

## PREAMBLE

This Agreement is made by and between the Devens Reserve Forces Training Area (Devens RFTA), hereinafter referred to as the "Employer," and the National Association of Government Employees (NAGE) Local R1-4, hereinafter referred to as the "Union," and collectively referred to as the "parties."

## WITNESSETH

WHEREAS, the well-being of the employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment;  
and

WHEREAS, each party desires to establish and maintain working conditions which will be conducive to enhancing and improving employee morale, efficiency and productivity and to foster a supervisory/employee relationship of mutual respect.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties agree as follows:

**Article 1**  
**Recognition and Coverage**

**Section 1.01**

The Union is the exclusive representative of all employees in the Bargaining Unit (as defined in Section 1.02), and the Union recognizes its responsibilities to represent the interests of all such employees, regardless of the status of Union membership, with respect to grievances, personnel policies, practices, and procedures or other matters affecting their general working conditions.

**Section 1.02**

The unit to which this agreement applies is composed of all employees of the Devens Reserve Forces Training Area (Devens RFTA) except for management officials, supervisors and other employees excluded by 5 USC 7112(b).

**Article 2**  
**Employees' Rights**

**Section 2.01**

The Employer and the Union agree that they will not discriminate against employees in the exercise of their rights, freely and without fear of penalty or reprisal, to form, join, or assist any employee organization or to refrain from any such activity in accordance with the Civil Service Reform Act of 1978, as amended. Except as expressly provided hereinafter, the freedom of such employees to assist any employee organization shall be recognized as extending to participation in the management of the employee organization and acting for the employee organization in the capacity of employee organization representative.

**Section 2.02**

The Employer shall take such action consistent with law or with directives from higher authority as may be required to assure that employees are notified annually of their rights under 5 U.S.C. 7114(a)(2)(B), and that no interference, restraint, coercion, or discrimination is practiced within the Unit to encourage or discourage membership in the Union.

**Section 2.0**

The Employer agrees, that to the extent possible and in accordance with applicable laws, rules, and regulations, to make every reasonable effort to ensure that bargaining unit employees are given fair and equitable treatment in all matters concerning conditions of employment.

**Section 2.04**

During in-briefing, new or reinstated employees of Devens RFTA will be advised by their supervisor of the Union's "exclusive recognition" and given a copy of the current contract.

### **Section 2.05**

The Employer agrees to announce the publication of this agreement, as well as supplements thereto. Announcements will inform members of the bargaining unit that copies of the agreement are available from their Union representative.

### **Section 2.06**

An employee may request withdrawal of his/her resignation or request for retirement at any time before it becomes effective. The Employer may decline such request in accordance with the provisions of 5 CFR 715.202.

### **Section 2.07**

Employees shall have rights to representation as set forth at Articles 9 and 33.

## **Article 3 Management Rights**

### **Section 3.01**

Nothing in this Agreement shall otherwise affect the authority of the Employer to determine the mission, budget, organization, number of employees, and internal security practices of Devens RFTA. Further, in accordance with applicable laws, the Employer retains the exclusive authority

- (a) to hire, assign, direct, layoff, and retain employees at Devens RFTA or to suspend, remove, reduce in grade or pay, or take other disciplinary actions against such employees;
- (b) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Devens RFTA operations shall be conducted;
- (c) with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion or from any other appropriate source; and
- (d) to take whatever actions may be necessary to carry out the agency mission during emergencies.

### **Section 3.02**

Nothing in this Agreement shall preclude the Employer and the Union from negotiating:

- (a) at the election of the Employer, the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or the technology, methods, and means of performing work;
- (b) at the election of the Employer, the procedures which management officials of the agency will observe in exercising any authority; or

(c) at the election of the Employer, appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

**Article 4**  
**NAGE Local R1-4 Rights**

**Section 4.01**

The Employer will give the Union the opportunity to be present at any formal discussion concerning any grievance or any personnel policy or practice or other general condition of employment. Further, the Employer will give the Union as much advance notice as possible and/or reasonable.

**Section 4.02**

The Union has the right and responsibility to represent all employees in the bargaining unit in matters where the Union is the exclusive representative.

**Section 4.03**

Within a reasonable period after the effective date of the Collective Bargaining Agreement, the Employer will provide the Union the opportunity to develop and present an education program, or briefing, on the Collective Bargaining Agreement for all bargaining unit members. The Union will give the Employer a reasonable opportunity to review the program or briefing prior to presentation, and the Employer and/or members of the management negotiating team shall be entitled to be present at the briefing to answer questions or clarify any issues. The Union and employees shall have up to two (2) two-hour sessions to present the briefings. Nothing herein shall limit management's right to conduct management or joint management/employee briefings on the Collective Bargaining Agreement.

**Section 4.04**

One week each year circa Labor Day the Union shall have the opportunity to recognize Labor Recognition Week. During such week the Union may use employee break rooms to set up exhibits publicizing the contributions of NAGE and organized labor to society. The Union shall also have the opportunity to use the Employer's email system on a single occasion to send a "flyer" advertising the week.

**Article 5**  
**NAGE LOCAL R1-4 Representatives**

**Section 5.01**

The Employer recognizes the efforts of Union representatives as important in promoting a quality workplace and a safe and friendly work environment. Although serving voluntarily, the rights and responsibilities of these representatives are supported by the language of this Agreement and by Federal Law.

## **Section 5.02**

"Union Representative" shall be defined as only those employees named by the Union to any position where the employee acts as the spokesperson for, and in the interest of, the Union or employees within the Bargaining Unit. The term shall include stewards and officers.

## **Section 5.03**

The Union may designate as representatives as many as five (5) stewards. In designating stewards, the Union will take into account the organizational and geographical location of each candidate in order to minimize time away from the steward's official duties.

The Union will provide the Employer with a complete, up-to-date list of appointed stewards and local officers including the office location and telephone number of each. Each steward must be a bargaining unit employee. The Union must notify the Employer of any change in stewards as soon as possible but at least two (2) days before the effective date of any change.

In addition to the above, the Union may also designate other representatives on an ad hoc and limited basis as an issue may warrant. The Union will provide notification to the Employer of all such specific subject matter designations.

## **Section 5.04**

Newly-appointed representatives may require a mentoring period in which to become familiar with their duties and the processes of labor-management relations. Accordingly, a newly appointed steward may accompany, or be accompanied by, another steward, the Union president, or a National representative to at least one (1) formal discussion and to all levels of the meetings for one (1) grievance.

## **Section 5.05**

The Union may designate an additional five (5) stewards to serve in an "at-large" capacity, and to be assigned, as deemed necessary, by the Union president or vice-president. An "at-large" Steward, when assigned to a particular issue, relieves the Steward normally assigned to the area of his/her responsibility for that issue. When an "at-large" Steward is assigned to a particular issue, the Union will notify the Employer's Chief Negotiator of this assignment. It is agreed that designated Officers and Stewards are authorized to represent the Union and, when requested, individual Unit members.

## **Section 5.06**

Whenever an employee or Union representative desires official time for any representational function, the employee (including Union representative) shall request permission for the use of official time from his/her supervisor using the form at Appendix C. The supervisor will indicate approval of the request on such form and indicate the time agreed to based on workload. The employee shall notify his/her supervisor upon return to official duties and any time exceeding the time agreed to as provided on the form at Appendix C may, at the discretion of the supervisor, be charged to annual leave or LWOP.

Subject to work requirements, the supervisor may require the employee or representative to remain on the job. If requested, the supervisor will, within eight (8) working hours of such request, state the reason in writing and indicate when the employee or representative may take the requested official time.

#### **Section 5.07**

The Employer agrees that there shall be no restraint, interference, coercion or discrimination against any Union Officer or Steward for performing their duties in accordance with the provisions of this Article.

#### **Section 5.08**

When the Employer involuntarily assigns or transfers a Union Officer or Steward to the second or third shift, the Employer will provide the individual involved with a reason, in writing, twenty-four (24) hours in advance of taking the action.

#### **Section 5.09**

The Employer recognizes the Union's need to have a Steward available to service employees of the Unit. In the event a Steward is not assigned to a shift, the Union may designate or appoint a temporary, interim Steward from among those employees assigned by the Employer to work such shift.

#### **Section 5.10**

Should the Employer, in the exercise of the Employer's right to assign work, need to detail, temporarily promote or otherwise reassign any Union officer from their regularly assigned duties for a period in excess of 30 calendar days, the Employer agrees to provide such Union officer and the Union President notice of such reassignment within a reasonable period of time in advance of such reassignment. "Reasonable period of time" as used herein shall be determined based on the mission exigencies necessitating such reassignment.

The purpose of this section is to provide the Union the opportunity to effect a transfer of the functions and responsibilities of the impacted officer, if necessary, and shall not otherwise be construed as presenting the Union an opportunity to grieve or contest the reassignment or the notice provided except on the basis that the Employer may be acting in bad faith and that there is no good faith basis for the Employer action.

This section shall not be construed to override the provisions of Article 17 pertaining to Reassignments and is limited to the offices of President, Vice President, Treasurer and Secretary of the Union.

#### **Section 5.11**

The Employer agrees that authorized National Officers and Representatives of the National Association of Government Employees/Service Employees International Union (NAGE/SEIU) will be given authorization to visit Devens RFTA on appropriate business, subject to applicable

security regulations observed by any visitor. The purpose of any visit shall be meeting with the Employer, Unit employees, Union officers, stewards, or duly authorized representatives in connection with such appropriate business.

## **Section 5.12**

For provisions relative to official time, refer to Article 6.

## **Article 6 Official Time**

### **Section 6.01**

Union representatives will be authorized official time in accordance with 5 USC 7131. Official time may be granted for, but not limited to, the following:

- a. Representation in grievances, discrimination complaints, and appeals.
- b. Preparation of grievances and discrimination complaints, and negotiations pertaining to this Agreement.
- c. Preparation for, and representation of, the Union in consultations with the Employer.
- d. Representation at arbitration and statutory appeals hearings.
- e. Preparation for, and presentation at, Unfair Labor Practice investigations and hearings.
- f. Participation in impact and implementation discussions.
- g. Attending Employer sponsored training when such training is deemed essential by the Employer.
- h. Attending Union sponsored training if approved by the Employer. (Disapproval by the Employer shall not be grievable.)

