

2011 Labor Master Agreement between the
U.S. Department of
Veterans Affairs
and the
National Federation
of Federal Employees



VA Council of Consolidated Locals
AFL-CIO

MASTER AGREEMENT
between the
U.S. DEPARTMENT OF VETERANS AFFAIRS
and the
**NATIONAL FEDERATION
OF FEDERAL EMPLOYEES**

2011

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PREAMBLE AND ARTICLES

PREAMBLE

Pursuant to the Civil Service Reform Act of 1978 regarding Federal Labor-Management Relations, the following Articles of this National Agreement, together with any and all supplemental agreements and/or amendments which may be agreed to at later dates or by the representatives of the Parties at the local level, constitute a total agreement by and between the Department of Veterans Affairs, hereinafter referred to as the Employer, and the National Federation of Federal Employees, Council of Consolidated Veterans Affairs Locals, hereinafter referred to as the Union, for the employees in the unit described below, hereinafter referred to as the employees.

This Agreement is entered into pursuant to the Certification of Representative FLRA Case No. WA-RP-00059, dated July 5, 2001.

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

WHEREAS, collective bargaining through the Union:

- (A) safeguards the public interest;
- (B) contributes to the effective conduct of public business;
- (C) facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment;

WHEREAS, 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; and

WHEREAS, this Agreement promotes the ease and efficiency of the Employer's operation;

NOW, THEREFORE, the Parties to this Agreement, intending to be bound hereby, agree as follows:

ARTICLE 1: RECOGNITION AND UNIT DESCRIPTION

Section 1: Recognition

The Employer recognizes that the Union is the exclusive representative of all GS and Title 38 professional employees in the consolidated units described in the FLRA Certification of Representative Case No. WA-RP-00059, dated July 5, 2001.

Section 2: Units

This Agreement is applicable to the Department of Veterans Affairs GS and Title 38 professional employees covered by the Certification of Representative FLRA Case No. WA-RP-00059. The Parties agree that this Agreement will apply to additional groups of Department of Veterans Affairs professional employees for whom the Union may be certified as exclusive representative into the consolidated unit.

ARTICLE 2: UNION RIGHTS AND REPRESENTATION

Section 1

The Union is the exclusive representative of the employees in the bargaining unit and is entitled to act for and negotiate agreements covering all of the employees in the bargaining unit. The Employer will not communicate directly with employees regarding changes to conditions of employment for which there is an obligation to bargain.

A. The Employer agrees to respect the rights of the Union and to meet jointly and negotiate with the Union, when requested, regarding the implementation of any new policy or change in existing policy affecting employees or their conditions of employment, except as provided by law.

B. The Employer agrees to meet its labor-management obligations when it proposes changes in working conditions that impact the employees in one or more NFFE bargaining units.

C. Consistent with law, government-wide regulations and this Agreement, the Union has the exclusive right to represent an employee or group of employees in presenting complaints. An employee or group of employees may present a grievance themselves without representation by the Union provided the Local is a party to all discussions and the grievance proceeding. The Employer will notify the president or designee before such discussions are held. The Union shall normally be allowed up to twenty-four (24) hours to provide a representative. The representative shall be permitted to present the views of the Local during the discussions.

D. The Union has the right to have a representative present at all discussions between the Employer and an employee or employees held in the course of proceedings conducted to resolve complaints or grievances submitted under this Agreement by a member of the bargaining unit. The Employer will notify the local president or designee before such discussions are held. The Union shall normally be allowed up to twenty-four (24) hours to provide a representative. The representative shall be permitted to present the views of the Local during the discussions.

Section 2

A. Formal Meetings: The Union will be given the opportunity to be represented at any formal discussion between one or more representatives of the Employer and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment. The Union will be given a reasonable amount of advance notice, normally 24 hours.

