



National Federation of Federal Employees and  
United States Department of Agriculture, Research,  
Education and Economics, Agricultural Research Service,  
South Atlantic Area



United States Department of Agriculture  
**Agricultural Research Service**

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## **Preamble**

Congress finds that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment and the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

Pursuant to the policy set forth by the Civil Service Reform Act of 1978 and E.O. 13522 regarding Federal Labor-Management Relations, the following articles of this Agreement, together with approved supplemental agreements and/or amendments which may be agreed to at later dates, constitute a total agreement by and between the U.S. Department of Agriculture , Agriculture Research Service, hereafter referred to as the Employer, and the National Federation of Federal Employees (NFFE), Local 1752, hereafter referred to as the Union, for the employees in the Bargaining Units described in Article I, hereafter referred to as the Employees. The Union and the Employer will be jointly referred to as the Parties.

This Agreement is entered into pursuant to the Certification of Representation (42-3891 (RO)) dated October 19, 1977, which granted NFFE exclusive representation rights within the U.S. Department of Agriculture , Agriculture Research Service as clarified by the Federal Labor Relations Authority (FLRA) on October 17,2011 in AT-RP-11-0022.

Employees of the U.S. Department of Agriculture, Agriculture Research Service shall adhere to the Standards of Conduct. It is the intent and purpose of the parties to set forth a Basic Collective Bargaining Agreement which promotes the ethical and merit principles and a common understanding of expectations, personnel policies, procedures, practices and other conditions of employment. The resulting Agreement provides a means for further discussion or adjustment of these matters which facilitates the efficiency of the Government by providing methods for and encourages the amicable, informal/formal and expedient settlement of disputes and grievances involving conditions of employment.

The Parties agree to support, by their actions, all efforts to improve performance and processes, improve the efficient operations of the Government and to promote good will and collaborative relations among the Employer, employees, and the Union.

## **ARTICLE 1 – UNIT DESIGNATION**

**Section 1. Recognition:** The Employer recognizes the Union as the exclusive representative of all Employees of the bargaining unit in Section 2 below as was certified by the FLRA in Case No. AT-RP-11-0022- see Appendix 1. In accordance with the provisions of the Federal Service Labor-Management Relations Statute and all other existing directives, the Union is recognized by the Employer for the purpose of negotiation and the administration of this contract.

**Section 2. Included:** All nonprofessional General Schedule and Wage Grade employees of the South Atlantic Area (SAA), U.S. Department of Agriculture (USDA), Agricultural Research Service (ARS), Research, Education, and Economics (REE), in Florida, Puerto Rico, and the U.S. Virgin Islands

**Section 3. Excluded:** All professional employees, management officials, supervisors, and employees described in 5 U.S.C. sections 7112(b)(2),(3),(4),(6),and (7).

## ARTICLE 2 – DURATION AND CHANGES

**Section 1. Duration:** This Agreement shall remain in full force and effect for a period of three (3) years. The effective date of this Agreement is the date of its approval by the Director of Personnel, U.S. Department of Agriculture or on the 31th day after execution of this Agreement, if the Director of Personnel, U.S. Department of Agriculture, has neither approved nor disapproved the Agreement. The three (3) year time period begins on the effective date, and the effective date serves as the anniversary date referred to in this Article.

**Section 2. Reopening:** This Agreement is subject to reopening in accordance with the rights provided by Federal Service Labor Management Relations Statute, when amendments are required because of enactment or amendment of laws, government-wide rules or regulations, or Executive Orders; and at other times upon mutual Agreement of the Parties. In the event that any provision of this Agreement shall be found or declared to be invalid by a court, or other authority, or by government regulation or decree, such decision(s) shall not invalidate the entire Agreement since it is the expressed intention of the Parties that all other provisions remain in full force and effect for the duration of the Agreement.

**Section 3. Renewals:** This Agreement shall automatically be extended for an additional one (1) year period on the third anniversary date of its approval, and for one (1) year periods thereafter, unless either Party gives written notice to the other, not more than seventy-five (75) days nor less than thirty (30) days prior to the anniversary date, of its intention to renegotiate, modify, or terminate the Agreement. If neither Party serves timely notice, the Agreement shall be renewed for the additional one (1) year period(s).

**Section 4. Effect:** In administration of all matters by this agreement, the parties are governed by applicable laws, government-wide regulations, and agency policy and practices. Any provision of this agreement shall be considered a valid exception to and supersede any agency policies or practices in conflict with the agreement.”

**Section 5. Time Limits:** Unless specified to the contrary, whenever the term “days” is used in this Agreement it shall mean calendar days. In the event a notice or action required by this Agreement is due on a Saturday, Sunday, or Federal holiday, the deadline shall automatically be extended to the next regular business day.

## **ARTICLE 3 - RIGHTS OF EMPLOYER**

**Section 1. Rights:** In accordance with the provisions contained in 5 USC 7106, Management Rights:

A. Subject to subsection II of this section, nothing in this chapter shall affect the authority of any management official of the Agency:

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

B. Nothing in this section shall preclude the Employer and the Union from negotiating:

- 1) at the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work;
- 2) procedures which Management officials of the Agency will observe in exercising any authority under this section; or
- 3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such Management officials.

## **ARTICLE 4 – EMPLOYEE RIGHTS**

**Section 1.** The Parties agree to mutually establish and maintain a safe, positive, and professional work environment that promotes good workmanship, values employees for who they are and what they contribute, ensures consistent treatment of employees, and maintains high standards of employee performance.

### **Section 2. Statutory Rights - 5 U.S.C. Chapter 71:**

A. Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such rights. Except as otherwise provided, such rights include the right to—

- 1) act for the Union in the capacity of a representative and the right in that capacity to present the views of the Union to heads of agencies and other officials of the Executive Branch of Government, the Congress, or other appropriate authorities.
- 2) engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.
- 3) an employee may be represented by an attorney or other representative other than the Union, of the employee's own choosing, in any appeal action not covered under the negotiated grievance procedure. The employee may exercise grievance or appellate rights, which are established by law, rule, or regulation.

### **Section 3. Employee Rights during Investigations:**

A. An employee has the right (commonly known as the Weingarten right) to be represented by the Union during any examination of the employee by a representative of the agency in connection to an investigation if he or she reasonably believes that the examination may result in disciplinary action against him or her and he or she requests representation.

B. During the month of June (or other designated annual time period), Employer will notify employees of the right to have Union representation at any Employer-initiated investigation that the employee feels may result in disciplinary action.

### **Section 4. Outside Activities:**

A. Employees have the right to engage in outside activities and employment of their own choosing and otherwise conduct their private lives as they see fit in accordance with 5 CFR 2635 and 5 CFR 735 and 5 CFR 8301.

B. Without prior approval, an employee may participate in the activities, not prohibited by law or government-wide regulation, of national or state political parties and may participate in the affairs of or accept an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, and non-profit educational and recreational, public service, or civic organization. An employee shall not:

- 1) accept a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which the acceptance may result in or create the appearance of conflicts of interest.
- 2) engage in outside employment that impairs his or her mental or physical capacity to perform his or her job.
- 3) receive any salary or anything of monetary value from a private source as compensation for his or her Government services.

C. All employees, who engage in outside employment, whether or not prior approval is required, are subject to ethics regulations pertaining to conflict of interest. Employees are encouraged to seek advice from their agency ethics advisors on potential conflict of interest situations at any time.

D. Employees have the right to refrain from investing money, donating to charity or participating in uncompensated activities, meetings or undertakings not related to the performance of official duties. Employees may volunteer to participate in activities sponsored or supported by the U.S. Department of Agriculture or the Agriculture Research Service, but are under no obligation to do so.

E. Every individual has the right to be treated with the dignity and respect that is normal in an Employer-employee relationship

**Section 6.** The Employer shall inform employees of the applicable rules, regulations, and policies under which they are obligated to work. This includes sending periodic reminders to employees when deemed necessary by the Employer.

**Section 7. Employee Access to Information:** Employees have a right to access information pertaining to conditions of employment such as laws, rules and regulations published by the Office of Personnel Management, the U.S. Department of Agriculture, etc. These publications or policies are available for employee's to review on the Employer's and other government agencies' websites. Employees will be permitted to obtain a reasonable number of copies of such government publications or documents as necessary without cost.

**Section 8.** The Employer will provide each employee at a minimum access to a lockable drawer or cabinet for the purpose of protection of his/her personal belongings (wallet/purse).

**Section 9. Non-Discrimination:** Both the Employer and Union agree that employees have a right to work in an environment that is free from discrimination on the basis of race, color, creed,

religion, sex, national origin, age, marital status, sexual orientation, physical or mental disabling conditions, political affiliation, or union membership.

## **ARTICLE 5 – UNION RIGHTS AND REPRESENTATION**

**Section 1. Exclusive Representation:** In accordance with the applicable provisions of the Federal Service Labor/Management Relations Statute, the Union has been recognized as the exclusive representative of the employees included in the bargaining units described in Article 1, Unit Designation.

**Section 2. Investigatory Representation:** Upon the election of a bargaining unit employee to exercise his/her Weingarten rights, the Union shall be afforded reasonable notice of and the opportunity to provide a representative for investigatory interviews. Management will make every effort to accommodate such requests.

### **Section 3. Formal Discussions:**

A. The Employer will give the Union President reasonable advance notice of all formal discussions so that the Union may provide representation. The Union representative may actively participate and present the views of the Union during the discussions.

B. A formal discussion is any meeting between one or more representatives of the Agency and one or more bargaining unit employees concerning any grievance or any changes in personnel policy or practices or other general conditions of employment.

### **Section 4. Complaints and Grievances:**

A. The Union has the exclusive right to represent an employee, a group of employees or itself in presenting a grievance. An employee or a group of employees may choose to present a grievance personally, without Union representation. The Union has sole discretion to choose its representative and/or to approve a representative chosen by an employee(s). In such cases, a written delegation will be provided to the Employer by the Union. When an employee(s) personally presents a grievance in accordance with Article 18, Grievance Procedure, the Union will be notified of and given an opportunity to attend any meetings to present, discuss, or resolve the grievance, and upon request, will be provided with any written responses, agreements, or settlements.

B. Only the Union or the Employer may invoke arbitration.

C. Nothing in this Article or Agreement shall preclude an employee from exercising his/her right to a representative of his/her own choosing when exercising a right to a statutory appeal other than a grievance under Article 18, Grievance Procedure.

**Section 6. Protection for Employees:** There will be no restraint, coercion or discrimination against any Union official because of the performance of duties in consonance with this Agreement and the Civil Service Reform Act of 1978 or against any Employee for exercising any right under this Agreement, the Act, or applicable government-wide regulations such as filing a complaint or acting as a witness.

**Section 7. Recognition:** For the purpose of administration of this Agreement, the Employer agrees to recognize representatives of the NFFE National Office in lieu of or in addition to Local officials. NFFE National Representatives and other Union staff members shall be admitted to the ARS facilities, subject to security and safety regulations. Courtesy notification of the visit will be provided to the ARS facility manager or designee in advance by Union officials. National Representatives will be escorted by a local Union representative while on the premises.

**Section 8. Officials and Stewards:** The Union agrees to provide a written list of all officials and stewards on an annual basis during the month of January, and to promptly provide updated written information as changes occur. Official time granted to the Union will be granted in accordance with the provisions of this Agreement. Specific information regarding the use of official time can be found in Article 6, Official Time.

**Section 9. Committees:** The Union may appoint a representative to joint labor-management related committees that exist or are created that address working conditions of bargaining unit employees, such as safety and health, EEO, space, etc. The Union reserves the right to negotiate any changes in conditions of employment resulting from these committees regardless of whether the Union appoints a committee member.

**Section 10. Union-Sponsored Labor Relations Training:**

A. The Parties agree that a bank of hours of official time will be made available to the Local each year to enable Union officials to attend Union-sponsored training. The Parties agree that all training will include emphasis on such things as developing statutory and technical knowledge, mediation skills, interest based negotiation skills, conflict resolution techniques, contract language intent, partnership development, and steward training, as well as like-type sessions that are mutually beneficial to the Parties in promoting effective Labor-Management relations. Training on internal Union administrative items is not appropriate for official time. A bank of hours will be 240 hours for the first year and 120 hours thereafter each year. Any unused time does not rollover.

B. This bank of time is exclusive of any official time for training that is provided by some other provision of this Agreement. The Union agrees that training should be distributed among Union officials in an efficient manner and that each official will not receive more than 40 hours of training per year. The Union shall submit requests for official time to the Employer's Labor Relations Officer and first line supervisor (approval authority) in accordance with the provisions of Article 6 at least 15 days in advance of the training date. Such requests must include

information concerning the content and schedule of such training. Such requests must also include names and duty locations of employees whose attendance is desired. The number of hours in Local 1752's bank may be increased by mutual agreement of both Parties.

**Section 11. Jointly Sponsored Training:** The Parties see value and share a mutual interest in conducting jointly sponsored training on topics relevant to the efficient and effective administration of the Agreement or to develop a common understanding of the agreement. When the Parties agree to do jointly sponsored training, they will put their agreement in writing. The bank of hours referred to in Sections 10 (A) and (B) above shall not be used for Jointly Sponsored Training developed by the Parties.

**Section 12. Bargaining Unit Information:** On a quarterly basis, upon request the Agency will provide a current listing of BUEs to the Union in an Excel spreadsheet with the following information: employee name, pay plan, series and grade, duty title, FLSA code, duty station and office symbol.

## **ARTICLE 6 – OFFICIAL TIME**

**Section 1. Policy:** The Union President, Vice President, the Secretary/Treasurer, and one (1) Steward from each location and bargaining unit employees who are representing the Union on committees, may be approved for the use of official time in accordance with the provisions of this Agreement as outlined below:

A. Purpose. Time spent in an official time capacity will be limited to the preparation for and performance of representational activities. Official time will not be approved for activities which constitute internal Union business such as the collection of dues, signing up members, conducting Union meetings, or electing officers.

Union officials who are employees will be granted a reasonable amount of official time to perform the following representational functions. The actual amount of official time to be used may vary in each situation:

- 1) review Employer's proposals concerning negotiations and changes in policies, practices, and matters concerning working conditions.
- 2) receive, review, prepare, and present grievances,
- 3) handle complaints such as Fair Labor Standards Act, Merit Systems Protection Board, Equal Employment Opportunity Commission, Office of Special Counsel, and Office of Workers Compensation,
- 4) prepare for negotiations,
- 5) negotiate,
- 6) prepare reports required by Section 7120(c) of Chapter 71, Title 5 of the U.S. Code,
- 7) perform other representational and contract administration functions, such as: time spent in meetings with management; communicating with unit employees regarding working conditions and conditions of employment; disseminating labor-management information to bargaining unit employees; representing the labor organization in investigations pursuant to 5 U.S.C. 7114(a)(2)(B); representing the labor organization in formal discussions; participating in Partnership activities; reviewing and studying policies or other matters affecting the unit; researching, preparing; and other related matters,
- 8) contact other Union officers regarding the aforementioned functions.