### **Section 6.02**

Officially requested consultations or meetings on representational matters, between Employer or his/her designated representative and the President of the Union or his/her designated representative, will be conducted at a mutually agreed to time during normal duty hours, with necessary "on the clock time" for such being granted to Union representatives, and without time being charged to leave. Union representatives who are not employed by the Employer may participate in meetings with the Employer.

### **Section 6.03**

Consistent with the provisions of section 6.01, the Employer will allow Union representatives reasonable time during duty hours to be away from their working duties, without charge to leave, to discuss and prepare grievances and other representational matters with the employees they represent and with Employer officials. In this regard, Union representatives will be permitted to receive and investigate, but will not solicit, complaints or grievances from the employees they represent during duty hours.

The Union agrees that its representatives will guard against the excessive use of duty time in handling such matters. The Union further agrees that matters pertaining to the organization, management, and internal operations of the Union will not be conducted during duty hours.

#### **Section 6.04**

When a Union Officer or Steward wishes to meet with a supervisor or representative of the Employer, other than his own immediate supervisor, or with an employee who has filed a grievance, the Union official desiring the meeting will first ensure, through appropriate supervisory channels, that the person with whom he/she wishes to meet is on duty and available. The Union official will then request his/her immediate supervisor's approval for the absence using the form at Appendix C. Likewise, in the case of a meeting with an employee who has filed a grievance, the employee will request of his/her immediate supervisor approval for the opportunity to meet with the Union Officer or Steward using the form at Appendix C. In the absence of compelling reasons to the contrary, the Employer will approve such requests. In the event the Employer cannot excuse the Union representative or the employee, such denial shall not cause a grievance to be untimely. An extension of time equal to the delay caused by the denial will be granted, if necessary. The Employer will document in writing such denial and the alternate date and time for the absence as prescribed on the form at Appendix C.

#### **Section 6.05**

Whenever the Employer has cause or reason to believe that official time is being used improperly, the Employer will discuss specific reasons of the alleged improper usage with the Union President in an effort to seek a mutually satisfactory solution prior to taking any disciplinary action.

#### **Section 6.06**

The Union President or his/her designated representative shall be granted official time to participate in hearings with Congress persons and other federal officials on matters of concern to employees within the bargaining unit, when requested by such officials.

#### **Section 6.07**

When a bargaining unit member has selected the Union as his/her personal representative for matters on appeal to the Merit Systems Protection Board (MSPB), such representative will be given a reasonable amount of official time to prepare for, and present, such personal representation.

### **Article 7 Facilities and Services**

#### **Section 7.01**

The Employer will continue to provide appropriate office space to the Union comparable to the existing office in Room 204, Moore Hall. In addition, the Employer will continue to make

available to the Union the Government property reflected on the hand receipt attached at Appendix A. In addition, the Employer agrees to give the Union the opportunity to acquire at no cost any office equipment or furniture declared excess. The parties agree that the Employer is under no obligation to maintain, repair or replace said property should it become unserviceable. Further, the parties understand that the Employer is under no obligation to maintain, update or service the Government computer in the Union office.

If the Employer determines a need to relocate the office within Moore Hall, the Employer will move the Government property scheduled on the referenced hand receipt. If the Employer determines a need to relocate a majority of government offices, including the union office, outside of Moore Hall, the Employer will move the scheduled property only if the Employer is similarly moving the Government property in the other offices being relocated.

### **Section 7.02**

The Employer will provide the Union a reasonable amount of space to conduct ballot box elections pursuant to its bylaws.

### **Section 7.03**

The Employer will permit the Union to use available classrooms and conference rooms to conduct non-work hour meetings. Requests for the use of these facilities must be made as far in advance as possible and will include the time, date, and number of people expected to attend. The Union will assure that conference rooms or classrooms are left in a clean, secure and orderly condition.

### **Section 7.04**

The Employer will print sufficient copies of this Agreement to provide one copy to all present bargaining unit employees and managers, to account for the likely future employees within the initial term of this agreement, and to provide a reasonable quantity of excess copies for the Union.

### **Section 7.05**

The Employer agrees to list the Union office telephone number, if applicable, in the Employer's telephone directory.

### **Section 7.06**

The employer will provide for review, comment, or negotiation, as appropriate, a copy of all proposed changes to local regulations and policies that relate to personnel policies, practices, and working conditions affecting bargaining unit employees.

### **Section 7.07**

The Union may have exclusive access to existing bulletin boards, as may be mutually agreed to by the Union and the Employer, for the purpose of posting Union related announcements or information. The Union acknowledges that the Employer does not vouch for the accuracy or

authenticity of any information posted to a bulletin board, and that any posting does not constitute an endorsement by the Employer of the posting's content. Postings to a bulletin board of internal Union business will be done during non-duty time.

### **Section 7.08**

The Union may have access to, and use of, Employer copy machines, internal correspondence distribution, electronic mail, and except as provided at section 7.10, facsimile machines and telephones only for the purpose of communicating with the Employer in the course of representational duties as defined by 5 USC Section 7114.

### **Section 7.09**

The Employer will provide to the Union a mail/distribution box in the Employer's mail facility, but the Union shall not otherwise have any right to use Employer external mail services.

### **Section 7.10**

The Union may, at its option, establish and maintain standard commercial telephone service in the Union office. However, absent establishment of such service, the Employer agrees and acknowledges that Union officials may have reasonable use of the telephones of the Employer to conduct official representational business as defined by 5 USC Section 7114. This allowance for the use of Employer telephones is based on the premise that the cost of Union use of telephone service for representational functions is, and will continue to be, de minimis. The parties agree to revisit this article if the Employer subsequently finds that a substantial change in the costs has undermined this premise.

### **Section 7.11**

The Employer will, upon reasonable advance request by a Union official, provide electronic access to the Department of the Army Civilian Personnel Regulations, the Office of Personnel Management Classification and Qualification Standards, and the Joint Travel Regulations.

### **Section 7.12**

The Employer agrees to establish, and maintain in compliance with applicable guidelines and regulations, an electronic mail account for each employee and to position sufficient computer terminals throughout the workplace to provide reasonable access to electronic mail for all employees. The purpose of this provision is to ensure reasonable access to information of general import to all employees for those employees who do not regularly work with a computer terminal.

## **Article 8**

### **Dues Withholding**

#### **Section 8.01**

Employees who are members in good standing of the Union may authorize an allotment from their pay to cover the regular dues for such membership, provided that they meet all the following requirements:

- a. They regularly receive pay on scheduled paydays and such pay is sufficient, after required deductions and other authorized allotments, to cover the full amount of the allotment for dues set by the Union.
- b. They have voluntarily completed a request for such allotment from their pay with full knowledge of the limitations on revocation of the authorization.
- c. They are included within the bargaining unit for which exclusive recognition has been granted.

### **Section 8.02**

The Union will inform each of its members of the voluntary nature of the authorization for allotment of pay to cover dues and of the prescribed procedure for revoking it. The Union will purchase and distribute to its members in good standing the appropriate authorization Form SF 1187.

The President or Treasurer of the Union will receive the completed forms, enter the current amount of regular dues to be deducted from the member each pay period, and determine whether the member is in good standing in the Union. The President or the Treasurer will then complete the required certification and submit the forms to the appropriate payroll technician.

Allotments authorized on properly completed and certified forms which are received by the payroll technician three (3) work days before the beginning of a pay period will be processed for that pay period. Withholding of the authorized amount will continue until the allotment is terminated under one of the conditions stated in Section 8.03 or 8.04.

### **Section 8.03**

Allotments will be terminated by the Employer at the end of the pay period following the occurrence of any of the following conditions:

- a. The Union loses required recognition.
- b. An employee is separated from the Employer.
- c. The payroll technician receives written notice from the President of the Union that the employee is no longer a member in good standing of the Union.
- d. The employer has detailed the employee to a supervisory position or otherwise detailed the employee outside the bargaining unit.

### **Section 8.04**

An employee member can voluntarily revoke his/her allotment at any time by completing an SF 1188, or other written, signed revocation, and submitting it through the Union to the payroll technician. However, such revocation will not become effective until the first pay period following the one year anniversary of the initiation of automatic dues deductions.

### **Section 8.05**

The President of the Union will notify the payroll technician in writing within seven (7) working days after an employee with a current allotment authorization ceases to be a member in good standing. The President will also promptly notify either the Employer's Chief Negotiator or the Labor Counsel in the event of a change in dues structure or other change requiring an amendment to this Article.

### **Section 8.06**

The Employer will provide to the Union a listing of all employees within the bargaining unit by name, grade, position, and organization code, and will update such listing as applicable personnel changes warrant.

## **Article 9 Grievances**

### **Section 9.01**

A grievance is any complaint by any bargaining unit employee concerning any matter relating to the employment of the employee; by the Union concerning any matter relating to the employment of any bargaining unit employee; or by any bargaining unit employee, the Union, or the Employer concerning the effect or interpretation, or a claim of breach, of this Agreement; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

The following matters are not grievable and the procedures of this article shall not apply to:

- a. Any claimed violation relating to prohibited political activities.
- b. Retirement, life insurance, or health insurance.
- c. A suspension or removal for national security.
- d. Any certification or appointment.
- e. The classification of any position which does not result in the reduction in grade or pay of an employee.
- f. Personnel actions resulting from reduction in force except for procedural issues with respect to the reduction in force process.
- g. Non-adoption of a suggestion.
- h. Non-selection for promotion from a group of properly ranked and certified candidates, or otherwise.
- i. Performance counseling sessions except for allegations of impropriety in the execution of the process.
- j. Notices, or warnings, of a proposed disciplinary or adverse action.
- k. The disapproval of a quality step increase, performance award, or other kind of honorary or discretionary award.
- l. An action terminating a temporary promotion (within a maximum period of five (5) years) and returning the employee to the position from which he/she was temporarily promoted, or reassigning or demoting him/her to a different position that is not at a lower grade or level than the position from which he/she was temporarily promoted.
- m. The termination of probationary employees or of temporary employees with a definite

time limitation; term employees; or annuitants, on or before expiration of the term of appointment.

