properly ranked and certified candidates for promotion; or
 - (ii) any other appropriate source; and
 - (D) to take whatever actions may be necessary to carry out the agency mission during emergencies.
- (b) Nothing in this section shall preclude any agency and any labor organization from negotiating-
 - (1) 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;
 - (2) procedures which management officials of the agency will observe in exercising any authority under this section; or
 - (3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section-by such management officials.

ARTICLE 11

EQUAL EMPLOYMENT OPPORTUNITY

Section 1.

The parties shall cooperate in providing equal employment opportunity for all persons; in prohibiting illegal discrimination based on race, color, religion, sex, national origin, age, or disability; in promoting the realization of equal employment opportunity through a continuing affirmative action program.

Section 2.

The Employer will appoint and train Equal Employment Opportunity (EEO) Counselors. When an EEO Counselor is to be selected, the Local will be asked to nominate in writing at least six (6) employees for Management's consideration. Management will consider the nominations together with nominations from other sources, and will appoint EEO Counselors. All EEO Counselors will serve under the direction of the EEO Officer. If none of the EEO Counselors appointed by Management were nominees of the Union, the Union may designate one (1) representative to serve as a member of the EEO Committee.

Section 3.

The Academy will continue the EEO Committee, as established. The functions of the Committee are to review the effectiveness of applicable Agency EEO plans and the affirmative action program; to recommend corrective action to remedy shortcomings in new, revised, or existing EEO plans as appropriate.

Section 4.

The Academy agrees to make available to the Union reports prepared by the EEO Committee to the extent that providing such information is in conformance with laws, rules, and regulations including specifically the Privacy Act.

Section 5.

An employee who has a complaint has the right to a representative at every stage of the EEO complaint process.

ARTICLE 12

HEALTH & SAFETY

Section 1.

The Academy agrees to provide and maintain safe working conditions in accordance with applicable regulations. Employees have a responsibility, and are accountable for, their safety performance. The Union and Academy will cooperate in efforts to promote safety and health and ensure that OSHA guidelines are being followed.

Section 2.

An employee who believes an unsafe or unhealthy working condition exists shall notify the supervisor and/or Academy Occupational Safety and Health Specialist, or Environmental Protection Specialist. An employee has the right to decline to carry out a task when the employee has a reasonable belief that 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 relief through normal hazard reporting and abatement procedures.

Section 3.

Personal protective equipment, when necessary and required, shall be furnished by the Academy and used by the employees. The Union shall actively encourage employees in the Unit to properly use, safeguard and maintain such equipment when provided.

The Academy agrees to continue to make available foul weather gear (suits, hats, rubber boots or work gloves as appropriate) to those employees for whom such items have been allowed. Employees are responsible for such equipment subject to normal wear and tear from usage.

Section 4.

The Academy and Union recognize that violence in the workplace does not promote a healthy and safe working environment. Therefore, all acts of violence, or threats thereof, will be quickly reported to the Academy's Department of Public Safety, which will produce an incident report. The Academy will investigate the incident and the Union will be made aware of such investigation upon its commencement.

Section 5.

The Union will have representation on the Academy Occupational Safety and Health Committee in accordance with MAO 270-1 and MAO 270-11.

Section 6.

First aid and limited health care will be provided to employees in accordance with the current Superintendent's Instruction.

Section 7.

Employees will be provided with all required safety and occupational health training; and also with all other beneficial safety and occupational health training as resources permit.

ARTICLE 13

HOURS OF WORK

Section 1.

The administrative workweek for all unit employees is seven (7) consecutive days, Sunday through Saturday. The basic work week will consist of five (5) days of eight (8) hours each (exclusive of lunch periods) normally Monday through Friday with two (2) consecutive days off (unless the employee is on a compressed work schedule). The hours of duty shall include a non- paid lunch period of one half hour taken between the hours of 11:30 a.m. and 1:30 p.m.

Section 2.

Shift work employees shall have their tours of duty arranged to the extent practicable to allow each employee two (2) consecutive days off in each administrative workweek.

Section 3.

Changes to existing tours of duty or hours of work will be provided to the employee in writing two (2) weeks prior to the change. The duration of the shift change will be for a minimum of two (2) pay periods or for a time period mutually agreed upon by the supervisor and employee in writing. A U.S. Merchant Marine Academy Request for Approval of Working Hours may be used for this purpose.

In an emergency, shift work employees may be required to fill in for an employee on another shift. The fill-in employee will be notified as far in advance as possible when a change is necessary.

Section 4.

Individual, temporary changes in the tours of duty will be distributed and rotated equitably among affected employees to the extent practicable. Any complaint or disagreement on the changes of assignments of tours which cannot be resolved between the supervisor and the employee may be processed in accordance with the Article on Grievance Procedure. A roster and record of employees involved in changes of tours shall be maintained by the supervisor and made available for review by the Union upon request.

Section 5.

The Academy will provide a reasonable amount of time, not to exceed ten (10) minutes, consistent with the nature of the work performed for employees to change clothes at the beginning and end of the workday and to clean up prior to the lunch period and at the end of the workday. In the same manner, a reasonable amount of time will be allowed for employees for the storage, clean-up and protection of Government property, equipment and tools prior to the end of the workday.

Section 6.

Each shift shall generally be allowed two 15-minute rest periods. The exact timing of the rest periods will be established by the supervisor for each work group/office. Rest periods may not be granted immediately at the beginning or end of the work shift. Rest periods must be taken on the premises of the Academy and may not accumulate.

ARTICLE 14

TELECOMMUTING

Section 1.

Telecommuting is a work arrangement in which an eligible employee performs officially assigned duties at an alternative work site. Alternative work sites are locations away from the traditional office environment. This could generally include the employee's home; a satellite facility owned or leased by a DOT Operating Administration, General Services Administration, or by another public or private organization where work is performed.

Section 2.

Recognizing the value of telecommuting in certain circumstances, the Academy agrees to make telecommuting work arrangements available for employees to work at home or other alternative locations on an irregular, infrequent basis on a specific project or task. Employees eligible and approved to telecommute must submit a telecommuting agreement developed for use at the U.S. Merchant Marine Academy.

Section 3.

In administering the Telecommuting Program the guidelines, processes and eligibility criteria outlined in MAO 720-216 Telecommuting, dated November 17, 2003 will be followed. Prior approval by the appropriate supervisory levels must be granted before an employee can participate in telecommuting, and a copy of the telecommuting agreement provided to the Academy Personnel Office. Disagreements and disputes concerning telecommuting approval and issues should be resolved on an informal basis between the employee and his/her supervisor. When informal resolution is not possible, the disagreement or dispute will be submitted to the appropriate Assistant Superintendent or Chief of Staff for final resolution, or to the Superintendent when administratively necessary.

Section 4.

The parties agree to reassess the Telecommuting Program eighteen (18) months from the effective date of this Agreement. This assessment will include any adverse impact including reduction of the productivity of the Academy, a diminished level of services furnished to the public by the Academy, or an increase in the cost of Academy operations other than a reasonable administrative cost relating to the process of establishing a telecommuting program. It will also include information concerning any positive aspects of the program and positive impact on work operations.

ARTICLE 15

OVERTIME

Section 1.

The Union recognizes the right of the Academy to require overtime work. Supervisors shall not assign overtime work to employees as a reward or penalty.

Scheduled overtime is defined as any overtime which is planned and approved by the Employer in sufficient time to permit giving at least four (4) hours notification to employees. Scheduled overtime assignments shall be distributed by the immediate supervisor fairly and equitably to all employees with the same particular skill(s) in an assigned work area, i.e., the work area normally supervised by the supervisor. It is understood that imbalances may occur. However, the immediate supervisor will make

a reasonable effort to correct the imbalances as overtime work becomes available.

