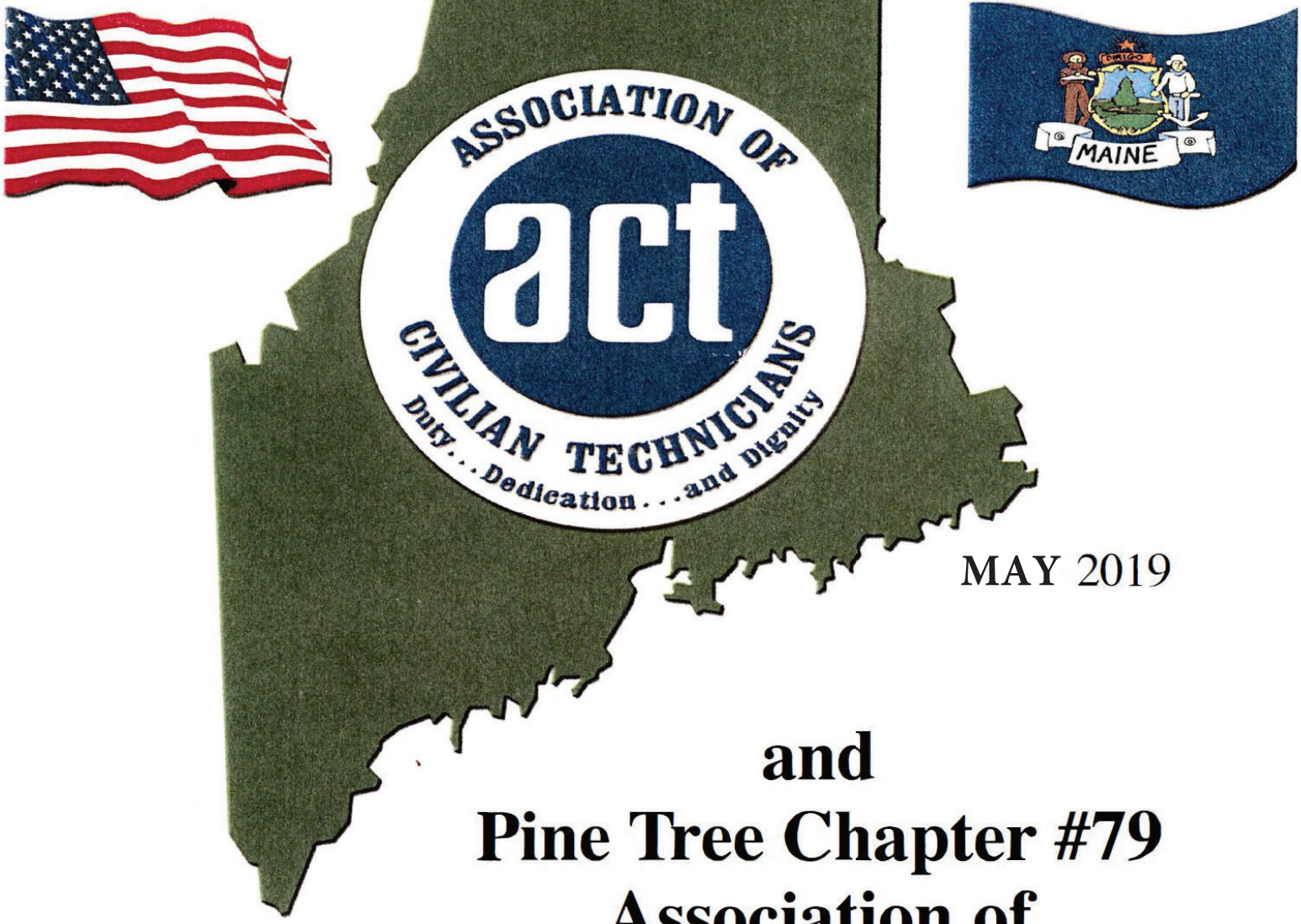
COLLECTIVE BARGAINING AGREEMENT

Between

The Adjutant General, State of Maine



MAY 2019

and

Pine Tree Chapter #79 Association of

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PREAMBLE

Pursuant to the policy set forth in Public Law, the following articles constitute an agreement between The Adjutant General (TAG), Maine National Guard, hereinafter referred to as the *Employer*, and Maine Pine Tree Chapter of Association of Civilian Technicians, hereinafter referred to as the *Labor Organization*.

We believe that by negotiating in the spirit of partnership, Pine Tree Chapter of ACT and management of the Maine Army National Guard can deliver on the goals of the Maine Army National Guard that works better and costs less, while delivering quality service to the citizens of Maine and our Nation.

The purpose of the agreement is to identify the mutual covenant of the parties hereto which have the intention and purpose to:

a. Promote and improve the efficient administration of the Maine Army National Guard and the well-being of its employees within the meaning of public law.

b. Provide for the highest degree of efficiency in the accomplishment of the operation of the Maine Army National Guard.

c. To establish a basic understanding relative to personnel policy, practices, procedures and matters affecting other conditions of employment within the jurisdiction of TAG.

d. To provide means for amicable discussion and adjustment to matters of mutual interest.

e. Promote employee communications and information of personnel policy and procedures.

Whenever language in this Agreement refers to specific duties or responsibilities of specific employees or management officials, it is intended only to provide a guide as to how a situation may be handled. It is agreed that the Employer retains the sole discretion to assign work and to determine who will perform the function discussed.

It is agreed that for the purpose of this Agreement, references to the word “Employee” is intended to include both Title 32 and Title 5 employees unless otherwise addressed therein. If a TPR or NGB regulation has been or becomes superseded, the superseding guidance will be in effect.

ARTICLE 1

Agreement Administration

SECTION 1.1

This Agreement will take effect upon receipt of Defense Civilian Personnel Management Service approval and shall remain in full force and effect for six (6) years from the date approved. However, upon mutual agreement, the Collective Bargaining Agreement (CBA) may be extended in one-year increments not to exceed a total of five years. Either party may give written notice to the other, not more than one hundred twenty (120) nor less than seventy-five (75) calendar days prior to the end of the four (6) year expiration date of its intention to negotiate a new Agreement. The existing Agreement will remain in full force and effect during the renegotiation of said Agreement and until such time as a new Agreement is approved.

SUBSECTION 1.1.1

If neither party serves notice to the other to renegotiate or extend this agreement within the allotted time, the agreement shall be automatically renewed for a 6 year period. The parties may jointly agree to renew the agreement before or during the same 120 / 75-calendar day window as in Section 1.1. The agreement will be subject to approval by the Agency or designee under the provisions of 5 USC, Section 7114(c).

SUBSECTION 1.1.2

Any article(s) or part(s) thereof of a new or renewed agreement disapproved by DCPAS will be revised using the ground rules previously established for negotiations. Modifications of the ground rules to fit the situation will be determined jointly by the parties. The effective date of the new or renewed agreement will take effect in accordance with SECTION 1.1.

SECTION 1.2

This six (6) year agreement may be subject to amendments or supplements during the agreement's lifetime under one of the following provisions:

(1) Either party may require negotiations to amend no more than 5 articles of this Agreement if written notice identifying the articles proposed to be amended is provided to the other party no earlier than 34 or no later than 36 months after the date this Agreement takes effective.

(2) Or, at any time by mutual consent by both parties.

SECTION 1.3

A request for amendment or supplement to this agreement by either party must be in writing setting forth the need or reason for the proposed change and a summary of the change.

SECTION 1.4

Representatives of the Employer and the Association will meet within thirty (30) days to commence negotiations of the proposed amendments or supplements, unless a later date is mutually agreed upon.

SECTION 1.5

Negotiations and Agency approval of an amendment or supplement to this Collective Bargaining Agreement will be accomplished procedurally through ground rules jointly developed by the Employer and Labor Organization.

SECTION 1.6

If the Defense Civilian Personnel Management Service does not approve or disapprove the agreement within a thirty (30) calendar day period, the agreement shall take effect and be binding on the Employer and the Labor Organization subject to the provisions of applicable law, rule or regulation.

ARTICLE 2

DESCRIPTION OF UNIT

SECTION 2.1

It is recognized by the Employer that the Association of Civilian Technicians has been designated and selected by the bargaining unit employees of the Maine Army National Guard. This organization is the exclusive representative of those employees. Included are all bargaining unit members, both Wage Grade and General Schedule employees, employed by the Maine Army National Guard. Excluded are all managerial and supervisory employees to include those employees involved with federal personnel work in other than purely clerical capacity. Chapter 71 of Title 5, United States Code (5 USC) will prevail pertaining to supervisors and others who must be excluded from the bargaining unit.

ARTICLE 3

OBLIGATIONS OF THE PARTIES

SECTION 3.1

In the administration of all matters covered by the Agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the CFR; by published policies and regulations in existence at the time the Agreement was approved; and by subsequently published policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level.

SECTION 3.2

The Labor Organization recognizes the joint responsibility with the Employer for the administration and enforcement of this Agreement.

SECTION 3.3

The parties agree to abide by the provisions set forth in this Agreement. The parties will not change the conditions set forth in this Agreement except by the methods provided herein.

ARTICLE 4

REPRESENTATIONAL RIGHTS AND DUTIES

SECTION 4.1

Parties to this Agreement recognize that, each employee shall have the right to form, join, or assist any Labor Organization, or to refrain from such activity, freely, and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right. Nothing in this Agreement shall require an employee to become or to remain a member of a Labor Organization or to pay money to a Labor Organization except when written authorization by a member for the payment of dues through payroll deductions. In addition, the employee is not precluded from:

a. Being represented by an attorney or other representative other than the Labor Organization of the employees own choosing.

b. Exercising grievance or appellate rights established by law, rule or regulation except in the case of grievance or appeal procedures negotiated within this Agreement.

SECTION 4.2

The Employer recognizes the right of employees to organize and express their views collectively or to refrain from such activity. The wellbeing of employees requires that an orderly and constructive relationship be maintained.

SECTION 4.3

The Labor Organization is the exclusive representative of the bargaining unit and is entitled to act for and to negotiate agreements covering all employees in the bargaining unit. The Labor Organization is responsible for representing the interests of all employees in the bargaining unit it represents without discrimination and without regard to Labor Organization membership.

SECTION 4.4

An exclusive representative of the Labor Organization shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Employer and bargaining unit employee(s) concerning any grievance or personnel policies, practices or general conditions of employment. An exclusive representative of the Labor Organization shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the Employer in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee and if the employee requests the representation.

SECTION 4.5

A Shop Steward is an official Labor Organization representative. The steward may speak for the employees of the section, but will not make decisions on contractual intent. The Employer shall recognize a reasonable number of shop stewards appointed by the Labor Organization. The number of stewards required shall be those necessary to adequately represent all bargaining unit employees within a functional area. The Labor Organization retains its right to designate its representatives without interference. The effective use of stewards and a reasonable distribution of their Labor Organization work load enhance a sound Labor-Management relationship and contribute to the efficiency of activity operations.

SECTION 4.6

The Labor Organization President agrees to furnish the Labor Relations Office a listing of authorized/designated officers and stewards indicating name, supervisor and shop to which assigned. Additions or deletions to the recognized stewards/officers will not be recognized until such time as the Labor Relations Office is notified of the change in writing by the Labor Organization President.

ARTICLE 5

LABOR-MANAGEMENT COOPERATION

SECTION 5.1

Representatives of the Labor Organization and Employer shall meet when necessary to confer with respect to personnel policy and practices and matters affecting working conditions, subject to the provisions of the Agreement. Formal meetings will be arranged upon written notice of not less than five (5) workdays. Either party to the Agreement will meet with the other for the above purpose provided the notice states the agenda matter to be discussed. Informal meetings may be arranged verbally as necessary.

SECTION 5.2

Travel time to and from formal meetings initiated by TAG or other management officials will be in accordance with applicable regulations.

SECTION 5.3

Labor Organization officers and stewards will not be required to wear the military uniform while performing representational duties as follows:

a. Appearing at formal hearings.

b. Appearing as a witness for the Labor Organization during third party proceedings.

c. Serving as a negotiating team member.

d. Any time the employee is in a non-duty status.

e. Attending Labor Organization sponsored training.

SECTION 5.4

The number of Labor Organization representatives to attend formal meetings will be determined mutually between the Employer and the Labor Organization. Informal meetings will normally be limited to not more than two (2) representatives from each.

SECTION 5.5

There shall be no restraint, interference, coercion or discrimination against a Labor Organization representative because of the performance of duties.