### **Section 9.02**

The procedures of this article are the only procedures available to bargaining unit employees for the processing and disposition of grievances.

### **Section 9.03**

Any aggrieved employee affected by prohibited discrimination within the meaning of 5 USC Section 2301(b)(1), a removal, performance-based reduction in grade, or other adverse action, may, at his/her option, raise the matter under a statutory appeal procedure or under the procedures of this article, but not both. An employee shall be deemed to have exercised his/her option under this provision when the employee timely files a written statutory appeal or timely files a written grievance under this procedure, whichever occurs first. The Union shall not be required to represent non-members when they elect to use the statutory appeal process.

If an employee is aggrieved by prohibited discrimination and elects to use the procedures of this article, selection of the grievance procedures in no manner prejudices the right of the employee to request the Merit Systems Protection Board to review the final decision of a personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision.

### **Section 9.04**

Grievances may be initiated by bargaining unit employees either individually or jointly or by the Union on behalf of an employee or by the Union or the Employer on their own behalf. As used in this agreement, the term grievant refers to the party initiating the grievance process.

### **Section 9.05**

The parties recognize the mutual benefits of resolving grievances at the lowest possible administrative level. To that end, employees, the Union, and the Employer are encouraged to attempt resolution informally of the matter precipitating the grievance before invoking the procedures of this Article.

### **Section 9.06**

If several employees have reasonably similar grievances, the Union may call all the aggrieved employees together and request the employees to select one case for processing. The decision on the selected case will be binding on all employees agreeing to the selected case. If an employee refuses to participate in the selection, he/she may proceed with his/her grievance individually but without Union representation.

### **Section 9.07**

The time limits delineated in this article may, by mutual agreement of the parties, be

extended. Any step of this procedure may be waived by the mutual agreement of the parties. Extensions should be used only under extenuating circumstances. Any oral agreement regarding an extension or waiver will be confirmed in writing by the party requesting the extension or waiver before the time in question expires.

## **Section 9.08**

Grievances will be processed as follows:

**Step 1.** The complaint shall first be raised by the grievant at the lowest appropriate supervisory level, normally with his/her immediate supervisor. This shall be done within ten (10) workdays of the particular act or occurrence precipitating the grievance, or within ten (10) workdays after the grievant became aware of the particular act or occurrence. The employee may be represented or accompanied by a Union representative. After a grievance is raised, the appropriate supervisor shall make whatever investigation is necessary and shall give an answer orally to the grievant as soon as practicable, but no later than three (3) workdays after the grievant raises the grievance. It is expected that most grievances will be settled at this level. If no satisfactory settlement is reached at this step, and the grievant desires to pursue the grievance, he/she must reduce the grievance to writing. The grievant must also indicate in writing whether he/she desires to be represented by the Union by completing the form at appendix B. If the grievant elects not to be represented, any reference to Union representation or concurrence in Steps 2 and 3 below does not apply.

**Step 2.** The written grievance must be delivered to the next level supervisor (generally the activity chief) within ten (10) workdays after receipt of the immediate supervisors' decision. The written grievance must contain a clear and detailed explanation of the complaint, including the article and section of this agreement alleged to have been violated, if applicable, and the specific relief sought. Should a written grievance fail to meet these criteria, it will be returned to the grievant for compliance with this provision. In such case, the grievant will have five (5) work days to return a properly completed written grievance. The Step Two deciding official, or his/her designated representative, shall meet with the grievant to discuss the grievance within five (5) workdays after receiving the properly completed written grievance. If the grievant has elected to be represented, he/she will be accompanied and represented at this discussion by his/her representative. The Step Two deciding official shall provide a written decision to the grievant no later than ten (10) workdays following the meeting.

**Step 3.** If the grievant is dissatisfied with the Step 2 decision, he/she may, with the concurrence of the Union, refer the grievance to the Commander, Devens RFTA within ten (10) workdays of receipt of the Step 2 decision. The Commander, or his/her designated representative, shall arrange to meet within ten (10) workdays with the Union representative and the grievant in an effort to reach settlement of the grievance. The Commander shall render his/her decision in writing to the grievant and the Union representative no later than ten (10) workdays following the meeting.

**Step 4.** If the Union is not satisfied with the Step 3 decision, the Union may invoke arbitration in accordance with the provisions of article 10 of this agreement within fifteen (15) workdays of receipt of the Step 3 decision.

Parties, other than the grievant and his/her representative, involved in the grievance process at any level may not normally attend successive steps.

#### **Section 9.09**

Both grievances filed by the Union on its own behalf and by the Employer will be filed with each other at the Step Three level as a one step only grievance.

#### **Section 9.10**

Any portion of a grievance may be deleted at any time by the grievant.

#### **Section 9.11**

Once a grievance has been properly filed, failure on the part of the Deciding Official to meet the time limits at any step of the procedure will permit the grievant to move the grievance to the next step. Failure of either party to elevate a grievance to the next step within the prescribed time parameters will result in dismissal of the grievance. Such dismissal shall not be subject to arbitration.

#### **Section 9.12**

The parties agree to respond to requests for reasonable and relevant information by providing that information which might assist in resolution of the grievance.

#### **Section 9.13**

Questions as to interpretation of published provisions of law, regulations or policies of authorities outside the Department of the Army will not be subject to the provisions of either this article or article 10 regardless of whether such policies, laws or regulations are quoted, cited, or otherwise incorporated or referenced in this Agreement.

#### **Section 9.14**

Notwithstanding the fact that interpretation of this Agreement may become the subject of a grievance under the procedures of this article, should any question arise concerning the interpretation or application of this Agreement, the parties agree that they shall make a reasonable and good faith effort to resolve such question prior to initiating the procedures of section 9.08 of this article. The parties agree that the time limits provided in section 9.08 shall be suspended during such time as the parties may be engaged in efforts to resolve such question.

#### **Section 9.15**

A grievant may implement the procedures of section 9.08 of this article without Union representation. However, the Employer agrees that the Union shall be entitled to attend both the Step 2 and Step 3 meetings and will afford the Union the opportunity to attend both such meetings. The Step 3 decision shall be final for any grievance pursued by a grievant without Union representation. Such grievant has no entitlement to invoke the arbitration procedures of article 10.

## **Article 10 Arbitration**

### **Section 10.01**

Arbitration may extend to any grievable issue where a party is not satisfied with the resolution of the Article 9 process. However, arbitration may not extend to changes or proposed changes either to this Agreement or to Department of the Army policies and/or regulations.

### **Section 10.02**

All disputes of grievability/arbitrability will be referred to an arbitrator as a threshold question for the arbitrator.

### **Section 10.03**

Arbitration is invoked by either the Employer or the Union notifying the other party of its desire to appeal a grievance to arbitration by a notice hand-delivered or by facsimile. The Employer or the Union may request the services of an arbitrator through the Federal Mediation and Conciliation Service. All expenses incurred in the arbitration process shall be borne equally by the Union and the Employer except that the fee for requesting a list of arbitrators will be borne by the party requesting arbitration. A list of seven arbitrators will be requested. Within 3 weeks of receiving the list of arbitrators, the party requesting arbitration will arrange for a meeting at which the Union and the Employer will alternate eliminating arbitrators from the list starting with the Union. The one name remaining will be the arbitrator selected. Failure of the party requesting arbitration to meet the above time frame will cancel the arbitration.

### **Section 10.04**

The arbitrator's authority is limited to the issue(s) of the grievance as stated in the original grievance submission and modified later, if at all, by mutual consent of the parties. The arbitrator will not have the authority to modify any provision of this Agreement or Department of the Army policies and/or regulations.

### **Section 10.05**

Within seven (7) calendar days of the parties' selection of the arbitrator, the party invoking arbitration will notify the selected arbitrator and request the arbitrator to designate the hearing date for the earliest possible time. The Employer will provide a suitable hearing room on the Employer's premises

### **Section 10.06**

The conduct of the arbitration hearing will be determined solely by the arbitrator, who will have full authority to determine the relevance of requested witnesses and to limit testimony of witnesses or the introduction of documents based on issues of relevance, redundancy, or competence. Transcripts will be made of any arbitration hearing at the request of either party but at the sole expense of the requesting party.

### **Section 10.07**

The arbitrator may rely on notes taken at the hearing, any exhibits entered into the record, a transcript if taken, and post-hearing briefs in order to reach a final and binding decision. All written decisions should include a finding of facts, and an opinion containing the reasoning and basis for the decision.

### **Section 10.08**

The fees and expenses of the arbitrator will be shared equally by the parties.

### **Section 10.09**

Reasonable attorney fees may be awarded in accordance with 5 U.S.C. 5596(b)(1)(A)(ii) where an employee is found to have been subjected to an unjustified or unwarranted personnel action.

### **Section 10.10**

Either party may file an exception to an arbitrator's award with the Federal Labor Relations Authority or the appropriate Court of Appeals within thirty (30) calendar days of the award's issuance. Unless either party is filing exceptions, the arbitrator's decision will be implemented as soon as practicable but no later than thirty (30) calendar days after receipt.

## **Article 11 Negotiations**

### **Section 11.01**

Matters appropriate for consultation and negotiation between the parties are policies, practices, and programs relating to work conditions that are within the discretion of the Employer. Such matters include, but are not limited to, issues involving safety, training, employee services, methods of adjusting grievances, appeals, leave, promotion plans, reductions in grade, pay administration, reduction-in-force practices, hours of work and proposed reorganizations resulting in pay grade reduction, separation, or physical relocation. However, nothing herein shall preclude the parties from negotiating any matter that both parties agree would be an appropriate subject of negotiation or consultation.

### **Section 11.02**

Except for emergency situations, the Employer shall provide the Union advance notice of, and an opportunity to discuss, any decision relative to a matter outside the scope of the Employer's discretion. This provision recognizes the Union's right to request "impact and implementation" negotiations, as appropriate.

### **Section 11.03**

The Employer shall provide advance notice to the Union of any formal survey or study directly related to conditions of employment which survey or study is initiated by the Employer.