When the opportunity to volunteer to work overtime is refused by an employee, it will be considered as overtime worked for the purpose of fair and equitable distribution. Employees in a non-duty status on the date overtime assignments are made shall not be considered for scheduled overtime assignments, if such consideration will interfere with the scheduling of overtime.

Unscheduled overtime is that overtime caused by unforeseen or emergency factors that preclude the supervisor from giving at least four (4) hours notice to employees. The supervisor will make a reasonable attempt to notify employees as soon as possible and to select employees to perform the task(s) on a fair and equitable basis. The Academy mission must come first, and the more readily available personnel possessing the skills needed may be contacted first.

Section 2.

Records shall be maintained of all overtime work performed. These records shall be made available, within a reasonable amount of time, upon request by an affected employee and/or his/her Union representative to aid in resolving a specific complaint concerning overtime distribution should a question of equal distribution arise. Employee requests involving specific complaints will be made to the individual supervisor. Union requests for such information, concerning other than an individual, specific complaint, will be made to the department head.

Section 3.

To the extent practicable, within workload needs and budgetary constraints, an effort will be made to arrange scheduled overtime work planned for an employee's day off for a minimum of four (4) hours.

Unscheduled irregular or occasional overtime performed on a day when work was not ordinarily scheduled, or for which the employee is required to return to the place of employment, shall be

considered to be at least two (2) hours in duration for the purpose of overtime pay, regardless of whether the employee performs work for two hours.

Section 4.

Employees working in excess of four (4) hours overtime shall receive an unpaid meal period, if desired. A paid 15-minute break period will be provided within the four (4) hours.

Section 5.

When a scheduled relief employee does not report for duty on time, the employee who was to be relieved will be required to continue all of the next shift or until relieved.

Section 6.

In accordance with applicable laws and regulations, employees may request compensatory time or paid overtime for overtime worked.

ARTICLE 16

EXCUSED ABSENCE

Section 1.

Excused absence, sometimes referred to as excused leave, is absence from assigned duties without charge to leave or loss of pay. Excused leave is granted to employees for the general purpose of performing civic duties such as voting; participating in activities that promote the general well-being of the community which are in the Government's interest; donating blood or organs; or enhancing the safety and well-being of employees when weather conditions make traveling to and from work inadvisable.

Section 2.

Supervisors may excuse an employee's absence from the work place, without charge to leave, for occasional periods of necessary or unavoidable absence or for brief periods of unavoidable tardiness. Current regulations limit such excused absences to no more than 59 minutes.

Section 3.

When it is determined by the Academy that hazardous weather conditions or other emergency situations exist that justify employees being excused from duty, those employees affected who are not required to perform their duties will be excused without charge to leave. The Academy will maintain a list of essential personnel that may be required to be in a duty status when these conditions exist. These employees are necessary for maintaining operations within their assigned duties at the Academy. This list of essential personnel will be updated on an annual basis and a copy forwarded to the Union.

Section 4.

Employees will be granted up to four hours of excused absence for the purpose of donating blood and up to thirty workdays of excused absence for the purpose of donating organs. The length of absence from work can vary depending on the medical procedure involved in the organ donation. For longer periods of incapacitation, officials shall approve annual and/or sick leave or LWOP under the Family and Medical Leave Act in combination with the amount of excused absence specified above.

Section 5.

Employees should refer to the current Maritime Administrative Order on Leave Administration for further information on excused absence.

ARTICLE 17

JURY DUTY

An employee receiving a summons for jury duty shall promptly notify his/her supervisor by showing the supervisor the original summons, and providing a copy of that summons, in order that appropriate action might be taken. When an employee is excused from jury duty for one (!) or more days, the employee shall return to work. Upon completion of jury service, the employee shall show the supervisor the original certificate of attendance in court, and provide a copy of that certificate. An employee on court leave may not receive fees for jury service.

ARTICLE 18

ANNUAL LEAVE

Section 1.

Management and the Union agree that, with the implementation of Alternative Work Schedules at the Academy, the need for scheduling annual leave for vacation as far in advance as possible has increased. Employees are encouraged to plan their vacation annual leave early in the year to ensure proper consideration for approval. This allows supervisors ample time for planning and addressing conflicts that may arise between employees' proposed vacation leave schedules.

Failure to properly plan annual leave in advance may adversely affect approval of such leave. Conflicts

in requests for annual leave will be resolved in the following order:

1. The needs of the operation
2. The order the leave is requested
3. Seniority at the Academy

Section 2.

Requesting and approval of annual leave:

Employees, except in emergencies, must request leave by completing the proper leave request form (currently SF-71). Employees must have their request for leave approved before taking the leave (in some circumstances, approval of leave may initially be oral). Upon approval or disapproval of a leave request form, the supervisor will provide the employee a copy of the form.

In emergency situations where it is not possible to complete the proper leave request form in advance, notice must be given to the appropriate supervisor as soon as possible but not later than the beginning of the shift. The foregoing requirement will apply unless the employee is otherwise directed or the nature of a personal emergency prevents giving such notice. In the event a request for emergency leave is disapproved, the employee may be charged absence without leave. A charge of absence without leave may lead to disciplinary action.

In emergency situations, notice must be given in the following order:

1. To the immediate supervisor or, if not available,
2. To the next level supervisor or, if not available,
3. To the immediate supervisor's voice mail with a telephone number where the employee can be reached.

ARTICLE 19

SICK LEAVE

Section 1.

Employees will be credited with sick leave in accordance with applicable laws and regulations. The Union joins the Academy in recognizing the insurance value of sick leave and agrees to encourage employees to conserve sick leave so it will be available to them in case of extended illness.

Section 2.

Sick leave, if accrued, shall be granted to employees when they are incapacitated for the performance of their duties for reasons of sickness, injury, or other reasons as provided by leave regulations. Employees, except in emergencies, must request leave by completing the proper leave request form (currently SF-71). Employees must have their request for leave approved before taking the leave (in some circumstances, approval of leave may initially be oral). Upon approval or disapproval of a leave request form, the supervisor will provide the employee a copy of the form.

In emergency situations where it is not possible to complete the proper leave request form in advance, notice must be given to the appropriate supervisor as soon as possible but not later than the beginning of the shift. The foregoing requirement will apply unless the employee is otherwise directed or the nature of a personal emergency prevents giving such notice. In the event a request for emergency leave is disapproved, the employee may be charged absence without leave. A charge of absence without leave may lead to disciplinary action.

In emergency situations, notice must be given in the following order:

1. To the immediate supervisor or, if not available,
2. To the next level supervisor or, if not available,
3. To the immediate supervisor's voice mail with a telephone number where the employee can be reached.

Section 3.

Periods of absence on sick leave in excess of three (3) workdays of continuous duration must ordinarily be supported by a medical certificate to be filed within three (3) working days after return to duty. In lieu of a medical certificate, a signed statement from the employee indicating the nature of the illness and the reason why a medical certificate is not furnished may be acceptable whenever it is unreasonable to obtain such certificate, and it is recognized that the employee is not an abuser of sick leave.

Section 4.

Employees shall not be required to furnish a medical certificate to support an application for sick leave of 3 days or less except that in individual cases a certificate may be required where there is reason to believe the employee is abusing sick leave privileges. In such cases the supervisor will hold a discussion with the employee and orally advise the employee that, because of a questionable sick leave record, a medical certificate may be required for each subsequent absence on sick leave. A record that the discussion was held, initialed by the employee, will be maintained by the Academy. If this does not bring about improvement in the sick leave record, the employee will be advised in writing, indicating the pattern of abuse, that all future requests for sick leave must be supported by a medical certificate from the employee's health care provider. Approved sick leave documented by a medical certificate shall not be counted in evaluating an employee's sick leave record while he/she is on such sick leave restriction.