SECTION 5.6

The Labor Organization has a right to be represented at discussions between the Employer and employees or employee representatives concerning individual employee grievances regarding personnel policies and practices or other matters affecting general work conditions of employees in the unit. This right to be present does not extend to informal discussions of personal problems between an employee and supervisor officials when the employee does not desire the presence of a Labor Organization representative, or to normal day-to-day discussions regarding work projects, procedures, means of performing work, etc. However, if such discussions involve decisions on personnel policies or other matters which the Employer is obligated to discuss or negotiate with the Labor Organization, such decisions will not be made until this obligation is discharged and will not conflict with existing agreements with the Labor Organization.

SECTION 5.7

The Labor Organization agrees to cooperate with the Employer in truly voluntary charity drives and to lend support to these worthy causes. In conducting these drives, the parties will be guided by appropriate regulations which provide that no compulsions or reprisals will be tolerated. Confidential gifts may be made by placing contributions in sealed, unmarked envelopes. It is further agreed that no lists will be kept by individual supervisors showing the names of contributors and the amounts of their contribution.

SECTION 5.8

The Employer agrees that the Labor Organization President or designee shall be a member of the following panels, committees or boards:

- Health and Safety
- Research and Demonstration Projects
- EDP

SECTION 5.9

The Employer shall advise each new employee of their Labor Organization rights and will ensure that each new employee receives a copy of the Labor Organization CBA and a list of shop stewards will be given to new employees during their in-processing. A list of names of new employees will be provided to the Chapter President as they are hired.

SECTION 5.10

The Employer agrees to ensure that Labor Organization is informed of all changes to personnel regulations and agrees to ensure all policies and directives are made available during normal duty hours at the HRO. The Labor Organization and the Employer will develop a mutually agreeable list of publications which the Employer will provide to the Labor Organization.

ARTICLE 6

Official Time

SECTION 6.1

The Employer agrees to recognize ACT officials, local officials of the Labor Organization, Labor Organization Stewards, and other authorized representatives designated by the Labor Organization. The parties recognized that the utilization of a reasonable amount of official time, by the employee representatives in the conduct of Labor-Management business contributes to the effective and efficient conduct of public business.

SECTION 6.2

A reasonable amount of official time shall be granted to designated Labor Organization representatives in connection with any matter relating to this contract, except that official time is prohibited for any activity performed by an employee relating to the internal business of the Labor Organization (including the solicitation of membership, election of Labor Organization officials, collection of membership dues, etc.).

SECTION 6.3

A reasonable amount of time is any amount of time the Employer and the Labor Organization representative involved agree to be reasonable, necessary, and in the public interest. A factor to be considered by the parties in determining what constitutes a "reasonable amount of time" shall be the amount of time that is necessary to accomplish the task for which time is requested.

SECTION 6.4

The following procedures shall apply to employees and Labor Organization representatives who wish to leave their assigned work area on official time, as authorized under this Agreement.

a. When a Labor Organization representative desires to leave their assigned work station to conduct authorized Labor Management business, that Labor Organization representative must first report to and obtain permission of the immediate supervisor. In requesting release, the Labor Organization representative will inform the supervisor of

the nature of the function to be performed, destination, name(s) of employee(s) to be contacted, estimated duration, etc.

b. Subject to the provisions of this Article, and if work load conditions permit, the Labor Organization representative shall be released. If release cannot be granted because of work load considerations, the supervisor shall advise the Labor Organization representative when release would be appropriate.

c. When the Labor Organization representative intends to meet with employees from another work area, the representative's supervisor shall make arrangements for such meeting (subject to work load conditions) with the first level supervisor of employee involved.

d. Upon entering a work area other than their own to meet with unit employees, the Labor Organization representative shall advise the immediate supervisor of his/her presence, the employees to be contacted, and the estimated duration.

e. Upon completion of authorized Labor Management business, the Labor Organization representative shall advise the immediate supervisor of contacted employees of his/her departure.

f. Upon completion of authorized Labor Management business, the Labor Organization representative shall advise the supervisor of his/her return.

SECTION 6.5

Labor Organization officials will report all official time in the Automated Time and Attendance System (ATAAPS) by the end of each month. Pay period.

SECTION 6.6

However, the Chapter Treasurer or Secretary will be authorized four (4) hours of official time annually for the purpose of completing the chapter's annual financial report required by the U.S. Department of Labor.

SECTION 6.7

Labor Organization officials are authorized to wear civilian clothes when in an official time status, while fulfilling their labor organization rights and responsibility. The civilian clothes must be of appropriate taste for the event. Time for changing to and from civilian clothes will be kept to a minimum, recorded as official time, and should not exceed the actual time of the event.

ARTICLE 7

IMPACT BARGAINING

SECTION 7.1

The parties agree that in furtherance of the purposes of this Agreement and their respective obligations under the statute, the Employer shall provide written notification and meet and confer in good faith with the Labor Organization on all management decisions affecting conditions of employment to include personnel policies, practices and matters affecting working conditions of employees. Discussion may also take place on any matter of mutual concern which is agreeable to the parties.

SECTION 7.2

Prior to implementation of any policy, concerning conditions of employment that could adversely affect members of the bargaining unit, the Employer will negotiate with the Labor Organization appropriate arrangements regarding the impact of the policy(s). Such negotiations will take place after an announcement of the proposed management change.

SECTION 7.3

The Employer agrees to refer any proposed changes to conditions of employment of bargaining unit employees, in writing as defined, to the Labor Organization at least thirty (30) calendar days prior to anticipated implementation. The Labor Organization agrees that it will respond as soon as practicable and if it does not respond with written counterproposals within fifteen (15) calendar days, the Employer will be free to proceed with implementation. If the Labor Organization wishes to negotiate, negotiations will begin within five (5) workdays after receipt by the Labor Relations Office (subject to mission requirements) of the timely Labor Organization proposals. If necessary, the identified implementation date may be postponed by the Employer to complete negotiations in good faith.

ARTICLE 8
GRIEVANCE PROCEDURE

SECTION 8.1

The purpose of this Article is to provide a mutually acceptable method for prompt and equitable settlement of grievances.

SECTION 8.2

This negotiated procedure shall be the exclusive procedure available to the Labor Organization and the employees in the bargaining unit for resolving grievances. All time limits in this Article may be extended by mutual consent.

SECTION 8.3

A grievance means any complaint:

a. By any employee concerning any matter relating to the employment of the employee;

b. By the Labor Organization concerning any matter relating to the employment of any employee; or

c. By any employee, the Labor Organization, or the Agency concerning:

(1) The effect or interpretation, or a claim of breach, of this collective bargaining agreement;

(2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

d. Except that it shall not include:

(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, reference 5 USC Section 7532; or

(4) Any examination, certification, or appointment

(5) A matter solely based on non-selection (reference Article 15, Section 15.8. for matters concerning merit placement actions); or

(6) The classification of any position which does not result in the reduction in grade or pay of an employee; or

(7) Any claim arising in the course of an action against an employee taken by the Agency pursuant to 32 U.S.C. 709(f)(1), (2), or (3) that can be resolved by appeal to TAG, within the meaning of 709(f)(4)(5); or

(8) Performance ratings; or

(9) Military matters; or

(10) Equal Employment Opportunity (EEO) discrimination complaint (reference Article 31 for EEO complaint processing); or

(11) Matters concerning employees or positions outside the bargaining unit.

SECTION 8.4

Dissatisfaction and disagreements arise occasionally among people in any work situation. An informal complaint or formal grievance as outlined in this Article (and illustrated on the attached flowchart, pg. 20), shall not be construed as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization. Reasonable time during work hours will be allowed for employees and Labor Organization representatives to discuss, prepare, and present complaints or grievances, including attendance at meetings with Agency officials.

SECTION 8.5

The Agency and the Labor Organization agree that every effort will be made by the appropriate Agency representative and aggrieved party(s) to settle complaints at the lowest possible level.

Normally, this will be through an informal complaint. However, a complaint may be up channeled as a formal grievance for the following reasons:

a. The complaint is not settled through the informal process, or

b. The issue was addressed previously in accordance with this Article, but has surfaced again.

c. The grievance impacts the bargaining unit as a whole. Grievances of this type may be submitted in accordance with procedures outlined in Section 8-8.

SECTION 8.6

Informal Complaint

Option #1 - After a complaint has been identified by the employee or Labor Organization, and it is determined to fit the requirements of Section 8.2 and 8.3, the complaint must be presented to the appropriate supervisor within 15-workdays from the date the employee or Labor Organization became aware of the complaint. The supervisor will meet with the employee or Labor Organization as soon as practical in an effort to resolve the complaint. If the complaint is not resolved to the satisfaction of the employee or Labor Organization, it may be presented as a formal grievance within 15-workdays from the date of the decision from the supervisor.

Option #2 – After a complaint has been identified by the employee or Labor Organization, and it is determined to fit the requirements of Section 8.2 and 8.3, the employee may choose Alternative Dispute Resolution (ADR) techniques, specifically mediation, to resolve the complaint. The employee will contact the HRO-LRS for the list of trained Maine National Guard mediators, and select from the list a primary and alternate name. The employee will forward the primary name to the supervisor who will concur/not concur with the selection. If the supervisor objects to the primary name, the alternate mediator will be used. The supervisor, employee and mediator will meet as soon as practical in an effort to resolve the complaint, but only after the mediator has had sufficient time to understand the basis of the grievance. Any mediated settlement reached by the parties using this option is considered non-binding. If the complaint is not resolved to the satisfaction of the employee or Labor Organization, it may be presented as a formal grievance within 15-workdays from the date of the last mediated meeting.

SECTION 8.7

Formal Grievance

a. After a complaint has been identified by the employee or Labor Organization, and it is determined to fit the requirements of Section 8.2 and 8.3, and the employee or Labor Organization determines the complaint fits a situation in Section 8.5a, b, or c, a formal grievance may be filed.

b. The Labor Organization representative must be present if the employee desires. In the case where an employee chooses their own representative or represents them self, the employee must provide a copy of the grievance to the Labor Organization. The Labor Organization will be provided the opportunity to be present at all formal grievance proceedings. (Reference Article 5, Section 5.6)

c. Either party may declare a grievance non-grievable or non-arbitrable at any step. The original grievance shall be considered amended to include this issue. All disputes of grievability or arbitrability shall be referred to arbitration as a threshold issue in the related grievance.

Step #1

1) Grievances must be presented in writing, using MENG Grievance Report Form, within 15-workdays from the date the employee or Labor Organization became aware of the grievance or, within 15-workdays after the decision from the supervisor in the informal complaint process, reference Section 8.6.

2) The written grievance must include sufficient detail of the issue to include the effect or interpretation, or a claim of breach of the collective bargaining agreement; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment. The written grievance will also include a desired settlement.

3) The supervisor will provide a copy of the written response to the employee and/or Labor Organization within 5-workdays of receipt of the grievance.

Step #2

1) If the grievance is not satisfactorily settled in step #1, it may be submitted to the next level supervisor within 5-workdays from date of receipt of the written response.

2) A copy of the written grievance will be forwarded to the HRO/LRS by the Labor Organization.

3) Within 5-workdays after receipt of the grievance, the next level supervisor will meet with the Labor Organization representative, any aggrieved employee, and their representative (if other than a Labor Organization representative). Other Agency representatives may be included to resolve the issue.

4) The next level supervisor will give the employee and/or Labor Organization representative their written answer within 5-workdays after the meeting.

Step #3

1) If the grievance is not satisfactorily settled at Step #2, it may be submitted to the Chief of Staff (CoS), MEARNG, within 5-workdays from date of receipt of the written response.

2) The CoS will review the grievance and may consult with the appropriate parties within 5-days.

3) The CoS will give the employee and Labor Organization a written answer within 10-workdays after receipt of the grievance.

Step #4

1) If the grievance is not satisfactorily settled at Step #3, it may be referred to TAG within 5-workdays days from date of receipt of the written response.

2) If TAG does not satisfactorily resolve the grievance by his written answer within 5-workdays after receipt, the Labor Organization or the Agency may refer the matter to arbitration.