### **Section 11.04**

No supervisor shall implement any decision impacting the working conditions of any employee or group of employees without providing advance notice of such decision to the Union.

### **Section 11.05**

The parties agree to provide each other with an advanced copy of all Unfair Labor Practice (ULP) charges seven (7) normal working days prior to filing with the Federal Labor Relations Authority. The purpose of this provision is to provide the parties an opportunity to resolve the applicable issue prior to the filing of a ULP.

### **Section 11.06**

This agreement may be modified or amended to accommodate any agency wide or higher authority change in regulation, directive or policy which may conflict with any provision of this agreement.

## **Article 12 Position Classification**

### **Section 12.01**

Employees are encouraged to review, and to make any comments or recommendations to their immediate supervisors, or other appropriate management officials, regarding the accuracy of their position descriptions. The Employer agrees to review the presentation and advise the employee of the results of its review. The Employer agrees that position descriptions for each new position will accurately reflect, to the extent feasible, the major duties of the position. Position descriptions will be amended, if necessary, by management when the major duties change. The servicing CPAC is available to advise bargaining unit employees and management as to the proper format and content of bargaining unit position descriptions.

### **Section 12.02**

The Union will be notified appropriately after an Employer's decision to reorganize any part of the bargaining unit has been made. Such notice will identify significant changes in the duties and responsibilities of employees occupying positions to be affected by the reorganization, if any. The Employer will also inform the Union when changes in position classification standards result in classification changes which impact bargaining unit employees.

### **Section 12.03**

Employees assigned to positions will be provided a position description.

## **Article 13 Performance Standards**

### **Section 13.01**

Performance management is the systematic process by which the Employer involves its employees, as individuals and members of a group, in improving organizational effectiveness in the accomplishment of the mission and goals. The Employer and the Union, therefore, agree to implement the OPM approved TAPES performance management system to meet the following objectives:

- a. communicate and clarify organizational goals to employees;
- b. identify individual accountability for accomplishing organizational goals;
- c. identify and address developmental needs for individuals;
- d. assess and improve individual and organizational performance;
- e. use appropriate measures of performance as the basis for recognizing and rewarding accomplishments; and
- f. use the results of performance appraisals as a basis for appropriate personnel actions.

### **Section 13.02**

Employees will be given a performance plan within thirty (30) days of beginning of the rating period. Employees are encouraged to participate in the development of the plan. However, the final decision regarding the content of the plan rests with the supervisor.

Performance elements will be in writing and will be consistent with the actual duties and responsibilities assigned to an employee. Employees will not be rated on elements and standards that are not a part of their assigned duties and responsibilities.

Affected employees will be notified in writing of any changes, additions, or deletions to their performance standards.

An employee will be advised in writing of any change in the employees' elements and standards due to a change in duties or to reassignment of the employee to a new position. If there is a change in the rating official, the employee will have an opportunity to discuss and review his/her performance plan with the new rating official.

### **Section 13.03**

Each employee is entitled to a meeting with his/her rating official not less than twice during the rating period for discussion and review of his/her Performance Plan.

### **Section 13.04**

Definitions:

**Performance Plan:** A statement of the expectations of an employee's performance that are established by management.

**Responsibility/Objective:** A major job component that is critical to employee's success. It is objective, measurable and descriptive. Failure to meet a responsibility or an objective could result in removal.

Midpoint Counseling: A formal, required discussion with the employee at the mid-point of the rating cycle. Information is exchanged about expectations and accomplishments to date.

Rating Cycle: The twelve month period identified in the Army performance appraisal regulation for the appraisal of an employee's annual performance.

## **Article 14**

### **Performance Appraisal**

#### **Section 14.01**

TAPES provides for annual appraisals of employee job performance and encourages employee participation in establishing performance standards. The performance appraisal rating period shall normally be twelve months. However, circumstances can exist for which it is not possible to review an employee's performance for the entire twelve month period. Under such circumstances, the employee can be rated for a period of less than twelve months. However, employees can not be rated until they have worked for at least one hundred twenty (120) days under a performance plan.

#### **Section 14.02**

Employee job performance will be evaluated fairly and objectively.

#### **Section 14.03**

Performance shall be assessed solely on accomplishments during the rating period and not on the basis of any prior rating period. Performance shall be monitored throughout the performance period subject to the minimum requirements for performance monitoring and feedback described in the following sections. Feedback is not limited to formal periodic reviews, and is encouraged throughout the rating period.

#### **Section 14.04**

Employees will receive a mid-term review during the annual performance appraisal year.

#### **Section 14.05**

Each employee is entitled to a meeting with the rating official for presentation and discussion of the annual performance appraisal. This meeting presents an opportunity both to review the position description and to clarify any new performance expectations. Employees may add written comments to the performance appraisal and return it to the rating official within five (5) work days. Such employee comments on the back of the appraisal become a part of the appraisal record.

The effective date of the appraisal is the date the appraisal is communicated to the employee by the rating official after having been signed by the reviewing official.

#### **Section 14.06**

The employee is encouraged to sign the performance appraisal upon issuance by the rating official. The employee's signature on the appraisal indicates only that the rating has been discussed with the employee and that the employee has reviewed the appraisal.

#### **Section 14.07**

Throughout the appraisal period, employees should be advised of their performance on an ongoing basis. Employees are to be notified as soon as possible when a decline in performance or any performance deficiencies are observed. In any action taken in connection with unacceptable performance, the rating official will provide as much guidance and assistance as possible to help improve the employee's performance.

#### **Section 14.08**

Non-probationary, non-temporary employees who fail to meet their Responsibilities or Objectives will be informed in writing, provided guidance and assistance, and given a reasonable opportunity to improve their performance all documented within a Performance Improvement Plan (PIP). An employee who fails to improve during this opportunity period will be reassigned, reduced in grade or removed as prescribed by law or regulation.

### **Article 15 Merit Promotion**

#### **Section 15.01**

This article is applicable to all promotions, referrals and selections to positions within the bargaining unit ("unit").

#### **Section 15.02**

Management has the right to fill positions through competitive promotion procedures or from any other appropriate source including but not limited to reinstatement, transfer, reassignment, etc. The right to select also includes the right to non-select unless promotion program violations have occurred. The Employer agrees to adhere to published OPM and Army Merit Promotion procedures when positions are to be filled by promotion from within the unit. Prior to the closing date of an announcement, the Union may provide comments or suggestions whenever a member of the unit is on a referral list for a unit position. Any complaint or issue related to any such submission, or lack thereof, shall not be the subject of a grievance.

Proper promotion actions are essential to assure that the unit is staffed by the best available persons and that employees are receiving fair and equitable consideration. To this end, promotion actions should reflect consideration of the basic duties and responsibilities of the position to be filled; the knowledge, skills and ability required to perform such duties and responsibilities; and other factors such as awards, education, specific training and experience.

The Union and the Employer recognize that discrimination, favoritism and/or pre-selection in the Merit Promotion procedure are detrimental to the unit and should not occur.

#### **Section 15.03**

Positions to be filled by promotion shall be publicized by means of a published Vacancy Announcement prepared by the servicing CPOC and will provide for a period of at least five (5) calendar days within which applications may be filed.

#### **Section 15.04**

When an employee believes that he/she has not qualified for a vacancy due to a procedural error, the employee shall immediately notify the supervisor. Upon notification, the Employer agrees to assist any such personnel to correct an error before selection, if possible.

#### **Section 15.05**

Unsuccessful applicants within the unit listed on the referral will be notified of their non-selection in writing. If agreed to by the selecting official, any non-selected employee may request a meeting with such official. This meeting is strictly for the possible self-development of the non-selected employee, and may not be used to challenge the employee's non-selection or the selection of the successful candidate. The selecting official may suggest improvements or changes that may enhance future promotion opportunities.

#### **Section 15.06**

The Employer will:

- a. Provide a copy of all vacancy announcements to the Union.
  - b. Administer the Merit Promotion Program and assure adequate advice and assistance is provided to supervisors and employees to enable them to discharge their responsibilities in connection with the program.
  - c. Make selection decisions as expeditiously as reasonable after completion of interviews, if conducted.
  - d. Provide advice, upon request, to employees regarding the filing of applications and the regulatory aspects of the Program.
- Employees are expected to:

- e. Apply only for positions that they consider themselves qualified for and in which they have a genuine interest and willingness to accept, if selected.
- f. Assure that applications filed are timely, legible, accurate and in sufficient detail to permit a valid assessment of their qualifications.
- g. Advise their supervisor of the types of job opportunities they are interested in and arrange to be notified in case such opportunities are advertised while on temporary duty or leave.

The Union will bring matters of concern regarding the program to the attention of management as soon as possible in an effort to reach informal resolutions.

#### **Section 15.07**

The Employer agrees to make every reasonable effort to utilize the maximum skills and talents of its employees as a means to maintain high morale and to reduce turnover. Accordingly, consideration will be given to filling vacant positions in the unit with present employees should

they apply. The Union recognizes, however, that other methods of filling vacant positions are available to the Employer to include, but not be limited to, expanded areas of consideration, reinstatement, transfer, re-promotions and selection from registers. All or any of such methods may be used to obtain qualified candidates.

### **Section 15.08**

The referral roster will list all the referred candidates in accordance with Merit Promotion regulations. Each candidate to be interviewed, if interviews are to be conducted, shall be notified of the date, time and place of the interview. If a unit member is unable to attend the interview, he/she shall notify the interviewing official so that proper arrangements may be made to conduct the interview at another mutually convenient day and time.

### **Section 15.09**

Each person being interviewed, if interviews are conducted, will be informed that he or she must furnish the interviewing official with whatever information may be required prior to the interview so as to ensure that all pertinent and current information is available to adequately interview the candidate. Whatever information requested will be requested of all candidates and questions asked generally will be the same for all candidates. However, the Employer may ask follow-up questions as may be prompted by a candidate's answers.

### **Section 15.10**

Selecting officials must familiarize themselves with this article. A copy of the position description for the position being considered will be made available to the candidates upon request.