Section 5.

It is agreed that all cases administratively requiring a medical certificate pursuant to Section 4 shall be reviewed upon the request of the employee by the Academy after six (6) months time, for the purpose of determining whether such requirements can be eliminated. When it has been determined that the restriction is no longer necessary, the employee shall be notified in writing.

ARTICLE 20

ALTERNATIVE WORK SCHEDULE SYSTEM

Section 1.

The union and management agree that an alternative work schedule (AWS) system will be implemented for unit members at the Academy. The AWS system and the processes to be followed are those contained in the attachment to this Agreement, Alternate Work Schedules (AWS) and its attached document, Alternative Work Schedules (AWS), A Guide For Employees and Supervisors.

Section 2.

The parties agree to reassess the AWS Program on a yearly basis during the term of this agreement. This assessment will include any adverse agency impact: 1) reduction of the productivity of the agency; 2) a diminished level of services furnished to the public by the agency; or 3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing an AWS program).

ARTICLE 21

PROMOTIONS

Section 1.

The purpose and intent of the provisions contained herein are to ensure that merit promotion principles are applied in a consistent manner with equity to all bargaining unit employees in accordance with the Civil Service Reform Act of 1978 and MAO 730-335, MARAD's Merit Assignment Program.

Section 2.

Vacancy announcements for unit positions being filled under the provisions of this article shall be posted on designated bulletin boards for a minimum of ten (10) days prior to the closing date. Vacancy announcements shall include the vacancy announcement number, opening and closing dates, name of operating unit, area of consideration, title, pay plan, series and grade, any known promotion potential, organizational and geographic location of the position, description of duties, minimum qualification requirements, basis for evaluating candidates including quality ranking factors, how and where to apply, telephone number for additional information and notice of drug testing requirements, if applicable.

Section 3.

All eligible candidates will, as appropriate, be evaluated on such factors as written tests, education, experience, training, supervisory performance appraisals, self development, recognition (awards, etc.) and panel interviews. All candidates must meet eligibility requirements, e.g., time-in-grade, qualification requirements and any selective placement factors by the closing date of the announcement, to be eligible for promotion consideration.

Section 4.

If there is a reasonable number of well qualified MARAD/Department of Transportation/other Federal employees with status, they may be evaluated first and the best qualified of those referred to the selecting official. If there is no selection, all candidates from other sources may be evaluated and the best qualified of those referred to the selecting official. There may be instances where individuals are entitled to priority or other special consideration accorded by law, court order, government-wide regulations, settlement or department policy.

Section 5.

Candidates may be evaluated by a Merit Assignment Panel. Composition, responsibilities and procedures of the panel are detailed in MARAD's Merit Assignment Program, section 11.03 (d) and section 6.05.

Section 6.

Any performance appraisal used in the promotion process, upon request of the employee, will be shown to the employee. A written comment on the supervisor's appraisal may be provided by the employee for consideration by the rating panel.

Section 7.

An employee who is detailed to a higher graded position for thirty one (31) days or longer shall be temporarily promoted to that position, if qualified, for a period not-to-exceed 120 days, effective the first day of the next full pay period after it is known that a temporary promotion should be effected.

Section 8.

Temporary, non-competitive promotions if more than thirty (30) days but less than one hundred twenty (120) days will be rotated in a fair manner among qualified employees within the confines of the employees' regularly assigned work section, shop or group.

Section 9.

When an employee is detailed, reassigned or promoted the Union shall be given notification.

Section I 0.- Terminology:

Best Qualified is a designation used for those qualified candidates who rank the highest when compared with other qualified candidates using job-related criteria.

Detail is the temporary assignment of an employee to a different position or set of duties for a specified period of time with no change in basic pay.

Temporary Promotion is a time-limited promotion to meet temporary needs.

ARTICLE 22

PERFORMANCE APPRAISAL

Section 1.

Before a performance plan is put into effect, the rating official and the employee will discuss the performance targets that the employee should be focusing his/her efforts on during the rating period. Each employee will be given the opportunity and should actively participate in developing his/her performance plan. The employee will be given the opportunity to develop suggestions, meet with his/her supervisor and otherwise provide input into the performance plan. The employee may take up to three (3) work days to review the plan before the plan is signed and implemented. Part D of the appraisal form may be used by the employee and supervisor to document any concerns and that any discussion(s) did in fact take place.

Section 2.

Ongoing communication and feedback between supervisors and employees are key ingredients to effective performance management. In addition to the official, mid-point progress review supervisors should and are encouraged to provide continuous feedback throughout the appraisal cycle, including positive feedback. The employee and supervisor may use Part D of the appraisal form to document any concerns that may arise from these discussions.

Section 3.

Immediately prior to preparation of the final appraisal the employee and supervisor are encouraged to meet to discuss the past years' performance and accomplishments. It is hoped that such a discussion will lead to a fuller understanding by both parties of the performance process and the employee's individual evaluation.

Section 4.

The supervisor will provide the employee with a signed copy of the final appraisal of record within five (5) work days of the employee's signature.

ARTICLE 23

TRAINING

Section 1.

It is the Academy's policy to sponsor training necessary to improve individual and organizational performance and assist in achieving the Academy's mission and performance goals, and to ensure fair and equitable treatment in the selection and assignment of employees for training.

Section 2.

Training may be approved or disapproved on the basis of such factors as the justification/need for the training, budget constraints, workload including the accomplishment of an office's/department's work and mission, recency of training and availability of training funds. In the event of scarcity of funds, training may have to be allocated on an institutional priority basis. Training may be initially approved or disapproved by the first-level supervisor. Final approval of training requests is currently delegated to the Assistant Superintendent for Administration. If the training is not initially approved by the first-level supervisor, the employee will be informed of the reason(s) and may request higher level review within the office/department or from the Assistant Superintendent for Administration.

Section 3.

It is the Academy's policy to recognize training and other self-improvement methods that employees may take advantage of, both during and after duty hours, to develop and improve their knowledge, skills and abilities for increased proficiency in performing their current, and in preparation for future, duties.

Section 4.

At the time of the employee's annual performance appraisal; as part of the performance appraisal process, supervisors and employees will discuss training and developmental needs, including formal on-the-job training, to improve the employees' performance of current duties or duties which may be assigned. Documentation of this discussion, and identification of any specific training needs and recommendations, will be entered in Section E "Identification of Training Needs" of the employees' Performance Appraisal Form.

The above discussion is a good opportunity for the employee and the supervisor to address various training opportunities and to discuss any questions concerning training policies and nomination procedures. Information concerning training courses and programs maintained in individual offices and departments will be made accessible to employees on a continuous basis. In addition, employees have continual access to information on training courses and opportunities disseminated by and maintained in the Academy's Personnel Office.

Section 5.

When employees are reassigned, or assigned new duties in connection with their current positions, the employer will assure they have the necessary knowledges and /or skills to enable them to perform all required duties.

Section 6.

It has been established that there is an advantage to the Employer, as well as the Union, that local Union officers and representatives be knowledgeable in the respective rights and obligations of labor organizations and agency management. These officers and representatives will be excused from duty without charge to leave, workload permitting, to attend union sponsored training which is of mutual benefit to the Employer and the Union.