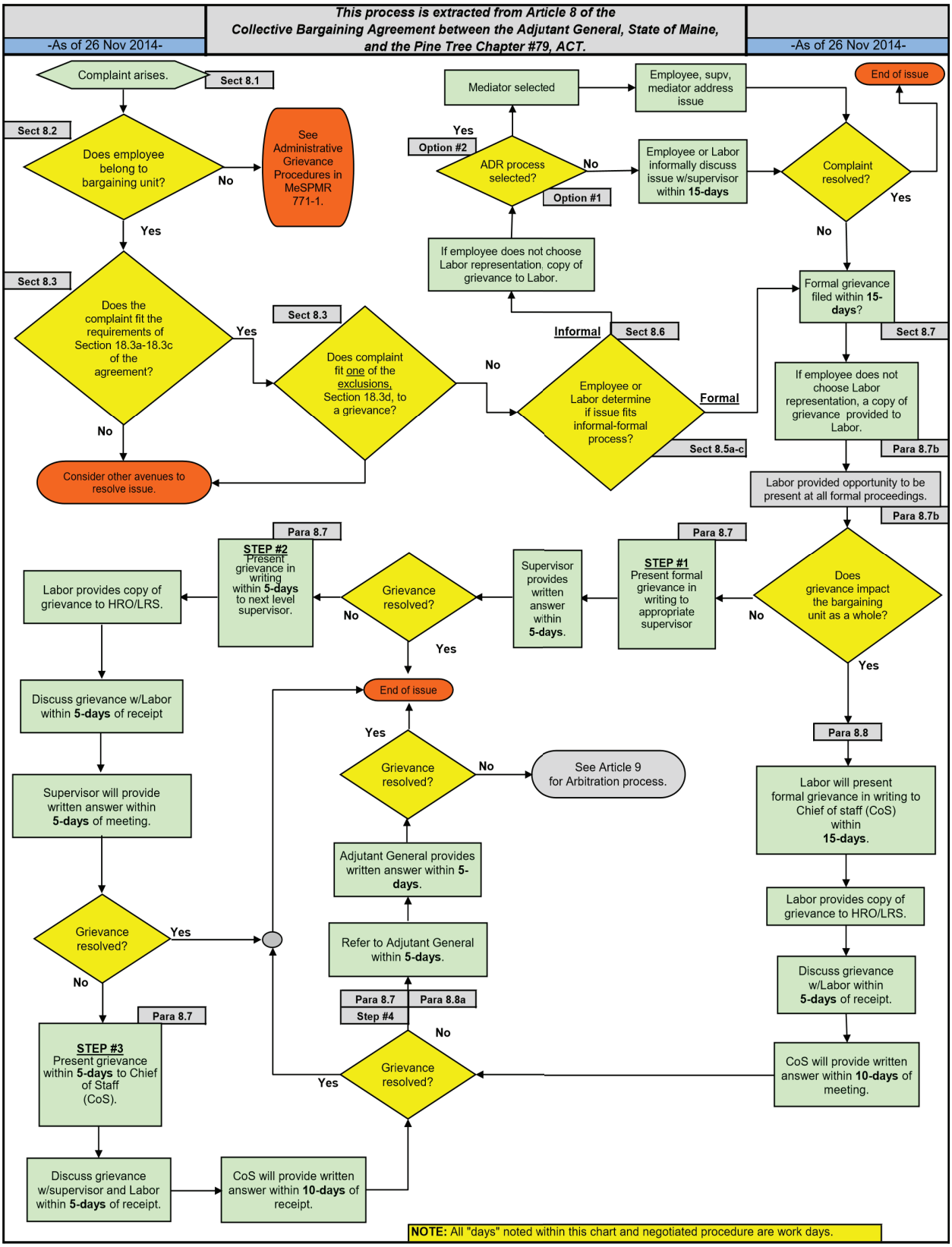
SECTION 8.8

Grievances that impact the bargaining unit as a whole may be submitted in writing by the Local President (or his designee) directly to the CoS. A copy of the written grievance will be forwarded to the HRO/LRS by the Labor Organization. The CoS and the President will meet within 5-workdays of receipt to discuss the grievance. The CoS shall give the President a written answer within 10-workdays after the meeting.

- If the grievance is not satisfactorily settled, it may be referred to TAG within 5-days from date of receipt of the written response. If TAG does not satisfactorily resolve the grievance by his written answer within 5-workdays after receipt, the Labor Organization or the Agency may refer the matter to arbitration.

SECTION 8.9

If the Agency has a grievance with the Labor Organization that falls within the context of this article, the Agency agrees to discuss the matter with the appropriate representative within 15 workdays of date the Agency became aware of the issue. If the matter is not satisfactorily resolved after the discussion, the matter may be addressed in writing to the President of the Labor Organization within 5-workdays of the date of the discussion. The parties agree to meet and discuss the grievance within 5-workdays. If the matter is not resolved after this meeting, the Agency may proceed to arbitration in accordance with Article 9.


-As of 26 Nov 2014-
This process is extracted from Article 8 of the Collective Bargaining Agreement between the Adjutant General, State of Maine, and the Pine Tree Chapter #79, ACT.
-As of 26 Nov 2014-
Complaint arises.
Sect 8.1
Sect 8.2
Does employee belong to bargaining unit?
No
See Administrative Grievance Procedures in MeSPMR 771-1.
Yes
Sect 8.3
Does the complaint fit the requirements of Section 18.3a-18.3c of the agreement?
Yes
Sect 8.3
Does complaint fit one of the exclusions, Section 18.3d, to a grievance?
No
No
Consider other avenues to resolve issue.
Informal
Sect 8.6
Employee or Labor determine if issue fits informal-formal process?
Formal
Sect 8.5a-c
Mediator selected
Employee, supv, mediator address issue
Yes
Option #2
ADR process selected?
No
Option #1
Employee or Labor informally discuss issue w/supervisor within 15-days
If employee does not choose Labor representation, copy of grievance to Labor.
End of issue
Complaint resolved?
Yes
No
Formal grievance filed within 15-days?
Sect 8.7
If employee does not choose Labor representation, a copy of grievance provided to Labor.
Para 8.7b
Labor provided opportunity to be present at all formal proceedings.
Para 8.7b
Does grievance impact the bargaining unit as a whole?
No
Yes
Para 8.7
STEP #1
Present formal grievance in writing to appropriate supervisor
Supervisor provides written answer within 5-days.
Grievance resolved?
No
Yes
Para 8.7
STEP #2
Present grievance in writing within 5-days to next level supervisor.
Labor provides copy of grievance to HRO/LRS.
Discuss grievance w/Labor within 5-days of receipt
Supervisor will provide written answer within 5-days of meeting.
Grievance resolved?
Yes
No
Para 8.7
STEP #3
Present grievance within 5-days to Chief of Staff (CoS).
Discuss grievance w/supervisor and Labor within 5-days of receipt.
CoS will provide written answer within 10-days of receipt.
Grievance resolved?
Yes
No
Para 8.7
Step #4
Para 8.8a
Refer to Adjutant General within 5-days.
Adjutant General provides written answer within 5-days.
Grievance resolved?
Yes
No
See Article 9 for Arbitration process.
End of issue
Para 8.8
Labor will present formal grievance in writing to Chief of staff (CoS) within 15-days.
Labor provides copy of grievance to HRO/LRS.
Discuss grievance w/Labor within 5-days of receipt.
CoS will provide written answer within 10-days of meeting.
NOTE: All "days" noted within this chart and negotiated procedure are work days.

ARTICLE 9

ARBITRATION

SECTION 9.1

If the Employer and the Labor Organization fail to settle any grievance processed under the negotiated grievance procedure, such grievance, upon written request by either the Employer or the Labor Organization within thirty (30) calendar days after issuance of the final decision shall be submitted to arbitration. If the final decision maker fails to issue a decision after 5 workdays, arbitration may be invoked at any time after the decision deadline and before the decision is issued, or within thirty (30) calendar days after issuance of the final decision.

SECTION 9.2

Within five (5) workdays from the date of the request for arbitration, initiating party shall request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) impartial persons qualified to act as arbitrators. The parties shall communicate as soon as possible but within five (5) workdays after receipt of such list. If they can't mutually agree upon one of the listed arbitrators, then the Employer and the Labor Organization will each strike one arbitrator's name from the list of seven (7) and will then repeat this procedure until one person remains who shall be the duly selected arbitrator. The flip of a coin shall determine who strikes first.

SECTION 9.3

The arbitrator's authority limited to deciding only the issue or issues considered in the formal grievance. If the parties fail to agree on a joint submission of the issue for arbitration, then each shall submit separate submissions and the arbitrator shall determine the issue or issues to be heard. The arbitrator is empowered to fashion an appropriate remedy consistent with the terms of this CBA and in accordance with applicable law, rule or regulation. Either side reserves the right to argue to the arbitrator what such an appropriate remedy should be. If either party refuses to participate in the selection of an arbitrator or upon inaction or undue delay on the part of either party, the FMCS shall be empowered to make a direct designation of an arbitrator to hear the case.

SECTION 9.4

The arbitrator's fee and the expenses of the arbitration, if any, shall be borne equally by the Employer and the Labor Organization. The arbitration hearing will be held, if possible, on the Employer's premises during the regular day shift hours of the basic work week. If a cancellation fee is incurred in either regular or expedited arbitration, the party withdrawing from arbitration shall be responsible for the cost of such cancellation fee unless the withdrawal is by virtue of a written agreement or settlement.

SECTION 9.5

The arbitrator will be requested to render his decision as quickly as possible, but in any event not later than thirty (30) days after the conclusion of the hearing unless the parties mutually agree to extend the time limit. The date of the arbitrator's award will be affixed to the decision by the arbitrator on the day the decision is mailed to the parties.

SECTION 9.6

The arbitrator's award shall be binding on the parties and implemented upon receipt, unless appealed and stayed. Either party may file exceptions to the arbitrator's award in accordance with the Civil Service Reform Act.

SECTION 9.7

Any dispute over the application or interpretation of an arbitrator's award, including remanded awards, shall be returned to the arbitrator for settlement.

SECTION 9.8

The parties may file briefs for arbitration if they so desire. Either party may elect verbatim transcripts at their own expense. If the other party wishes a copy of the transcript, it will be obtained from the reporter in accordance with the reporter's policy.

SECTION 9.9

The arbitrator shall have the authority to make all grievance and/or arbitrative determinations. Procedural matters—including entitlement to discovery of information from the other part and questions of arbitrability may be presented to the arbitrator by pre-hearing motion. Questions of arbitrating involving the applicability of statutory appeals shall be submitted to an arbitrator by brief, and decided prior to a hearing, unless otherwise mutually agreed upon. If the arbitrator determines there is a reasonable basis that the issue is arbitrable, he/she will hear the merits of the underlying grievance and decide the issues together. Upon mutual agreement of the parties, such threshold issues may be submitted to the arbitrator by brief, and decided prior to a hearing on the merits of the underlying grievance.

SECTION 9.10

The arbitrator has full authority to award attorney's fees in accordance with law.

SECTION 9.11

a. The parties agree that individual employee grievances on matters listed below may be arbitrated using the expedited procedures. Further, the parties may agree to include any subject not listed in expedited arbitration. Any such agreements will be in writing. Expedited arbitration procedures may be used for Labor Organization or Employer grievances. Group grievances may be included by mutual agreement. Awards rendered in this expedited procedure will not set precedents.

b. Grievances involving the following issues may be arbitrated under this procedure:

(1) Decision to Reprimand.

(2) Oral admonishment.

(3) Matters regarding leave.

(4) AWOL

(5) Overtime

c. If the Labor Organization wishes to invoke expedited arbitration, the Local Labor Organization President, or designee, must present to the Labor Relations Specialist a written request for expedited arbitration within ten (10) workdays of the final grievance decision. The Labor Relation Specialist must arrange for a hearing to be held on a mutually agreed upon date. This will be strictly complied with and enforced. The hearing must be held within twenty (20) workdays of receipt of the written request to invoke expedited arbitration. If the Labor Organization has not agreed within ten (10) workdays of receipt of the request for expedited arbitration, to the date for the hearing, the case is closed.

d. Either party may use up to five (5) witnesses unless it is determined by mutual agreement or the arbitrator that more are necessary and may present evidence and exhibits in support of their respective positions. The arbitrator must render a written award postmarked no later than five (5) workdays after the conclusion of the hearing. The arbitrator's fees and expenses will be submitted to the parties concurrent with the award.

e. A list of seven (7) arbitrators will be requested from the FMCS. Selection will follow procedures outlined in Article 9-2. The arbitrator's fee will be equally paid by both parties.

ARTICLE 10
DISCIPLINARY ACTION

SECTION 10.1

All non-disciplinary, disciplinary, and adverse actions will be administered in accordance with applicable laws, rules and regulations and this article. In the event the law, rules, or regulations are revised during the term of this agreement, the Employer agrees to conduct appropriate Impact and Implementation (I&I) bargaining with ACT Pine Tree Chapter #79. In order to be effective, constructive discipline must be timely. Disciplinary actions must be initiated within a reasonable period of time after the offense becomes known to the individual's supervisor.