B. *Weingarten* Rights: The Union shall be given the opportunity to be represented under 5 USC § 7114(a) (2) (B) at any examination of an employee in the unit by a representative of the Employer in connection with an investigation if: (1) the employee reasonably believes that the examination may result in disciplinary action against the employee and (2) the employee requests representation. The Union will be given a reasonable amount of advance notice, normally 24 hours. When employees have a right to Union representation under *Weingarten*, the Employer will notify them in advance of the meeting. Confidentiality will be maintained.

C. The Parties agree that mission accomplishment is of primary concern to both, and that improved communication and cooperation between the Parties can contribute to the solution of mutual problems and improved employee relations. Representatives of each Party will meet on a regular basis to discuss labor-management issues. Such meetings should be held as often as the local parties agree. These meetings will be conducted during regular duty hours with Union representatives authorized official time if otherwise in a duty status. Additional arrangements concerning these meetings may be negotiated at the local level.

Section 3

A Union representative wishing to use official time will notify his/her immediate supervisor. Such release will not be arbitrarily withheld. The supervisor must be advised of the general purpose of the request (whether the issue is a grievance, negotiations, investigation of a complaint, EEO, etc.), how the representative may be contacted and the estimated time of return. If the Union representative will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional time. The Union representative will notify the supervisor when he/she returns to work. If release is not possible at the time requested due to a work requirement which is pressing, the representative will be released as soon as possible thereafter. If there is an operational necessity that prevents the representative from being released immediately, arrangements will be made for the Union representative to be released, normally within the next tour of duty, or the Union may opt to assign another representative. All grievance time frames and meetings with employees shall be extended if the employee's failure to be released would cause the time limits to be missed. Union representatives will be allowed a reasonable amount of time to notify the Union when they are assigned to a workplace other than their normally assigned workplace and they need to keep the Union informed of their whereabouts.

Section 4

There shall be no restraint, coercion, or discrimination against any Union official because of the performance of duties in consonance with this Agreement and the Statute, or against any employee for filing a complaint or acting as a witness under the Agreement, the Statute, or applicable regulations.

Section 5

The Employer agrees to have one face-to-face meeting with the VA Council officers annually to discuss Union views on items of concern, and agrees to review those items that cannot be resolved at the meeting. Additional meetings may be held if agreed to by mutual consent.

A. VA Annual Meeting: During the years in which the Council does not hold its convention, the Parties will meet in Washington. The Council shall request the meeting, with a preliminary agenda and a list of representatives who will be attending at least four (4) weeks in advance so that arrangements can be made for the Council officers' absence from their duties. The Employer will provide official time, if otherwise in a duty status, and travel and per diem expenses for up to nine (9) Union officials to be named by the Union. The meeting will not exceed one day unless through mutual agreement it is extended.

B. NFFE Convention: During convention years, the Employer agrees to meet with nine (9) Union officials to be named by the Union on the day prior to the beginning of the Council convention. The nine (9) Council officers attending this meeting will be provided official time for the day of this meeting, if otherwise in a duty status.

C. Other VA employees may attend the meetings but they will not be provided excused absences without charge to leave. This does not preclude approval of time for training under other portions of this contract. The Employer agrees to make every effort to arrange schedules so as to allow the nine (9) designated Union officials to take annual leave or leave without pay during the convention and annual meeting years to the extent the workload allows.

Section 6

Internal union business, such as soliciting members, collecting dues, and election of Union officers and officials will be conducted during the non-duty hours of the employees involved.

Section 7

The Union shall be entitled to receive, upon request, and to the extent not prohibited by law, data which is normally maintained by management in the regular course of business, which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining, and which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors relating to collective bargaining.

Section 8

A. This Agreement grants the following official time to the Union national officers:

Council President – 100%

National Midterm Bargaining Chair – 40%

Council Secretary/Treasurer – 30%

5 Council Vice-Presidents – 20% each

National Safety Officer – 20%

B. Each VHA NFFE Local is entitled to not less than 24 hours of official time per pay period. One official in each NFFE Local in a VBA facility is entitled to a reasonable amount of official time.