The Union will be entitled to one hundred twenty (120) hours per calendar year of time without charge to leave to attend such training. This time will not be carried over year to year.

When an officer or representative wishes to attend union sponsored training, the Union will submit a written request, at least thirty (30) days in advance when possible, and provide Management with a vendor's written description of the course demonstrating which portion of the training is mutually beneficial to the parties. Excused absence will be granted for those portions of the union sponsored training meeting these criteria.

Section 7.

References for information concerning training:

---5 United States Code Subpart C Chapter 41

---5 Code of Federal Regulations Part 410

---MAO 740-410 Training

ARTICLE 24

SUGGESTION PROGRAM

Section 1.

The Academy and the Union recognize the purpose and value of MARAD's suggestion program and encourage employee participation. It is the Agency's policy to utilize the suggestion program to promote cost avoidance and efficiency of operations and to implement beneficial suggestions as expeditiously as possible.

Section 2.

Employees shall submit their suggestions, on form MA 921, to the suggestion program coordinator. Procedures and the suggestion program process are detailed in MAO 740-452. all suggestions shall be processed in a timely manner.

Section 3.

Cash awards and/or certificates shall be granted when an employee's suggestion has been approved for implementation. The amount of a cash award is to be determined in accordance with guidelines set forth in MAO 740-451, Incentive Awards.

ARTICLE 25

POSITION CLASSIFICATION

Section 1.

The Academy shall ensure that every employee is provided with a copy of his/her official position description outlining the employee's principal duties and responsibilities. When an SF-50 Notification of Personnel Action is received from the Maritime Administration's Personnel Office for a new employee or documenting any change in position for a current employee, the Academy Personnel Office will provide a copy of the position description to the employee and have the employee complete a receipt indicating that the employee has received the description.

When changes in position descriptions occur, which do not require the issuance of a Notification of Personnel Action, employees will be provided a copy of the description with the changes. The intent is to assure that employees always have a current copy of their official position description.

Section 2.

It is understood that the statement "other duties as assigned" in an individual's position description refers to duties of a nature reasonably related to the employee's position or abilities.

Section 3.

If an employee questions the accuracy of the position classification, the employee shall first discuss the matter with his/her supervisor. The supervisor shall discuss with the employee the various aspects of the position classification and explain or secure an explanation of why the position is classified the way it is. If the Academy finds that the position description needs to be changed the Academy agrees to initiate appropriate action within a reasonable period of time. If an employee feels that a job is incorrectly classified, the Academy will upon request advise the employee of the appropriate procedures for filing a classification appeal.

Section 4.

When the Academy has such information, it shall notify the Union of scheduled visits by classifiers for the purpose of conducting position reviews.

ARTICLE 26

WAGE SURVEYS

Section 1.

In accordance with procedures set forth by the federal wage system and 5CFR532, the Academy and the Union agree to cooperate in wage surveys when notified to participate.

Section 2.

Bargaining unit employees designated to participate in wage surveys shall be in a pay status while conducting surveys, collecting data and attending training on conducting wage surveys.

Section 3.

Both parties agree to share information concerning upcoming wage surveys.

Section 4.

The academy will make every effort to provide official vehicles for the use of unit members while engaged in survey activities, or provide mileage subject to availability of travel funds.

ARTICLE 27

INVESTIGATIONS

The participation of a bargaining unit employee in an administrative investigation will be conducted after notification to the Union.

The Union shall be given the opportunity to be represented at any examination or questioning of an employee by the Academy in connection with an investigation or inquiry if the employee reasonably believes that the examination or questioning may result in disciplinary action being taken against the employee and if representation is requested by the employee.

An employee does not have the right to refuse to answer questions in an administrative investigation or inquiry if the employee is asked to provide information or is a witness in an investigation or inquiry. Failure to answer questions could result in disciplinary action. The employee will be required to fully cooperate and truthfully answer all questions.

ARTICLE 28

ALTERNATIVE DISPUTE RESOLUTION

Section 1.

Alternative Dispute Resolution (ADR) is a collaborative, consensual dispute resolution approach. It describes a variety of problem-solving processes that are used in lieu of litigation or other adversarial proceedings to resolve disagreements. The efficient and effective use of ADR can help resolve disputes at an early stage, in an expeditious, cost-effective, and mutually acceptable manner.

Section 2.

The following are some examples of ADR options/practices:

---Ombuds: neutral party to investigate and propose settlement.

---Peer Review: panel of employees (Management and non-management) to assist in resolving complaint.

---Mediation: neutral party to aid in negotiating a resolution (binding/non-binding).

---Fact Finding: team to issue a non-binding report after examination of complaint and facts.

---Arbitration (binding/non-binding).

Section 3.

Either party may suggest ADR techniques that can be used to resolve workplace disputes at the Academy, and the use of a technique(s) in a particular situation. Such techniques may be used on a mutually agreed-upon basis.

Section 4.

In the use of ADR processes, contractual time-frames will be stayed by mutual agreement between the union and management. Statutory time-frames cannot be stayed.

Section 5.

An employee reserves the right not to participate in ADR, and instead to use other avenues of complaint open to him/her.

ARTICLE 29

DISCIPLINE/ADVERSE ACTION

Section 1.

Discipline is an administrative process designed to train, correct or obtain compliance and/or order within the U.S. Merchant Marine Academy. Discipline which rises to the level of an adverse action is defined as:

1. removal
2. suspension of more than fourteen (14) days
3. reduction in grade
4. reduction in pay

Section 2.

Every supervisor has the responsibility for promptly taking or initiating disciplinary measures when necessary. When a supervisor becomes aware of employee misconduct or delinquency, or if circumstances strongly indicate that misconduct or delinquency has occurred, he/she should promptly attempt action through oral and/or written communication with the employee, or take other appropriate disciplinary measures as warranted.

A supervisor shall initiate an adverse action when efforts to achieve corrective action by less severe disciplinary measures have been unsuccessful, or when the problem is so serious as to initially require more severe measures.

Section 3.

A supervisor who is considering disciplinary or adverse action must consult the academy's personnel office to assure that the action being considered is appropriate and/or warranted on its merits. Letters of caution, letters of reprimand, notices of proposed suspensions or adverse actions and draft decision letters must be reviewed by a representative of the personnel office prior to issuance to the affected employee. This review will include the merits of the case and overall compliance with legal and regulatory requirements. Adverse action proposal and decision letters (removals, suspensions for more than 14 days, reductions in grade, reductions in pay) are reviewed and approved by the Maritime Administration Office of Human Resources and Office of the Chief Counsel before issuance.

Section 4.

Discipline and adverse action shall be administered in accordance with the disciplinary and adverse actions system utilized by the Maritime Administration (currently MAO 770-751 dated 5/20/96) except as otherwise provided by this Agreement in the following sections.

Section 5.

An employee against whom an appealable adverse action (i.e., removal, suspension for more than 14 calendar days, reduction in grade, reduction in pay) is proposed is entitled to a reasonable time, but not less than 14 calendar days, to reply orally and/or in writing.

Section 6.

- a) Disciplinary actions are grievable only through the negotiated grievance procedure.
- b) Adverse actions are appealable to the Merit Systems Protection Board rather than the negotiated grievance procedure.

Section 7.

An employee may request removal of a letter of reprimand from his/her Official Personnel Folder after 15 months from the date of the letter, and may request removal of the letter upon leaving the Maritime Administration.

Section 8.

Alternative discipline (AD) provides opportunities for agencies to better manage caseloads, reduce administrative costs and rehabilitate employees for productive government service. It also signals a departure from the more traditional way of imposing discipline. It is an alternative to traditional discipline. In some cases, however, alternative discipline may not be appropriate.