SECTION 10.2

The parties recognized that there are three distinct avenues to consider when dealing with improper conduct (behavior) of the employee. When improper conduct is noted and some form of action is contemplated, the Employer has the responsibility of ascertaining and taking into consideration the pertinent facts prior to taking such action. The supporting facts may be gained by any investigative method or process deemed appropriate to include the informal of formal investigation boards, provided the employees' right to representation is afforded, if requested, see section 10.3. The Employer agrees, prior to issuing any action, to:

a. Discuss with employee, and if requested, his/her designated representative, the basis for any proposed non-disciplinary, disciplinary, or adverse action.

b. Carefully consider the employee's views.

c. Inform the employee of the reasons that justify a disciplinary or adverse action.

SECTION 10.3

At any time a bargaining unit employee is being questioned or examined in connection with an investigation by a representative of the Agency, and the employee believes the investigation may result in disciplinary action, the employee has the right under 5 U.S.C. section 7114 (a)(2)(B)(i) and (ii), to request representation. In all situations when a request for representation is made, the exclusive representative (Labor Organization) has the sole right to appoint a representative from a list of those previously identified as representatives of the Labor Organization or consent to another representative not affiliated with the Labor Organization, if requested by the employee. In either situation, the Labor Organization President shall be provided a copy of all correspondence and documents addressed to the employee as they relate to any examination/investigation and any formal notice of disciplinary or adverse action.

SUBSECTION 10.3.1

If an employee invokes his/her "Weingarten rights" and requests representation, no further questioning will take place until a representative is present. The Labor Organization President will be contacted for designation of a Labor Organization representative to be present at the examination. If contact with the President cannot be made, the Vice President, Chief Steward, Health and Safety Representative, Secretary or Treasurer, in that order, shall be contacted for designation of a Labor Organization representative. If there is no exclusive representative at the work site, the nearest Labor Organization representative will be contacted in accordance with the supplied Chapter Representative Listing. The parties to this agreement will expedite the notification and release of the Labor Organization designated individual as soon as possible.

SUBSECTION 10.3.2

Questioning may only be delayed a reasonable length of time. The reasonable time period begins when the Employer notifies the designated representative. If a representative is not available after this period of time, questioning may resume.

SUBSECTION 10.3.3

The Labor Organization representative must be allowed to advise and assist the employee in presenting the facts. When the Labor Organization representative arrives at the meeting:

- The supervisor or manager must inform the Labor Organization representative of the subject matter of the interview (e.g. the type of misconduct being investigated).

- The Labor Organization representative must be allowed to have a private meeting with the employee before questioning begins.
- The Labor Organization representative can speak during the interview, but cannot insist that the interview be ended.
- The Labor Organization representative can object to a confusing question and can request that the question be clarified so that the employee understands what is being asked.

SECTION 10.4

All non-disciplinary, disciplinary, or adverse actions are intended to correct improper behavior rather than being merely punitive in nature. Disciplinary actions may include punitive measures but correction, not punishment, should be the legitimate goal of such actions.

SECTION 10.5

Grievances involving non-disciplinary, disciplinary, or adverse actions shall be processed under the negotiated grievance procedures. An appeal of a letter of reprimand may be made through the negotiated grievance procedures. A successful appeal would cause the reprimand to be withdrawn and any record of the reprimand to be deleted. Grievances will not be considered for Letters of Reprimand issued by TAG as a reduction of a penalty imposed in an adverse action. Arbitration may be invoked as provided for under the provisions of this Agreement.

SECTION 10.6

Adverse Action is an administrative action that results in suspension, reduction in grade, or removal of an employee. In all actions which specify that some follow-on action must take place within a certain number of days, the day of delivery is not counted in that number of days. The first day of the specified time period is the next calendar day after delivery. All calendar days are then counted, provided that the last day of the period cannot be a non-work day. If the period ends on a non-work day, the follow on action must be completed by close of business on the next scheduled work day. The sequence of events for an adverse action will be in accordance with applicable laws, rules, and regulations.

SECTION 10.7

In any disciplinary action, an employee will, be furnished a copy of all written documents in the electronic-Official Personnel File (e-OPF) or Adverse Action File, which contain evidence used by the Employer to support the disciplinary or adverse action.

SECTION 10.8

No written entry will be made or document inserted in the (e-OPF), or the Supervisor's Work Folder concerning disciplinary matters without the knowledge of the employee. To protect the confidentiality of the records and to preserve the privacy of the individual, records will be maintained at the lowest level of supervision excluded from the bargaining unit and access will be limited to management, the employee, and individuals to who the employee has given written permission. Copies of any documents relating to non-disciplinary (oral admonitions), disciplinary (Letter of Reprimand), or Adverse Actions (Suspension, Reduction-in-Grade or Termination to include a Stay of Imposition and Last Chance Agreement) will be retained in the Supervisor's Work Folder only when the supervisor has signed the document and employee has acknowledged receipt by initialing or signing the same document. The employee's initials or signature acknowledge only receipt for the document in question and in no way is it to be considered as an agreement with the content within or an admission of guilt. All documents will be removed from the Supervisor's Work Folder when the affected action has completed the effective period.

SECTION 10.9

a. If an employee does not elect representation, the Labor Organization may elect to send an observer to witness the proceedings.

b. If the employee objects to the observer, this objection will be raised to the examiner who will decide and rule on the objection in the pre-hearing phase of the proceedings.

SECTION 10.10

Management and supervisory officials shall annually inform employees of their "Weingarten" rights relative to any examination of an employee in the unit by a representative of the agency in connection with an investigation in accord with 5 USC, Section 7114 (a)(3) of the Labor-Relations Statute.

ARTICLE 11

EMPLOYEE ASSISTANCE PROGRAM

SECTION 11.1

The parties recognize alcoholism, drug abuse and potentially violent behavior as conditions which are treatable. It is also recognized that it is for the best interest of the parties that these conditions be treated and controlled. Our concern is not only limited to alcoholism and drug problems which cause poor attendance and unsatisfactory performance on the job, but also for potential work place violence.

SECTION 11.2

The Employer will maintain an Employee Assistance Program (EAP) which will provide for referral of employees to a counselor for problems including alcoholism, drug abuse and potential violence. The program shall also provide for referral to resources outside the Employer for treatment and for treatment follow-up. Any employee who participates in this program will be entitled to all of the rights and benefits provided to other employees who are sick, in addition to specific services and assistance which this program may provide. The Employer is not responsible for any bills incurred by the employee while enrolled in this program.

SECTION 11.3

It shall be the responsibility of supervisors to follow the EAP and procedures. The procedures will not be used for purposes other than improvement of employee health and referral for treatment of conditions causing or contributing to deficiencies in job performance. It should be emphasized that all referrals should be made on an objective and factual basis, rather than unsupported assumptions of the employee's situation. The employee's option to have Labor Organization representation will be in accordance with the provisions of Article 4.4 of this Agreement.

SECTION 11.4

The program procedures will adhere to requirements established by applicable agency-wide rules and regulations.

a. No employee will have job security or promotion opportunities jeopardized simply by the fact that he/she has requested counseling or referral for treatment.

b. Employees having alcoholism or problems related to the abuse of alcohol, drugs and potentially violent will receive the same careful consideration and offers of assistance presently extended to employees having any other illness.

c. The confidential nature of all records of the identity, diagnosis, prognosis and/or treatment of any employee will be preserved in accordance with current laws.

d. Utilizing the objectives and philosophy contained in applicable agency-wide rules and regulations, the Employer will issue and keep current applicable memoranda and bulletins to set out the detailed procedures, constraints and objectives of the program.

SECTION 11.5

Nothing in this Article will prevent an employee from availing themselves of the program's services on their own initiative.

SECTION 11.6

The program supplements, but does not replace, existing procedures for dealing with troubled employees. It is to be carried out as a non-disciplinary program aimed at rehabilitation; however, it is not to be used as a means of tolerating inefficiency, absenteeism, or poor performance.

SECTION 11.7

An employee will be referred to an EAP program in accordance with applicable laws, Executive Orders, and government wide regulations.

ARTICLE 12
HOURS OF WORK

SECTION 12.1

The Employer has the authority to establish hours of work and tours of duty. Adverse impact bargaining will take place with the Labor Organization regarding the exercise of this management right.

SECTION 12.2

The basic workweek is established at forty (40) hours per week Monday through Friday, except for employees who are assigned other basic workweek(s) deemed necessary to the accomplishment of the mission, and the basic workday at eight (8) hours per day. The administrative workweek is established as 0001 hours on Sunday and ending at 2400 hours the next following Saturday.

SECTION 12.3

The standard hours of work are 0730 to 1130 and 1200 to 1600 hours. Assignments to nonstandard hours of work shall be posted in the appropriate work areas covering a period of not less than two weeks.

SECTION 12.4

Temporary changes of assignments to tours of duty shall be in accordance with applicable laws and regulations. The employee(s) affected will normally be given at least seven (7) calendar days of notification. If seven (7) days are not possible, equally qualified volunteers will be solicited and assigned first. However, it may be necessary for employees to perform overtime assignments without prior notification to accomplish critical mission essential requirements, if no volunteers are available.

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SECTION 12.5

Work schedules shall be established so that all employees will benefit from a maximum of consecutive days off. However, the Employer may depart from the general rule for establishing work schedules if it would handicap the organization in carrying out its function or would increase costs.

SECTION 12.6

The Employer will provide a reasonable amount of time, consistent with the nature of work performed, 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 to cleanup, store and protect property, equipment and tools prior to the end of the workday.

SECTION 12.7

Each shift shall be allowed a 15-minute rest period at approximately the middle of the first and the last half of each shift. Rest periods will be regulated to maintain adequate coverage of essential functions at all times, and will not be accumulated. Employees receive pay for time spent in rest periods and such periods are considered as duty time and are included in the daily tour of duty.

SECTION 12.8

Each shift shall be allowed a one-half hour lunch period at approximately the middle of the work period. Employees do not receive pay for lunch and such periods are not considered as duty time. If employees are not allowed a one-half hour lunch break during their normally scheduled time due to mission requirements, supervisors will have the option to make appropriate adjustment.

ARTICLE 13
OVERTIME WORK

SECTION 13.1

Overtime Work will be administered in accordance with current Law, Regulations, and local policies. In the event Overtime Work Plan is revised during the term of this agreement, the Employer agrees to conduct appropriate Impact and Implementation (I&I) bargaining with ACT Pine Tree Chapter #79.

SECTION 13.2

Title 32 Employees under either the General or Wage Schedule are not entitled to pay for overtime work. If overtime work is required, the employee will be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in regular or irregular overtime work in accordance with applicable regulations.

Title 5 employees under either the General or Wage Schedule **entitled** to Overtime pay for overtime work, will be paid at the employees overtime rate of pay, in accordance with applicable regulations.

Title 5 employees under either the General or Wage Schedule **not entitled** to Overtime pay for overtime work, may only earn compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in regular or irregular overtime work, in accordance with applicable regulations.

SECTION 13.3

Overtime work will be held to a minimum and be restricted to only those skill requirements essential to meet operational needs. Although Chapter 71 of Title 5, United States Code (5 USC) retains unto the Employer the right to assign work, the Employer agrees in principle to a generally equitable distribution of overtime work within specific operating units where overtime is required.

SECTION 13.4

The Employer should notify employees as far in advance as possible when overtime is required.

SECTION 13.5

In the event that the employee is recalled back to work, the employee will receive Overtime pay or compensatory time for no less than two (2) hours.

SECTION 13.6

Compensatory time will be utilized within the twenty-six (26) pay periods following the pay period in which it was earned or subject to regulatory revisions.

SECTION 13.7

Employees who work overtime will normally be allowed a fifteen (15) minute break for each four-hour period worked.

SECTION 13.8

Supervisor approval is required for all overtime work and all compensatory time used. Overtime Work and comp time used will be recorded and approved in ATAAPS.

SECTION 13.9

Federal employees who work on a holiday that falls on a regularly scheduled workday or a designated "in lieu of holiday":

1. Will be paid at the holiday rate, not to exceed 8 hours.
2. Will earn compensatory time for work performed in excess of 8 hours.
3. Will be credited with a *minimum* of two hours work.

a. Title 32 Federal employees who work on a holiday that falls outside their regularly scheduled workdays (non-duty day) will earn compensatory time for ALL hours worked. They do not receive pay at the holiday rate.

b. Title 5 Federal employees who work on a holiday that falls outside their regularly scheduled workdays (non-duty day) will earn overtime pay for ALL hours worked. They do not receive pay at the holiday rate. Title 5 employees may request comp time in lieu of overtime pay.