## **Article 16 Details and Temporary Promotions**

### **Section 16.01**

For the purposes of this article, a detail is a temporary assignment of a bargaining unit employee for a specific period of time to a set of duties and responsibilities, within the bargaining unit, different from the ones permanently assigned. A detail may be at an equal, higher or lower grade level than the employee's permanent position. (There will be no adverse impact on an employee who is detailed to a lower grade.) Upon completion of the detail, the employee returns to his/her permanent position.

Details of more than thirty (30) days are documented on a Standard Form 52, Request for a Personnel Action. Employees to be detailed are to be given as much notice of details as possible, including any changes in performance expectations, pay levels, length of the detail, reporting structure, etc., as well as a copy of any documentation relevant to the detail. If a detail is extended beyond its original length, such an extension will be documented.

### **Section 16.02**

An employee who is assigned to a higher graded position for more than ninety (90) days will be temporarily promoted instead of detailed as long as the employee is otherwise eligible for the promotion. Details to higher graded positions or positions with known promotion potential and temporary promotions longer than one hundred twenty (120) days will be filled through competitive procedures.

#### **Article 17**

### **Reassignments**

#### **Section 17.01**

Employees may request to be reassigned or not to be reassigned at any time. The Employer may consider such requests, but is under no obligation to grant such a request.

When an employee can demonstrate that a significant hardship exists which would be relieved by a reassignment, he/she may exchange positions with another employee who agrees to the exchange so long as they occupy interchangeable positions (same series, title, grade and duties) and management does not present just cause to preclude the reassignment, e.g., a less than fully satisfactory performance appraisal, or substantial workload disruption.

#### **Section 17.02**

An employee who is going to be reassigned will be given as much advance notice as possible.

#### **Article 18**

### **Reduction in Force**

#### **Section 18.01**

Reductions in Force (RIF) will be executed in compliance with this Article and applicable laws and regulations in effect at the time the RIF is conducted.

#### **Section 18.02**

At such time as release of information is permitted, the Employer agrees to notify the Union when appropriate authorities determine that a RIF affecting bargaining unit employees may be necessary. At such time, the Employer will provide the reasons therefore and the proposed effective date.

#### **Section 18.03**

The Employer agrees to minimize the effect on employees, whenever possible, through reassignment, retraining, or restricting recruitment for appropriate vacancies.

#### **Section 18.04**

The Employer agrees to inform affected employees of their rights to grieve a RIF action and of the appropriate procedures to follow.

#### **Section 18.05**

The Employer will provide information to affected employees relative to local employment services; private employment opportunities, if available; unemployment compensation; and other Federal employment opportunities.

### **Section 18.06**

The Union agrees to join with the Employer in communicating accurately to employees of the bargaining unit the basis and reasons for a RIF. In addition, the Union will attempt to answer employee's questions concerning the RIF prior to referring them to the Employer.

## **Article 19 Training and Development**

### **Section 19.01**

Job related training and development of employees is a matter of significant importance to fulfilling the mission of Devens RFTA. Appropriate training and career development of employees, as determined necessary by the Employer and as funds permit, will continue to be provided in order to foster effective and efficient operations. Employees are encouraged to discuss any training they feel is appropriate with their immediate supervisors.

### **Section 19.02**

Employee requests to attend training courses at Devens RFTA facilities during duty hours will be considered and approved in accordance with applicable regulations. Employees may obtain copies of these regulations from their servicing personnel operations branch.

### **Section 19.03**

Employees who have obtained necessary approval from the Employer for training courses outside the Employer's facilities will be reimbursed authorized expenses in accordance with applicable regulations.

### **Section 19.04**

Training will be provided and approved in a fair and equitable manner and in accordance with the need for employee development and management requirements

Each employee should discuss specific or particular skill needs during their performance appraisal discussion.

### **Section 19.05**

The Employer will provide notice of training opportunities as appropriate.

**Article 20**  
**Overtime**

**Section 20.01**

The normal or basic work week shall be 0730 – 1600 hours, Monday through Friday providing for a thirty (30) minute meal break. However, the Employer has the right to alter an employee's work schedule upon providing two (2) week's notice to the employee. Otherwise, any work beyond eight (8) hours per day or forty (40) hours per week shall entitle an employee to overtime or compensatory time (depending on the classification of the employee.)

**Section 20.02**

Assignment of overtime is a function of the Employer. When an employee is required to work overtime, the employee shall be compensated at the prevailing overtime rate or granted compensatory time in accordance with appropriate regulations.

**Section 20.03**

Overtime work assignments shall be distributed equitably among employees consistent with workload requirements and the availability of employees with requisite qualifications and performance capabilities. Preference shall be given to those employees who are currently assigned to the job. If no currently assigned employees are available, consideration will be given to other qualified employees. A supervisor will explain the rationale for overtime assignments to any employee who feels he/she has been denied equitable overtime assignments and requests such explanation. Necessary recordkeeping to assure equitable distribution of overtime will include declinations of offers to work an overtime assignment. An employee's declination will not be used as a factor in performance ratings or in any way be related to a disciplinary action.

**Section 20.04**

It is agreed that any overtime performed by an employee which extends beyond his/her normal eight (8) hour period will entitle the employee to a thirty (30) minute meal period. However, such meal period will not normally occur until a minimum of one (1) hour of overtime is worked or projected. The Employer agrees that employees involved in the performance of overtime work shall be allowed a ten (10) minute rest period during the middle of each consecutive four (4) hour period of work, and a thirty (30) minute meal period after each consecutive four (4) hour period of work. Employees are not normally in a duty status during meal breaks.

**Section 20.05**

The Employer agrees to allow employees who are required to work overtime without prior notice, one (1) phone call to their respective homes at government expense.

**Section 20.06**

The employer will make every reasonable effort to provide at least three (3) days advance notice of an overtime assignment to allow for adjustment of personal commitments. When an overtime

assignment would result in a significant personal inconvenience or financial hardship on the employee, the employer may relieve that employee if:

- a. The employee requests such relief with reasonable advance notice, and
- b. Another employee is available and able to perform the work required without any loss of efficiency.

### **Section 20.07**

The Employer agrees to maintain and make available accurate and pertinent records of overtime to the Union for resolution of employee complaints. If requested by the Union, the Employer agrees to post acceptance and declination of overtime offers where necessary to facilitate equitable distribution of overtime work assignments.

### **Section 20.08**

In lieu of paying for hours worked at the overtime rate, an employee may request to earn compensatory time. Compensatory time earned will ordinarily be used, to the extent accrued, when the employee subsequently requests annual leave. However, an employee may elect and accrue up to twenty-four (24) hours of compensatory time categorized as religious compensatory time which time is not subject to the 26 – pay period limitation on use provisions of applicable regulations and shall not be subject to the provision for use upon a subsequent request for annual leave. Accrual of religious compensatory time must be properly coded (“CR” for time earned and “CA” for time used) on the employee’s time card in accordance with DFAS guidelines for payroll timekeepers for the pay period in which such compensatory time is elected and earned. An employee’s initialing of the time card for the applicable pay period certifies correct coding.

### **Section 20.09**

All call back overtime will entitle all employees to a minimum of two hours overtime pay. Call-in immediately prior to a shift of less than two hours does not constitute call back pay.

### **Section 20.10**

The Employer agrees to provide additional pay for environmental or hazardous work if such assignments meet the criteria for approval in accordance with appropriate regulations.

### **Section 20.11**

Employees separating from government employment or transferring to another activity will be paid for all accrued compensatory time after separation or transfer in accordance with DFAS regulations. Such reimbursement will be at the applicable overtime rate.

## **Article 21 Holidays**

### **Section 21.01**

When the Employer requires the services of employees on an established holiday, the Employer will provide as much advance notice to the affected employees as possible.

## **Section 21.02**

The Employer is responsible for determining which employees will work on holidays. However, if a manager/supervisor determines that the holiday work could be performed just as well by one or more employees within the specific manager/supervisor's work group, the employee from that group who wishes to do the work and who has the most Federal service will be given the assignment. If no employee in that group wants to do the work, the employee with the least Federal service will be given the assignment. These provisions will not apply when holiday work is frequent. In that case, the assignments will be rotated among the interested employees in the group or, if no one is interested, among all employees in the group.

## **Article 22**

### **Absence and Leave**

#### **Section 22.01**

##### **Annual Leave**

A. Earned Annual Leave including leave that will accrue to an employee during the current leave year, or the term of his/her appointment, may be granted at any time during the leave year. However, Annual Leave may not be advanced to an employee contemplating separation or retirement in excess of the amount he/she would normally liquidate while in a pay status.

B. Employees will submit annual leave requests on OPM Form 71 as far in advance as possible. The leave approving official will act upon employee requests as soon as possible, but employees may not be denied annual leave except to meet mission requirements. Once approved, an employee's leave request will not be rescinded except to meet mission exigencies or changes in mission requirements.

C. Conflicting requests for annual leave submitted within two (2) weeks of each other will be de-conflicted on the basis of employee seniority. However, leave approving officials will make a reasonable effort to adjust the employee's and/or the office's work situation to permit employees to be granted annual leave as requested and to use scheduled annual leave once approved. An employee may request a change in selection of annual leave time provided that another employee's choice is not affected.

D. Employees may change annual leave previously authorized to sick leave when sick leave is appropriate or to leave without pay with the leave approving official's approval.

E. Employees will not be forced to take annual leave except as allowed by law.

F. An employee seeking unscheduled annual leave for emergency reasons will ensure that the leave approving official is notified within the first hour of the employee's tour of duty, or as soon thereafter as possible. The employee will attempt to contact the leave approving official directly,

and inform him or her of the anticipated extent of the absence. If the absence extends beyond the anticipated period, the leave approving official will be notified promptly.

G. Annual Leave will be charged in increments of fifteen (15) minutes.

### **Section 22.02**

#### **Annual Leave Transfer**

A. Employees seeking consideration for approval as an annual leave recipient must establish that he/she has been affected by a personal emergency, and that his/her situation will cause him/her to be in a non-pay status for at least ten (10) workdays. In order to be considered for approval as a leave donor, an employee must establish that the amount of leave to be donated does not exceed one-half of the amount of leave that would accrue to him/her during the leave year of the donation; that the amount of use-or-lose leave donated does not exceed the amount of use-or-lose leave that the employee could use in the remainder of the year; and that the leave recipient is not the donor's immediate supervisor.