B. Proper Use. Official time will only be used when the employee would otherwise be in a duty status. If Union assistance is required for a bargaining unit employee on another shift, the Union

representative may be temporarily assigned to that shift as necessary to accomplish representation.

C. Release Procedures for Use of Official Time. Procedures for release are as follows:

- 1) the Union official and his or her supervisor will communicate with each other regarding:
  - a. the type of representation matter (See Section 1.A),
  - b. the approximate length of time needed,
  - c. location, and
  - d. away to contact when away from their normal duty station.

This is not intended to be a barrier to releasing a Union official. Union officials and supervisors may mutually agree on alternate arrangements for release procedures of a continuing nature.

**Section 2.** The Union official will request release as far in advance as practical. If the official cannot be released at the requested time due to work requirements, the official will be released when the workload requirements have been met or other arrangements have been made. If the official cannot be released the day of the request, the soonest time for release will be provided. If a delay in releasing a Union official involves a situation with a contractual time limit, the time limit will be extended equal to the delay. Upon request, the Union will be provided the reason(s) for a delay in release exceeding 24 hours.

**Section 3.** When performing representational functions with employees at other worksites, the Union official will notify the unit head or the immediate supervisor before visiting an employee(s). If the visit would unduly interfere with work requirements, the supervisor shall establish another time at which the Union official can visit the employee.

**Section 4.** The Employer understands that on occasions, such as when an employee is in extreme emotional duress, has been threatened verbally or physically, is the subject of an investigation by a criminal authority, a bargaining unit employee invokes Weingarten rights in a meeting already in progress, the Union representative may need immediate release to perform representational activities. The Employer agrees to approve immediate official time in these types of circumstances whenever possible.

**Section 5.** The Union representative or employee will inform the supervisor of the official time at the time of the approval request, and will provide a location and/or telephone number where he/she may be reached.

**Section 6.** The Union representative will notify the supervisor upon his/her return from official time. If the supervisor is not physically present, the Union representative may leave a voice mail or e-mail message for the supervisor to provide this notification.

**Section 7. Time accounting procedures:** The Union will be authorized and will account for official time. Time and attendance requirements for all Union representatives and bargaining unit employees who are approved for official time must record the time used on their official time and attendance records. The following categories will be used for the reporting of official time:

- a) Term Negotiations
- b) Mid-Term Negotiations
- c) Dispute Resolution
- d) General Labor-Management Relations

**Section 8. Cooperation:** The Parties agree to be flexible in their application of the provisions of this Article while at the same time being diligent in exercising their respective responsibilities to guard against waste, fraud and abuse, and to protect the public trust. If either Party experiences problems with the granting or use of official time or the administration of this Article, either of the Parties may request the use of a mediator and/or file a grievance under the provisions of this Agreement.

**Section 9. Relationship to Performance of Official Position:** The Employer agrees that Union representatives will not be penalized in their performance appraisal for their use of official time consistent with the terms of this Agreement and 5 U.S.C. Chapter 71.

**Section 10. Ongoing Representation:** The Parties agree that it is to their mutual benefit to afford bargaining unit employees an opportunity to meet with Union officials to discuss conditions of employment.

## **ARTICLE 7 - MID-TERM NEGOTIATIONS**

**Section 1. Negotiations:** The Parties agree that changing conditions create a need for either the Employer or the Union to propose midterm negotiations. Either Party may propose changes in conditions of employment not in conflict with this Agreement during its term.

**Section 2. Changes:** If changes in law or government wide rule or government wide regulations, render provisions of this Agreement inoperative or contrary to law or government wide regulation, the Employer will give written notice to the Union and renegotiate the effected provisions as provided by Section 3 below.

### **Section 3. Procedures for Negotiations:**

A. The Employer will provide the Union at least 30 days advanced written notice prior to implementing any proposed new or changes to established personnel policies and practices that are within the authority of the Area Director. Such notices will provide the written details of the change proposed as appropriate. The Union may request a teleconference or meeting if additional information about the change is needed.

B. The Union will submit any written request to bargain within 15 days of receipt of the Employer's notice and may provide any written proposals concerning the proposed change within 30 days from receipt of the Employer's notice. A meeting or teleconference will be scheduled within 10 days to begin negotiations. If the union does not make a written request to bargain within the prescribed time periods above, the Employer may implement the change as proposed. Such written requests and any initial proposals may be sent to the designated agency official within the designated time frames above.

Any written request to bargain should provide the name, email address, and telephone number for the designated Union representative for such negotiations.

C. Extensions of any of these time limits may be done by mutual agreement only and must be documented in writing. Any transmittals of written notices or responses by either Party maybe done by e-mail within the time frames specified to those persons designated in this Article.

D. Employer notices of change will be sent to the Local 1752 President or designee and any request to bargain and/or written proposals from the Union will be sent to the Employer's Labor Relations Officer or designee. The Agency in its initial 30 day notice described in 3(A) above will provide the name and email address and telephone number of the Employer's Labor Relations Officer or designee who is responsible for the proposal and negotiations.

### **Section 4. Supplemental Agreements:**

A. Supplemental Agreements are agreements negotiated during the term of the Agreement.

B. Existing supplemental agreements, not incorporated into this Agreement during term negotiations, remain in effect in accordance with their terms.

C. To be final and binding all agreements reached must be in writing and include at a minimum, the subject matter(s) negotiated, the effective date, the expiration date or term, and be signed by both parties. All agreements are also subject to agency head review under 5 U.S.C. 7114 (c)(1).

**Section 5. Past Practices:** Privileges of employees that by custom, tradition, and known past practice have become an integral part of working conditions shall remain in effect unless modified pursuant to negotiations or such practices conflict with this Agreement, government wide regulation, and/or statutory provision(s). When past practices are inconsistent with a government wide regulation or law that requires an immediate change on or by a specified date, negotiations may occur post-implementation.

**Section 6. Ground Rules:**

A. The Parties acknowledge that it is in their mutual interest to conduct any required negotiations in a cost effective and efficient manner. To that end, the Parties agree that the following ground rules will be observed for any negotiations required under this Article:

B. The Parties agree that the Union shall be entitled to have an equal number of participants as those on the Employer's team. Either Party may also request to have subject matter experts attend when necessary for the subject matter being discussed.

C. The Parties will hold negotiations locally at the affected facility on mutually agreed upon dates and locations. Any negotiations will be held during regular business hours for that facility. The Employer will provide a room and access to a computer and copier and other office equipment where available to use for such negotiations. The Employer will arrange for use of teleconferencing or other communications media when needed and available

**Section 7. Impasses:** In the event of an impasse at any level, either Party may agree to invoke mediation and request assistance from the Federal Mediation and Conciliation Service (FMCS). If the matter remains unresolved, either Party may request impasse resolution assistance from the Federal Services Impasses Panel (FSIP).

**Section 8. Negotiability Disputes:** If the Agency believes a written Union proposal is non-negotiable under 5 USC Chapter 71, they will raise the issue of negotiability in a timely fashion, at the early stages of the negotiation process, so that attempts can be made to cure any negotiability problems. If the negotiability issue cannot be resolved, the Union will be provided, upon written request, with a written statement of the rationale for a claim of non-negotiability. The Union may submit a negotiability appeal to the Federal Labor Relations Authority (FLRA) in accordance with applicable regulations.

**Section 9. Union Initiated Bargaining:** The Union retains its right to initiate mid-term bargaining in accordance with applicable law, rules, regulations, and the terms and conditions of this Article.

## **ARTICLE 8 - DISCIPLINARY AND ADVERSE ACTIONS**

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

- A. The Union and Employer agree that the objectives of disciplinary measures are to correct employee behavior and to prevent the recurrence of misconduct.
- B. The Union and the Employer agree that it is important that the supervisor/employee relationship encourage early recognition and resolution of conduct situations that could lead to disciplinary or adverse action.
- C. When the Employer becomes aware of misconduct by an employee, the employee will be contacted as soon as practicable and instructed to discontinue the misconduct.

**Section 2. Letters of Warning:** A letter that addresses a performance or conduct problem (with the exception of Letters of Reprimand) and will state the specific reasons that gave rise to the letter and will include the employee's grievance rights. A letter of warning can be issued directly and retained by the initiating supervisor in a confidential nonpermanent file and/or in the Human Resources Staff. Letters of warning will remain in effect for a period not to exceed 1 year and may be withdrawn earlier at the election of the supervisor. The original shall be given to the employee to whom it is directed.

### **Section 3. Inquiries and Administrative Investigations:**

- A. The affected employee(s) or Union may request information about the status of an inquiry or administrative investigation at any time, but not the substance. Management will promptly respond to these requests. The response will specify whether the inquiry or investigation has been closed or when closure is expected, if known.
- B. The employee may, in accordance with Article 4, request to be represented by the Union in a disciplinary investigation or inquiry of him/her also known as "Weingarten" rights. Employees are entitled to have their Union representation present at any subsequent meetings with the employee concerning their disciplinary investigation/inquiry. Upon request, they must be given an opportunity to secure his/her representative for such scheduled meetings.
- C. Once the Employer has been notified that the Union is representing the employee(s) in reference to a disciplinary matter affecting him/her, the Employer will notify the representative of any additional meetings with the employee(s) relevant to that employee's disciplinary matter. This notification will allow a reasonable time for the representative to attend the meeting(s). A copy of any correspondence to the employee from Employer will be sent to the employee's Union representative at the same time as it is sent to the employee.
- D. Interviews and inquiries of employees concerning disciplinary matters will be conducted in a private and confidential manner as possible.
- E. Criminal investigations: The provisions of this Article do not apply to criminal investigations.

#### **Section 4. Discipline:**

A. Discipline is defined for the purposes of this article as any action taken against an employee that results in a letter of reprimand, suspension without pay, except for performance based actions taken under 5 CFR 432 and the provisions of Article 19 of this Agreement.

B. Adverse Action is defined as removal, suspension for more than fourteen (14) days, furlough without pay for thirty (30) days or less, or reduction in pay or grade taken under 5 CFR 752.

C. Disciplinary actions or Adverse Actions against employees must be taken for just cause and that will promote the efficiency of the service as provided for by 5 CFR 752, and be done consistent with applicable laws and government wide regulations.

D. Before deciding on a particular penalty, agency officials should consider all the pertinent factors as described in USDA, Department Personnel Manual, 751, Appendix A.

#### **Section 5. Procedures:**

A. Decision Letters for disciplinary actions as defined in Section 4(A) will inform the employee that records of all disciplinary actions will be retained in the agency's official disciplinary case file in accordance with the Employer's policy contained in its Policy and Procedures, No. 461.5. Employees will be afforded access to any closed disciplinary files pertaining to the employee.

B. Letter(s) of Reprimand:

1) Letter(s) of Reprimand are issued directly to the employee and will be clearly titled and sufficiently specific to support the letter being issued and what the employee can do to improve or take needed corrective action. The employee will be advised of his or her grievance rights. The letter will advise the employee that the reprimand will be retained in the Official Personnel Folder (OPF) for a period of one (1) year, unless similar incidents occur during that one (1) year period. At the time it is removed from the OPF, it will be returned to the employee in a confidential manner.

C. Provisions common to all disciplinary cases taken under Title 5, Code of Federal Regulations (CFR), Part 752:

1) In the event an employee is issued a notice of proposed disciplinary action, that employee must be afforded and made aware of all the rights and privileges due him or her under 5 CFR 752 and this Agreement. Upon request, the Employer will provide copies to the employee of the evidence collected by management used to support the proposed disciplinary action.

2) The employee and/or his/her representative will be granted a reasonable amount of official time to prepare an answer to any proposal. Arrangements for use of such time will be made in accordance with the provisions of Article 6 with the employee's supervisor.

- 3) Time limits for the employee's response may be extended upon written request.
- 4) The employee will notify management, in writing, of who their representative is and any changes that may occur. If there are mitigating circumstances where written designation cannot be made prior to a representational need, verbal designation by the employee will be sufficient and the designation will be documented as soon as practicable.
- 5) If the employee chooses to use the negotiated grievance procedure, he or she must represent himself or herself or be represented by the Union.
- 6) Confidentiality. Disciplinary and adverse actions will be accomplished in as private and confidential manner as possible.

D. Disciplinary Actions: Suspensions of fourteen (14) days or less: In addition to Section 5(C) above, the following applies to an individual in the competitive service who is not serving a probationary or trial period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less. Such an employee is entitled to:

- 1) At least fourteen (14) days advanced written notice stating the specific reasons for the proposed suspension.
- 2) A reasonable time, but not less than ten (10) days to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.
- 3) Representation by a union representative, an attorney, or a personal representative.
- 4) A written decision and the specific reasons therefore, at the earliest practicable date.
- 5) The opportunity to grieve the decision through the negotiated grievance procedure contained in Article 18. The written decision shall advise the employee of this right.

E. Adverse Actions: Removal, suspension for more than fourteen (14) days, furlough without pay for 30 days or less, or reduction-in-pay or grade. In addition to Section 5(c) above, the following applies to an individual in the competitive service who is not serving a probationary or trial period under an initial appointment, or who has completed one (1) year of current continuous employment under other than a temporary appointment limited to one (1) year or less; and a preference eligible in the excepted service who has completed one (1) year of current continuous service in the same or similar positions. Such an employee is entitled to:

- 1) At least thirty (30) days advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed (5 CFR 752.404(d)(1)), stating the specific reasons for the proposed action. In such cases, a shorter notice period may be given.

- 2) A reasonable time, never less than fourteen (14) days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed (5 CFR 752.404(d)(1)). In such cases, a shorter reply period may also be given.
- 3) A union representative, an attorney, or a personal representative.
- 4) A written decision and the specific reasons therefore, at the earliest practicable date.
- 5) The decision letter informing the employee of his or her option to appeal an action covered under section 4303 or 7512 of 5 U.S.C. to the appellate procedures of section 7701 of 5 U.S.C. or under the negotiated grievance procedure, but not both, and informing the employee that he or she will be deemed to have exercised his or her option to raise the matter under one procedure or the other at the time the employee timely files a written grievance or files a notice of appeal under the applicable MSPB procedure. If the employee chooses to use the negotiated grievance procedure, he or she must represent himself or herself or be represented by the Union.

**Section 6. Action by the Deciding Official:** After carefully considering the evidence and the employee's response, if any, including any mitigating factors, the deciding official shall decide:

- a) to withdraw the proposed action.
- b) to institute a lesser action.
- c) to institute the proposed action.