ARTICLE 14

LEAVE

SECTION 14.1

Annual Leave, Sick Leave, Leave without Pay, and Administrative Leave will be administered in accordance with the existing and future laws, rules and regulations. Every reasonable attempt consistent with the workload will be made to satisfy the desires of the employees with respect to the approving of appropriate leave for special vacations, birthdays, religious holidays, funerals, etc.

SECTION 14.2

Supervisors will establish annual leave schedules as far in advance as possible to insure that all employees are given the opportunity for a reasonable vacation period and for using all leave which cannot be carried forward to the next leave year. Employees are responsible for scheduling vacations in advance and scheduling sufficient annual leave so as to prevent forfeiture at the end of the leave year. Any dispute between employees desiring the same vacation period which cannot be equitably resolved by any other means shall be resolved by granting the disputed vacation time to the employee with the most continuous Employee service the first year and alternating the disputed period in succeeding years with the other employee (s) involved.

SECTION 14.3

Every reasonable attempt consistent with the workload will be made to satisfy the desires of employees with respect to approving extended annual leave for special vacations in excess of four weeks.

SECTION 14.4

Provisions of leave absence for formal education purposes will comply with applicable laws, rules and regulations.

SECTION 14.5

The Employer agrees to grant official time under administrative leave to labor organization officials for attendance at mutually beneficial training, conferences, seminars or workshops, to receive information, briefings and orientations. A block of 306 hours per calendar year is available to Labor Organization officials for the above training with prior coordination between the labor organization and the Human Resources Office with as much advance written notice as possible.

SECTION 14.6

Sick leave is a benefit to all employees and should be used judiciously in order to accommodate days lost to short-term illnesses and catastrophic long-term illnesses. The employees are responsible for notifying their immediate supervisor or next in chain of command, of an incapacitating illness or injury, within one hour after the start of their scheduled duty day. The supervisor may grant sick leave only when the need for sick leave is supported by administratively acceptable evidence. Normally, the supervisor may consider an employee's self-certification as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of the absence. The supervisor may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence in excess of 3 workdays; or for a lesser period when determined necessary, such as the abuse of sick leave. The supervisor will discuss with the employee the reasons why a medical certificate or other administratively acceptable evidence is necessary and the duration such evidence is required in a memorandum to the employee. This memorandum will be retained in the Supervisor's Work Folder with the supervisor's signature and signed receipt acknowledgement statement by the employee. The employee's signature acknowledges receipt only for the document in question and in no way is it to be considered as an agreement with the content within or an admission of guilt. Sick leave restrictions will normally not exceed 6-months in duration, although a supervisor may extend the restriction as necessary. The employee will be entitled to a review of the restriction every thirty days, to determine if this requirement is to continue.

SECTION 14.7

Employees who, because of illness or injury, are released from duty on advice of a physician shall be required to furnish a medical certificate to substantiate sick leave for the day released from duty. Subsequent days of absence shall be subject to provisions of Section 14.6 of this Article.

SECTION 14.8

Limited advance sick leave of up to 240 hours may be authorized subject to the following conditions:

a. Request for advancement of sick leave will be supported by a medical certificate.

b. All available accumulated sick leave will be exhausted before advancement.

c. Annual leave that would otherwise be forfeited is used.

d. There is reasonable assurance that the employee will return to duty to earn and repay advance credits.

SECTION 14.9

An employee should request leave for emergency reasons as early as practicable. To the extent possible, an employee will do this prior to the beginning of their workday, but not later than two hours thereafter.

SECTION 14.10

In the event of a death of a Employee's family member, sick or annual leave requests will be reviewed and acted upon in a timely manner with respect to granting approval. All provisions of the Code of Federal Regulations (CFR) with respect to granting sick or annual leave will be met prior to approval. LWOP requests for similar reasons shall be submitted according to section 14.13 of this article.

SUBSECTION 14.10.1

A Family member means the following relatives of the Employee:

(1) Spouse and parents thereof;
(2) Children, including adopted children, and spouses thereof;
(3) Parents;
(4) Brothers, sisters, and spouses thereof;
(5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

SECTION 14.11

Length of absences for maternity reasons will be determined by the employee, employees physician and employees supervisor. Leave will be granted under existing policies and regulations for leave. The employee may request in what order such absence will be recorded, i.e., sick leave, annual or LWOP. Paternity leave will be granted in accordance with applicable regulations.

SECTION 14.12

The Employer agrees that when adequate advance written notice is given, an employee in the unit who has been elected or appointed to a Labor Organization office may be granted annual leave and/or leave without pay not to exceed one (1) year for each application.

SECTION 14.13

Employees may be granted leave without pay at their request, but at the discretion of the Employer. It may be granted whether or not the employees have annual or sick leave to their credit. Extended leave without pay may be approved for such purposes as attending a parental or other family responsibilities, education which would be of benefit to the Employer, recovery from illness or disability, or protection of employee status and benefits pending action of claims for disability retirement or injury compensation.

SECTION 14.14

Employees may be excused without charge to leave or loss of pay not to exceed four (4) hours for donations to blood banks or in emergencies.

SECTION 14.15

An employee who is a steward or Labor Organization official may be granted annual leave to attend internal Labor Organization functions which are not covered by official time. Normally, one week advance notice will be required and such leave will be approved subject to unusual workload conditions.

SECTION 14.16 ~ Family and Medical Emergency Leave

a. General:

(1) In accord with the provisions contained in 5 CFR Part 630. 1203, a employee shall be entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

(a) The birth of a son or daughter of the employee and the care of such son or daughter;

(b) The placement of a son or daughter with the employee for adoption or foster care;

(c) The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or

(d) A serious health condition of the employee that makes the employee unable to perform the essential functions of their position.

(2) A employee shall take only the amount of family and medical leave that is necessary to manage the circumstances that prompted the need for leave under paragraph (a) of this section.

(3) Except as provided in Section 5.12a (4)(b), the 12 month period referred in the Section 5.12a(1) begins on the date a employee first takes leave for a family or medical need specified in the paragraph and continues for 12 months. A employee is not entitled to 12 additional workweeks of leave until the previous 12-month period ends and an event or situation occurs that entitles the employee to another period of family or medical leave. (This may include a continuation of a previews situation or circumstance.)

(4) The entitlement of a total of 12 administrative workweeks leave:

(a) May begin prior to or on the actual date of birth or placement for adoption or foster care; and

(b) Shall expire 12 months after birth or placement. Leave for a birth or placement must be concluded within 12 months after the date of birth or placement.

(5) Leave Section 5.12a (1) is available to full-time and part-time employees. A total of 12 administrative workweeks will be made available equally for a full-time or part-time employee's regularly scheduled administrative workweek in accordance with CFR Part 630.1203.

(6) When a employee request leave under Section 5.12a (1), the HRO will provide guidance concerning a employee's rights and obligations under the Family Medical Leave Act, of 1993, P.L. 103-3.

b. Notification: If leave to be taken is foreseeable based on an expected, placement for adoption or foster care, or planned medical treatment, the employee shall provide written notice to the Employer of their intention to take leave not less than 30 days before the date the leave is to begin. If the date of birth or placement or planned medical treatment requires leave to begin within 30 days, the employee shall provide such notice as is practicable.

(1) If the need for leave is not foreseeable - e.g., a medical emergency or the unexpected availability of a child for adoption or foster care, and the employee cannot provide 30 days' notice of their need for leave, the employee shall provide notice within a reasonable period of time appropriate to the circumstances involved. If necessary, notice may be given by a employee's personal representative (e.g., a family member or other responsible party). If the need for leave is not foreseeable and the employee is unable, due to circumstances beyond their control, to provide notice of their need for leave, the leave may not be delayed or denied.

(2) If the need for leave is foreseeable, and the employee fails to give 30 days' notice with no reasonable excuse for the delay of notification, the agency may delay the taking of leave under 5 CFR Part 630. 1203, Section 5.12a until at least 30 days after the date the employee provides notice of his/her need for family and medical leave. However, the Employer may not deny an employee's entitlement to leave under this article simply because the employee has failed to follow the notice requirements of this article.

c. Certification: The Employer may cause to request a employee to provide certification in support of the need for leave under this article. Certification shall be sufficient if it states:

(1) The date on which the serious health condition commenced;

(2) The probable duration of the serious health condition;

(3) The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition;

(4) (a) For purposes of leave taken under Section 5.12a(1)(c), a statement that the employee is needed to care for the son, daughter, spouse , or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

(b) For purpose of leave under Section 5.12a (1)(d), a statement that the Employee is unable to perform functions of the position of the employee; and

(5) In the case of intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

d. Substitution of Other Leave: An employee taking leave may elect to substitute the following paid time off for any or all the period of leave taken under the Family and Medical Leave Act or this article:

(1) Accrued or accumulated annual or sick leave;

(2) Advanced annual or sick leave approved by the Employer under the same terms and conditions that apply to any other employee who requests advanced annual or sick leave;

(3) Leave made available to a employee under the Voluntary Leave Transfer Program.

(4) Compensatory time off.

e. Interpretations: Nothing in the preceding sections of this article either by omission or interpretation, shall serve to diminish the entitlements established for employees under the Federal Employees Family Friendly Leave Act (PL 103-388) 32 October 1994.

f. Employee Return to Duty: Prior to returning, a employee covered by the medical monitoring program whose absence was approved under Section 5.12a (1)(d) will be evaluated by the agency Occupational Health function to ensure that the employee is able to perform the essential functions of their position.

g. Periodic Reporting: Employees will report periodically to the Employer on their status and intention to return to work.

ARTICLE 15

MERIT PLACEMENT PLAN

SECTION 15.1 ~ General

a. Purpose: This plan establishes procedures and provides information on the merit placement program for excepted and competitive Employee positions in the Maine Army National Guard. In the event the laws, rules or regulations are revised during the term of this agreement, the Employer agrees to conduct appropriate Impact and Implementation (I&I) bargaining with ACT Pine Tree Chapter #79.

ARTICLE 16

DETAILS

SECTION 16.1

A detail is an official personnel action temporarily assigning an employee to a different established position or, an unestablished position (one whose duties and responsibilities have not been officially allocated under an appropriate classification system) for a specified period of time with the employee returning to his regular assignment at the conclusion of the detail. Technically, a position is not filled by a detail because the employee continues to be the incumbent of the position from which detailed. Details will be rotated equitably among qualified, available employees in the unit for periods not to exceed 120 days. A detail will not be used in lieu of a temporary promotion in the case of a fully qualified employee.

Detail actions for non-competitive placements of Title 32 into Title 5 positions, or Title 5 into Title 32 positions are not authorized.

SECTION 16.2

The Employer will record details in excess of thirty (30) calendar days on SF 52, and details for less than thirty (30) calendar days in a Memorandum for the Record, addressed to the employee, in Supervisor's Work Folder in order that employees may receive credit towards qualification for the work performed.

SECTION 16.3

Details that exceed 120 days or more to a higher graded position or to a position with known promotional potential should be made under competitive promotion procedures as set forth in the Merit Placement Plan.

ARTICLE 17

MANAGEMENT DIRECTED REASSIGNMENTS

SECTION 17.1

Management directed reassignments will not be made for any reason that would violate law. This will however, not interfere with management's right to control internal security practice. Management Directed Reassignments for non-competitive placements of Title 32 into Title 5 positions, or Title 5 into Title 32 positions are not authorized.

SECTION 17.2

When management reassigns an employee, to another position with the same grade and pay. A management-directed reassignment does not mean a change to lower grade with retained grade/pay. It does include the movement of an employee from a position with potential for noncompetitive promotion to a position without that potential (e.g., a GS-7 employee may be reassigned to another GS-7 position even if the current position is a target GS9). There must be a valid reason for a management-directed reassignment. For example: management's needs for the employee's talents elsewhere; action taken to avoid a RIF; or to eliminate disruption and conflict where personal squabbles are affecting employee work relationships.

SECTION 17.3

The HRO is responsible for providing the employee written notification of management-directed reassignment. As a minimum, this notification must: (1) explain why the management-directed reassignment is taking place (must be in sufficient detail to show that the action is for bona fide reasons), (2) provide the effective date for reassignment, (3) give the employee a reasonable amount of time (normally 10 calendar days) to accept or reject the reassignment, (4) explain that if the offer is rejected, the notification letter constitutes a 30-day notice of termination, and (5) provide benefit information applicable to the employee if termination occurs.

SECTION 17.4

The Association will be notified 20 days prior to notification of employee to allow for Impact and Implementation bargaining.

ARTICLE 18

CLASSIFICATION

SECTION 18.1

The purpose of a position description is to describe officially, for pay and classification purposes, the predominant skills, duties and supervisory relationships particular to a position. A position description does not list every duty an employee may be assigned, but reflects those duties which are series and grade-controlling.