C. For all Locals already above the minimum amount of official time described above, existing local agreements and past practices regarding official time on the effective date of this Master Agreement shall remain in full force and effect, unless and until the local parties negotiate a change.

D. The minimum amounts of official time described above are not intended to limit the amount of official time that can be negotiated by the parties locally.

E. Official time other than the above for stewards and officers is an appropriate subject for local supplemental bargaining.

F. Both Parties recognize that there will be instances when a local president who has been granted official time will be absent for 2 weeks or more. If the local Union designates another local official to act with the full authority of the local president during this absence, the designee will be granted the amount of official time that the Union president has been granted. The Union will notify management as soon as the need arises, but in no case will the notice be less than 48 hours. Management may, however, limit the amount of official time granted to the designee during the extended absence based on patient care. In this case the Union may designate another official.

Section 9

The designated Union negotiators will be placed on official time during negotiations. Any changes may be made without regard to contract provisions on tours of duty. No overtime or compensatory time will be authorized for negotiations. This shall include time to present matters to the Federal Mediation and Conciliation Service, Federal Service Impasses Panel, Federal Labor Relations Authority and the courts. Local Union officials and stewards may use reasonable official time to prepare for negotiations.

Section 10

Union representatives will be permitted to wear identifying nameplates, to include name and official capacity, and Union insignia, where the wearing of nametags is otherwise permitted.

Section 11

Union representatives on official time for representational duties will be afforded an area of privacy when meeting with unit employees. The Employer will assist in providing such privacy within or in close proximity to the employee's work area. Where a Union office is provided, confidential employee and representative meetings may be held in the Union office.

Section 12

Union officials, including stewards, shall be permitted a reasonable amount of official time to represent employees in accordance with this Agreement. The amount of time allowed will depend on the facts and circumstances of each case – e.g., number and nature of allegations, number and complexity of supporting specifics, the volume of supporting evidence, and the availability of documents and witnesses. Official time and any other time specified under this Agreement can be used for any representational function. This includes appropriate lobbying functions during annual legislative activities week, preparing reports required under 5 USC § 7120, and any other functions addressed in this Agreement.

Section 13

If the Employer establishes a chartered process action, performance improvement team, or like task force or workgroup dealing with conditions of employment or personnel practices affecting bargaining unit employees, the Union will be given the opportunity to designate at least one representative to that group. This does not eliminate the Employer's obligation to negotiate as appropriate.

ARTICLE 3: EMPLOYEE RIGHTS

Section 1

Employees in the unit shall be protected in the exercise of their right, freely and without fear of penalty or reprisal, to form, join, and assist the Union, or to refrain from such activity. This Agreement does not prevent any employee, regardless of employee organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations or agency policies. Nothing in this Agreement shall abrogate any employee's right or require an employee to become or to remain a member of a labor organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions. The initiation of a grievance or statutory appeal procedure by an employee will not cause any reflection of his/her standing with his/her supervisor or on his/her loyalty or desirability to the organization.

Section 2

An employee may be represented by an attorney or other representative of the employee's own choosing, other than the Union, in any appeal action not under the negotiated grievance procedure. The employee may exercise grievance or appeal rights, which are established by law, rule, regulation or this Agreement. After obtaining a written release from the Union, employees who represent themselves will be afforded a reasonable amount of duty time to prepare and file complaints in private.

Section 3

Employees will be notified of any significant changes in VA regulations or policies that affect their working conditions. Written agreements with the Union negotiated at the local level will be distributed to all affected employees.

Section 4

Recognizing that significant improvements have been achieved by local officials when they have developed cooperative programs, both Parties to this Agreement encourage such endeavors which invite employee participation in the pursuit of improvement initiatives. These efforts are not to be construed as a change in the Union's rights as the exclusive representative or as revoking existing policies and procedures. Details for these programs are proper subjects for local negotiations.