B. An employee must submit a written request to become a leave recipient or donor. If an employee is not capable of making such a request to become a leave recipient, another employee may do so on his/her behalf.

### **Section 22.03**

#### **Administrative Dismissal**

The Employer, or higher authority, may issue an administrative order dismissing employees from work when emergency conditions exist, when normal operations are interrupted by events beyond the control of the Employer, or when it is in the public interest. Such administrative dismissal will excuse those employees present for duty from work without charge to leave and without loss of pay.

### **Section 22.04**

Upon request, the Employer/supervisor will provide an employee, in writing, the specific reason(s) for denying or rescinding any leave request.

### **Section 22.05**

#### **Leave Without Pay (LWOP)**

A. Leave-without-pay (LWOP) is a temporary nonpay status and an authorized absence from duty which must be requested following the same procedures as for annual or sick leave, as applicable. Generally, LWOP will be issued when the employee has a bona fide need for leave but insufficient annual leave, sick leave, or compensatory time available to cover an approved absence. However, an employee does not have to exhaust annual or sick leave before requesting LWOP. The Employer will grant LWOP to:

- (1) Disabled veterans for medical treatment for a service-connected disability;
- (2) Members of the Reserves or National Guard for military duties; and
- (3) Employees who are eligible for and invoke the Family Medical Leave Act, unless the employee opts to use accrued leave.

B. At the discretion of the Employer, employees may take Leave Without Pay in accordance with applicable laws and regulations. Employees on approved Leave Without Pay shall accrue all rights and privileges, including retirement benefits and coverage under Group Life Insurance and the Federal Employee Health Benefits Program, except as limited by applicable laws and regulations.

C. Employees returning to duty from approved leave will be granted such rights, privileges, and seniorities to which they may be entitled at that time, in accordance with applicable statutes and regulations.

D. Any employee may be granted Leave Without Pay for educational, professional, self-improvement, or personal reasons, for extended periods, upon reasonable notification and reasonable integration with official duties to minimize interruption.

E. At the discretion of the Employer, an employee previously granted Leave Without Pay may be recalled to duty upon a determination by the Employer of a requirement for the employee's services.

## **Section 22.06**

### **Sick Leave**

A. Sick leave is a qualified right of the employee and may be used only for the reasons defined below:

(1) When the employee or one of his or her family members has a medical, dental or optical examination.

(2) When the employee can not work because of a physical or mental illness, injury, pregnancy, or childbirth.

(3) When the employee provides care for one of his or her family members who requires it because of physical or mental illness, injury, pregnancy, or childbirth.

(4) When the employee arranges for or attends a family member's funeral.

(5) When the employee is exposed to a communicable disease.

(6) When the employee adopts a child to include appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel and any other activities necessary to allow the adoption to proceed are covered.

For purposes of the forgoing, the following relatives of employees are considered family members: spouses and their parents; children, including adopted children, and their spouses; parents; brothers and sisters, and their spouses; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

B. When an employee uses sick leave for family member care, the employee may not use annually more than the amount of sick leave earned each year (13 days or 104 hours.) Further, an employee must have a balance of at least 80 hours accrued sick leave before using any more than 5 days or 40 hours of sick leave for the care of a family member during any leave year. The Employer is prohibited from advancing sick leave to meet the required balance.

C. When practical, sick leave requests for non-emergency medical reasons, (e.g. routine medical, dental or optical examinations/appointments or non-emergency operations) should be submitted as far in advance as possible to the appropriate leave approving official. If workload requirements preclude approving the request, the approving official will provide the employee written notice of the disapproval within three (3) duty days following submission of the request.

D. An employee seeking unscheduled sick leave will ensure that the leave approving official is notified within the first hour of the employee's tour of duty, or as soon thereafter as possible in unusual circumstances. The employee should attempt to contact the leave approving official directly, and inform him or her of the anticipated extent of the absence. If the absence extends beyond the anticipated period, the leave approving official will be notified promptly.

E. Sick leave extending more than three (3) workdays shall be verified by the statement of a physician or other licensed practitioner. If a medical statement cannot be obtained because the illness did not require the services of a physician or for other reasons, the employee shall present a written statement explaining the circumstances that support the request for Sick Leave.

F. Medical documentation will not be required normally in order to approve a request for sick leave of three (3) consecutive days or less unless the employee repeatedly fails to follow the procedures for requesting leave or the Employer suspects that sick leave has been abused or used contrary to regulations or this article. In such case, the employee's supervisor will review the procedures for use of sick leave as set forth herein and solicit the employee's explanation for his/her pattern of use of sick leave. If the supervisor determines that the employee has abused sick leave, the supervisor may issue a Leave Use Warning notice requiring the employee to furnish medical documentation or other administratively acceptable evidence for all absences from work which the employee desires to charge to sick leave. Medical documentation or administratively acceptable evidence shall include as a minimum the following as may be applicable to the situation:

- (1) Specific clinical findings and diagnosis,
- (2) A prognosis with an estimate as to when full or partial recovery might be expected, and/or
- (3) A description of any limitations of the normal employment functions of the employee's job description/requirements (ie., sitting, walking, driving, lifting, etc.) which are restricted by the medical condition.

The supervisor has the discretion to require less information as the situation may warrant. The employee will provide the required documentation within fifteen (15) days after returning to duty or the employee shall be placed in another appropriate leave category (Annual, LWOP, AWOL). However, nothing herein shall preclude the Employer from issuing a Return To Duty directive if the employee refuses to return to duty and no medical documentation has otherwise been provided to the Employer specifically precluding a return to duty. During extended periods of absence an employee's failure to keep his/her supervisor updated with status reports, not less than every seven (7) days, will likely result in a termination of sick leave status and issuance of a Return To Duty directive.

Nothing herein shall prohibit the Employer from taking disciplinary action in any situation where evidence exists that an employee has abused his/her Sick Leave. If a supervisor has evidence that a request for sick leave is improper, the request should be denied immediately and may be

revoked after the fact if evidence is obtained subsequent to approval. When a request for sick leave is denied and the employee is not approved to be absent in some other leave category, the employee will be considered AWOL if he/she does not report for duty.

G. A request for advanced sick leave may be considered when all of the following conditions are met:

- (1) The requesting employee is eligible to earn sick leave;
- (2) The leave is required for a serious disability or ailment;
- (3) Continued employment is expected upon the employee's return;
- (4) The employee has provided acceptable medical documentation to support the need for advanced sick leave; and
- (5) The Employer has not issued to the employee a Leave Use Warning notice.

H. A leave approving official, after having received a written request for advanced sick leave, will indicate the decision in writing, and the basis for the decision if the request is denied.

I. Annual Leave may be substituted for Sick Leave in accordance with regulations.

## **Section 22.07**

### **Family Medical Leave**

A. In addition to sick leave as provided above, the Family Medical Leave Act (FMLA) provides eligible employees a total of 12 administrative workweeks of unpaid leave during any 12-month period for: (a) birth of a son or daughter and care of a newborn; (b) placement of a child with the employee for adoption or foster care (c) the care of the employee's spouse, son or daughter, or parent with a serious health condition or (d) a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position. The employee may substitute paid leave as appropriate for leave without pay. As a condition to obtaining the benefits of the FMLA, an employee must:

- (1) invoke the entitlement to family medical leave in advance. If the employee and a personal representative are physically or mentally incapable of invoking the entitlement during the entire period the employee is absent from work for an FMLA-qualifying purpose, the employee may retroactively invoke entitlement within 2 workdays after returning to work. In such cases, the incapacity must be documented by written medical certification from a health care provider. The employee must also provide documentation acceptable to the agency addressing why a personal representative was unable to contact the agency on the employee's behalf; and/or
- (2) where a serious health condition is the basis for the request, provide medical certification of the condition no later than 15 calendar days after the date requested. If it is not practicable under particular circumstances to provide the requested documentation, and the employee has made diligent, good faith efforts to comply, the employee must provide the information within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date requested.

Failure to comply with either of the above conditions disqualifies an employee from benefits of the FMLA.

B. Holidays that occur during the period in which an employee is on family medical leave may not be counted toward the 12-week entitlement. The Employer agrees not to put an employee on family medical leave and will not subtract leave from the family medical leave entitlement unless the Employer has obtained confirmation from the employee that it is the employee's intent to invoke entitlement to leave.

C. The Employer may, at its own expense, require subsequent medical recertification on a periodic basis, but no more than once every 30 calendar days, for leave taken for purposes relating to pregnancy, chronic conditions, or long-term conditions.

D. The 12 workweeks of unpaid leave under the FMLA are in addition to any annual leave, sick leave, or other paid leave or compensatory time off available to an employee. Generally, a supervisor cannot deny sick leave if a medical certificate is provided, but a supervisor can deny annual leave or leave without pay if there is a need for the employee to be at work.

#### **Section 22.08**

Participation in the Blood Donor Program is strongly encouraged. Employees who volunteer as blood donors for blood drives conducted within the Devens community may be excused for the time necessary for this purpose without charge to leave or loss of pay. Normally, the maximum time excused will not exceed 4 hours.

#### **Section 22.09**

The Employer agrees to provide employees with up to seven (7) days of paid leave in a calendar year (in addition to sick or annual leave) to serve as a bone-marrow donor and up to thirty (30) days of paid leave to serve as an organ donor. When such leave is requested, the employee shall submit medical documentation substantiating the request.

#### **Section 22.10** **Military Leave**

A. Military leave is absence from duty in the employee's civilian position without loss of pay to perform military duty. Employees entitled to military leave must be:

- (1) A member of a Reserve or National Guard component;
- (2) On a full-time or part-time work schedule, or an indefinite employee who does not have an intermittent work schedule; and
- (3) Be serving in an appointment that is not limited to one year or less.

B. The Employer must grant military leave, if requested and up to fifteen (15) duty days, to eligible employees for performance of active duty, inactive duty for training and active duty training. A copy of the appropriate documentation establishing the duty must accompany requests for military leave. Such documentation will be forwarded to the payroll office with the Time and Attendance Report. At the conclusion of the military duty, the employee must submit a certification by an appropriate military official as evidence that the military duty was performed.