SECTION 18.2

Changes, statements of differences, and amendments to position descriptions will be discussed with and furnished to employees.

SECTION 18.3

The Employer agrees to provide each employee with a copy of the position description for which the employee is assigned. Employees shall also be given the opportunity, at least once each year, to review their position description and discuss it with their supervisor or other appropriate management officials. If, after reviewing the position description, an employee believes that something should be added or deleted, a written request may be submitted by the employee to the immediate supervisor who shall make a recommendation and forward the request through supervisory channels to the HRO for action and response.

SECTION 18.4

Employees shall have the right to appeal, in accordance with applicable laws and regulations; any position classification which the employee feels has been improperly classified. Employees will be apprised of their rights regarding the appeal upon their initiation of an appeal action. The Employer and the Labor Organization are available to assist the employees with filing their classification appeals.

SECTION 18.5

If “other duties as assigned” or additional duties” are assigned with such frequency as to become regular duties, and if they also meet the definition of major duties (play a part in determining qualification requirements or occupy more than 10% of the time), then position description should be revised.

SECTION 18.6

New classification standards issued by the Office of Personnel Management and/or the National Guard Bureau will be applied fairly and equitably to all applicable positions, vacant or encumbered. They will not be utilized for the purpose of either rewarding or punishing an employee. A notice will be provided the employee, normally not less than thirty (30) calendar days in advance of the effective date, of the reclassification action. The employee will be provided a copy of the new position description or, the current position description if no changes are being effected.

SECTION 18.7

Reclassification actions, which result in a downgrade, should not be implemented prior to impact bargaining with the Labor Organization. Copies of the OPM - Position Classification Standards shall be provided upon request
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SECTION 18.8

Notices of grade and pay retention will be issued as appropriate to employees whose positions are reclassified at a lower grade.

SECTION 18.9

All employees on grade retention, as an immediate result of the application of new classification standards, will be provided priority placement in accordance with applicable regulations and policies, to positions for which they qualify as such positions become available.

ARTICLE 19
PERFORMANCE RATINGS

SECTION 19.1

This article establishes the performance appraisal system for Employees within the bargaining unit. The performance appraisal system will be administered IAW applicable laws, rules, and regulations. In the event the laws, rules or regulations are revised during the term of this agreement, the Employer agrees to conduct appropriate Impact and Implementation (I&I) bargaining with ACT Pine Tree Chapter #79.

SECTION 19.2

Performance standards should be clear, realistic, and specific, measurable, achievable, relevant and timely (SMART) to the extent possible. Each critical job element will have a performance standard. Standards will be updated to reflect significant changes in a position at any time during the appraisal period. Standards shall describe what an Employee must do to be appraised at the fully successful level of performance. Standards shall be consistent with the grade level and duties of the position.

SECTION 19.3

Formal performance improvement plans (PIP) will be developed and initiated by the Employee's supervisor anytime during the appraisal period when performance is determined to be below the fully successful level in one or more critical job elements. A PIP must specify which critical job elements/task-duty statement performance is unacceptable. A PIP must outline methods how to become fully successful (e.g. counseling, increased supervisory assistance or additional training), and provide a period of time between 30 and 90 calendar days for improvement. A copy of a PIP will be inserted in the Supervisor's Work Folder after it has been signed by supervisor and Employee. A reassignment may be accomplished anytime during the PIP. The supervisor will inform the Labor Organization President when initiating a PIP. This is an informational action and does not entitle the Labor Organization to participate in any performance counseling session between the supervisor and employee. If, after completion of the formal PIP the Employee continues to perform at an unacceptable level in the critical element(s) specified, a reassignment shall be considered prior to a reduction in grade or removal.

SECTION19.4

The Employee is entitled to representation from the Labor Organization during the entire appeals process. The Employee and their representative are entitled to present any information (evidence) they deem pertinent to the appeal to the appeals board during formal hearings. This may be orally, by presentation of witnesses, or in writing. The Employee and their representative must be afforded an opportunity to hear, question, and reply to the information (evidence) or witnesses submitted by other parties. If any of the above individuals is absent during oral presentations, a written copy of the evidence must be provided to the absentee. The appeals board may not use any written information to render a recommendation until the Employee, their representative, have had an opportunity to examine and reply to it. A recommendation by the board will be rendered within 10 work days of the conclusion of hearings. The recommendation will be submitted directly to TAG with an informational copy to the Employee, the supervisor, the employee's representative, and HRO.

ARTICLE 20
HEALTH AND SAFETY

SECTION 20.1

The Employer will continue to make every reasonable effort to provide and maintain safe and healthful working conditions for employees. The Employer and the Labor Organization agree that safety is a collective effort and a responsibility of the Employer and employees, and that the provisions of current laws and regulations will be complied with. The Labor Organization will cooperate to that end by encouraging employees to observe all safety rules, requirements and regulations in the performance of their assigned duties. The Labor Organization President or their designee will serve as a member of the State Safety and Occupational Health Council (Safety Council).

SECTION 20.2

Within the capability of the Employer and consistent with regulations, the Employer agrees to provide the following:

a. Necessary emergency medical treatment for on-the-job injuries and illness.

b. If injury or occupational disease is suffered in the performance of duties and such comes within the purview of the Federal Employees' Compensation Act, an employee is entitled to all necessary medical services, appliances, and supplies at the Employer's expense and as ordered by U.S. medical officers, and hospital or dispensary officials.

c. Special health examinations for specific categories of employees whose work environment presents health hazards.

d. Specific disease screening examinations and immunizations to be accomplished on a regular recurring basis.

SECTION 20.3

Safety inspections of Army National Guard facilities will be conducted under the provision of the Safety Program as articulated in current laws and regulations. Labor Organization officials serving as members of the Safety Council, or Labor President, will be notified of the inspection and afforded time to meet with Safety Inspectors during safety inspections.

SECTION 20.4

Protective safety devices, when authorized, shall be provided by the Employer. These devices could include safety glasses, goggles, face shields, welder's helmet, or safety shoes. Safety glasses can include a clear prescription lens. Replacement glasses will be provided at no cost to the employee if they were damaged in the line of duty. Protective safety devices will be worn when there exists a reasonable probability of injury that can be prevented by wearing such equipment. Failure of employees to use safety devices may affect any claim against the Employer if the employee is injured in an environment in which the use of safety devices is required plus subject the employee to possible disciplinary action.

SECTION 20.5

Government regulations, technical manuals and bulletins, and Occupational Safety and Health Administration requirements will be followed with respect to the number of employees to perform certain tasks, e.g. confined space entry.

SECTION 20.6

Appropriate government-wide regulations provide guidance that will be used in determining mandatory safety orientation requirements. Employees should receive proper safety orientation on new equipment or machinery before use. The Employer will inform the Safety Council when the above conditions are not met.

SECTION 20.7

Safety Council members shall be afforded time off from regular duty without loss of pay or charge to leave for the purpose of performing such duties provided for in this Article.

SECTION 20.8

Employees will immediately report job related injuries or illness to the Employer. The Employer, when the employee is incapacitated, will initiate required procedures as soon as they are aware an incident has occurred. Local processing of workers compensation claims will be conducted by the HRO. They are available to assist the employee and to ensure all required procedures are accomplished. They also provide advice on entitlements and obligations under the Employee's Federal Compensation Act.

SECTION 20.9

The parties recognize that temperature conditions, hot or cold, in and around work areas can have a direct bearing on employees' comfort, morale, health, and safety. In determining the stress that temperature extremes may place upon an individual employee, the personal comfort and health of the employee will be taken into consideration as well as related factors such as wind chill, air flow, the work to be performed, and similar considerations. Where the Safety Officer determines that the effective temperature in a particular work area or site exceeds standards for the degree of work being performed, the Employer will take precautionary measures to reduce the risk to employees so exposed. Such measures could include reduction of work being performed, increased frequency or duration of rest periods, etc. Protective clothing for such situations will be provided where authorized.

SECTION 20.10

Hazardous material information and training will be made available in accordance with Department of the Army Directives. Appropriate government-wide regulations provide guidance that will be followed when determining the minimum mandatory training requirements for personnel who handle, use, or are potentially exposed to hazardous material in the course of their official assigned duties. This training should occur upon initial work area assignment or whenever a new hazard is identified or introduced into the work environment. Formal training will be documented in the employees personnel file.

SECTION 20.11

All employees have the right and will be encouraged to responsibly report, orally to the immediate supervisor all alleged hazardous situations. Both parties agree to encourage the use of such oral reports and their informal resolution. Employees may utilize DA Form 4755 (Employee Report of Alleged Unsafe or Unhealthful Working Conditions) to report such alleged hazards. Such reports shall be processed in accordance with applicable laws and regulations. Employees filing such hazard reports may request that their identity not be revealed to anyone other than the officials processing the report, and the Employer will maintain maximum confidentiality following such requests.

SECTION 20.12

Environmental Differential Pay (EDP) will be administered in accordance with current law, regulations, and local policies.

ARTICLE 21
PAYROLL DEDUCTIONS

SECTION 21.1

The Standard Form (SF) 1187 (Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues) will be used for authorizing an allotment for payroll dues deductions. Payroll dues deductions are authorized for bargaining unit employees only.

SECTION 21.2

The SF 1187 will be purchased and distributed by the Labor Organization.

SECTION 21.3

The Labor Organization will supply the names and titles of officials authorized to make the necessary certification of SF 1187s in accordance with this Agreement.

SECTION 21.4

Processing of the SF 1187 will be as follows:

a. The SF 1187 will be submitted to the Labor Organization at any time by the employee who will certify the accuracy of the form and the percentage of pay being withheld.

b. The Labor Organization will explain to the employees their right to dues revocation, the circumstances for involuntary dues revocation and the earliest date for voluntary dues revocation.

c. A properly executed and certified SF 1187 will normally be submitted by the Labor Organization to the HRO within three (3) working days of the employee's submission to a Labor Organization official. The effective date for withholding will be the first pay period beginning after submission of the SF 1187 to Employee Pay. The SF 1187 must reach the Employee Pay Office five (5) working days prior to the beginning of the pay period for the deduction to be effective that pay period. Adjustments to dues allotments will normally occur within two (2) pay periods from the date the member's rate of base pay changes.

SECTION 21.5

A listing in two (2) copies will be provided to the Labor Organization, of those persons from whom a payroll deduction was made. The listing will contain the name of the employees within the bargaining unit having current dues withholding allotments on file, the amount withheld from each member's pay, and a statement showing the total amount withheld. Management will assist the Labor Organization in coordinating with DFAS such that, the remittance check and one copy of the membership listing will be forwarded to the following address:

National Treasurer
Association of Civilian Employees
12510-B Lake Ridge Drive
Lake Ridge, Virginia 22192

The second copy of the membership listing will be forwarded to the Treasurer of the Pine Tree Chapter.

SECTION 21.6

An employee's voluntary allotment for payment of Labor Organization dues shall be terminated with the start of the first pay period following the pay period in which any of the following occurs:

a. Loss of exclusive recognition by the Labor Organization.

b. Promotion by the employee from the unit for which the Labor Organization holds exclusive recognition.

c. Receipt by the Employer of notice from the Labor Organization of that the employee has been expelled or has ceased to be a member in good standing of the Labor Organization. Such notice shall be promptly forwarded by the Labor Organization to the Employer.

d. An employee may terminate authorization for the deduction of Labor Organization dues by submitting a SF 1188 (Revocation of Voluntary Authorization for Payment of Employee Organizational Dues).

(1) A termination of allotment will not be effective, however, until the first full pay period following one year from the date the first deduction was made by the payroll office, provided the form is received in a timely fashion.

(2) Thereafter, dues revocation may only occur during the first pay period in September of each year. Labor Organization members must submit a SF 1188 not later than 15 August of the year they want to stop deductions.

SECTION 21.7

In the event the Employer erroneously pays any monies to the Labor Organization as a result of any arithmetic or computer error, the Labor Organization shall promptly return said funds to the Employer.

SECTION 21.8

Deductions will not be made for an employee who has been in a non-pay status for a pay period. Deductions will cease for an employee who has been temporarily promoted as a result of competition for a position outside the bargaining unit. However, deductions will commence upon return to the employee's former bargaining unit position.

SECTION 21.9

Nothing in this Agreement shall require an employee to become or remain a member of the Labor Organization or to pay money to the Labor Organization except pursuant to a voluntary written authorization by an eligible member of the Labor Organization for payment of dues through the payroll deduction procedures set forth above or by voluntary cash dues payment by a member.