**Section 7. Termination of Probationary/Trial or Temporary Employees:** The provisions of this Article do not apply to the termination of probationary/trial or temporary employees.

## **ARTICLE 9 - VOLUNTARY ALLOTMENT OF UNION DUES**

**Section 1.** Any eligible employee may make a voluntary allotment for the payment of dues to the NFFE pursuant to the terms of the agreement between the U.S. Department of Agriculture (USDA) and the National Office, NFFE (See Appendix No. 2, Copy of National Agreement between USDA and NFFE, dated November 2, 2010). The Employer will notify the national point of contact of any changes in the NFFE/USDA agreement.

**Section 2.** Should the agreement between the USDA and the NFFE concerning the voluntary allotment of Union dues not be continued or renegotiated at the time of any expiration date, then the Parties agree that the voluntary allotment of dues will continue until a new agreement between the USDA and NFFE is negotiated.

## **ARTICLE 10 - MERIT PROMOTION PROCEDURES**

**Section 1.** Consistent with the Agency's merit promotion policy, ARS Policies and Procedures, P.P. No. 402.1, and applicable government-wide regulations and law, the Employer agrees to post all vacancy announcements for bargaining unit positions online on the respective ARS/USDA and the OPM websites. Announcement will normally be posted for at least five (5) work days. Applicants for vacant ARS positions shall be advised of the final status of their applications.

## **ARTICLE 11 – POSITION DESCRIPTIONS AND CLASSIFICATION APPEALS.**

**Section 1. Policy:** The Employer has adopted a policy of using standard or generic positions descriptions (PD's) whenever possible to reduce paperwork and simplify personnel processes. Employees and supervisors may include reviewing the employee's PD annually, normally during the performance evaluation process.

If the employee holds a position that must meet certain licensing requirements (e.g., hold a commercial driver's license or pesticide applicator's license) or have any type of medical/physical requirements or screening (e.g., drug testing, vaccination requirements, annual physical, etc.), those special requirements for the position demands will normally be addressed in the PD and/ or performance plans.

### **Section 2. New or Revised Position Descriptions:**

A. When an employee is assigned additional major, regular, and recurring duties that are expected to exceed twelve (12) months or longer and are not reflected in or covered by their position description, the Employer will revise the PD if necessary to reflect the changes in accordance with this Article and provide a copy of the revised PD to the employee.

B. For new employees, or when a new PD has been approved and classified, the supervisor and the employee will review and discuss the PD and how it relates to their performance expectations under Article 19 Performance Appraisals.

### **Section 3. Position Description Review Procedure:**

A. Employee Requests for Position Description Review: Any employee who feels that they are performing duties outside the scope of their PD, or that the PD is otherwise inaccurate, may make a written request to their immediate supervisor. The total aggregate timeframe for the process in (1)–(3) below normally will not exceed sixty (60) days from receipt of a complete PD review package.

- 1) The employee shall make a summary of the inaccuracies and/or additional duties not described. The employee and supervisor will discuss whether or not to submit a new PD.
- 2) If the supervisor agrees that the PD is inaccurate, a proposed PD will be prepared. If further modifications of the proposed PD occur prior to submission for review, the supervisor will discuss the changes with the employee. If there is no agreement, the employee may initiate a position classification appeal as provided below in Section 4.
- 3) After the proposed PD is completed, a PD review package will be prepared and submitted to the Servicing Personnel Office by the supervisor for a classification review. A copy of the review package will be given to the employee. The personnel office will promptly forward the PD review package to the agency's classification authority for action. The

supervisor will provide the employee a copy of any determination and results made by the respective servicing personnel office after their PD review is completed.

#### **Section 4. Position Classification Appeal Procedure:**

A. When the accuracy of a PD has been established under Section 3 and/or the employee believes their position is not properly classified as to title, series, and/or grade, the employee may file a position classification appeal. The employee may submit an appeal to the Department of Agriculture or the U.S. Office of Personnel Management (OPM).

B. When a PD review is initiated by the Employer (for example, new classification standards or supervisor perceives a change in duties), the supervisor will discuss proposed changes to the PD and will consider feedback from the employee prior to submitting the new PD for classification.

C. The Employer will communicate the classification determination to the employee within five (5) days from the time he/she is notified the classification is completed and he/she receives the report. The employee will be given a copy of the reclassified PD, cover sheet, and, if applicable, the classifier's evaluation statement.

D. The employee may request to have Union representation during any discussions between the employee and supervisor/management related to the review of the PD.

E. If the employee is not satisfied with the results of the review procedure, they may only grieve the accuracy of the PD in accordance with Article 18, Grievance Procedure. However, the classification of an employee's position that does not result in the reduction in grade or pay, is excluded from the grievance procedure under Section 4 of Article 18 and may only be raised in the Classification Appeals procedures as addressed in this Article and Section.

#### **Section 5. Actions Following Reclassification at a Higher Grade:**

If a review of a position or PD reveals that there has been an accretion of duties that would result in the classification of a position at a higher grade, one of the following actions will be taken:

A. If Employer decides to retain the grade controlling duties and promote the employee; it will normally be effective within thirty (30) days after the position has been classified at the higher level. Any administrative/approval requirements must be completed during this same time period. In the event the promotion is delayed, the Employer will inform the employee of the reason for the delay and the pay period that the promotion will take effect. If the reclassification is due to a decision by OPM, the required personnel action will be processed in accordance with 5 CFR 511.701.

B. If the Employer decides to eliminate and/or redistribute the grade controlling duties, the employee will be advised in writing of this decision within ten (10) work days of the completion of the review in Section 3 above and be given a copy of the revised PD.

## **ARTICLE 12 – EMPLOYEE DEVELOPMENT AND TRAINING**

**Section 1. Training:** Both Parties recognize the importance of training and employee development to meeting the mission of the Employer and the value of a well trained workforce. The Employer will consider the needs of the program, benefit to the Government, and interests of employees in planning and scheduling employee training. The Employer agrees that the subject of current and future training needs for the safe and efficient performance of the duties of unit employees may be addressed with the Union under the provisions of Article 24 - Labor-Management Partnerships.

**Section 2. Training Announcements:** The Employer will post available training courses online on its agency website – the Aglearn, Learning Management System or its successor. When on-line training is needed and feasible to meet program needs, the Employer will direct employees to use the agency’s Aglearn system or its successor.

**Section 3. Selection:** The Employer retains the right to determine the training methods and means according to program needs, to schedule and assign employees to training, and to determine what level of investment will be made in training of employees.

**Section 4. Individual Development Plans:** All employees and supervisors must complete or update as needed an IDP in accordance with the agency’s Policy and Procedures, P.P. No. 440.1, Employee Training and Development, within 30 days of the annual performance appraisal. The following should be considered by the supervisor and employee along with other relevant information, in developing the IDP:

- a) the identified developmental needs,
- b) the activities proposed to meet the needs,
- c) the dates of the activities, and
- d) any direct costs required to meet the needs (tuition, travel, materials, etc.)

**Section 5. Equal Opportunity:** Selection of employees for training shall be without regard to political preference, race, color, religion, national origin, gender, marital status, age, disability, or sexual preference, and with proper regard for their privacy and constitutional rights as provided by merit system principles set forth in 5 U.S.C. 2301(b)(2). The Employer agrees to provide accommodation for employees with special requirements, such as sign language interpreter(s) from a qualified source, accessibility for wheel chair users, appropriate lighting, etc.

**Section 6. Scheduling:** The Employer will schedule required training so that employees will not have to travel on weekends, unless otherwise required to attend the particular training. The Employer will schedule agency sponsored/controlled training during normal business hours whenever possible. Employees who are scheduled for training can be required to change their work schedules when necessary. The Employer will also consider requests by employees to change their work schedule, if feasible, in order to attend other work-related training approved by the Employer.

**Section 7. Travel and Other Expenses:**

A. In the event, employees are required to travel to attend officially approved work-related training courses, the Employer will reimburse employees for those approved and authorized expenses as provided for by the Federal Travel Regulations (FTR) and applicable agency Policies and Procedures, P.P. No. 342, Per Diem and Actual Subsistence Allowances, and No. 344, Local Travel, as appropriate.

B. Other expenses incurred by employees required to attend officially approved work related training will be paid in accordance with agency Policy and Procedures, P.P. No. 440.0 for Employee Training and Development.

**Section 8. Use of Government Equipment:** The Employer agrees to allow all employees enrolled in officially approved training courses reasonable use of government owned equipment, if available, at the employee's facility at mutually agreeable times during the employee's training subject to operational requirements.

**Section 9. Records:** Copies of the SF 182 (Training Form) for each training course authorized and completed by the employee are kept electronically in the employee's on-line account in the USDA Aglearn system or its successor. Additionally, copies may also be kept in the employee's e-OPF for certain types of training.

## **ARTICLE 13 - HOURS OF WORK, BREAKS, AND OVERTIME**

**Section 1. Introduction:** The Parties recognize the benefits to both employees and the agency to provide both traditional and alternative work schedules for its employees. Work schedule assignments will be based on the nature of the assigned work. Employee requested changes in work schedules must be made in advance and approved by the employee's supervisor to assure work objectives are met. Employees will normally be given ten (10) days advance notice of changes in their work schedules by the Employer, unless shorter notice is needed due to unforeseen circumstances or emergencies.

**Section 2. Work Schedules:** All work schedules, breaks, and overtime will be administered in accordance with applicable laws, regulations, agency policies, and the Parties' agreement. Work schedules will be administered fairly and equitably among all employees in the local unit consistent with the operational needs of that location.

### A. Definitions:

- 1) **Tour of Duty:** Tour of duty is the hours of the day and the days of the week (a daily tour of duty) and the days of an administrative Work week (a weekly tour of duty) that constitutes the employees regularly scheduled administrative work week.
- 2) **Regularly Scheduled Administrative Workweek.** For full time employees, this means the period within the administrative work week established in accordance with 5 CFR 610.111, within which the employee is regularly scheduled to work, including any regularly scheduled overtime hours. For part-time employees, it means the officially prescribed days and hours within the administrative work week during which the employee is regularly scheduled to work.

B. The administrative or basic work schedule for employees shall consist of five (5) consecutive eight (8) hour days and two (2) consecutive days off. The work hours and arrival and departure times are the same each day and must include a 30 minute unpaid lunch break.

C. All scheduled work tours must be scheduled between the hours of 6:00 am and 6:00 pm and be present during designated core hours. In locations that operate seven (7) days a week, employee work schedules will be set according to the operational and coverage needs of that facility.

D. Consistent with applicable law, regulations and agency policy employees may voluntarily participate in the agency's alternative work schedule (AWS) program that includes flexitime and compressed work schedules (referred to as 5-4/9 and 4/10 schedules), subject to meeting

operational requirements and supervisory approval. All options for such schedules may not be available in every location.

E. When an employee is on travel or in training, he/she will be on a regular 8 hour administrative work schedule, unless another work schedule is approved by the supervisor.

F. An employee may be denied initial participation in an AWS or have his/her current AWS be terminated due to a decrease in performance/productivity, failure to follow time and attendance rules, or abuse of official leave policies.

**Section 2. Breaks:** All employees' work schedules will include a thirty (30) minute unpaid lunch break. Employees in the unit will also be granted on fifteen (15) minute paid rest break in the morning and one in the afternoon upon notification to their immediate supervisor. Such rest breaks shall begin no earlier than one (1) hour after the beginning of an employee's tour of duty and one (1) hour after an employee's lunch break. No rest break may begin later than one (1) hour and fifteen (15) minutes before an employee's scheduled lunch break and one (1) hour and fifteen (15) minutes before the end of the employee's scheduled tour of duty. Employees shall delay or reschedule their lunch or rest breaks at the request of their immediate supervisor.

### **Section 3. Overtime:**

A. When a unit employee's supervisor determines that an overtime assignment will last at least four (4) hours, the employee will be granted one fifteen (15) minute rest break for each four (4) hours worked.

B. Overtime work which is anticipated and authorized by a supervisor in advance, but which is not included as a part of an employee's regularly scheduled tour of duty, will be offered to an available qualified employee(s) who would normally be required to perform the work during his/her regular tour of duty. However, when the employee(s) who would normally perform the work declines or is otherwise unavailable, the overtime work will be assigned in the following order among the other available qualified employees:

- 1) Employees of the same grade and job series in the same organizational unit and who are determined qualified by the Employer to do the work will be offered the overtime as equitably as possible.
- 2) If the employee under Section (A) above declines the overtime work, the Employer will take whatever action it determines necessary. Employer retains all rights to determine any work assignments and the employees assigned to perform such assignments.

C. The Employer will maintain records on distribution of overtime in accordance with its applicable agency policies and procedures.

#### **Section 4. Flexible Work Schedules:**

A. The Parties agree that flexible work schedules (FWS's) will be used in accordance with applicable agency policies, Policy and Procedures, P.P. No. 402.3, Flexible Work Schedules, regulations, and law for the purpose of improved productivity and greater service to the public, according to Title 5, United States Code, Sections 6120-6133 (5 U.S.C. 6120-6133). The specific details of the FWS's listed below are a matter of joint discussions, including provisions for required coverage, between the respective supervisor and employee.

#### **B. Definitions**

- 1) **Flexible Work Schedules:** Flexible work schedules are schedules for which an employee may vary the length of his or her workday and/or workweek. Employees on flexible work schedules may earn and use credit hours with supervisory approval. The following are examples of flexible work schedules:
- 2) **Variable Day:** The employee may vary the length of the workday daily. The employee must account for ten (10) days per pay period, at least forty(40) hours per workweek, eighty (80) hours per pay period, and the core hours on each workday. For a part-time employee, the basic work requirement is the number of hours the employee must account for in the administrative workweek and the number of hours the employee must account for in a pay period.
- 3) **Variable Week:** The employee may vary the length of the workweek as well as the length of each workday. The employee must account for ten (10) days per pay period, at least eighty (80) hours per pay period, and core hours on each workday. For a part-time employee, the basic work requirement is the number of hours the employee must work in a pay period.
- 4) **Maxiflex:** The employee may vary the number of hours per day and the number of days per week. The employee must account for at least 80 hours per pay period and the core hours. For a part-time employee, the basic work requirement is the number of required hours the employee must work in a pay period.
- 5) **Basic work requirement:** The number of hours, excluding overtime hours, an employee is required to work or otherwise account for.
- 6) **Tour of duty:** For employees on a flexible work schedule, the tour of duty is the limits within which an employee must complete his or her basic work requirement.
- 7) **Core hours:** The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required to be present for work or otherwise account for his or her time. (See 5 U.S.C. 6122(a)(1).

- 8) Credit hours: Are those hours within a flexible work schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of a workweek or workday. Employees must make a written request and be approved in advance by his/her supervisor to work credit hours. Employees have the option of recording credit hours earned daily or after eighty (80) hours.