C. Minimum charge for Military leave will be one (1) hour and can be charged in multiples of the minimum charge. An employee who requests military leave for inactive duty training on a regular duty day will only be allowed the amount of military leave necessary to cover the period of training and necessary travel that coincide with the employee's duty day. Hours in the workday that are not chargeable to military leave must be worked or charged another leave category as appropriate.

**Section 22.11**  
**Jury Duty or Court Leave**

The Employer will grant court leave to employees to perform jury duty in a Federal, state, or municipal court or to serve as a witness in a judicial proceeding to which the United States, the District of Columbia, or state or local government, is a party. Such absence from duty will be without loss of pay or charge to annual leave.

**Article 23**  
**Personnel Records**

The Employer will arrange for the annual distribution of an Employer Master Record (EMR) to all employees during the second quarter of each fiscal year. Employees continue to have a right to review their Official Personnel Folder upon reasonable request.

**Article 24**  
**Health and Safety**

**Section 24.01**

To the extent of its ability and authority, the Employer will provide and maintain a safe and healthy work environment, and in accordance with applicable rules and regulations, make every effort to minimize any safety hazards in the workplace. Notwithstanding, each employee has some responsibility for his/her own safety.

The obligation to know and observe safety rules and practices will become part of training provided by the Employer. The Employer will welcome, at any time, suggestions which offer practical and economically feasible means to improve safety conditions.

The Employer agrees to appoint one (1) Union representative as a designated member of the Safety & Occupational Health Advisory Committee (SOHAC) at the Devens RFTA.

**Section 24.02**

Employees are encouraged to inform the Employer of any unsafe or unhealthy practice, equipment, or condition which might represent a health and/or safety hazard. In addition:

a. Each building occupied by bargaining unit employees shall have an annual health and safety inspection.

b. Work stations shall be inspected upon reasonable request for ergonomic concerns, and requests for the rearrangement and adjustment of existing furniture will be accommodated if deemed appropriate and cost effective by the Employer.

#### **Section 24.03**

The Employer will endeavor to maintain a non-hostile work environment, as may be defined by OPM, and will promptly investigate and remedy any substantiated allegations of a hostile work environment.

#### **Section 24.04**

Employees who are temporarily physically incapacitated and can not perform their assigned duties may voluntarily submit a written request to their supervisor for temporary assignment to duties commensurate with their qualification and abilities. Such a request must contain documentation which addresses the medical basis for, and the expected length of, the proposed temporary reassignment. The Employer shall, to the extent possible, and in accordance with applicable rules and regulations, mission requirements, and medical recommendations, make every reasonable effort to grant such temporary assignments. The Employer retains the right to terminate such temporary assignment and such termination decision shall not be subject to the grievance process.

#### **Section 24.05**

The Employer agrees to assign sufficiently trained personnel to any job of a hazardous nature, as determined by the Employer, to ensure that prompt assistance can be obtained in the event of accident or injury.

#### **Section 24.06**

Transportation and emergency treatment to employees will be provided in cases of on-the-job accident or injury.

#### **Section 24.07**

The Employer will notify the Union of all time-lost accidents that occur at Devens RFTA involving bargaining unit employees at the quarterly SOHAC meetings.

#### **Section 24.08**

The Employer agrees that no employee will be required to lift or operate machinery or equipment which requires physical exertion beyond the physical limits set by the employee's current job description.

#### **Section 24.09**

In accordance with OSHA's Hazard Communication Standards, employees shall be made aware of acute and chronic symptoms of exposure to the toxic substances they come in contact with, as information becomes available.

#### **Section 24.10**

The Employer shall ensure that all employees who work with hazardous materials receive medical attention, including any follow-up examinations which the examining physician determines to be necessary, under the following circumstances:

- a. Whenever an employee develops signs or symptoms associated with a hazardous chemical to which the employee may have been exposed at the work place.
- b. Whenever an event takes place in the work area such as a spill, leak, explosion or other occurrence resulting in the likelihood of a hazardous exposure.

Initial consultations/examinations will normally be performed by the Nashoba Valley Hospital or closest Occupational Health Office and shall be provided without cost to the employee. Additional medical attention by medical practitioners of an employee's choosing may be reimbursed by Federal Employees Health Benefits plans or Office of Workman's Compensation Programs if determined to meet the requirements of that particular program.

#### **Section 24.11**

An employee has the right to refuse to do a job if he/she believes in good faith that he/she may be exposed to an imminent danger. In such case, the employee should inform his/her supervisor or work leader that he/she will not perform the work unless and until the hazard is corrected and ask his/her supervisor or work leader to correct the hazard. In the alternative, the employee should ask for other work. "Good faith" means that even if an imminent danger is not found to exist, the employee had objective reasonable and genuine grounds to believe that it did exist. The term "imminent danger" means any condition or practice in any workplace which can reasonably be expected to cause death or serious physical harm immediately or before there is sufficient time for the imminence of such danger to be eliminated through normal procedures.

#### **Section 24.12**

Employees in travel status are covered twenty-four (24) hours a day under the Federal Employees Compensation Act (FECA) for all activities that are reasonably incident to the employment being performed in such status.

#### **Section 24.13**

The Employer will not normally require an employee to work outside during severe weather conditions unless dictated by mission requirements or an emergency.

#### **Section 24.14**

The Employer will provide Protective Clothing & Equipment (PCE) where and when

necessary in accordance with OSHA standards and Army regulations. PCE includes clothing and equipment needed for the protection of an employee to perform his/her assigned job efficiently under extreme conditions or situations. Extreme conditions or situations include, but are not limited to, those involving heat, cold, wetness, pressure, environmental pollution, or any combination of such conditions.

#### **Section 24.15**

The Employer will make every reasonable effort to maintain adequate rest rooms, potable drinking water, and shower facilities as well as adequate ventilation, heating, and cooling of buildings, in accordance with Army standards and regulations.

#### **Section 24.16**

The Employer agrees to maintain a fire protection program in accordance with Army regulations and applicable sections of the National Fire Protection Association guidelines.

#### **Section 24.17**

Employees may wear official insignia demonstrating bargaining unit membership providing such insignia are within the limits of uniform regulations and do not interfere with safety equipment.

### **Article 25**

#### **Employee Assistance Program**

##### **Section 25.01**

The parties recognize that Employee Assistance Programs offer an invaluable benefit to both the Employer and the employee. Accordingly, to the extent any such program is available to employees of the Bargaining Unit, the Employer agrees that information concerning the program will be posted on all Devens RFTA bulletin boards and that informational materials are made reasonably and discretely available. Employees undergoing a prescribed program of treatments will be granted sick leave or leave without pay for this purpose on the same basis as any other illness when absence from work is necessary and medically documented.

##### **Section 25.02**

Participation in any detoxification, treatment or rehabilitation program is voluntary. The Employer and the Union agree that should an employee request assistance with regard to a substance abuse problem or to any of such programs, all information concerning referral assistance will be provided to the employee as soon as possible.

##### **Section 25.03**

Notwithstanding the above sections of this article, unsatisfactory work performance or conduct due to alcohol or substance abuse shall continue to be the basis for adverse action.

## **Article 26 Travel**

### **Section 26.01**

Normally, no employee will be required to schedule or arrange for travel outside of the employee's regular duty hours. When travel outside the regularly scheduled work week is essential, overtime must be paid to FLSA employees and may be paid to FLSA exempt employees only when the travel:

- a. involves performance of actual work while traveling or driving work equipment such as a shop truck;
- b. is carried out under such arduous and unusual conditions that the travel is inseparable from work; and
- c. results from an event that could not be scheduled or controlled administratively.

### **Section 26.03**

The Employer agrees to reimburse employees when in travel status for per diem and mileage expenses incurred by them in the discharge of their official duties to the maximum extent allowable by law and regulation.

### **Section 26.04**

An employee who is assigned to training or duty away from the employees' regularly assigned post of duty, and who elects to return home during non-work days, will be reimbursed for travel not to exceed the amount reimbursable for the per diem if the employee had remained away from home. The Employer recognizes that extended travel away from home is an uncompensated hardship and an added expense in sustenance and lodging. The Employer agrees to factor in this hardship and added expenses in its weighing of its decision to pay overtime in lieu of extended time away from the home duty station. The Employer will endeavor to approve overtime work within the goals of safety, efficiency and the bounds of fiscal constraints to complete requirements in the shortest number of days away from the home duty station.

### **Section 26.05**

Government travel regulations and Devens RFTA travel policies will be available for employee review at Devens RFTA travel offices and on the Devens RFTA home page.

## **Article 27 Outsourcing Government Requirements**

To the extent allowable by law or regulation and except in the case of emergencies, the Employer agrees that it will endeavor in good faith to provide the Union advance notice of the potential for, or the consideration of, the outsourcing of Government requirements. In such event, the Union shall be afforded a reasonable opportunity to provide input to such

considerations. The Union recognizes, however, that it is ultimately the right of the Employer to make decisions with respect to the outsourcing of requirements which decisions shall not be grievable. The Union also recognizes that directorate chiefs often make outsourcing decisions without prior notice to the Employer. The Union, therefore, acknowledges that its Stewards and bargaining unit members must be instrumental in providing the Union notice of such considerations if the intent and purpose of this article is to be met.

This article shall not apply to outsourcing decisions made by “customers” of the Employer, and shall apply, if at all, only where an outsourcing decision is to be made by the Employer or other Devens RFTA management official.

## **Article 28**

### **Prohibited Personnel Practices**

#### **Section 28.01**

Prohibited personnel practices are those things a Federal employee with “personnel authority” may not do. A Federal employee has “personnel authority” if he/she can take, direct others to take, recommend, or approve any personnel action. Personnel actions include appointments, promotions, discipline, details, transfers, reassignments, reinstatements, or any decisions concerning pay, benefits, and training. A personnel action also includes any significant change in duties, responsibilities, or working conditions, which is inconsistent with the employee’s salary or grade.