Section 5

Management is obligated to keep employees informed of rules, regulations and policies, including *Weingarten*, under which they are obligated to operate. To assist employees in the performance of their work, VA regulations and handbooks will be accessible to employees during working hours.

Section 6

No employee will be discriminated against by the Employer or the Union because of race, color, creed, religion, sex, sexual orientation, national origin, age, marital status, physical or mental handicap, or lawful political affiliation.

Section 7

All employees deserve to be treated by supervisors and management officials with common courtesies and consideration warranted in an employer-employee relationship.

Section 8

An employee may contact a Union representative during duty hours on a representational matter after receiving permission from his/her supervisor. Once approval is received, the employee will advise the immediate supervisor of the place of the meeting, general purpose of the request and the estimated time of return. Management recognizes the employee's right to assistance in representation by the Union and to discuss any concern with Union representatives in private during duty time. If release is not possible at the time requested due to staffing or work requirements, the employee will be released as soon as possible thereafter. If the employee is released, and will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional needed time. The employee will notify the immediate supervisor of his/her return.

Section 9

The Parties support such community and public service activities as the annual Combined Federal Campaign and Savings Bond drives. It is recognized that employee participation in these activities is strictly voluntary.

Section 10

Counselings and warning sessions involving unit employees will be conducted privately and in such a manner so as to avoid embarrassment of the employee. Official information pertaining to individual employees shall be maintained in accordance with applicable laws and regulations.

Section 11

To the extent consistent with law and regulation, the Employer will provide legal representation for employees against whom a suit is brought in a civil or criminal court based upon activities alleged to be within the scope of their official duties and will assume financial liability for all monies awarded to claimants as a result of activities found to be within the reasonable exercise of such official duties. Upon request, the Employer agrees to provide information and guidance to employees who are considering or making a request for legal representation.

Section 12

Employees may be authorized the reasonable use of VA information technology (IT) equipment for personal purposes in accordance with VA Directive 6001 or other applicable laws rules or regulations. Such equipment includes, but is not limited to, computers, phone, fax, copier, etc.

Section 13

An employee is accountable only for the performance of assigned duties and compliance with standards of conduct for federal employees. Within this context, the Employer affirms the right of an employee to conduct his or her private life as he or she deems fit. Employees shall have the right to engage in activities of their own choosing, except as prohibited by law, government-wide or VA regulation, without being required to report to the Employer on such activities.

Section 14

The Employer recognizes the employee's right to assistance in representation by the Union and to discuss any concern with Union representatives in private during duty time consistent with Section 8 of this Article. Consistent with Section 2 of this Article, employees who represent themselves will be afforded a reasonable amount of duty time to prepare and file complaints.

Section 15

Employees will not be precluded from presenting their views to officials of the Executive branch, the Congress, or other appropriate authorities, in accordance with applicable laws and government-wide regulations. Interaction with Congressional members visiting the worksite is acceptable. Going to a Congressional office or providing testimony at Congressional hearings is also acceptable, however, it must be understood that these activities will not be on duty time unless it is a VA assigned duty.

Section 16

Employees have the right to:

- A. Working conditions that are safe, healthful and lawful;
- B. In-service training necessary to insure satisfactory job performance;
- C. Express themselves concerning improvement of work methods and working conditions without fear of reprisal;
- D. Discuss problems or concerns with staff members of Human Resources Management, Office of Resolution Management, Equal Employment Opportunity, Union representatives and employee assistance;
- E. Seek the opinion of the Regional Counsel on questions of conflict of interest;
- F. Be informed of what is expected of them, to whom they are directly responsible and what is expected of them in their work relationship with their fellow employees;
- G. Privacy in every way consistent with law, regulations and this Agreement;
- H. Request leave when desired without threat, harassment or reprisal;
- I. Know when the Employer is investigating their conduct or performance as soon as practicable without compromising the integrity of the investigation;
- J. Assist the Union in negotiation of working conditions; and
- K. Request and receive personal records that pertain to them in accordance with applicable laws, rules and regulations. A review of the records or copies will be made available in a reasonable time, normally seven days.