C. Tour of duty:

- 1) For employees on a Maxiflex schedule, the tour of duty will fall between 6:00 a.m. to 6:00 p.m. on Sunday through Saturday.
- 2) For employees on Variable Day and Variable Week schedules, the tour of duty will fall between 6:00 a.m. to 6:00 p.m. on 5 consecutive days in each week of the pay period.

D. Core hours:

- 1) The default core hours for employees on Maxiflex schedules will be the three (3) middle days of the employees' RSAW from 9:30 a.m. to 2:30 p.m.
- 2) The default core hours for employees on Variable Day and Variable Week schedules will be 9:30 a.m. to 2:30 p.m. on each day of the RSAW.
- 3) It is understood that deviation from core hours may be granted on a case by case basis with supervisory approval based on work requirements. Supervisors will document in writing deviations from the core hours.
- 4) If the Employer proposes to change the core hours and core days for AWS, it will notify the Union in accordance with the provisions of Article 7, Mid-Term Negotiations.

E. Credit hours:

- 1) Earning of credit hours:
  - a. Credit hours are earned at the election of the employee, but any earning of such hours must be requested in writing and be approved in advance by the supervisor and based on the employee's having sufficient work assignments for the time requested.
  - b. A maximum of twenty-four (24) hours may be used as a credit hour carry-over from one pay period to another for employees on an approved flexible work schedule. Employees on part-time tours may carry over credit hours on a prorated basis of one-fourth of their part-time tour hours.
  - c. Credit hours may not be earned while an employee is in training.

- d. Compensatory time for travel will be earned and used in accordance with applicable agency policies, Policies and Procedures, P.P. No. 402.3, Premium Pay, regulations, and law.
  - e. Employees cannot be forced to earn credit hours that are within the maximum twenty-four (24) credit hour carryover.
- 2) Use of credit hours:
- a. The use of earned credit hours must be scheduled and approved in advance like any other absence from work.
  - b. Credit hours may be earned and used within the same biweekly pay period.
  - c. Credit hours may be used during core hours.

#### **Section 4. Compressed Work Schedules:**

A. The Parties agree that compressed work schedules (CWS's), will be used in accordance with applicable agency policies, regulations, and Title 5, United States Code, Sections 6120-6133 (5 U.S.C. 6120-6133) for the purpose of improved productivity and greater service to the public. The specific details of the CWS's listed below are a matter of joint discussions, including provisions for required coverage, between the respective supervisor and employees.

B. Definition: Compressed work schedules are schedules in which employees may complete their basic work requirement in less than ten (10) days during a pay period. Compressed schedules are fixed schedules, and employees may not vary the time of arrival or departure. Credit hours are not earned or used on a compressed schedule.

C. Approved compressed schedules:

- 1) 4-10: The employee works 4, 10-hour days per week. Employee schedules day off with supervisor. Credit hours are not earned.
- 2) 5-4/9: The employee works 8, 9-hour days with 1, 8-hour day. Employee schedules short day and day off with supervisor. Credit hours are not earned.

D. Employees approved to use 5-4/9 or 4-10 will select, with supervisor approval, their "off" day and/or their "short" day. At the request of the employee, the supervisor may approve a change in the scheduled "off" day during a pay period subject to work demands.

#### **Section 5. Administration of Work Schedules:**

A. Employees may apply for any approved AWS schedule listed above if they meet the criteria as specified in applicable regulations, 5 C.F.R. 610, Subpart D, and law. In reviewing requests for AWS, the Employer may grant, modify, or deny the request, based upon any of the following

criteria below. When an employee requests a particular schedule and the request is denied, upon request the employee or his/her Union representative will receive a written explanation. The employee or the Union has the right to grieve the decision in accordance with Article 18.

- 1) Reduces productivity.
- 2) Diminishes the level of direct or indirect services furnished to customers or operation.
- 3) Increases the cost of operations, other than reasonable administrative costs.

**B. Discontinuation of an employee's AWS:**

- 1) Management may discontinue the AWS for an employee(s) when they have identified an adverse impact to the facility's operation based upon any of the criteria in Section 5(A), above.
- 2) Management may temporarily discontinue or change the type of AWS to avoid unnecessary overtime or other premium pay or extra compensation when known in advance of the administrative work week.

C. Special situations: Employees attending formal training or travel that exceeds 1 day shall be temporarily placed on an administrative schedule consisting of 5, 8 1/2-hour days. Employees are normally scheduled for 8 1/2 hours on each training or travel day.

**Section 6. Rest Breaks:** Authorized rest breaks, not to exceed fifteen (15) minutes approximately midway through each four (4) hour period of the eight (8) hour workday, will be arranged by the employees with the work supervisor, as needed, so as not to interrupt the work of the organization. Additionally, a 15-minute rest period is authorized within each four (4) hour period of overtime worked.

**Section 7. Meal Breaks:**

A. Employees are required to take a minimum of 30 minutes for an unpaid meal break roughly halfway through their schedule on any day that they work more than six (6) hours.

B. Employees who are required to work during their scheduled meal period shall be compensated at the appropriate rate. As to bona fide meal periods, (see 29 C.F.R. No. 785.19).

C. Supervisors may approve a short-term deviation to the requirement that an employee take a meal break on a case-by-case basis.

## **ARTICLE 14 – SAFETY AND HEALTH**

**Section 1.** The Union will be permitted to designate one representative to each location's Safety Committee. The employee designated to serve on the Safety Committee shall not suffer loss of leave or pay while serving in such a capacity.

**Section 2.** The Local's President or his/her designee will be provided a copy of the minutes of all Safety Committee meetings as well as a copy of all reports submitted by location's Safety Officer to the location's Administrative Officer and/or the Area Director or his/her designee.

**Section 3.** Both the Employer and employees shall comply with all Federal, state, local, and agency's safety and environmental regulations and policies and be alert to observe all hazardous equipment and conditions as well as environmental conditions which represent health hazards. If an unsafe or unhealthy condition is observed, employees or their representatives shall report it to the immediate supervisor. The responsible supervisor shall inspect the job to ensure that it is safe before requiring an employee to carry out a work assignment. If the matter is not resolved at this level, the Union may request that the next higher level of management be consulted to resolve the question(s).

**Section 4.** Employees should immediately or as soon as possible inform their supervisor of all injuries or illnesses which occur on the job.

**Section 5.** In the case of a lost-time injury, the Employer shall notify the appropriate Union steward as soon as possible.

**Section 6.** Information on Federal Employee Compensation may be obtained through the Employer's OWCP point of contact (POC) at that location and that POC name shall be posted. However, an employee suffering a job-connected injury or illness and/or his representative may request immediate assistance regarding a claim for compensation for such illness or injury and the Employer will provide such assistance.

**Section 7.** The Employer will make every reasonable effort to assign employees who have suffered a work place injury with lighter duties on a temporary basis if available at the employee's facility or to temporarily telework if eligible when supported by acceptable medical documentation as may be required by OWCP regulations.(see 20 CFR, Part 10)

**Section 8.** When a safety inspection is conducted by the Employer facility, the Union's Local President will given reasonable advance notice and may designate one (1) representative if available to accompany the inspector(s). The representative will normally be the employee serving as a Union representative on the location's Safety Committee. If the designated representative would otherwise be in an active duty status, he/she will request to be released by his/her supervisor and will be permitted official time to participate in the inspection.

**Section 9.** The Employer agrees to provide health information services designed to detect and eliminate job-related health hazards and any other services required by applicable law, regulations, and agency policy.

**Section 10. Safety Meetings:** Each location will hold meetings that address safety topics on regular basis.

## **ARTICLE 15 – USE OF FACILITIES AND SERVICES**

### **Section 1. Union Office:**

A. When an office space is available, the Employer agrees to provide the Union with one (1) office at the location of the elected President of Local 1752 for conducting of union representational duties. Since the location of the Union's President may change due to elections, it is understood that the location of such office space may be negotiated at the local level consistent with the provisions of this Article. Any office space provided by the Employer will be properly lit, air conditioned, and heated as are other offices. The office must be private to the extent possible and must have a lock on the door.

B. The Union's President's office will be furnished with up to three (3) locking file cabinets, a desk, bookcase, chairs, and a telephone. The Employer also agrees that the Union's President's office will be equipped with a computer and a printer, if available. All such furnishings and equipment must be made from available stocks and not incur any additional costs.

C. The Union will have access to the office space at all times the facility is open for operations. Union officials using the office during security hours will continue to comply with all building access requirements and security procedures. The Union President will be provided two (2) keys at the Employer's expense. The Union may procure additional keys for officials of the Union, but must ensure the overall security of the space when doing so.

D. Should the specific space occupied by the Union President's office be required by the Employer for operational needs the Employer agrees to give the Union President as much advance notice as possible, normally not less than thirty (30) days. Any new location of the office, if available, will meet the requirements of this Article to the extent possible and will be identified in the notice to the Union. The Employer will provide boxes necessary to pack Union materials and make arrangements for the movement of Union furnishings to any new location.

**Section 2. Use of Employer's Internal Communications Service:** The Union will be permitted to use the Employer's internal mail distribution service, the e-mail system, and the phone mail system only for those representational purposes as authorized by this agreement and FLMRS Statute under the following guidelines:

A. Use of the Employer's metered or franked mail services is permitted consistent with its Policy and Procedures P.P. No. 263.1, v2, Mail Management Program, for communications with the Employer and other Federal agencies for those representational duties as authorized by this agreement.

B. Use of the Employer's internal communication systems by any Union representatives or employees for representational purposes or official business will conform to the Employer's Employee Standards of Conduct, Policy and Procedures, No. 253.4.v2, Use of Information Technology Resources, and any security requirements. Any use of the internal communications systems for authorized representational purposes is subject to the Employer's operational requirements. Use of any of the Employer's communications systems or equipment for any internal union or personal business is prohibited.

C. Upon request, the Employer agrees to provide the Union quarterly with a listing of bargaining unit employees and their work emails in an electronic format or on a disk.

**Section 3. Newsletter:** The Union will be permitted to distribute its newsletters using the Employer's email system or by hand delivery to all bargaining unit employees during non-duty time and in non-work areas. The production/distribution must be done on non-duty time and using non-government equipment.

**Section 4. Bulletin Boards:** One (1) bulletin board in each facility will be made available for exclusive use by the Union. Access to at least one (1) additional bulletin board will be made available upon request of the Union in other buildings where bargaining unit employees routinely work and where there is an appropriate space available. The minimum size of any new bulletin board needed for the exclusive use of the union will be 36" X 24". Any existing bulletin boards minimum size shall remain the same size-24" X 18". The Parties at the facility may negotiate the placement of any new bulletin board(s) for that location.

**Section 5. Use of Office Equipment:** The Union will be permitted to use Employer designated office equipment and furnishings as necessary to perform employee representational duties as authorized by this agreement to include, computers, telephones, TDDs, facsimile machines, copying or duplicating machines, software, and printers, subject to the operational needs of the Employer for such equipment.

**Section 6. Conference Rooms:** The Union will be permitted the use of the Employer's conference rooms in those facilities with such space only when the use of such rooms does not conflict with their use by employees or by the Employer for official agency business purposes. The Union will make every attempt to schedule the use of the rooms as far in advance as possible. If the rooms are to be used for Union membership meetings or other internal Union business, the rooms will be scheduled for use during non-duty hours. The Union may use available audio-visual equipment upon request. The Union will adhere to all security and housekeeping requirements when using the rooms, and will take necessary precautions to protect any audio-visual equipment provided for their use.

**8. Copies of the Agreement:** The Employer will furnish one (1) electronic copy of this Agreement to each employee upon its implementation by e-mail. The agreement will also be posted in an electronic format on the agency's internal intranet site - the location may be

negotiated by the Parties. Employees may download and print a copy for their use. The electronic posting will be compliant with the Section 508 of the Rehabilitation Act and any applicable agency policies and security requirements for use of its intranet site.

**9. Studies and Surveys:** The Employer will notify the Union of any studies or surveys conditions of employment conducted by the Employer or other Federal agencies in which bargaining unit Employees will participate and that may result in an impact on their conditions of employment. Upon request, the Union will be provided a copy of the results or any final report produced in the same format as that received by the Employer, unless otherwise prohibited by applicable law or regulation.

**10. Interpreting Services:** Upon request by the employee, the Employer will provide interpreting services for hearing impaired employees as necessary to obtain representation or participate in training held by the Union as provided for by this agreement when such services are available.

**11. Use of Government Owned or Leased Vehicles.** Upon request, the Employer may approve the use of a government owned or leased vehicle (GOV), if available, by the Union President or his/her designee when necessary to attend meetings to which his/her attendance is requested by the Employer or to conduct representational activities as provided for by this Agreement. It is agreed that such use can not violate any provision of applicable law, regulations, or this Agreement. No travel or per diem or any other additional compensation is authorized when the use of a GOV is approved, except for gas and tolls necessary for the travel requested.

## **ARTICLE 16 - Orientation of New Employees**

The Parties are committed to orienting new employees to their new work environment in such a way as to offer them the maximum potential for success.

**Section 1.** The Employer will notify the Union's President or his/her designee of new employees via e-mail. The notification will include the employee's name, organizational assignment, telephone number, and reporting date. Notification of the Union will occur as soon as the reporting date is known.

**Section 2.** New employees will be provided a copy of this agreement and a list of current Union officers and stewards (such lists to be provided to the Employer by the Union) or the website where such information can be located on during their orientation session by the Employer.

**Section 3.** The Parties agree that the Union's representative may use up to one (1) hour of official time to conduct an orientation session with new employees on a monthly basis or at the Employer's orientation session in Section 2 above.

## **ARTICLE 17 - EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

**Section 1. Policy:** The Parties shall not in any way discriminate in favor of or against any individual regarding employment or conditions of employment because of race, color, religion, sex, national origin, age, mental or physical disability, marital status, sexual orientation, politics, or any other bases provided by law, rule, regulation, or previous EEO activities. The Parties recognize, support, and agree to adhere to the Zero Tolerance of Discrimination policy established by the Department of Agriculture and the Agriculture Research Service, the Equal Employment Opportunity Act, the Civil Service Reform Act, and other controlling laws and regulations.

**Section 2. EEO Counselors:** The name, location, and phone number of each EEO Counselor will be posted at sites where bargaining unit employees are located. Employees and their representative will be given a reasonable amount of official time to discuss allegation(s) of discrimination with an EEO Counselor in accordance with the official time provisions of this Agreement.

**Section 3. EEO Information:** The Employer will grant the Union access to all published EEO regulations and policies applicable to the Employer upon request.