#### **Section 28.02**

Employees with personnel authority, as defined above, will not indulge in any personnel practice which:

- a. Discriminates on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.
- b. Solicits or considers any personnel recommendation or statement not based on personal knowledge or records of performance, ability, aptitude, general qualifications, character, loyalty, or suitability.
- c. Coerces an employee’s political activity.
- d. Deceives or obstructs any person with respect to such person’s right to compete for employment.
- e. Influences an employee to withdraw from or enter a job competition for the purpose of improving or injuring the prospects of another person for employment.
- f. Grants any preference or advantage not authorized by law, regulation, or rule to any employee or applicant for the purpose of improving or injuring the prospects of another person for employment.
- g. Employs or advocates a relative.
- h. Retaliates against a Whistleblower, whether an employee or an applicant.
- i. Retaliates against employees or applicants who exercise their appeal rights, testify, or cooperate with an Inspector General or the Special Counsel, or refuse to break the law.
- j. Discriminates based on employee actions not adversely affecting performance.
- k. Violates any law, rule, or regulation implementing or directly concerning the merit principles.

1. Violates Veteran's Preference by taking, or failing to take, a personnel action. (National Defense Authorization Act for FY97)

## **Article 29**

### **Outside Employment**

#### **Section 29.01**

Outside employment is the working of paid jobs outside of normal working hours. Recognizing the possibility of conflicts that may result from working a second job, employees shall inform their supervisors within sixty (60) days of implementation of this agreement or prior to accepting any such outside employment, as applicable.

#### **Section 29.02**

If the supervisor has an objection with the outside employment of any of its employees, the employee may dispute the objection by filing a grievance.

#### **Section 29.03**

Employees must adhere to all statutes and regulations governing participation in outside activities. Generally and subject to the provisions of Section 29.01, employees may engage in outside employment or other outside activity compatible with the full and proper discharge of the duties and responsibilities of their Government employment. Incompatible activities include, but are not limited to:

- a. acceptance of a fee, compensation, gift, payment or expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest;
- b. outside employment which tends to impair the employee's mental or physical capacity to perform assigned Government duties and responsibilities in an acceptable manner; and
- c. outside work or activity that takes the employee's time or attention during the employee's official work hours.

## **Article 30**

### **Temporary Employees**

Temporary employees terminated due to lack of work before the designated expiration date of their appointment, should one exist, will be notified of such action a minimum of seven (7) days prior to such termination date.

## **Article 31**

### **Part-Time Employees**

The Employer will consider employee requests to work part-time. Denials shall be explained in writing upon request, but shall not otherwise be grievable.

## **Article 32**

## **Probationary Employees**

### **Section 32.01**

The parties agree that when the Employer determines that a probationary appointment is to be terminated, it will give the affected employee fifteen (15) workdays' notice of termination, if reasonable and feasible. Such notice shall be in writing and shall state all reasons for the termination.

### **Section 32.02**

Upon request by a probationary employee who has received notice of termination, the immediate supervisor will meet with the employee. The meeting must be held before the employee's appointment is terminated, if possible. If a meeting is held, the employee may be accompanied by a Union representative.

## **Article 33**

### **Adverse Actions**

#### **Section 33.01**

Adverse actions are actions taken by the Employer, in accordance with applicable regulations, against an employee for unsatisfactory performance or violation of law, regulation, rule, standard of conduct, supervisory instruction, safety practice, or unacceptable personal conduct in relationships with others, or like matters.

#### **Section 33.02**

Adverse actions will be taken with the objective of improving performance or with the objective of improving the efficiency of the service and of motivating the employee to comply with the requirements of the Employer, as applicable. Adverse actions will only be taken for just and sufficient cause and the penalty will fit the offense.

#### **Section 33.03**

With respect to disciplinary adverse actions, the parties agree to the concept of progressive discipline designed both to correct and improve employee behavior and to punish. However, each situation warranting discipline must be evaluated individually and, in instances involving serious offenses, progressive discipline may not be appropriate. Generally, however, management's options include:

- a. Oral admonishments/Written Warnings
  - b. Written Reprimand
  - c. Suspensions from duty and pay status
  - d. Involuntary reductions in grade and/or pay
  - e. Removal

#### **Section 33.04**

The Employer agrees to conduct such investigation as may be reasonably necessary and appropriate before initiating any formal disciplinary action against an employee.

### **Section 33.05**

Whenever the examination of a bargaining unit employee by an Employer representative will likely result in disciplinary/adverse action against that employee, the Employer representative will make a good faith effort to inform such employee of his/her statutory right to Union representation.

When an employee being interviewed in connection with an investigation is represented by a Union representative, the role of that representative includes, but is not limited to, the following:

- (a) to clarify the questions;
- (b) to clarify the answers;
- (c) to assist the employee in providing favorable or extenuating facts;
- (d) to suggest other employees who have knowledge of relevant facts; and,
- (e) to advise the employee.

### **Section 33.06**

When an employee is the subject of an investigation, at the start of any interview the employee shall be advised by his/her supervisor of the general nature of the interview. If the employee reasonably expects that disciplinary action may result, the employee may request to be represented by the Union. The employee will subsequently complete the form at Appendix C and request official time within which to seek such representation. If the employee does not request Union representation, the employee will sign or initial such form or memorandum, as the supervisor may present, indicating a waiver of the right to Union representation.

### **Section 33.07**

All adverse actions, other than oral admonishments and written reprimands, will be initiated with a notice of a proposal to take an adverse action which notice shall be delivered to the employee at least three (3) working days prior to a decision.

### **Section 33.08**

Proposals to suspend, reduce in grade or remove an employee will contain language advising the employee of his/her right to be accompanied by a representative when making an oral reply. All notices of decisions for all adverse actions will contain language advising the employee of his/her right to grieve or appeal the decision, as applicable.

### **Section 33.09**

Many factors are relevant for consideration in determining an appropriate penalty for misconduct. The following are offered to guide supervisors in the proper exercise of judgment to foster reasonable consistency within the organization:

- a. the nature and seriousness of the offense, and its relation to the employee's duties, responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- b. the employee's job level and type of employment contacts with customers;
- c. the employee's past disciplinary record;
- d. the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- e. the effect of the offense on the employee's ability to perform at a satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
- f. consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- g. consistency of the penalty with the Department of the Army's guidelines for disciplinary offenses and recommended remedies;
- h. the notoriety of the offense or its impact upon the reputation of the organization;
- i. the extent to which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- j. potential for employee's rehabilitation;
- k. mitigating circumstances surrounding the offense such as unusual job tensions, personal problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- l. the adequacy of alternative sanctions to deter such actions in the future by the employee or others.

### **Section 33.10**

Prior to the notice of decision, the Employer shall, upon request of the employee, provide all written documentation upon which the deciding official intends to rely in formulating his decision to the employee or his/her representative.

### **Section 33.11**

Oral admonishments will not be conducted in any public forum. The admonishment is not grievable and may be considered a factor in future adverse actions.

### **Section 33.12**

A letter of warning/caution from a supervisor to a subordinate is a warning that failure to correct or alter certain behavior or conduct may lead to an adverse action. If warranted, such letters should contain a time limitation for the application of the warning. The letter is not an adverse action; is not grievable; and will not be forwarded for inclusion in an employee's OPF except in conjunction with an adverse action taken as a consequence of said letter. Such warnings may be considered a factor in future adverse actions.

### **Section 33.13**

An employee, against whom an adverse action is taken and which action provides for an appeal to the Merit Systems Protection Board, may elect to appeal the action either through the

grievance procedures established by this Agreement or to the Merit Systems Protection Board in accordance with its rules and regulations, but not both.

### **Section 33.14**

If an adverse action against an employee is reversed through appeal or grievance procedures, all references to the action will be removed from the employee's Official Personnel Folder.

### **Section 33.15**

The Employer agrees that no employees shall be subject to disciplinary action by the Employer for nonpayment of private debts when the validity of debts is in dispute. This shall not apply to public debts such as money due Federal, State, and Local jurisdictions or court orders where validity is presumed. The Employer and the Union recognize that employees have an obligation to honor their valid and just debts, and encourage them to do so. The Employer will not act as a collection agent nor take disciplinary action solely on the allegation of debt by any private individual or firm. The Employer reserves the right to initiate action for failure to pay those debts which have been determined to be valid and just. The Employer will release to any firm or individual, only that information concerning its employees which is required under the Freedom of Information Act, or for which the Employer has obtained written permission of the employee to release.

## **Article 34 Smoking**

### **Section 34.01 Definitions**

Smoking - The activity involving lighted cigar, cigarette, pipe, or tobacco products.

Designated Smoking Areas - An area which is identified by a sign reading, "Designated Smoking Area" and includes the international smoking symbol, where personnel may smoke cigarettes only.

### **Section 34.02**

The Employer will make available, at no cost to employees, smoking cessation clinics for bargaining unit employees who wish to stop smoking.

The employer agrees to maintain smoking shelters in a safe, clean and operational condition.

### **Section 34.03**

The Employer will include in its vacancy announcements the following:

"DEVENS RFTA supports the policy of restricting smoking in all Federal facilities. Smoking is permitted only in designated smoking areas."

#### **Section 34.04**

Occupants of buildings 666, 658, 673 and 674 will use the adjacent smoke shelter as their designated smoking area. Occupants of building 623 will use the adjacent smoke shelter as their designated smoking area. Otherwise smoking is permitted in any outside area other than on any entrance walkway to a building or within fifty (50) feet of any office or billeting building.

### **Article 35**

#### **Duration and Termination**

#### **Section 35.01**

This agreement shall remain in full force and effect for three years from the date it is approved by Department of the Army. It shall be automatically renewed for one year unless either party gives written notice to the other not earlier than eight months before the termination date and not later than six months before the termination date that it desires to terminate, amend, or modify this agreement. Such written notice shall be accomplished by forwarding to the other party any proposed amendments or modifications to the agreement.

#### **Section 35.02**

Should the agreement be renewed for one year, it will be automatically renewed annually unless either party gives written notice to the other not earlier than 105 calendar days and not later than 60 calendar days prior to the new termination date and each subsequent anniversary date that it desires to terminate, amend, or modify this agreement. Such written notice shall be accomplished by forwarding to the other party any proposed amendments or modifications to the agreement.