A key aspect of AD is that the employee has a stake in alternative discipline and how the workplace problem is resolved. AD often has the benefit of avoiding the negative aspect on the morale of a disciplined employee and/or his or her co-workers that can be associated with traditional discipline.

The use of alternative discipline may be recommended by a supervisor when he or she is of the judgement that an alternative form of discipline may be more effective in providing corrective measures. In such cases, the following procedure will be followed:

1. The appropriate supervisor must be the person to initiate the procedure. The Union and/or management may make a recommendation to the supervisor(s) concerning use of alternative discipline. AD will not be considered for situations in which the traditional discipline is an adverse action.
2. When a supervisor requests the use of an alternative form of discipline, a committee will be convened in a reasonable period of time consisting of a union representative, a management representative, the requesting supervisor, and a personnel office representative as an ex officio member to provide assistance. Each case is handled on an individual basis. The committee has the sole responsibility and authority for developing the particular form of AD for each particular situation. Guidelines to be followed are contained in appendix A to this agreement.

3. When the alternative discipline committee (ADC) comes to a consensus on an appropriate form of alternative discipline acceptable to the committee and approved by the Personnel representative, the employee to be disciplined will be offered the choice of either the alternative form of discipline or the original appropriate normal disciplinary action.
4. When the choice of the disciplinary action is made by the affected employee, the selection of the alternative form of discipline is not grievable.
5. Alternative discipline decisions which require the use of an SF-50 will be filed in the Official Personnel Folder. Other alternative discipline decisions will not be filed in the Official Personnel Folder, but will be filed for two (2) years in the Academy Personnel Office.
6. The purpose of alternative forms of discipline is to provide choices and flexibility in the disciplinary system in order to provide maximum corrective results.

Note for informational purposes:

The disciplinary process is a confidential one, and no information will be divulged by management to those not involved in the proposal and decision process.

ARTICLE 30

GRIEVANCE PROCEDURE

Section I.-Purpose

The purpose of this Article is to provide a mutually acceptable method for prompt and equitable settlement of grievances. The parties agree that disputes and misunderstandings arise in the workplace on occasion, and attempts should be made to resolve them before a grievance is filed.

Nothing in this Agreement shall preclude discussions between an employee and/or the employee's designated Union representative and the employee's supervisor(s) about a matter of concern to either of them.

Once a matter has been made the subject of a grievance under this procedure, nothing in this Agreement shall preclude either party to this Agreement from attempting to resolve the grievance informally.

Section 2.-Coverage and Scope

A grievance means any complaint:

A. By an employee or group of employees concerning-

1. a matter relating to the employment of the employee(s);
2. any claimed violation, misinterpretation or misapplication of any law, rule or regulation with respect to matters affecting conditions of employment, for which the employee(s) requests personal relief;

B. By the Union, filed on behalf of an employee or group of employees, concerning-

1. a matter relating to the employment of the employee(s);
2. any claimed violation, misinterpretation or misapplication of any law, rule or regulation with respect to matters affecting conditions of employment, for which the employee(s) requests personal relief;

C. By the Union or the Employer concerning-

1. the interpretation, application and/or claim of violation of a collective bargaining agreement;
2. any claimed violation, misinterpretation or misapplication of any law, rule or regulation with respect to matters affecting conditions of employment;

D. Except that it shall not include a grievance concerning:

- (1) any claimed violation relating to prohibited political activities; or
- (2) retirement, life insurance, or health insurance; or
- (3) a suspension or removal for national security reasons; or
- (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; or
- (6) the removal, termination, or separation of any probationary employee; or
- (7) non-selection from among a group of properly ranked and certified candidates.
- (8) separation, demotion, or furlough for more than 30 days when the action was effected because of a reduction in force.
- (9) adverse actions, as defined by the Civil Service Reform Act of 1978, that are appealable to the Merit Systems Protection Board.
- (10) the choice of an alternative form of disciplinary action made by an employee in accordance with Article 29, Section 8. of this Agreement.

E. Bargaining unit employees serving under a temporary appointment of more than 700 hours may file grievances under this Article (those with appointments of less than 700 hours may not do so). However the removal, termination, or separation of employees with temporary appointments of more than 700 hours, because of lack of funds or work, expiration of their appointment, or for personal cause is not grievable.

Section 3.

This negotiated procedure shall be the exclusive procedure available to the Union and to the employees in the bargaining unit for resolving covered grievances, except as provided in Section 9. of this Article.

Section 4.

In the event either party should declare a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. The Academy agrees to raise any question of grievability not later than the written answer in step 3 of this grievance procedure. All disputes of grievability or arbitrability not resolved by the parties shall be referred to arbitration as a threshold issue in the related grievance.

Section 5.

An employee may either present his/her own grievance or be represented by a Union representative. If the employee does not choose to be represented by the Union, the Union has the right to be present during the grievance proceeding. If the grievance is adjusted in writing, the Union shall be provided with a copy of the written adjustment. The Employer will provide the Union with advance notice of the grievance meetings outlined in the grievance steps in Section 7. below.

Section 6.-Standard Form for Grievance

A. A grievance filed by an employee(s) or the Union shall be presented on the negotiated standard grievance form. It shall be signed by the grievant(s), dated, and at a minimum shall contain:

- I. Date filed;
2. The names of the grievant(s);
3. The name of the Union representative, if any;
4. Specification of the Article(s), Section(s), and Subsection(s) of this Agreement, or the law, rule or regulation affecting conditions of employment which are alleged to have been violated, misinterpreted or misapplied, or the matter relating to the employment of the employee(s) which is being grieved;
5. The nature and facts of the grievance;
6. The relief or remedy desired;
7. Signature(s) of the grievant(s).

B. An appeal of a grievance to a higher step of this procedure shall include a copy of the grievance form plus copies of all replies received at all previous Steps. In addition, the appeal shall specify any elements of the grievance which have been resolved at a lower step.

Section 7.-Grievance Procedure

Step I. A grievance must be submitted to the immediate supervisor within fifteen (15) working days from the date of the action being grieved, or within fifteen (15) working days after the date the grievant should reasonably have been expected to have become aware of the action being grieved. Working days in this procedure are defined as Monday through Friday, regardless of any Alternative Work Schedules that may be involved. The grievance must be submitted on the standard grievance form outlined above. The immediate supervisor will formally meet with the grievant/representative within five (5) working days after receipt of the grievance. The parties will discuss and attempt to resolve the grievance. At the end of the meeting, the supervisor and the grievant/representative will sign and date the standard grievance form. The supervisor shall provide a written decision within five (5) working days after the day of the meeting.

Step 2. If the grievance is not resolved by the Step 1 decision, the grievance may be submitted to the grievant's second level supervisor within five (5) working days after receipt of the Step 1 decision. Only those issues raised at Step 1 may be included in this Step or any subsequent Step. Included shall be a copy of the standard grievance form submitted at Step 1, a copy of the Step 1 decision, and a specification of any elements of the grievance which may have been resolved at Step 1. The second level supervisor will formally meet with the grievant/representative within five (5) working days after receipt of the grievance. The parties will discuss and attempt to resolve the grievance. At the end of the meeting, the supervisor and the grievant/representative will sign and date the standard grievance form. The supervisor shall provide a written decision within five (5) working days after the day of the meeting.

Note: Informal Meetings. Meetings held to attempt to resolve a grievance informally, in accordance with Section 1. of this article, shall not be considered the formal meetings outlined in Steps 1 and 2 above.