**Section 4. Service for employees with Disabilities.** The Employer agrees to make reasonable accommodation for employees with physical and mental disabilities in accordance with applicable laws, rules, and regulations.

**Section 5. Committee Members:** The Union may appoint one (1) representative to any local EEO related committee.

## **ARTICLE 18 - GRIEVANCE PROCEDURE**

**Section 1.** The purpose of this Article is to provide a mutually satisfactory and exclusive procedure for consideration of grievances within the scope of this Article.

**Section 2.** A grievance may be undertaken by the Union, the Employer, an employee, or a group of employees. Only the Union or a representative approved by the Union may represent employees in grievances handled under this procedure. Any employee or group of employees in the unit may present grievances to the Employer and have them adjusted without the intervention of the Union as long as the adjustment is not inconsistent with the terms of this Agreement and the Union has been given the opportunity to be present at all formal meetings, including the resolution.

**Section 3. Definitions:**

A grievance is defined as any complaint:

- A. by any employee concerning any matter relating to the employment of the employee;
- B. by the Union concerning any matter relating to the employment of any employee; or
- C. by an employee, Union, or the Employer concerning:
  - 1) the effect or interpretation or a claim of breach of the Agreement, or
  - 2) any claimed violation, misrepresentation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**Section 4. Exclusions:**

Matters excluded from coverage under this procedure:

- A. any claimed violation of subchapter III of Chapter 73, Title 5 USC (relating to prohibited political activities);
- B. any retirement, life insurance, or health insurance;
- C. a suspension or removal under Section 7532, Title 5 USC (relating to national security matters);
- D. any examination, certification, or appointment (Title 5 USC 7121 [c] [4]); non-selection for promotion from a group of properly ranked and certified candidates;
- E. the classification of any position which does not result in the reduction-in-level or pay of any employee;
- F. the terminations of probationary or trial period employees;
- G. reduction-in-force actions

**Section 5.** Failure of the grievant to proceed with a grievance within any of the time limits specified in this procedure shall render the grievance void or settled on the last decision given by the Agency, unless an extension of the time limits has been agreed upon. Failure of the Agency to render a decision within any time limits specified in this procedure or by any extension of the time limits, shall entitle the grievant to take the grievance to the next step without a decision.

**Section 6.** Time limits in this Article may be extended by mutual agreement of the Parties and must be confirmed in writing. Any transmittals of written grievances and/or decisions may be done by electronic means within the time frames specified to those persons designated in this Article.

**Section 7.** All settlement agreement shall be reduced to writing and must be signed by the Parties to be valid.

**Section 8.** Grievances concerning disciplinary decisions are grieved directly to Step 2 within thirty (30) days of the effective date of the decision.

**Section 9.** Employees or their representative may grieve actions effected under 5 U.S.C §7512 (adverse actions- suspensions of 14 days or more or removals) or 5 U.S.C. §4303 (actions based on performance) by filing a grievance under this procedure or they may file an appeal to the Merit Systems Protection Board within 30 days of the effective date of the decision, but not both. All grievances under 5 U.S.C. §7512 and 5 U.S.C. §4303 will be initiated at Step 2 of the grievance procedure within thirty (30) days of the effective date.

**Section 10.** The following procedures are established for the resolution of grievances filed by an employee or a group of employees or by their Union representative:

**Step 1:**

The grievance will be submitted in writing to the employee's first level supervisor or designee within thirty (30) calendar days of the occurrence of the event or action prompting the grievance or the date the grievant(s) became aware of the action. Filing a grievance constitutes an election of forum for the issue(s) stated in the grievance. The grievance shall be in writing and shall provide the following basic information:

- A. the grievant's name(s) and contact information or the Union representative's contact information
- B. the reason(s) for the complaint,
- C. the alleged contract articles, policies, regulations, or laws violated, if known,
- D. the desired relief or remedy.

The supervisor or his/her designee may discuss the grievance with the grievant and his/her representative, make appropriate inquiries, and will issue a written determination on the matter within 20 calendar days of receipt of a grievance. The response will indicate the name of the next level supervisor or designee to submit the grievance at step 2 of the procedure.

**Step 2:**

If the matter is not satisfactorily settled at Step 1, the grievant/Union may submit the grievance in writing to the next level manager/supervisor or his/her designee within fifteen (15) calendar days after receipt of the Step 1 decision or the date when the grievance response was due in the step 1 above. The supervisor will review the grievance and issue a written decision to the grievant within fifteen (15) calendar days after receipt of the grievance.

If the Step 2 decision is unsatisfactory to the employee and the Union, the Union may, within thirty (30) calendar days after receipt of the Step 2 decision or the date when the grievance response was due, make a written request for arbitration of the grievance. Requests for arbitration will be per Section 12.

Copies of all grievance decisions will be provided to the grievant(s) and the Union representative.

**Section 11.** Grievances initiated by the Employer or the Union will be processed in accordance with the following procedures:

The Union or Employer will present the grievance in writing to the other Party within thirty (30) calendar days after the occurrence of the action or incident being grieved or becoming aware of the action or incident. Union initiated grievances will be filed with the ARS Labor Relations Officer. Employer initiated grievances will be filed with Local 1752 President.

The written grievance will contain:

- a. the grievance contact information,
- b. the reason(s) for the complaint,
- c. the alleged contract articles, policies, regulations, or laws violated, if known,
- d. the desired relief or remedy.

The filing Party may request a meeting or a teleconference to discuss the grievance and resolutions. The Party filing the grievance will be furnished a written decision by the other Party within twenty (20) days of receipt of the grievance. If dissatisfied with the decision, the grieving party may request arbitration as specified in Section 12.

**Section 12. Arbitration:** If the Union or Employer is not satisfied with the decision of the Step 2 manager/supervisor or designee or the Union President or designee, it may submit the grievance to arbitration using the procedures below:

A. A written request for arbitration must be made within thirty (30) days of the date of the final decision of the Step 2 deciding official or the date when it was otherwise due. The notice referring the grievance to arbitration must be in writing. The notice(s) and a copy of the grievance(s) to be arbitrated will be sent to the Employer's Labor Relations Officer and a copy to the Area Director. In the case of grievances filed by the Employer, requests for arbitration will be in writing with a copy of the grievance to be arbitrated and will be sent to the Local 1752 President and a copy to the NFFE National Office.

B. Within fourteen (14) days after a request for arbitration is received by the Employer or Union, either Party shall request from the Federal Mediation and Conciliation Service (FMCS) a panel of 7 qualified arbitrators. The Parties will equally split any fees charged by the FMCS for such services.

C. Within fourteen (14) days of the receipt of the panel or by any mutually agreed upon extension, the Parties will select an arbitrator. If there is no mutual agreement, the Parties shall select by alternately striking names. A coin toss will determine who strikes first. If either Party fails to participate in the selection process, the other Party will make a selection from the list.

D. If the Parties are unable to decide the issue to be submitted to the arbitrator, they shall submit a statement which includes their respective positions on the issue(s) contained in the grievance. The Arbitrator shall decide which issue statement is appropriate.

E. A copy of the grievance, any decision, and the request for arbitration shall be sent to the Arbitrator in advance of the hearing by the Employer's Labor Relations Officer. The Arbitrator shall be the sole judge of the procedures to be followed in deciding the grievance.

F. Any grievability/arbitrability issues will be decided as a threshold issue when the grievance reaches arbitration prior to consideration of any other issues by the Arbitrator.

G. The Parties will exchange their respective witness lists and any available documents and/or exhibits at least 14 calendar days in advance of the hearing date. Unit employees who are called as witnesses at a hearing shall suffer no loss of pay, if they are otherwise in an active duty status. The Employer will arrange for release of unit employees to be called as witnesses to attend the hearing upon receipt of the Union's witness list, unless release is prevented by emergency. In such cases, the Union and the arbitrator will be promptly notified. In the event, either Party needs to amend or add to their witness list and/or documents/exhibits to be submitted; they will promptly notify the other Party as soon as possible.

H. All fees and expenses of the Arbitrator shall be borne equally the parties. In the event a Party requests a transcript for its exclusive use, the cost will be paid by the requesting party. If it is mutually agreed to request a transcript, the cost will be shared equally by the Parties. In the event a Party requests a cancellation or postponement of a hearing date, any cancellation fee charged will be paid by the requesting Party, unless mutually agreed upon.

I. If clarification of an arbitrator's decision is necessary, the requesting Party will pay for the additional arbitration fees and expenses. The arbitrator will be requested to complete the clarification within 30 days. If jointly requested, the cost will be shared.

J. The Arbitrator shall confine himself/herself to the issue submitted to arbitration and shall have no authority to add, subtract from, or modify the provisions of this Agreement.

K. The decision of the Arbitrator is final and binding, except that either Party may file exceptions to the award to the FLRA as pursuant to Section 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and Part 2425 of the Authority's Rules and Regulations.

## **ARTICLE 19 - PERFORMANCE APPRAISALS**

**Section 1.** Employees will be evaluated on an annual basis under the ARS Performance Appraisal System. Each employee will be informed of the performance standards and critical elements for his/her position.

**Section 2.** Performance appraisal is a continuing process. It is an integral part of a sound employee/supervisor relationship, involving communication between employee and supervisor concerning requirements of job expectations, the performance necessary to achieve them, and progress in terms of meeting stated objectives. Communication shall include ongoing feedback to the employee about the level and quality of performance. The performance appraisal is a joint process designed to increase constructive communication between the supervisor and employee, and to improve the employee's performance. Performance plans including elements and standards shall be based on the requirements of the employee's position.

### **Section 3. Definitions:**

*A critical element* is one or more duties and responsibilities of a position which contributes toward accomplishing organizational goals and objectives. A critical element is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.

*A noncritical element* is one or more duties and responsibilities of a position which do not meet the definition of a critical element, but is of sufficient importance to warrant appraisal and the assignment of an element rating.

*Performance standard* is a written statement of the expectations and requirements established by management for a critical or noncritical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, manner of performance, and impact of the results. The standards must be objective, reasonable, and attainable.

*A performance plan* is a compilation of the employee's written critical and noncritical elements and performance standards.

*An appraisal* is the act or process of reviewing and evaluating the performance of an employee against the described performance standards, including oral or written progress reviews.

*Appraisal rating period* is the period of time established by an appraisal system during which an employee's performance was or will be reviewed.

*Mid-year Review* is a review of the employee's progress toward achieving the performance standards and is not a rating.

*Performance Improvement Plan (PIP)* is the written plan which provides employees whose performance in one or more critical elements has been determined to be below the Fully Successful level a reasonable period of time to demonstrate Fully Successful performance.

*Summary rating* is the written record of performance, the appraisal of each critical and noncritical element, and the assignment of a summary rating level.

*Annual rating/rating of record* is a written record of the overall performance rating which reflects the summary rating. Annual ratings are pre-scheduled ratings of record and are generally conducted once a year.

#### **Section 4. Performance Plans:**

A. Each employee will be provided an opportunity to participate with the rating official in the development of his or her performance plan.

B. The performance plan is in effect on the date it is signed or given to the employee. If the employee chooses not to sign, the rating official will document the date the plan was given to the employee and it will be in effect. Each employee shall be provided a copy of his or her performance plan on the effective date. Employees cannot be evaluated against their plan until the plan is in effect.

C. The annual rating period is normally 1 October to 30 September. A performance plan must be prepared within sixty (60) days after the beginning of the rating period, or within sixty (60) days after the employee has a significant change in critical result (for example, by reassignment to a position with different duties).

D. Pursuant to 5 U.S.C. 4302, performance standards must, to the maximum extent feasible, permit the accurate evaluation of a job performance on the basis of objective criteria related to the position(s) in question. Performance standards will be written in as common a format as possible. The performance standards and expectations for employees are determined by the Employer.

E. When developing performance plans, the Employer will encourage the input of employees who occupy such positions before implementing such performance plans. Employees shall be provided an opportunity to submit their comments on the plan.

F. Performance plans shall be established and communicated to the employee in writing, normally no later than thirty (30) days after the beginning of the appraisal period. At the time the plan is provided to the employee, the supervisor and employee shall discuss the plan and its elements in an attempt to avoid any subsequent misunderstandings about the expected performance.

G. Employees permanently assigned to a new position with different elements and standards will be issued a new performance plan after entering the new position no later than sixty (60) days.

H. Employees on details expected to exceed one-hundred and twenty (120) days or more may request a written evaluation of their performance accomplishments upon the completion of detail.

I. The minimum period upon which a rating should be based is ninety (90) calendar days of continuous service in a position under the same performance standards.

**Section 5. Progress Reviews:** Progress reviews provide the opportunity to identify and resolve problems in the employee's performance. A progress review is a discussion between the rating official and the employee to review the employee's progress toward achieving critical results, to make any necessary revisions in critical results, and to consider any developmental needs or performance improvement required.

A. A progress review must be conducted whenever the employee reaches the approximate midpoint between the date the employee's performance plan was issued and the end of the appraisal period, unless the length of this period is less than ninety (90) days.

B. Additional progress reviews may be conducted upon request of the employee or as determined necessary by the supervisor.

C. Progress reviews will summarize the employee's performance in comparison to each critical and noncritical element of the performance plan. Any remedial actions may be identified, as appropriate by the supervisor.

D. The employee will initial and date the progress review. If the employee declines to do so, it will be so noted by the supervisor on the form

### **Section 6. Performance Appraisals:**

A. Performance appraisals shall be done in accordance with 5 U.S.C. 4302 and applicable rules, government-wide regulations, and ARS Policy and Procedures, P.P., No. 418.3. Performance plans shall be applied uniformly for like duties in like circumstances for the same positions to the extent possible.

B. Appraisals shall be conducted annually. A copy of the appraisal shall be provided to the employee within sixty (60) days of the close of each employee appraisal period.

C. Employees must work under a performance plan for at least ninety (90) days in order to be appraised. The employee is responsible for promptly making the rating official aware beforehand of any work-related factors outside the control of the employee which impairs his/her achievement of the critical element(s) such as malfunctioning equipment, unpredicted additional work assignments, or any other unforeseen circumstances.

D. The rating official will solicit employee input before completing annual performance appraisals. Employees are encouraged to provide input as a means to ensure the rating official is fully aware of the accomplishments and contributions made by the employee during the performance appraisal period

E. Employees will receive a copy of their performance appraisal (signed by the rating and reviewing official) at the official performance appraisal meeting. At that time, the employee shall be asked to sign that he or she has received the rating (this only signifies that he or she has received a copy, not that he or she agrees or disagrees with the rating).

### **Section 7. Unacceptable Performance Actions:**

A. Definition: An action based on unacceptable performance is defined as the reduction in grade or removal of an employee whose performance is at the unacceptable level in one or more critical elements of the employee's position. This Article applies only to employees who have completed their probationary or trial period. It does not apply to employees serving on a temporary appointment.