ARTICLE 22
DRESS AND APPEARANCE STANDARDS

Management and labor agree that clean and proper uniforms and civilian attire improve employee morale, productivity, and public image. To that end, the parties agree that employees are responsible for the proper wear of uniforms or civilian attire. Management is responsible to enforce that inappropriate uniforms be removed from the workplace and exchanged with clean and suitable ones. Employees not having proper civilian attire may be subject to leave or leave without pay for the purpose of obtaining appropriate apparel.

ARTICLE 23
WAGE SURVEYS

SECTION 23.1

The Agency recognizes the value of the contributions that can be made by its employees in developing wage policies and in conducting wage surveys, and will continue to seek the benefits that accrue from keeping the employees informed on wage matters. Every reasonable opportunity will be afforded the Labor Organization to make comments, suggestions, and recommendations pursuant to the development of wage policy.

SECTION 23.2

The Employer agrees to notify the Labor Organization as soon as possible after receipt of a notification of a pending wage survey from DoD. Labor Organization officials will be afforded an opportunity to attend the WGS hearing when the lead agency is not the National Guard.

SECTION 23.3

In response to the notification of a Wage Survey, the Labor Organization will appoint primary and alternate representatives, as requested by the chairperson of the Wage Survey Committee, to participate on the Wage Survey Committee. The Committee chairperson will notify management officials and supervisors of affected employees.

SECTION 23.4

When requested to do so by the Area Wage Survey Committee, the Agency and the Labor Organization will nominate employees as data collectors for the Area Wage Survey Committee on the basis of their qualifications to assist in the collection of wage data (each party to nominate their own, with alternates). Selectees will be released from their normal duties in coordination with their supervisors.

SECTION 23.5

Management recognizes the benefit to the organization of Area Wage Surveys. Costs associated with travel and per diem will be borne by the Agency. When reimbursement for specific costs is in doubt, individuals should query the Agency for clarification of authorized expenses. For the purposes of time accounting, all time spent as a member of the Wage Survey Committee or as a data collector is to be considered regular duty hours. Labor Organization representatives will not record this as official time.

ARTICLE 24
INCENTIVE AWARDS

SECTION 24.1 ~ General

The Association and the Employer agree that a well-managed Incentive Awards Program can greatly benefit the employee program and be of real significance in improving the morale and well-being of the work force. The Employer will continuously publicize all aspects of the program and the Association will undertake to encourage employee participation. The Incentive Awards program will be administered IAW current regulations or superseding guidance. In the event The Incentive Awards program is revised during the term of this agreement, the Employer agrees to conduct appropriate Impact and Implementation (I&I) bargaining with ACT Pine Tree Chapter #79.

SECTION 24.2 ~ Incentive Awards Committee

The incentive awards committee will be established by the Employer and will serve all employees in the State. The Association will be allotted 25% membership on the committee. The chairperson will be appointed by the Employer.

SECTION 24.3 ~ Program Promotion

a. The Employer agrees to provide the maximum publicity of the employee Incentive Awards Program. This publicity shall be in an appropriate format; e.g., posters or articles in material published by HRO so as to attract broad and continued attention to the program at various work locations.

b. Upon request, the Employer will provide the Association President information on approved incentive awards.

ARTICLE 25
TRAINING

SECTION 25.1

The Employer and the Labor Organization agree that the training and development of employees within the unit is a matter of major importance to the parties. Through the procedures established for Labor-Management cooperation, the parties shall seek the maximum training and development of all employees. Consistent with its needs, the Employer agrees to develop and maintain meaningful and effective policies and programs designed to achieve this purpose.

SECTION 25.2

The Employer will, to the maximum extent practicable, establish training opportunities in those areas where training is needed and make employees aware of opportunities for training.

SECTION 25.3

When advance knowledge of the impact of pending changes in function, organization and mission is available, it shall be the responsibility of the Employer to plan for the maximum retraining of employees involved whenever necessary. Maximum use will be made of the authority to waive qualification requirements and to request approval for training with OPM, military service schools and other Government agencies in order to place employees in lines of work where their services can be utilized.

SECTION 25.4

The Employer may provide on-the-job cross-training for the purpose of ensuring mission accomplishment.

SECTION 25.5

Selection for training or on-the-job cross-training shall be in accordance with the Merit Placement Program and the Standards for Testing Article if the training is intended to prepare employees for promotional opportunities.

ARTICLE 26
TRAVEL

SECTION 26.1

A TDY will be announced as soon as adequate information on the assignment is available to the Employer.

SECTION 26.2

The travel should be scheduled in a manner to meet the needs of the Employer. When possible, employees will receive their travel orders sufficiently in advance to ensure that the necessary arrangements for obtaining transportation requests are accomplished during work hours and prior to departure. When an employee is assigned to a temporary duty station the agency may allow the employee to continue to use the schedule used at their permanent work site (if suitable) or require the employee to change the schedule to conform to operations at the temporary work site. Any changes to normal work schedules known to the Employer before the start of the TDY will be in accordance with Article 12.4 of this Agreement.

SECTION 26.3

Travel will normally be scheduled during the regular work schedule of the employee. Compensatory time will be administered, for travel time outside the regular work schedule, in accordance with applicable regulations.

SECTION 26.4

Employees will use the method of transportation administratively authorized on travel orders as most advantageous to the Government. Any additional cost or time resulting from use of a method of transportation other than specifically authorized will be the employee's responsibility. Privately owned conveyance will be used only when authorized. If a POV is authorized as advantageous to the Government, the employee may be required to transport other passengers, tools and/or equipment. When the actual costs by privately owned vehicle are less than the constructive costs, reimbursement will be in the amount of the actual cost.

SECTION 26.5

The Employer will make a selection based on the qualifications and availability of the employee. Normally qualified volunteers will be sought and accepted before non-volunteers are assigned. If nobody volunteers or if an inadequate number of volunteers are available, the Employer will make the selection. An employee selected may request to be excused and such request will be favorably acted upon whenever possible. In case of denial of such request, the reason therefore will explain to the employee orally, or in writing, if requested.

SECTION 26.6

Time spent traveling (but not other time in travel status) away from the permanent duty station is, "hours worked" when it falls within employee's workday. The time is not only "hours worked" on regular workdays during normal working hours but also during the corresponding hours on non-workdays. Thus, if an employee regularly works from 0800 to 1630 from Monday through Friday, the time spent traveling during corresponding hours on non-workdays (Saturday, Sunday and holidays) is also "hours worked" and the employee will receive travel compensatory time for these periods. Travel performed prior to 0800 and after 1630 would not be considered as "hours worked".

SECTION 26.7

Two employees should be assigned to travel together when tasks or travel to be performed cannot reasonably and safely be accomplished by a single employee. Compensatory time may be earned while performing employee duties at the TDY site when the hours of work extend beyond the normal duty day.

ARTICLE 27
USE OF OFFICIAL FACILITIES

SECTION 27.1

At the request of the Labor Organization, and subject to safety and security regulations, the Employer will provide adequate facilities for official meetings of the Labor Organization during the non-duty hours of the employees involved. When such space is furnished by the Employer, it will be maintained without damage and restored to a state of good order by the Labor Organization after use.

SECTION 27.2

Officers and Stewards of the Pine Tree Chapter of ACT will have access to Government telephones for the purpose of making local calls or calls at no expense to the Government during periods of official time when necessary to resolve any matters relating to this Agreement.

SECTION 27.3

The Employer agrees to furnish reserved bulletin boards for Labor Organization purposes.

SECTION 27.4

Available space (offices or conference rooms), upon approval and as required, will be provided to the Labor Organization to conduct periodic confidential interviews and counseling. Reasonable space, at a mutually agreeable location, will be provided for the storage of records and supplies. This space is subject to termination by the Employer if mission or Labor Organization action dictates. An alternate area, if available, will be designated and mutually agreed upon by the parties.

SECTION 27.5

The Labor Organization will have use, upon approval, of a photocopier for the purpose of reproducing documents relevant to any permissible official time purpose. The photocopier will not be used for internal Labor Organization business.

ARTICLE 28
PUBLICITY

SECTION 28.1

The Employer agrees to make available to the Labor Organization adequate space in each building for designated bulletin boards for posting only official local and national ACT literature. This space will be at a mutually agreed location where bargaining unit employees normally frequent. The posting or removing of literature will be done only by the shop steward or the designated Labor Organization member. The literature must not violate any law, the security of the activity, or contain any scurrilous, abusive or libelous material. Violation of the standards concerning content and distribution of literature will be grounds for revocation of this privilege. Revocation, after discussion with the Labor Organization, may be limited to the offending board/building. Posting or distributing literature by the Labor Organization does not mean that the Employer agrees with the accuracy of or any statements made in the material.

SECTION 28.2

The existing federally financed military distribution system may not be used for distribution of Labor Organization publications to employees. The distribution of Labor Organization publications and materials will be the responsibility of the Labor Organization at its expense and accomplished during non-duty hours of the employees involved.

SECTION 28.3

The parties agree that the Employer will type the master and reproduce the Agreement. There will be sufficient copies reproduced to furnish copies of this Agreement to all bargaining unit employees and to the supervisory and management personnel responsible for administering or interpreting this Agreement, and copies to provide to all current and new bargaining unit employees. Printing will be done within 30 calendar days after the effective date of Defense Civilian Personnel Management Service approval of the Agreement.

SECTION 28.4

Existing official publication files maintained by the Employer, affecting personnel policies, practices, and working conditions, will be made available to employees when requested.

SECTION 28.5

The Employer uses its technical capabilities to provide Employee employment information using the local NG web-site. This will allow employees instant access to the most current information and policy.

ARTICLE 29

LIGHT DUTY

SECTION 29.1

The Employer agrees that when a employee is deemed capable of light duty by his/her personal physician for a work or non-work related injury, the employee will be so assigned upon approval therein by the responsible management official and in consultation with the Employer's occupational health resource.

SECTION 29.2

It is the responsibility of the employee to obtain from the attending physician, in writing, the specific duties of which they can perform while in an incapacitated status. Management may ask the employee to obtain this information if not clearly stated. Management will make every attempt to reasonably accommodate the employee when possible.

ARTICLE 30

DISABILITY BENEFITS

SECTION 30.1

The Employer agrees to process necessary applications and provide all assistance on behalf of an employee being separated for an on-the-job injury or other medical reason. All appropriate information, forms and documents relating to the separation will be submitted to the appropriate authorities to obtain all benefits which may be due.

SECTION 30.2

Affected employees may be accompanied and assisted by a Labor Organization representative without charge to pay or leave during duty hours in processing their cases under this Article, if requested by the employee.

ARTICLE 31
EQUAL EMPLOYMENT OPPORTUNITY

SECTION 31.1

The Employer and the Labor Organization agree to cooperate in providing equal opportunity in employment for all persons, to prohibit discrimination because of age, race, color, handicap, religion, sex or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative action plan. The parties also agree that a discriminatory act is one which is based on any non-merit factor, including but not limited to, the bases listed above.

SECTION 31.2

The Employer and the Labor Organization will continue in their efforts to eradicate every form of discrimination to include sexual harassment from the workplace.

a. The Employer and the Labor Organization agree that sexual harassment in the workplace will not be tolerated.

b. Reported cases of sexual harassment will receive prompt and positive action.

c. Any employee who feels they have been the victim of sexual harassment may file a complaint through the statutory procedure by contacting the State Equal Employment Manager (SEEM) within forty-five (45) calendar days of the occurrence.

SECTION 31.3

The Employer's Affirmative Action Plan will set out objectives and methods for accomplishing the goals of the EEO Program.

SECTION 31.4

The Labor Organization may submit up to 7 names to the State Equal Employment Manager (SEEM) for consideration as an EEO counselor. Counselors will not be selected if they are currently serving as shop stewards. Counselors selected shall meet the criteria established by the program and will be trained in accordance with the provisions of applicable regulations. Counselors will serve under the direction of the SEEM.

SECTION 31.5

The Employer will provide as many EEO counselors and other officials as may be necessary to carry out the functions of the program. Furthermore, the Employer shall publicize the EEO officials by posting their names, work locations and work telephone numbers, permanently on bulletin boards.

ARTICLE 32
CONTRACTING OUT

SECTION 32.1

The Labor Organization will be notified that a contracting out study is under way once a cost comparison study affecting conditions of employment is initiated. The Employer will meet and confer with the Labor Organization with regard to any impact on unit employees.

SECTION 32.2

The parties agree to safeguard all information consistent with applicable regulations.

ARTICLE 33
CIVIC RESPONSIBILITY

SECTION 33.1

In keeping with the National Guard tradition of civic responsibility and community support, the Maine Army National Guard encourages employee involvement in organizations that support the well-being of the community. To that end this policy fosters the partnership between management and labor, and reflects their mutual dedication to the health and well-being of our communities.