Step 3. If the grievance is not resolved by the Step 2 decision, the grievance may be submitted to the grievant's third level supervisor within seven (7) working days after receipt of the Step. 2 decision. Included shall be a copy of the standard grievance form submitted at Step I, a copy of the Step 1 and Step 2 decisions, and a specification of any elements of the grievance which may have been resolved at the previous Steps. The supervisor shall provide a written decision within fifteen (15) working days after receipt of the grievance. If a grievance is not satisfactorily resolved under this procedure, the Union or the Academy may refer the matter to arbitration.

Note: In instances where the Superintendent is the supervisor at the 2nd or 3rd step of the grievance procedure, the Superintendent may designate the Chief of Staff or another individual to act on his behalf. Any such designee will have complete authority to render a decision at that Step. The designee will never be someone who decided the issue at any previous step.

Section 8. - Time Limits

The time limits stated in this Article may be extended by written mutual consent of the Academy and the grievant. Failure by the Employer to observe the time limits for any step in the grievance procedure shall entitle the grievant to advance the grievance to the next step as applicable.
Failure by the employee or his/her representative to observe the time limits and other requirements provided for in this Article shall cancel the grievance.

Section 9.

a. An aggrieved employee affected by a prohibited personnel practice (discrimination) under Section 2302 (b) (!) of the Civil Service Reform Act of 1978 (the Act), or a removal or reduction in grade based on unacceptable performance may, at his/her option, raise the matter under a statutory appeals procedure or this grievance procedure, but not both. An employee shall be deemed to have exercised his/her option only when he/she files a timely notice of appeal under the appellate procedure or files a timely grievance in writing as provided for in Section 9 b. below, whichever event occurs first. An employee should note that only at the option of the Union or the Employer may a grievance be referred to arbitration.

b. If an employee chooses to file a grievance regarding a removal or reduction in grade based on unacceptable performance, he/she must file the grievance in writing with the deciding official's

supervisor within five (5) working days of the action being grieved. For a grievance regarding a prohibited personnel practice (discrimination), the employee must file the grievance in writing with the Superintendent within five (5) working days of the matter being grieved. The grievance must clearly state the matter being grieved, the specific remedy sought and any appropriate information which the grievant wishes to have considered. The Employer will provide a final written decision to the employee within five (5) working days after receipt of the grievance.

c. If the matter is not resolved under the procedure described in sub-paragraph b. of this Section, the Union may invoke arbitration.

Section 10.

Should the Academy have a grievance with the Union the Assistant Superintendent for Administration will submit the grievance in writing to the Local President stating the reason for the grievance and the remedial action sought. The Local President and the Assistant Superintendent for Administration shall meet to discuss the grievance. The Local President shall render a written decision within fifteen (15) working days after the meeting.

Should the Union have a grievance relating to the rights and privileges accorded to the Union the Local President may file such a grievance in writing to the Assistant Superintendent for Administration stating the reason for the grievance and the remedial action sought. The assistant Superintendent for Administration and the Local President shall meet to discuss the grievance. The assistant superintendent for Administration shall render a written decision within fifteen (15) working days after the meeting.

If the grievances in this Section are not satisfactorily resolved then the Academy or the Union may refer the matter or arbitration.

Section 11.

When five (5) or more employees have a grievance, such a grievance may be presented by the Local President in writing to the Assistant Superintendent for administration within fifteen (15) working days from the date of the action being grieved. The grievance shall clearly identify the issue being grieved, the specific contract provision that was violated, the relief sought and the identity and signatures of a minimum of five (5) grievants. The employer and the Local President will meet to discuss the grievance within five (5) working days after receipt of the written detailed grievance. The Employer shall give the Local President a written answer within fifteen (15) working days after the meeting. If the grievance is not settled by this method the Union may refer the matter to arbitration. Nothing herein precludes either party from attempting to settle such grievances informally at the appropriate level. However, the procedure in this Section may be used in lieu of other procedures in this Article.

ARTICLE 31

ARBITRATION

Section 1.

In the event a grievance is not resolved under the procedures set forth in Article ?? the Employer or the Local may invoke binding arbitration. The party desiring arbitration shall file a request with the Federal Mediation and Conciliation Service (FMCS) for an arbitration panel within thirty (30) calendar days from the date of the final decision made under Article ?? , or within thirty (30) calendar days of the end of the response time limit at that step. At the same time, a copy of the request shall be provided to the other party.

Section 2.

The parties shall meet within ten (10) work days of receipt of the list from the FMCS to select an arbitrator to conduct the arbitration hearing. If one cannot be mutually agreed on, a process will begin in which each party will alternatively strike a name off the list until one (1) arbitrator remains. This person shall be the duly selected arbitrator. A flip of a coin will determine which party will start this process. If either party refuses to participate in the selection, the other will select the arbitrator.

Section 3.

After selection of an arbitrator the parties will meet to determine the issue(s) to be submitted to the arbitrator. If the issue(s) cannot be mutually agreed upon, each party will submit a separate issue(s) to the arbitrator and he/she will determine the issue(s) to be arbitrated.

Section 4. - Witnesses

At least ten (10) work days before the opening of the arbitration hearing, the parties shall exchange lists of witnesses whom they expect to have testify. The parties shall provide the arbitrator with a copy of the lists at the same time. If either party discovers the need to call a witness(s) who is not on the party's original list, the witness(s) may testify at the discretion of the arbitrator.

Section 5.

The Union and the Employer agree to share, equally, the arbitrator's fees and expenses including the cost of a transcript if one is requested by the arbitrator or desired by both parties. If the arbitrator does not request one and only one party desires a transcript, that party shall bear the expense.

Section 6.

The arbitration hearing will normally be scheduled between 8:30 and 4:00 p.m. on a weekday, i.e., Monday through Friday, and held on the Academy premises.

Section 7.

The arbitrator shall not have the authority to change, alter, amend, modify, add to or delete from this Agreement. The arbitrator will be requested to render his/her decision as quickly as possible, but in any event not later than thirty (30) calendar days after the conclusion of the hearing. Either party may file exceptions to the arbitrator's award with the Federal Labor Relations Authority under the Authority's regulations.

Section 8.

Employees who are called as witnesses shall be in a duty status while required to be present at an arbitration hearing. To insure this, the Employer may change the hours of work of such employees and others thereby affected for the day (s) that they will be a witness without regard to other provisions of this Agreement.

ARTICLE 32

PAYROLL ALLOTMENT FOR WITHHOLDING DUES

Section 1.

The Academy agrees to a system of payroll allotment for withholding Union dues for Unit members who (1) voluntarily complete Standard Form 1187, Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues, (2) receive compensation sufficient to cover the total amount of the allotment and (3) are not suspended or expelled from Union membership.

Section 2.

The Union and the Academy agree that the provisions of this Article are subject to, and will be governed by, applicable Federal laws, rules and regulations.

Section 3. - Union Responsibilities

The Union agrees to assume the responsibility for:

- a. Informing and educating its members on the voluntary nature of the system for the allotment of employee organization dues, including the times when revocation may be effected.
- b. Providing and distributing to its members Standard Form 1187.
- c. Forwarding to the Academy Personnel Officer, in writing, any changes in the following information:
 1. Until further notice, the following Union Officers are authorized to make the necessary certification of Standard Form 1187: President, Vice-President, Secretary- Treasurer.
 2. Until further notice, dues remittances will be payable via direct deposit to the Union's treasury.
- d. Certifying on the SF-1187 the amount of dues to be withheld each bi-weekly pay period and forwarding same to the employer.
- e. Promptly forwarding an employee's revocation (memorandum or Standard Form 1188, Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues) to the Payroll Office when such revocation is submitted to the Union.
- f. Informing the employee's Payroll Office of the name of any participating employee who has been expelled or suspended from the Union within ten (10) days of the date of such action.
- g. Informing the employee's Payroll Office, through the Academy Personnel Officer to the Maritime Administration Office of Personnel, of any change in the amount of membership dues.