B. Procedures: Consistent with Chapter 43 of Title 5 of the United States Code and applicable rules, government-wide regulations, and ARS Policies and Procedures, P.P. Nos. 418.3 and 435.1, actions for unacceptable performance will be handled in the following manner:

1. Because the performance appraisal is a continuing process, the following procedures should be followed at any time during the year when the Employer concludes that an employee's performance on any critical element is below the "meets fully successful" level.

- a) There should be a discussion between the Employer and the employee for the purpose of:
  - i) Advising the employee of specific shortcomings between observed performance in the performance element(s) under scrutiny and the performance standard(s) associated with the particular element(s);
  - ii) Providing the employee with a full opportunity to explain the observed deficiencies; and,
  - iii) Advising the employee of opportunities to attend counseling and training, if appropriate.
- b) After the discussion, the Employer should determine what action is best suited to the particular circumstances. It is understood that unacceptable performance may lead to reassignment, reduction in grade or removal.

**C. Performance Improvement Period (PIP):**

1. Prior to initiating an action to involuntarily remove or downgrade an employee, the employee must be given a written notice of unacceptable performance in one or more critical elements and a PIP of at least ninety (90) days to provide the employee with an opportunity to bring performance to the “meets fully successful” level. This notice will include:
  - a. specific information as to how the supervisor will assist the employee in that effort;
  - b. specific information as to what the employee must do to bring his/her performance to the “meets fully successful” performance level in that period; and
  - c. a statement that the employee’s performance will be evaluated on a biweekly basis whenever possible, but at least monthly during the PIP.
2. During the PIP, the employee will be given the opportunity to work on those portions of the job that are unacceptable, but not to the exclusion of his/her other work assignments. The supervisor will ensure that the employee receives adequate work time in order to improve the area(s) that has been declared “does not meet fully successful” level.
3. Normally within fourteen (14) days after the end of the performance improvement period (PIP), the employee will be notified in writing whether the employee’s performance is at the “meets fully successful” level or whether the performance remains at the “does not meet fully successful level”.
4. If the determination that the employee’s performance remains at the “does not meet fully successful” level, the Employer may reassign the employee upon written notice or propose to remove or reduce in grade the employee.
5. If an employee performs at the “Fully Successful” level for one (1) year or more from the beginning of the notice of opportunity to improve, and the employee’s performance again becomes unacceptable in any critical element. The Employer shall afford the employee an

additional opportunity period to bring his/her performance to the meets “Fully Successful” level before deciding whether to propose reduction in grade or removal.

**Section 8. Proposed Adverse Action Based on Unacceptable Performance:**

A. An employee whose reduction in grade or removal is proposed is entitled to at least thirty (30) days advance written notice which informs the employee:

1. of the nature of the proposed action;
2. of the critical element(s) of the employee’s position involved the determination of unacceptable performance;
3. of the specific instance(s) which demonstrates unacceptable performance by the employee on which the proposed action is based;
4. the time to reply both orally and/or in writing and to whom;
5. the right to be represented by the Union or other representative.

B. The employee will be given the opportunity to respond orally and/or in writing prior to a decision. If the employee elects to make an oral reply, the Employer will make a copy of the oral report and will provide a copy to the employee.

C. If, after full consideration of the facts in the case, it is determined an adverse action is warranted, the Employer will decide whether to remove or reduce in grade the employee. The deciding official shall prepare a decision letter and deliver it to the employee and their union representative, if any. The effective date must be no earlier than thirty (30) workdays after the date on which the employee received the proposed notice and include the following information:

1. Notice to the employee that he/she has the option to appeal the action to the Merit Systems Protection Board (MSPB) or through the negotiated grievance procedure, but not both; and,
2. Notice to the employee that he/she will be deemed to have exercised his/her option to raise the matter under one procedure or the other at the time the employee timely files a written grievance or files a notice of appeal under the applicable MSPB procedure.

**Section 9.** If the employee is the subject of an action based on unacceptable performance and has submitted documentation related to a disability or medical condition in his/her response, the decision letter will inform the employee if he/she has the requisite retirement eligibility and rights and how to apply for such.

## **ARTICLE 20 - LEAVE**

**Section 1. General:** All leave will be scheduled, requested, approved, and used in a manner consistent with applicable agency policies, regulations, and laws. Employees have the right to use accrued leave and, the Employer has the right to approve or disapprove when the requested leave will be used. Leave may be requested and approved in fifteen (15) minute increments. Denial of leave will not be used as discipline. The Employer will use discretion in disclosing the nature of an employee's absence.

### **A. Requesting Leave:**

Except in emergency situations and unforeseeable circumstances, employees must request and obtain supervisory approval before the leave begins. Employees shall submit leave requests (annual, sick leave for planned medical treatment, and leave without pay) as far in advance as possible and will use the OPM Standard Form 71 or the agency's WebTA system when requesting leave for more than three (3) days. Use of WebTA or e-mail is an acceptable form of written request for leave periods less than three (3) days. All leave requests must be made to the employee's first level supervisor or his/her designee. If unavailable, request shall be made to the next level supervisor or manager. Administrative support personnel, time keepers, or co-workers are not authorized to receive or approve employee leave requests.

### **B. Emergency Requests for Leave:**

1. When an employee is unable to report to work because of an unanticipated emergency or illness, he or she will notify the appropriate leave approving official or his/her designee by telephone within two (2) hours of his or her normal reporting time, unless prevented from doing so by circumstances beyond the control of the employee. Employees shall make such requests prior to the commencement of core time whenever possible to assist the supervisor in making alternative plans for work assignments.
2. If the employee's immediate supervisor is unavailable, the employee should contact the next level supervisor by telephone within the above time limits. If there are no supervisors available, a message must be left by the employee and it must contain a phone number where the employee can be readily reached. Approval for leave for emergency situations or illness will be granted when conditions warrant on a case-by-case basis.

### **C. Request for Unscheduled Non-Emergency Annual Leave, Leave Without Pay, Credit Hours or Compensatory Time Off:**

When employees need to call in for approval of an unscheduled absence from work not due to an emergency or illness, he or she must call the appropriate approving official within two (2) hours of the start of their normal work schedule. If the leave approving official is unavailable, employees should contact the next level supervisor or manager. While such requests will

normally be given favorable consideration, the Employer reserves the right to deny such requests and require the employee to report to duty due to operational requirements.

**Section 2. Annual Leave:** Employees have a right to use accrued annual leave, but all such use is subject to management approval when it is to be taken. Consistent with the needs of the Employer, annual leave which is requested in advance will generally be approved.

A. When making non-emergency requests for annual leave, it is not necessary for the employee to provide a reason for the request.

B. In the event that annual leave is denied or previous approval canceled, the employee's supervisor will make every reasonable effort to reschedule the leave at times desired by the employee.

C. Previous approval of annual leave will not normally be withdrawn except in the cases where the Employer has determined the employees services are required or where the employee has failed to meet previously known work commitments.

D. The Employer will explain denial of leave in writing upon request by the employee.

E. If work requirements prevent equally qualified employees within the same work group from being absent simultaneously, conflicts among bargaining unit employees' leave requests will be resolved through seniority based on the employee's SCD date. This procedure should not be used to allow a more senior employee to have the same time period two (2) years in succession when a similar conflict exists for the same time period such as Thanksgiving, Christmas, New Year's. This procedure will also apply when choosing an AWS day off and scheduling use or lose annual leave.

F. Consistent with the work requirements of employees serving as Union officials, they may be granted accrued annual leave, credit hours or compensatory time off, or a combination of the three to attend Union conventions, training and conferences. Up to forty (40) hours of leave without pay (LWOP) may be granted, subject to the work requirements of the employee and must be requested and approved by the supervisor in advance.

### **Section 3. Sick Leave:**

A. Earned sick leave may be used for medical appointments and for illness of the employee and for care of family members. For absences of three (3) days or less, a medical certificate will not be required, unless the employee is under valid sick leave restriction or there is a reasonable suspicion of abuse. For absences due illness of the employee or care of a family member of over 3 consecutive work days will require administratively acceptable evidence (a signed self-certification form – see Appendix No. 3) from employee when a physician's services were not required as appropriate in accordance with Policies and Procedures, P.P. No. 402.6.v.2, Leave Administration, and 5 C.F.R. 630.405. Advanced sick leave may be approved on a case-by-case

basis for serious illness or disability in accordance with applicable agency policies and procedures.

B. If there is reasonable indication that sick leave is being abused, the employee shall be informed in writing, including special provisions for future leave approval. In cases of suspected leave abuse, the employee may be required to provide a medical certificate. (See 5 CFR 630.201).

C. Accrued sick leave will also be granted when the employee provides care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment. The amount of sick leave that can be used is limited by law and regulation (see 5 C.F.R. 630.401(b)) and the Family Medical Leave Act (see 5 C.F.R. 630.1201-1211).

D. Accrued sick leave will be granted when the employee provides care for a family member with a serious health condition, as defined at 5 CFR 630.1202. The amount granted shall be no greater than that limited by government-wide regulations, as defined by 5 C.F.R. 630.401(c).

E. Accrued sick leave can also be used to make arrangements necessitated by the death of a family member or attend the funeral of a family member. The amount of sick leave that can be used is limited by law and regulation (see 5 C.F.R. 630.401(b)).

F. The use of sick leave is appropriate when the employee would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.

G. Employees may use accrued sick leave when they must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

H. For sick leave, the definition of family member means the following relatives of the employee in accordance with 5 C.F.R. 630.902:

- 1) Spouse, and parents thereof.
- 2) Sons and daughters, and spouses thereof.
- 3) Parents, and spouses thereof.
- 4) Brothers and sisters, and spouses thereof.
- 5) Grandparents and grandchildren, and spouses thereof.
- 6) Domestic partner and parents thereof, including domestic partners of any individual in paragraphs (2) through (5) of this definition; and
- 7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

#### **Section 4. Maternity and Paternity Leave:**

A. An absence covering pregnancy and confinement is to be treated like any other medically certified temporary disability. The granting of leave for maternity/paternity reasons may be a combination of as many as three separate kinds of accrued leave: sick leave, annual leave, and leave without pay. The same leave policies, regulations, and procedures will be applied, including the guidelines on advancing leave, as are applicable to requests for leave generally. An employee may use sick leave only for periods of sickness and other incapacitation or for purposes related to the adoption of a child. An employee may use annual leave or leave without pay to care for a healthy newborn or newly adopted child.

B. An employee should make known his or her intent to request leave for maternity/paternity reasons as soon as practical, including approximate dates, to allow the unit to make necessary staffing adjustments. The maternal employee should consult her health care provider regarding any working conditions which she or her supervisor perceives as potentially harmful. The employee should also inform her supervisor of her plans regarding return to work.

C. A pregnant employee will be allowed to work as long as she and her health care provider feel is wise, prior to delivery of the child. Management will make a reasonable effort to adjust working conditions when necessary. Continued employment will be ensured in the same or like position for an employee who wishes to return to work, unless termination is otherwise required by termination of appointment, reduction-in-force, or other unrelated reason. A request for paternal leave should be considered under the general guidelines under the Family and Medical Leave Act and/or annual and sick leave regulations (See 5 C.F.R. 630).

D. This section also applies to adopting parents.

### **Section 5. Family and Medical Leave:**

A. By reference, the provisions of the Family and Medical Leave Act and the policies of its implementing regulations are incorporated into this Agreement. Key components of the Act are contained in Section 3, Sick Leave, and this section. Eligible Employees are entitled to use a total of twelve (12) administrative work weeks of paid leave (e.g., accrued annual leave, sick leave, credit hours, or compensatory leave) (5 C.F.R. 630.1205), or unpaid leave (e.g. LWOP) during any twelve (12) month period for:

B. Eligible employees are entitled to a total of twelve (12) administrative workweeks of unpaid leave during any twelve(12) month period for one or more of the following reasons:

- 1) The birth of a child.
- 2) The placement of a child with the employee for adoption or foster care.
- 3) The care of a spouse, child, or parent of the employee, if such spouse, child, or parent has a serious health condition.
- 4) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

C. To be eligible, an employee must have worked for the Federal Government for at least twelve (12) months (all time worked is counted; it does not have to be continuous or consecutive) and,

for temporary or intermittent employees, he or she must have worked at least 1,250 hours (paid leave and unpaid leave, including FMLA leave, are not included) during the twelve (12) months prior to the start of the FMLA leave.

**Section 6. Military Caregiver Leave:** An employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness can use up to a total of 26 workweeks of leave during a “single 12-month period” to care for the service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. (See 29 C.F.R. 825.124)

**Section 7. Sick Leave Abuse:**

A. The Employer will normally provide a verbal warning when there are concerns regarding leave use by a bargaining unit employee prior to imposing a leave restriction on the employee. The decision whether to impose a leave restriction without a verbal warning will be made on an individual case-by-case basis.

B. If the leave use does not improve after a verbal warning, the Employer may place the employee on leave restriction for a period of three (3) months. The period of leave restriction may be extended for a year, in three (3) month increments, if adequate improvement in leave use has not been achieved by the employee. Notification of leave restriction will be in writing and will include:

- 1) the reasons for imposing the leave restriction;
- 2) any specific requirements for requesting the approval of leave for non-medical reasons;
- 3) any requirement for providing medical certification for subsequent absences when the employee claims they are for medical reasons; and
- 4) the time frame for the leave restriction. Consistent with government wide regulations, the Employer may require medical documentation for absences of three (3) workdays or less when there is evidence that abuse of leave may have occurred regardless of whether or not the Employee is on leave restriction.

**Section 8. Leave Without Pay (LWOP):** The granting of LWOP is an administrative determination and cannot be demanded by employees as a matter of right. Requests for LWOP will be duly considered by the Employer in accordance with applicable laws, regulations, and the provisions of this Agreement. In all cases, the work requirements of the employee's position will be considered in the approval process. Requests for LWOP for fourteen (14) or more work days must be made in writing and must include the reason for the request.

A. Circumstances Appropriate For LWOP.

- 1) Educational purposes
- 2) Service with non-Federal public or quasi-public organizations
- 3) Pregnancy/Paternity Leave

4) LWOP may be requested by an employee for the purpose of temporarily serving as an officer or representative of NFFE, subject to the operational needs of the Employer. Such requests will be made in writing as far in advance as possible.