SECTION 33.2

In the event that an employee becomes involved in providing uncoordinated emergency assistance either before or during an employee's scheduled work hours in a situation involving the health and well-being of a human being, the employee should turn the situation over to appropriate emergency services personnel as soon as practical. The situation will be considered prior to charging the employee leave for time missed at work.

SECTION 33.3

For situations that require leave on short notice, volunteer emergency services personnel will be granted an exception to the normal leave policy which requires that annual leave be approved in advance. When an employee who is an emergency services personnel volunteer is asked by a responsible emergency services official to be released for an emergency, the Employer may grant the employee leave for this purpose. If leave is granted, the employee may elect to use either annual leave, or compensatory time to which the employee is entitled, or LWOP.

ARTICLE 34
REDUCTION IN FORCE, REORGANIZATION, TRANSFER OF FUNCTION

SECTION 34.1 ~ Policy

a. TAG or their designee is responsible for declaring a reduction-in-force (RIF).

b. The Employer agrees to inform employees and the Association, as soon as possible, of any plans or requirements for a RIF which may affect them. In no event, will the Association be notified later than fourteen (14) calendar days after knowledge and/or receipt of notice from TAG or their designee of an impending RIF, reorganization, or transfer of function. Thereafter, the Employer agrees to provide the Association with a detailed explanation of the procedures it will use to implement any of the aforementioned actions. A reasonable opportunity will be afforded the Association to prepare and negotiate arrangements relative to the impact and implementation of the decision being taken by the Employer.

c. All actions pertaining to a RIF, reorganizations, and transfers of functions will be in

accordance with applicable laws, rules, and regulations.

SECTION 34.2 ~ Employer Responsibilities

a. Meet with the Association to explain the need for a RIF and the procedures to be used for implementation.

b. Provide briefings, as appropriate, to keep the employee work force informed.

c. Assure that applicable regulations are available for review by the Employer, the Association, and employees concerned.

d. Review criteria to determine the need for a major RIF and provide applicable counseling.

e. Develop an aggressive placement program for adversely affected employees.

f. Consider all reasonable actions to avoid or minimize a reduction-in-force by restricting recruitment or promotion, by meeting ceiling limitations or budgetary curtailments through

normal attrition and by reassignment of surplus employees to any vacant position for which they may be qualified.

g. Give full consideration to the employment rights of all employees on approved leave of absence in situations where the employee is affected by a RIF action during that leave of absence.

SECTION 34.3 ~ Competitive Area

A competitive area is the area designated by the Employer within which employees compete during a RIF and is described geographically, organizationally, or a combination of both. The competitive area must be large enough to permit adequate competition among employees and yet be limited to the point of being administratively manageable.

SECTION 34.4 ~ Competitive Level

a. A competitive level consists of all positions within a competitive area which are in the same grade, same type of service (Excepted or Competitive), and are so similar in qualification requirements, duties and responsibilities that the incumbent can be moved from one position to another without undue interruption to the work program. The establishment of competitive levels is the responsibility of the Human Resources Officer (HRO) or their designee.

b. Separate competitive levels are required within the same series and grade and within the same trade or occupation when differences exist.

c. A competitive level may consist of only one position when that position is not interchangeable with or similar to other positions.

d. Excepted employees (those who require military membership) will not be placed in the same competitive level as competitive employees (those who do not require military membership).

e. Supervisory positions will not be placed in the same competitive level as non-supervisory positions.

f. During a RIF, non-bargaining unit employees may compete with bargaining unit employees for bargaining unit positions.

SECTION 34.5 ~ Establishing of Retention Registers

a. The Employer will establish a retention register before releasing employees from their competitive level. The register will show competing employees in descending order starting with the highest score first. The retention register documents any action being taken and is maintained for every RIF action even when the released employee occupies the only position in the competitive level.

b. When a retention is established, it will list all competing employees in descending order by Tenure Groups I, II, and III. The employee's correct tenure group is shown on the SF 50. Tenure group are defined as follows.

Tenure Group I

Excepted Service:

Includes permanent employees whose appointment carries no restriction or condition such as conditional, indefinite, or special time limitation or trial period

Competitive Service:

Includes employees serving under career appointment who either have completed initial appointment probation or are not required to serve initial appointment probation.

Tenure Group II

Excepted Service:

Includes permanent employees who are serving a trial period.

Competitive Service:

Includes employees serving under career-conditional appointments and career employees serving initial appointments probation.

Tenure Group III

Excepted Service:

Includes employees serving under indefinite appointments, that is appointments without specific time limitation but not actually (or potentially) permanent; are serving under appointments with specific time limitations of more than one year.

Competitive Service:

Employees who are serving under temporary appointments pending establishment of register (TAPER); term appointments; Appointment Status Quo; any appointments designated as indefinite; any other non-status non-temporary appointment.

c. Retention standing within each tenure group is established by using the following criteria:

(1) Employee Performance Appraisals: At the time a RIF is declared, the HRO or their designee must establish a cut-off date for receipt of any new appraisals. Receipt of a new performance appraisal after the cutoff date will not affect the employee's retention standing. However, if a decision on an appealed performance appraisal is issued before the effective date of the employee's release from the competitive level, the performance appraisal resulting from the appeal will be used. To compute the retention standing:

(a) The three most current performance appraisals on record will be used to determine retention standing.

(b) To compute the retention standing, use the average score of the last three official performance appraisals. For example, a employee may have received a performance rating-of-record of 4 (2013), 4 (2012) and 3 (2011). Divide the total score of all three appraisals (11) by 3 which equates to 3.67, rounded to the second decimal place (if 3rd decimal is equal to 5, round up, if 3rd decimal is equal to 4, round down). The employee's score of 3.67 is then placed on the retention register. Employees who should, but do not have three appraisals on file will be credited with same rating(s) as the last appraisal on file. Employees with less than three years' service, the divisor will be the appropriate number of years.

(c) Normally, a non-bargaining unit Employee will not be placed on a retention register with a bargaining unit Employee for a bargaining unit position when the former was the appraiser for the most immediate performance appraisal and both would subsequently appear on the same register. However, if the non-bargaining unit Employee cannot be placed on a separate retention register, the situation may dictate that the employee may be placed on a register with bargaining unit Employees for whom the employee rendered performance appraisals

(d) The Association will be given the opportunity to review the retention register(s) established in conjunction with any RIF

(2) Tie-Breakers: The service computation date (SCD) will be used as a tie-breaker if two or more Employees in the same tenure group have the same retention scores. Employees service dates (TSD) will only be used as a second tie-breaker in the event two or more Employees have the same retention score and the same SCD.

SECTION 34.6 ~ Order of Release from Competitive Levels

a. Employees will be released in the order in which their names appear on the retention register, i.e. beginning with the lowest score in Tenure Group III, and if necessary, continue with Tenure Group II, and Tenure Group I.

b. When a major RIF is declared, Employees who work in the area affected by the RIF may qualify for and accept voluntary retirement incentives.

c. The Employer will tender placement offers if available to those Employees affected by RIF in accordance with applicable laws, rules, and regulations.

SECTION 34.7 ~ Early Retirement

A Employee may request early retirement under the following conditions:

a. When the Office of Personnel Management (OPM), Department of Defense (DoD) or the National Guard Bureau (NGB) authorizes Employees the options of early retirement.

b. During the limited time set by OPM, DoD or NGB.

c. The Employee must meet either one of the following minimum requirements:

(1) Attainment of age 50 and completion of 20 years of creditable service, including 5 years of civilian service.

(2) Regardless of age, completion of 25 years of creditable service, including 5 years of civilian service.

SECTION 34.8 ~ Reduction in Force Notice

a. GENERAL NOTICE. When it cannot be determined what specific personnel actions will take place during a RIF, general notices may be issued. A general notice must be supplemented by a specific notice before an Employee can be released from their competitive level.

b. SPECIFIC NOTICE. Before releasing an Employee from their competitive level, they must be given specific notice that states clearly what action will be taken and the effective date of such actions. The Employee must receive the notice at least 60 calendar days before the date of release. A Saturday, Sunday, or legal holiday may not be counted as the last day of the period. Likewise, specific notices may not be issued or made effective during the period 15 December-3 January.

c. SPECIFIC NOTICE INFORMATION. The following information, as applicable, is to be included when preparing a specific notice of RIF:

(1) Reason for the RIF.

(2) Specific action to take place (e.g., separation, furlough, offer of change to lower grade, etc.).

(3) Title, grade, and salary of current position.

(4) Competitive area and competitive level designated.

(5) SCD and TSD

(6) The position title, grade, salary, and location of a position offer or the reason why no offer can be made. Also, include the military grade requirements.

(7) Reasons for any exception to order of retention.

(8) Effective date of proposed RIF (other than 15 December through 3 January).

(9) Where the Employee may review retention registers and RIF regulations and the HRO personnel specialists contact information.

(10) Appeal rights, how to file them, and any time limits imposed.

(11) A clear explanation of the Employees grade and/or pay retention entitlements.

(12) Severance pay eligibility

(13) Placement information and eligibility for reemployment priority list.

(14) Discontinued service retirement eligibility.

(15) A requirement for the Employee to acknowledge receipt of the notice and to accept/decline the offer.

SECTION 34.9 ~ Placement Action

The Employer will take positive action to assist Employees affected by RIF or transfer of function by insuring the following:

a. The Employee is qualified for the position or can meet the prerequisites necessary to qualify for a minimum of training and has the capacity, adaptability, and the basic skills needed for the position.

b. It has a representative rate no higher than the rate of the position from which the Employee is being released.

c. Reemployment Priority List. A reemployment priority list must be maintained for Tenure Groups I and II Employees separated in a RIF. Upon receipt of a specific notice of separation, Employees will be placed on this list, but only if they have not declined an offer that preserves a non-temporary, full time position in their present grade, or representative rate. Employees will remain on this list for two years, unless they decline in writing, accept a full time position, or decline the offer of a full time position in the Federal Government.

d. Priority Placement. All Employees entitled to grade retention as a result of RIF will be afforded priority placement for vacant positions. Such placement action will be in accordance with applicable laws, rules, and regulations.

SECTION 34.10 ~ Appeals

a. A competing Employee may appeal to TAG (TAG) when they have received a specific notice of RIF and believes that the Employer incorrectly applied the provisions in accordance with applicable laws, rules, and regulations.

(1) An appeal must be submitted by the Employee upon receipt of a specific notice of RIF, but no later than 30 calendar days after receipt of the specific notice.

(2) The appeal must be in writing and must include the following:

- First, MI, Last name
- Last four of SSN (e.g., xxx-xx-1234)
- Position Description number, position title, pay plan (e.g. WG or GS), occupation code and grade.
- Place of employment

(3) The appeal must clearly state the reason the Employee believes the action affecting them is incorrectly applied, and must show that the Employer failed to comply with the RIF procedures. (e.g., insufficient notice, improper tenure grouping, or errors in SCD/TSD).

b. Extension of Time Limit. TAG or their designee may extend the appeal time limit when the Employee indicates circumstances beyond their control prevented them from submitting the written appeal according to paragraph a(1) above. A written request for the extension must be received by TAG or their designee prior to the expiration of the 30 calendar day period following issuance of the specific notice.

c. Decision on Appeal. TAG or their designee will issue a written decision, and where applicable, direct the HRO or their designee to take any necessary corrective action. A copy of the decision is provided to the Employee and Labor Organization. The decision of TAG is final and there is no further right of appeal.

d. Corrective Action. The decision of TAG may require HRO or their designee to take corrective action as follows:

(1) Correct the retention register

(2) Correct the Employee's specific notice

(1) Restore the Employee to their former grade or pay level or one of like seniority, status, and pay prior to the Employee's reduction-in-grade or separation.

(2) Reimburse the Employee for all pay lost as a result of any improper RIF action.

e. When an Employee's appeal uncovers an error that does not change the outcome of the RIF, TAG or their designee will correct the error without requiring restoration or recall of the Employee or Employees involved.

SECTION 34.11

The Labor Organization reserves the right to discuss and negotiate any negotiable matter pertaining to a particular RIF or transfer of function not covered in this Article.

ARTICLE 35
TOBACCO FREE WORKPLACE

SECTION 35.1

The Employer agrees to maintain a tobacco free work environment in all buildings and work areas. Tobacco use will be IAW current law, regulation, and local policies.

SECTION 35.2

The time allotted for smoking is considered break time and will not exceed the time allocated for the twice daily breaks.

SECTION 35.3

Proper containers will be placed in designated smoking areas.