Section 4. - Academy Responsibilities

The Academy agrees that it is responsible for:

- a. Processing voluntary allotment of dues in accordance with this Agreement.
- b. Withholding dues on a bi-weekly basis.
- c. Withholding new amounts of dues upon certification from the authorized Union officials so long as the amount has not been changed during the past twelve (12) months.
- d. Promptly transmitting remittances to the Union together with a copy of all revocation notices received in the Payroll Office.
- e. Providing a remittance listing to the Union containing the following information:
 1. The name of each employee for whom deduction is being made during the current pay period.
 2. Identification of the AFGE Local.
 3. Amount withheld for each employee.
 4. The total gross amount deducted.

Section 5. - Joint Stipulations

The Union and the Academy agree that:

- a. Dues will be deducted on a bi-weekly basis. The amount of the dues to be deducted as allotments from compensation may not be changed more frequently than once each twelve (12) months.
- b. There shall be no service charge for dues withholding.
- c. Administrative errors in remittances will be corrected and adjusted in the next remittance to be issued to the Union. If the Union is not scheduled to receive a remittance after discovery of the error, the Union agrees to promptly refund the amount of any erroneous over-payment remittance. The Academy agrees to remit to the Union any erroneous under-payment to the extent it has been collected.

Section 6. - Effective Dates for Action

The effective dates for actions under this Article are as follows:

<u>Action</u>	<u>Effective Date</u>
a. Starting dues withholding.	Beginning of first pay period after date of receipt of properly executed and certified Standard Form 1187 in Payroll Office.
b. Change in amount of dues.	Beginning of first pay period after receipt of certification in Payroll Office.
c. Revocation by employee:	
1. Employees on dues withholding less than 1 year.	First pay period after first anniversary in Union provided that revocation is submitted no later than anniversary.
2. Employees on dues withholding more than 1 year.	First pay period in March provided that revocation is submitted no later than March 1.
d. Termination due to suspension or expulsion from the Union.	Beginning of first pay period after date of receipt of notification in Payroll Office.
e. Termination due to loss of exclusive recognition on which allotment was based.	Beginning of first pay period following loss of recognition.
f. Termination due to separation or movement out of the Unit to an area not covered by this Agreement.	(a) If action is effective first day of pay period, termination of allotment will be at end of preceding pay period, or (b) If action is effective on any day other than first day of a pay period, termination of allotment will be at end of pay period.

ARTICLE 33

OFFICIAL TIME

Section 1.

Consistent with Title VII of the Civil Service Reform Act of 1978 (the Act) and the terms of this Agreement, Union representatives will be granted a reasonable amount of official time which is necessary for the performance of labor-management relations that do not constitute internal Union activities such as membership recruitment, internal Union elections, collection of dues, reproduction and distribution of Union-related literature and notices. Such official time shall be granted to not more than twelve (12) Union representatives who are members of the bargaining unit covered by this Agreement or the Ship's Service Organization bargaining unit.

Section 2.

Union officials will be recognized by the employer upon receipt of written notification by the Union to the Academy Personnel Officer. The notification will identify, up to a total of twelve (12), the unit employees designated to serve as Union representatives and eligible to be granted official time. The Union will identify the Academy organization or segment thereof where each representative is located and the telephone extension at which they may be reached, and will update this listing as any changes occur.

Section 3.

The determination of what constitutes a "reasonable amount of official time" under this Article is a matter requiring mutual agreement between the Union representative and his/her supervisor prior to the representative's release under Section 4. of this Article, taking into account the need to balance the effective conduct of the Academy's business with the rights of employees to be represented in matters relating to their employment. A factor to be considered by the parties in determining what constitutes a "reasonable amount of time" is the amount of time that is necessary to accomplish the specific task for which time is requested.

If there is a dispute between a Union representative and his/her supervisor concerning what constitutes a "reasonable amount of time", the matter will later be referred to the Assistant Superintendent for Administration and the Union President for resolution.

Section 4.

A designated Union representative who desires to use a "reasonable amount of official time" under the provisions of this Article shall adhere to the following procedures:

a. Will request prior permission from his/her immediate supervisor by way of an Official Time Request form, which will include the date and estimated time expected to be away from the work area, destination, phone number where the representative can be reached, signature and the general nature of business to be conducted on official time.

b. If another employee is to be contacted, the representative will request permission of that employee's supervisor, informing him/her of the general nature of the visit and the estimated time the employee can be expected to be away from their work area.

c. The representative will report his/her return to the work area to his/her immediate supervisor upon conclusion of the use of official time. The actual amount of official time used will be documented on the Official Time Request form.

Section 5.

Brief contacts in person, by phone or by e-mail between employees and Union representatives to briefly state the nature of a concern, arrange a meeting, etc. do not have to adhere to the process for requesting official time as outlined in Section 4. of this Article. An estimate of this time will be maintained by the Union representative.

Section 6.

A reasonable amount of time will be allotted on a daily basis to the Union President, or his/her designee, to check the Union's e-mail messages, phone messages and incoming mail. The time of day used for such activities will be worked out between the President and his/her immediate supervisor, and will normally not exceed 15 to 20 minutes.

A reasonable amount of time will be granted on a monthly basis for the Union Secretary/Treasurer to compile data to complete necessary reports and forms required by other federal agencies.

Section 7.

The Union agrees that its' officials and representatives will use official time judiciously and will guard against the use of excessive time in performing their duties. Reasonable official time during working hours will be granted to Union representatives to meet with management officials and/or supervisors concerning employee/management relations; to meet with affected employees to discuss, investigate, prepare for and present grievances; to reply to a notice of a proposed adverse or performance based action; to represent employees in an adverse action, performance based action or a reduction in force appeal pursuant to the terms and conditions of this Agreement, pursuant to a statutory appeals procedure or pursuant to a labor/management relations appeals procedure in accordance with the provisions of section 7131 of the Civil Service Reform Act.

Official time will also be granted to Union representatives to participate on Academy committees; to review and/or respond to instructions, notices, memoranda, etc. that affect personnel policies, practices and/or conditions of employment; to complete necessary reports and forms required by Federal agencies; and for any other purpose agreed to by the parties.

ARTICLE 34

FACILITIES AND SERVICES

Section 1.

Management recognizes the importance of the union's mission and purpose at the Academy and understands the need for space to carry out labor relations responsibilities. To meet this need, management will continue to provide the union sufficient space to carry out these responsibilities and office space for its President. Management will continue to provide necessary furnishings for these spaces such as desks, chairs, tables, file cabinets etc...

Section 2.

The union agrees to maintain the facilities, furnishings and equipment and comply with the security regulations in effect. The use of these facilities will not interfere with the proper functioning of academy activities.

Section 3.

The Union office will be equipped with telephone lines for the federal telephone system, a facsimile machine, and a photocopier for labor-management relations activities. A personal computer, connected to the Local Area Network (LAN), with appropriate accessories and devices, compatible with the Academy's technology will be furnished for such activities. When system capabilities are upgraded Academy-wide, the Union office **will** be included in the upgrades to insure continued connectivity to the LAN.

Section 4.

The Union will have access to the Academy's email system and interdepartmental mail system to carry out representational responsibilities with bargaining unit employees and management.

Section 5.

Two bulletin boards will be made available in designated areas to display items such as union literature, notices, announcements, information, correspondence and AFGE publications.