B. Supervisors may allow employees to use up to twenty four (24) hours of LWOP in a year for the six (6) purposes cited below:

- 1) to participate in school activities directly related to the educational advancement of a child (e.g., parent-teacher conferences, school board meetings, tutoring, interviewing for a new school or child-care facility, and school sponsored activities, such as sports and recreation programs, field trips, class plays, career day, or other volunteer activities supporting a child's educational advancement);
- 2) to accompany their children to routine medical and dental appointments, such as annual check-ups and vaccinations; and
- 3) to accompany their elderly relatives to routine medical or dental appointments or other professional services related to the care of the elderly relative, such as making arrangements for housing, meals, telephone, banking services, and other similar activities.
- 4) The employee is a disabled veteran undergoing medical treatment.
- 5) The employee is a reservist undergoing military training.
- 6) The employee has a claim approved by the Office of Worker's Compensation and the Employer determines the employee will be retained on the rolls during the absence.

C. Union Officials. LWOP may be requested for up to one (1) year for an employee who wishes to serve as an officer or representative of NFFE. Such requests will be made in writing and as far in advance as possible and approval is subject to the employee's work requirements.

D. Impact. Excessive use of LWOP affects the employee's benefits such as within-grade increase waiting period, tenure, leave, and health benefits. Employees should monitor their use and seek the advice of a benefits specialist in the servicing personnel office if they have questions or concerns before requesting LWOP.

**Section 9. Administrative Leave:** At the discretion of the Employer, administrative leave may be granted to employees for participation in such civic activities as civil defense drills, registering to vote, and voting in national, State and municipal elections, and for such other reasons deemed necessary by the Employer or required by law or regulations, such as but not limited to hazardous weather dismissals or closures. Approval of requests for administrative leave will be made in accordance with applicable laws, regulations, and the provisions of this Agreement.

A. Blood Donation Program. The Parties fully support the Blood Donation Program, and to encourage participation, the Employer will generally allow employees who donate blood to take up to four (4) hours of administrative leave, subject to workload requirements and under the following guidelines:

- 1) Employees must notify the appropriate individual to schedule an appointment in order to be granted any administrative leave.

- 2) Credit hours may not be earned on a day administrative leave is taken for blood donations.
- 3) The four (4) hour maximum includes the amount of time it takes for actual donation, but does not include the employee's uncompensated lunch break.
- 4) Employees must record, on sign-in/sign-out sheets, the time they leave to donate blood.
- 5) The leave must be taken on the day blood is donated.

B. Employees are entitled to use up to thirty (30 days) of paid leave in a calendar year (in addition to sick or annual leave) to serve as a bone-marrow or organ donor. This is a statutory right of an employee and cannot be denied by the Employer. Scheduling of such leave will be requested in advance to the employee's supervisor.

**Section 10. Advanced Sick Leave:** The Agency may advance a maximum of 30 days (240 hours) of sick leave to a full-time employee when required for a serious disability or health condition, as defined at 5 C.F.R. 630.1202 of the employee or a family member or for purposes relating to the adoption of a child. Thirty days (240 hours) is the maximum amount of advance sick leave an employee may have to his or her credit at any one time. For a part-time employee, the maximum amount of sick leave an agency may advance must be prorated according to the number of hours in the employee's regularly scheduled administrative workweek.

**Section 11. Court Leave:**

A. Jury Service. Employees who are called for jury duty shall be granted court leave. The employee may only retain payment received for actual expenses incurred. Any other payment to the employee must be surrendered in accordance with the agency applicable policies and procedures (see Policies and Procedures, P.P. No. 402.6.v.2, Leave Administration).

- 1) It is the Employer's policy that as a general rule, requests will not be made to excuse employees from jury duty.
- 2) Court leave is granted for jury service to full-time and part-time employees who are in a pay status. Accrued annual leave, including leave that would otherwise be forfeited, may not be substituted for court leave.
- 3) The period of jury duty from the date stated in the court summons to the date of discharge by the court is charged as court leave.
- 4) An employee excused from jury duty for an entire day, or for a period that would permit the employee to work for at least four (4) hours is expected to return to work unless the return would cause a hardship because of the distance of the court from the residence or place of duty, or unless the employee is assigned to night duty. If employees do not return to work when excused from jury duty, except for the above reasons, annual leave will be charged for the absence from work.

B. Witness Service.

- 1) Official Duty. Employees are considered to be in an official duty status if they are summoned to:

- a) Testify in an official or nonofficial capacity or produce official records on behalf of the United States Government or the District of Columbia, or
  - b) Testify in an official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.
- 2) Court Leave. An employee is granted court leave when summoned to serve as a witness in a judicial proceeding in a nonofficial capacity on behalf of a State or local government or on behalf of a private party when the United States, the District of Columbia, or a State or local government is a party. Court leave is not available when the service in a nonofficial capacity is on behalf of a private party except as indicated above. When court leave is not authorized, the period of witness service is charged as annual leave, leave without pay, comp time, or credit hours.

**Section 12. Military Leave:** The Employer agrees to grant military leave to the fullest extent allowable under applicable regulations and law.

A. Employees who are members of a reserve component of the Armed Forces or a member of the National Guard are entitled to use accrued military leave upon presentation of competent orders. Full-time employees will accrue military leave at a rate of fifteen (15) days on a fiscal year basis and part-time Employees will accrue military leave at a prorated rate which is determined by dividing forty (40) into the number of hours in the regular scheduled workweek of that individual during that fiscal year. On October 1 of each fiscal year, or upon first appointment in the fiscal year, the unused military leave remaining in the employees account from the prior fiscal year (not to exceed fifteen (15) days) plus the military leave to which the employee is entitled for the current fiscal year is credited to the Employees account. This gives full-time employees the potential for thirty (30) days of military leave during a fiscal year.

B. If the employee has exhausted military leave, and is called for duty, any additional period of military service may be charged to accrued annual leave or leave without pay at the request of the employee. Compensatory time off for travel or sick leave may also be utilized when appropriate.

**Section 13. Absence Without Leave (AWOL):** AWOL is absence from duty which is not authorized or approved, including leave which is not approved until required documentation is submitted or for which a leave request has been denied. AWOL, in itself, is not a disciplinary action, but continued use of AWOL can be the basis for disciplinary action up to and including removal from the agency. AWOL is charged in fifteen (15) minute increments.

**Section 14. Restored Leave:** Annual leave that is subject to forfeiture at the end of the leave year can be restored by the Employer in accordance with applicable laws and regulations.

**Section 15. Voluntary Leave Transfer Program:** The Parties fully support the appropriate use of the Employer's Voluntary Leave Transfer Program. Agency requirements will be followed for the request, approval, solicitation and use of transferred leave. The specific reason for the employee's participation will be published only with the employee's permission. Note: A list of approved leave recipients is available via agency's website.

**Section 16. Discretionary Approval of Absence:** The Employer has the authority to and may excuse absences of up to one (1) hour for infrequent absences and tardiness for good cause. The Employer's exercise of this authority will be based on the merits of each case and will be applied in a fair and equitable manner based on similar facts and circumstances at the time.

## **ARTICLE 21 – AWARDS AND RECOGNITION PROGRAM**

**Section 1.** The Employer and the Union agree that substantial benefits will occur through energetic sponsorship and maintenance of an awards program and those awards will be distributed in a fair and equitable manner to qualified employees. The Awards and Recognition Program is designed to encourage all employees to share actively in improving Government operations; enhancing productivity and creativity; and achieving personal job satisfaction through providing timely recognition to those whose job performance and adopted ideas benefit the government and are substantially above normal job requirements.

**Section 2.** The Program shall be administered in accordance with applicable laws, rules, regulations, agency policies and guidance, and the provisions of this Agreement. The Employer will provide the Union with a copy of the current agency policies and guidance or their location on the agency website.

**Section 3.** The Employer will, upon written request, provide to the union an annual list of awards presented which will include organizational location, series, grade, and type of award.

**Section 4.** When an Employee performs exceptionally and is approved to receive an award, the award will be processed promptly and a congratulatory letter or award certificate as appropriate will accompany the award.

**Section 5.** The Awards and Recognition Program allows for the acknowledgment of contributions that lead to achievement of organizational, team, or individual results through the use of monetary awards, non-monetary recognition, and honor awards. Management will schedule an appropriate award presentation for an employee.

A. Monetary awards are cash awards which may be granted to employees recognize an individual or team for achieving organizational results; providing quality customer service; displaying exemplary behavior, dedication, innovation, and/or team cooperation; fostering partnerships; promoting diversity; ensuring safety in the work place; or for sustained exceptional performance, etc.

B. Non-monetary Recognition and Informal Honors are awards which may be granted to employees to recognize superior accomplishment of regularly assigned duties; exceptional achievement of project goals; noteworthy accomplishments over a sustained period; or specific contributions to the organization mission, etc.

C. Honor Awards which may be granted to employees are the most prestigious recognition for career accomplishments, exceptional support of the Department/ARS mission, or for heroism, etc.

## **ARTICLE 22 - TELEWORK**

**Section 1. Policy:** Employees may participate in the agency's telework program in accordance with ARS Policies and Procedures, P.P. No. 402.5v.2, applicable regulations, law, and the provisions of this Agreement. Management will consider an employee's telework request and both must examine the job requirements. Some jobs can be performed almost 100 percent offsite, but most jobs will require a certain amount of time at the office. Jobs that require the employee to perform daily, hands-on services are not adaptable to telework. Management is responsible for deciding if the position is one that is appropriate for off-site work and for examining both the content of the work and the performance and conduct of the employee is suitable. Management may require an alternative work arrangement in unusual circumstances, such as natural disasters or when working conditions that compromise employee safety.

**Section 2. Telework:** The term "telework" or "teleworking" refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of his/her position and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

**Section 3. Eligibility of Employees:** Management should begin with a presumption that all positions are appropriate for telework. Employee participation is voluntary and subject to management approval. An employee is considered suitable for telework if the following four conditions are met:

- a) Employee has an existing performance rating of "Fully Successful" or higher.
- b) Employee has no misconduct, disciplinary (such as letter of caution, letter of reprimand through 14-day suspension or less) or adverse action or leave restriction occurring within the preceding twelve (12) months.
- c) Employee has never been disciplined for viewing, downloading, or exchanging pornography, including child pornography, from a government computer or while performing official Federal Government duties.
- d) Employee has never been officially disciplined for being absent without permission (AWOL) for five (5) days or more in any calendar year.

**Section 4. Written Agreements:** Employees are required to obtain the approval of management, in the form of an approved Telework Proposal/Agreement, before working at a telework center, at home or at another approved location on a recurring, scheduled basis.

**Section 5. Voluntary Participation:** Participation in the telework program is voluntary and is neither an entitlement nor a requirement, except under specific emergency situations as described in the agency's Policies and Procedures, P.P. No. 402.5 v. 2, section 3.3.2 Situational/Unscheduled Work, and section 7.4.6 Unscheduled Telework and Emergency Situations.

**Section 6. Salary and Benefits:** Salary and benefits will not change if the employee is approved for participation in the telework program.

**Section 7. Time and Attendance:** The employee will transmit their Time and Attendance Report to their supervisor at the end of the pay period, not later than the Tuesday following the end of the pay period. The supervisor will certify the time and attendance hours worked at the official duty station and the alternate workplace and forward to the proper pay processing organization no later than the Tuesday following the close of the pay period.

**Section 8. Leave:** Employee must make any request for leave in advance with his/her supervisor or appropriate authorizing official during the scheduled telecommuting work hours in accordance with the provisions of Article 19, Leave.

**Section 9. Overtime:** Overtime or any other premium pay will be worked only when ordered or approved by the supervisor in advance. Working overtime without such approval may result in termination of this telecommuting privilege and/or other appropriate action.

**Section 10. Performance:** The supervisor establishes work output requirements, as appropriate, and may require regular status reports. If work output and/or quality requirements are not being met, the employee's telecommuting agreement may be modified or changed by the supervisor. A performance rating of Less than Fully Successful will be grounds for canceling the employee's Telecommuting Work Proposal/Agreement.

**Section 11. Programmatic Changes:** If participation in the telework program interferes with organizational and/or programmatic needs, the telework agreement may be cancelled with proper notification.

**Section 12. Equipment and Supplies:** Equipment and supplies will be handled in accordance with ARS Policies and Procedures, P.P. No. 402.5 v. 2.

**Section 13. Telework Area:** The designated work area should be adequate for the performance of official duties.

**Section 14. Alternative Workplace Costs:** The Employer will not be responsible for any operating costs that are associated with the employee using his or her home as an alternative work site, for example, home maintenance, insurance, or utilities. However, the employee does not relinquish any entitlement to reimbursement for authorized expenses incurred while conducting business for the Government, as provided for by applicable agency policy, regulations, and law.

**Section 15. Injury Compensation:** Federal Employee's Compensation Act provisions apply to persons performing official duties at the official duty station or the alternate worksite. The supervisor must be notified immediately of any accident or injury that occurs at the alternate worksite. The supervisor or designated official will investigate such a report immediately.

**Section 16. Disclosure:** Employees are responsible to insure that any government records or data are protected from unauthorized disclosure or damage and comply with requirements of the Privacy Act of 1974.

**Section 17. Standards of Conduct:** Federal standards of conduct apply to all employees working at an alternative work site.

**Section 18. Cancellation:** After appropriate advance notice, normally seven (7) days, to the supervisor, the employee may resume working his or her regular schedule at the official duty station. After appropriate advance notice, normally seven (7) days, to the employee of work-related changes or circumstances, the supervisor may require the employee to resume working a regular schedule at the official duty station.

**Section 19. Other Actions:** Nothing in this agreement precludes the Agency from taking any appropriate disciplinary or adverse action against an employee who fails to comply with the provisions of this agreement.

**Section 20. Training:** As determined by the Employer, an interactive telework training program will be provided to:

A. employees eligible to participate in the telework program of the agency;

B. all supervisors of teleworkers

**Section 21. Security:** All employees must have satisfied the most recent annual training requirement, as determined by the Employer, for Information Security Awareness and Personally Identifiable Information and Rules of Behavior training or its successor in order to be approved to telework to ensure that proper safety issues are addressed; the employee must protect government data/documents from unauthorized access or disclosure in accordance with Privacy Act regulations; and protect agency data and the network from unauthorized access.

## **ARTICLE 23 – CONTRACTING OUT**

**Section 1.** If the Employer decides to initiate a review to determine if work currently performed by the bargaining unit employees should be contracted out, the Union shall be invited to participate in the review in accordance with OMB Circular A-76.

**Section 2.** Prior to finalizing a decision to contract out work currently performed by bargaining unit employees, the Employer shall negotiate with the Union to the full extent required by Title 5, United States Code, Chapter 71, this Agreement, and any other applicable authorities.

## **ARTICLE 24 – PARTNERSHIPS, COLLABORATIVE LABOR-MANAGEMENT RELATIONS, AND PRE-DECISIONAL INVOLVEMENT**

**Section 1. Introduction:** Consistent with the preamble of this Agreement and the principles of the Strategic Plan for Labor Management Relations in the Agency, the Parties agree to work collaboratively and encourage their respective representatives at all levels to adopt and practice collaborative labor relations to enhance the principles of mutual: trust, accountability, understanding, and respect.