ARTICLE 35

CONTRACTING OUT

If the Academy undertakes a "competitive sourcing" initiative management will notify and consult with the Union regarding any review of a function for contracting out that could affect bargaining unit positions, as required or allowed by law, rule, regulation, OMB Circular A-76 and this agreement. The parties will meet to negotiate, as permitted by law, rule, or regulation the Union's role in the initiative; the impact and implementation of the initiative; and appropriate arrangements for unit employees affected by a decision to contract out. Management will communicate with the union and keep it informed throughout the competitive sourcing process.

Management and the Union agree that it is productive to share ideas at any time concerning the development of efficient organizations throughout the Academy.

ARTICLE 36

REDUCTION IN FORCE

Section 1.

In conducting a reduction in force (RIF), the Academy is required by law to use the procedures contained in 5 CPR Part 351-Reduction In Force in place at the time of the RIP. Current procedures indicate that a RIP occurs when an agency releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment rights or restoration rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a RIP in the employee's competitive area and when the RIP will take effect within 180 days.

Section 2.

Current 5 CPR Part 351 procedures indicate that the minimum competitive area for a RIP is a subdivision of the agency under separate administration within the local commuting area, and that the competitive levels within that area consist of all positions which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirement, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the competitive level.

Section 3.

The Union will be informed, in writing, of any pending RIP, reorganization and/or transfer of function as soon as possible before such action is taken and prior to notification of employees. The Union will be provided an opportunity to meet with Management to explore alternatives and to conduct impact and implementation bargaining.

Section 4.

The Academy shall use position vacancies to the extent possible to place employees impacted by a reduction in force. There shall be a freeze on hiring from outside the Academy during the sixty (60) days prior to the effective date of a reduction in force. Qualified employees affected by the reduction in force shall receive first consideration for placement in vacant positions provided there is a need and the ability to fill the vacancies. Qualifications may be waived in offering vacant positions to employees when there is strong evidence that the individual can perform the duties of the position including the capacity, adaptability, minimum educational requirements and special skills needed. The Academy and the Union support the goal of maximizing employee retention by waiving qualifications when appropriate. The Academy may fill a position by hiring from outside the Academy if there are no affected employees eligible for and who desire the position with or without a waiver of qualifications, or after any affected employees have been given first consideration and have not been selected.

Section 5.

Current 5 CFR Part 351 procedures indicate that, when a decision is made to conduct a reduction in force, each affected employee will be given written notice at least sixty (60) days before the effective date of release from a competitive level (unless OPM approves a shorter notice period), and that the Union will also be given written notice. Part 351 provides that the written notice to the employee will include:

- a) The action to be taken, the reason for the action, and its effective date;
- b) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received during the last 4 years;
- c) The place where the employee may inspect the regulations and record pertinent to his/her case;
- d) The reasons for retaining a lower-standing employee in the same competitive level under 351.607 or 351.608;
- e) Information on reemployment rights;
- f) The employee's right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

In addition, an employee who receives a specific notice of separation must be given:

- 1) Information concerning the right to reemployment consideration and career transition assistance under the Reemployment Priority List and Career Transition Assistance Programs;
- 2) A release to authorize, at the employee's option, the release of his/her resume and other relevant employment information for employment referral to State dislocated worker unit(s) and potential public or private sector employers;
- 3) Information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under Title III of the Job Training Partnership Act;
- 4) An estimate of severance pay (if eligible).

Upon request, an employee who has been issued a specific reduction in force notice will be provided with a copy of OPM's reduction in force regulations.

Section 6

Current 5 CFR Part 351 procedures indicate that employees who receive a notice of separation, and are nearly eligible for retirement, are entitled to use accumulated annual leave to become eligible for an immediate annuity and/or establish initial eligibility under 5 USC 8905 to continue health benefits into retirement. This will allow employees to remain on the employment rolls beyond the date of the reduction in force if they become retirement or health benefits eligible before their annual leave is exhausted.

Section 7.

An employee who has received a specific reduction in force notice, and the Union, will be given the opportunity to review the retention registers listing other employees who may be entitled to

displace the affected employee, as well as the specific employees who may be displaced by the affected employee under the reduction in force procedures.

Section 8.

Employees who are offered a reassignment or change to a lower grade in lieu of separation by a reduction in force must indicate their acceptance or rejection of the offer within a reasonable amount of time, but not more than fourteen (14) calendar days from the time of the notification. Current 5 CFR Part 351 procedures indicate that if a position with a higher representative rate or grade (but not higher than the rate or grade of the employee's current position) becomes available on or before the effective date of the reduction in force, the better offer will be made to the employee. The better offer will not extend the notice period for the reduction in force.

Section 9.

An employee who is changed to a lower grade in lieu of separation by a reduction in force is entitled to consideration for repromotion to the grade or position from which demoted. When the employee applies under a vacancy announcement for such a position the employee, if qualified for the position, will be referred to the selecting official for consideration regardless of the employee's ranking against other candidates for the position or whether or not the employee is considered among the best qualified for the position. If the employee is not selected for the position he/she will be provided with the reason(s) for non-selection by the selecting official.

Section 10.

Employees who are identified for transfer of function, or separation or change to a lower grade as a result of a reduction in force, shall be entitled to reasonable time without charge to leave while otherwise in a duty status, and reasonable use of Academy facilities and/or services, for the purpose of locating suitable employment; preparing for and producing job resumes and/or applications; participating in employment interviews; reviewing job bulletins, announcements, etc.; and employment counseling.

ARTICLE 37

MID-TERM BARGAINING

Section I.

Upon the union's request, the Academy is obligated to bargain during the term of this collective bargaining agreement on negotiable union proposals concerning matters not "contained in" or "covered by" the existing agreement.

The union agrees that management may initiate mid-term bargaining concerning matters not "contained in" or "covered by" the existing agreement.

The parties must use an interest-based bargaining approach in all mid-term negotiations.

Section 2.

In the event that either party demonstrates, through documented support, that an article or section in the agreement is not operating in the manner the parties intended, they will meet to discuss the issue and if both parties agree, they will negotiate any changes needed to facilitate the article/section working as originally intended.

Section 3.

In the event both parties agree that provision(s) in the agreement are not working out in the best interest of both bargaining unit employees and management, mid-term bargaining may be initiated to change or modify, if applicable, those provision(s).

ARTICLE 38

DURATION OF AGREEMENT

Section 1.

This Agreement shall be effective on the date that it is approved by the Maritime Administration's Director, Office of Human Resources. If the Agency does not approve or disapprove the Agreement within thirty (30) days from the date of execution the Agreement shall take effect on the thirty-first (31st) day. The Agreement shall be considered executed when signed by all members of the negotiating committees and ratified by the membership of the Union. The Agreement shall remain in effect for three (3) years from the effective date. The Union shall notify Management's Chief Negotiator in writing of the date of ratification by the Union membership within two (2) days of such ratification.

Section 2.

Either party may give written notice to the other, not more than ninety (90) or less than sixty (60) days prior to the expiration date for the purpose of modifying, adding to or renegotiating this Agreement. The notice shall be acknowledged by the other party within fifteen (15) days. If negotiations have not commenced or are not concluded prior to the expiration date, this Agreement remains in effect until a new Agreement is approved.

Section 3.

If neither party serves notice to renegotiate the Agreement, the Agreement shall be automatically renewed for one (1) year, and from year to year on the annual anniversary of the effective date. Each new year period shall be a new duration period with a new effective date.

Section 4.

This Agreement may be amended at any time by mutual written consent of the Union and the Academy.