### **Section 2. Partnership Council:**

- A. The Parties serve as full partners to identify problems and craft solutions to better serve the Employer’s employees, mission, and the public and consistent with the requirement of an effective and efficient government as proscribed in 5 USC Chapter 71.
- B. The Parties agree to establish one Partnership Council for Local 1752 and the Employer.
- C. The members of the Partnership Council are the designated representatives of Employer and the Union. The size and any specific objectives and operating norms of the Local 1752 Partnership Council will be established jointly.
- D. An attempt will be made to use consensus and interest-based problem solving to resolve all the issues the Partnership Councils agree to address.
- E. Upon mutual agreement, the Parties may discuss any issues in Partnership even if they involve Management or Union rights. However, decisions and agreements reached by the Parties in Partnership are binding on the Parties to the extent permitted by applicable law and government wide rule or regulation, or executive order. Any such agreements must be made in writing and signed by the Parties and are subject to agency head review under 5 U.S.C. 7114(c).

### **Section 3. Collaborative Relations:**

- A. The Parties are encouraged to engage in informal and formal processes to identify problems and craft solutions to better serve the Agency’s employees, mission, and the public.
- B. Use of interest-based problem solving to resolve issues outside of Partnership Councils is strongly encouraged.
- C. Decisions and agreements reached by the Parties in collaboration are binding on the Parties to the extent permitted by law and government wide rule or regulation, or required by executive order.

**Section 4. Pre-Decisional Involvement:** The Parties will notify one another of emerging topics or initiatives that may affect conditions of employment as soon as practical unless mitigating circumstances prevail. They are encouraged to become pre-decisionally involved in an effort to facilitate the early identification and resolution of issues and provide the opportunity for participants to add value to the outcome.

**Section 5. Changes to Organizations and/or Redistribution of Duties:**

A. Whenever feasible, the Employer will inform the Union about proposed changes before a final decision is made on the following matters:

- 1) The establishment or abolishment of any bargaining unit position(s) resulting in changes to the organizational structure that may affect bargaining unit employees. Examples include, but are not limited to, organizational realignments; eliminations, addition, or redistribution of program functions; and/or the transfer, consolidation, or merger of two or more facilities and/or
- 2) The redistribution of ongoing duties among existing positions that substantially affects more than one facility/location in such a way that it requires modification of all the affected position descriptions.

B. In discussing such information, the Employer will include plans for identifying any individual bargaining unit positions for abolishment.

If issues associated with the above changes are not resolved collaboratively between the parties, and when the Employer determines to make such changes or the exigency requires immediate action by the Employer that forecloses such collaboration, the Employer will notify the Union and negotiate as required by applicable law and this agreement. Note that not all matters discussed under pre-decisional involvement are subject to negotiations under Article 7, Mid-Term Negotiations. The Parties are advised to evaluate the negotiability of issues not resolved collaboratively before proceeding with negotiations.

**Section 6. Resources:**

A. The Parties are encouraged to use resources from various sources in pursuing a collaborative Labor-Management relationship, including the formation and maintenance of Partnership Councils, Labor-Management Committees, or other forums. Toward that end, the Employer will maintain a web site accessible to the Parties that contains, or is linked to, appropriate reference materials.

B. The ability to resolve issues by consensus is important to effective collaborative relations. The Parties are encouraged to obtain training in interest-based problem solving, FLRA statutory training, and alternative dispute resolution.

**Section 7. Evaluation:** The Parties will do a joint evaluation of the effectiveness and efficiency of the Local 1752 Partnership Council after one year from the effective date of this agreement

and each year thereafter. Based on that evaluation and other relevant considerations at that time, the Parties can agree to extend the Partnership Council for another year, modify it, or terminate it. Either Party may request the assistance of the FMCS to assist in the assessment of the Partnership Council.

Note: It is understood that nothing in this Article requires the Parties to replace or duplicate any current ARS-NFFE Local 1752 Partnership Council or activities established under the current Executive Order 13522 as long as it remains in effect.



# Appendix A



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY  
ATLANTA REGION

UNITED STATES DEPARTMENT OF AGRICULTURE,  
RESEARCH, EDUCATION AND ECONOMICS,  
AGRICULTURAL RESEARCH SERVICE,  
SOUTH ATLANTIC AREA

(Activity/Petitioner)

and

Case No. AT-RP-11-0022

NATIONAL FEDERATION OF FEDERAL EMPLOYEES,  
AFFILIATED WITH INTERNATIONAL ASSOCIATION  
OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO,  
LOCAL 1752

(Incumbent Labor Organization)

### AMENDMENT OF CERTIFICATION OF REPRESENTATIVE

PURSUANT TO section 7111 of the Federal Service Labor-Management Relations Statute (the Statute), 5 U.S.C. § 7111, and sections 2422.1 and 2422.5 of the Regulations of the Federal Labor Relations Authority, 5 C.F.R. § 2422.1 and 2422.5, a petition was filed by the United States Department of Agriculture, Research, Education and Economics, Agricultural Research Service, South Atlantic Area (the Activity or the Petitioner). Petitioner sought to amend the certification granted to National Federation of Federal Employees, Local 1752, Independent (the Union) in Case No. 42-3891(RO) (Oct. 19, 1977) to change the name of the Activity as follows:

FROM: United States Department of Agriculture, Agricultural Research Service,  
Southern Region, Florida-Antilles Area

TO: United States Department of Agriculture (USDA), Research, Education  
and Economics (REE), Agricultural Research Service (ARS), South  
Atlantic Area (SAA)

Petitioner also sought to make a technical amendment TO the "excluded" language in the certification issued in Case No. 42-3891(RO) (Oct. 19, 1977) to reflect the current equivalent of the original language.

Today, I issued a Decision and Order finding that the certification may be amended as requested. The parties have waived their right to file an Application for Review with the Authority.

I HEREBY ORDER that the certification granted to the National Federation of Federal Employees, Local 1752, Independent, (and now called the National Federation of Federal Employees, Affiliated with International Association of Machinists & Aerospace Workers, AFL-CIO, Local 1752), in Case No. 42-3891(RO) (Oct. 19, 1977), as the exclusive representative of the following unit of employees:

**Included:** All non-professional General Schedule and Wage Grade employees of the United States Department of Agriculture, Agricultural Research Service, Southern Region, Florida-Antilles Area.

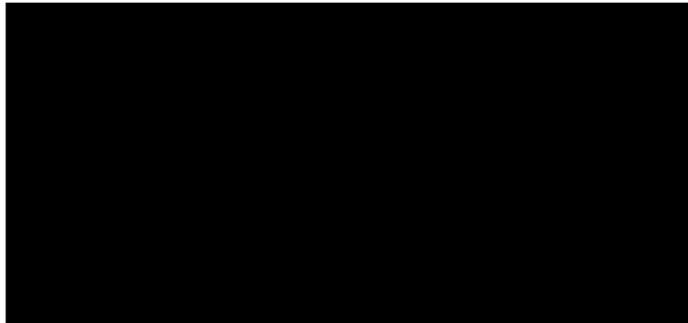
**Excluded:** All professional employees, management officials, employees engaged in Federal personnel work in other than a purely clerical capacity, and supervisors as defined in Executive Order 11491, as amended.

**be amended** to read as follows:

**Included:** All non professional General Schedule and Wage Grade employees of the South Atlantic Area (SAA), U.S. Department of Agriculture (USDA), Agricultural Research Service (ARS), Research, Education, and Economics (REE), in Florida, Puerto Rico, and the U.S. Virgin Islands.

**Excluded:** All professional employees, management officials, supervisors, and employees described in 5 U.S.C. sections 7112(b)(2), (3), (4), (6) and (7).

Dated: October 17, 2011



**APPENDIX B**  
**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN DEPARTMENT OF AGRICULTURE**  
**AND**  
**NATIONAL FEDERATION OF FEDERAL EMPLOYEES**  
**FEDERAL DISTRICT 1**

The Parties to this memorandum, the National Federation of Federal Employees, Federal District 1, IAMAW hereinafter referred to as NFFE-IAM, and the U.S. Department of Agriculture, hereinafter referred to as USDA, enter into this agreement for the purpose of establishing a mutually beneficial dues withholding agreement.

1. This Memorandum of Understanding is subject to and governed by 5 USC 7115, by regulations issued by the Office of Personnel Management (5 CFR 550.301, 550.311, 550.312, 550.321 and 550.322), and will be modified as necessary by any future amendments to said rules, regulations and law.
2. Any employee of the USDA who is included in a NFFE-IAM bargaining unit may make a voluntary allotment for the payment of dues to the NFFE-IAM. This Memorandum of Understanding shall be made a part of every current and future Local and National agreement as agreed to by the Local or National Parties, and shall be the only authorized method for obtaining dues withholding.
3. The employee shall obtain SF-1187, "Request for Payroll Deductions for Labor Organization Dues", from NFFE-IAM and shall file the completed SF-1187 with the designated NFFE-IAM representative. The employee shall be instructed by NFFE-IAM to complete the top portion and Part B of the form. No number shall appear in block 2 of the form except the employee's Social Security number.
4. The President or other authorized official of the Local Union or the National Secretary-Treasurer will certify on each SF-1187 that the employee is a member in good standing of NFFE-IAM; insert the amount to be withheld, and the appropriate Local number; and submit the completed SF-1187 to the Servicing Personnel Office of the USDA Agency involved. The Servicing Personnel Office shall certify the employee's eligibility for dues withholding, insert the NFFE-IAM code (01) and, process it with the National Finance Center within five (5) work days after receipt, with dues deductions becoming effective as of the beginning of the first full pay period after it is processed. The Servicing Personnel Office will forward a copy of the SF-1187 to the NFFE- IAM National Treasurer at 805 15th Street, N.W. Washington, D.C. 20005, after it is processed.
5. Deductions will be made each pay period by the NFC and remittances will be made promptly each pay period to the National Office of the NFFE-IAM. The NFC shall also

promptly forward to NFFE-IAM, a listing of dues withheld via electronic means, e.g. CD. The listing shall be segregated by Local and shall show the name of each member employee from whose pay dues was withheld, the last four (4) digits of the employee's Social Security number, the amount withheld, the code of the employing agency, and the number of the Local to which each employee belongs. Each Local listing shall be summarized to show the number of members for whom dues were withheld, total amount withheld, and amount due to Local. Each list will also include the name of each employee member for that Local who previously made an allotment for whom no deduction was made that pay period, whether due to leave without pay or other cause. Such employees shall be designated with an appropriate explanatory term.

6. The amount of dues certified on the SF-1187 by the authorized Union official (see Section 4) shall be the amount of regular dues, exclusive of initiation fees, assessment, back dues, fines, and similar charges and fees. One standard amount for all employees or different amounts of dues for different employees may be specified. If there should be a change in the dues structure or amount, the authorized Union official shall notify the appropriate Servicing Personnel Office. If the change is the same for all members of the Local, a blanket authorization may be used which includes only the Local number and the new amount of dues to be withheld. If the change involves a varying dues structure, the notification must include the Local number, the name and the Social Security number of each member, and the new amount, of dues to be withheld for each member. The Servicing Personnel Office shall add the NFFE-IAM code (01) and promptly process the change with NFC. The change shall be effected at the beginning of the first full pay period after it is processed. Only one such change may be made in any six month period for a given Local.
7.
  - a. An SF-1188 may be filed by an employee with the appropriate Servicing Personnel Office during the thirty (30) calendar-day period beginning forty-five (45) days prior to the anniversary date of his/her first dues withholding and ending fifteen (15) days prior to the anniversary date. It is the employee's responsibility to ensure timely filing of the revocation forms. The Agency shall discontinue withholding the dues from the employee's pay effective on the employee's anniversary date. The Servicing Personnel Office shall notify the NFFE-IAM National Office, in writing, of all revocations and provide a copy of the SF-1188 at the time the revocation is made effective.
  - b. An employee who has been on payroll deduction of union dues for more than a year may voluntarily revoke an allotment for the payment of dues by completing SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues", or by memorandum in duplicate and submitting it to the appropriate Servicing Personnel Office. The Servicing Personnel Office shall process the revocation with NFC, with the change to become effective at the beginning of the first full pay period after September 1 of each year provided that the revocation was received by the Servicing Personnel Office on or before August 1 of that same year. It is the employee's responsibility to ensure timely filing of the revocation forms. The Servicing Personnel Office shall notify the NFFE-IAM National Office, in writing, of all revocations and provide a copy of the SF-1188 at the time the revocation is made effective.

8. The USDA, through their Service Personnel Offices, will terminate an allotment:

(a) as of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;

(b) at the end of the pay period during which an employee member is separated or assigned to a position not included in a NFFE-IAM bargaining unit;

(c) at the end of the pay period during which the Servicing Personnel Office receives a notice from the NFFE-IAM or a Local of NFFE-IAM that an employee member has ceased to be a member in good standing; or

(d) in accordance with paragraph 7.

9. The Servicing Personnel Office and the employee members have a mutual responsibility to assure timely revocation of an employee's allotment for NFFE-IAM dues when the employee is promoted or assigned to a position not included in a bargaining unit represented by NFFE-IAM.

10. The Parties to this Agreement recognize that problems may occur in the administration of this Agreement and the dues withholding program. The Parties agree to exchange names, addresses and telephone number of responsible officials and/or technicians of NFFE-IAM and USDA to facilitate resolution of problems. These individuals shall cooperate fully in an effort to resolve any issue relating to dues withholding under the terms of this Memorandum of Understanding.

11. This Memorandum of Understanding shall remain in effect for as long as NFFE holds exclusive recognition in USDA, except either Party may propose amendments at any time after the first anniversary date of the signing of this Agreement unless necessitated earlier by changes to law or regulation. This Memorandum may be incorporated into the Master Agreement between the U.S. Forest Service and the NFFE-IAM Forest Service Council and any other collective bargaining agreement between NFFE-IAM and a USDA activity upon mutual agreement of the Parties.

This Agreement becomes effective thirty (30) calendar days after it is by both Parties.

*Redacted*, Labor Relations Officer

OHRM,USDA

11/2/2010

*Redacted*, Secretary-Treasurer

National Federation of Federal Employees, IAMAW

**APPENDIX C**

**Self-Certification Form for Sick Leave Absences**

**(When physician's services were not required)**

**ARS Self-Certification Form for Sick Leave Absences:**  
**(When physician's services not required)**

**Name:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Date(s) of absence:** \_\_\_\_\_

**Reason(s) :** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I certify that the reasons and circumstances given above for my absence for the dates indicated due to illness or incapacitation are accurate and true. Falsification of any information given on this form may be grounds for disciplinary action, including removal.**

**Employee Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_