Section 17: Miscellaneous

- A. Personnel who are required to wear uniforms or protective clothing will be allowed reasonable time for changing, acquiring or returning equipment, cleaning the area and washing up as needed.
- B. Consistent with applicable laws, rules and regulations, the Employer agrees to bear the full expense of all special equipment and special clothing the Employer requires employees to use in performing their duties.
- C. Desks, lockers, computers and other government property may be subject to inspections for safety, sanitation and security reasons. Normally, searches of personal property will not be conducted without probable cause.

D. Employees will be provided with the appropriate web site address in order to review any agency regulations and local policies on duty time. Where employees do not have appropriate computer access, a copy of the regulation will be provided.

E. Regardless of the reasons for retirement or separation, the Employer will assist employees to explore options for retirement, including disability. The Employer will assist employees in the application process for retirement, including disability.

Section 18

The Employer shall not take or fail to take any personnel action with respect to an employee as reprisal for the exercise of any appeal right granted by law, rule or regulation or the terms of this Agreement. Employees shall not be subject to prohibited personnel practices as defined by Title 5 § 2302.

Section 19

The Employer shall not take any personnel action against any employee or fail to or refuse to affect, in a timely manner, any personnel action related to any employee as a reprisal for the employee's disclosure of information for which the employee reasonably believes indicates a violation of law, rule or regulation, mismanagement, gross waste of agency funds, abuse of authority, or creates a danger to the public health and or safety.

ARTICLE 4: VOLUNTARY ALLOTMENT OF UNION DUES**Section 1**

Any employee of the Department of Veterans Affairs who is a member of the Union and is included in the consolidated bargaining unit covered by this Agreement may make a voluntary allotment for the payment of dues to the Union.

Section 2

The individual employee of the Department of Veterans Affairs who is a member of the Union and included within an exclusive unit shall obtain his/her SF-1187, "Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues," from the Union and shall file it with the designated Union representative who will forward it to the Human Resources Management Office (HRMO) for certification of eligibility for dues withholding and for transmittal to the appropriate payroll office. The allotment shall become effective on the first full pay period following receipt by the HRMO. The employee shall be instructed by the Union to complete Parts A and B. No other number must appear in the block designated "Identification Number" except the employee's social security number.

Section 3

Deductions will be made each pay period by the Department of Veterans Affairs or the Defense Finance and Accounting Service (DFAS) and remittance will be made by one submission each pay period to the national office of the Union. Remittance shall be accompanied by a listing, in duplicate, one for the national office and one for the Secretary-Treasurer of the VA Council, for each pay period showing the names of the member employees from whose pay dues were withheld and the amount withheld. The listing will be segregated by individual field stations with a sub-total for each facility. The listing shall include the facility code number for identification purposes. It will be summarized to show the number of members for whom dues were withheld and the total amount withheld. Each list will also include the name of each employee member who previously made an allotment for whom no deductions were made, whether due to leave without pay or other cause. If the Union develops a computerized system for dues withholding, the Parties will meet to determine if the Employer or DFAS can furnish dues deduction information in a compatible format.

Section 4

It is agreed that Part A of SF-1187, including the insertion of code numbers of the Union and the appropriate Local number, will be executed by the financial officer of the Local to which the employee member belongs or the National Secretary-Treasurer of NFFE. The amount so certified shall be the amount of the regular dues to be withheld from the employee's pay each pay period. Any initiation fees, assessments, back dues, fines or similar charges and fees will be collected by the Union directly from the employee. One standard amount for all employees or different amounts of dues for different employees may be specified. The president or Secretary-Treasurer of the NFFE-IAM Council of VA Locals may, on behalf of its member Locals, notify the Employer of the minimum dues, signifying the amount and the effective date of the minimum dues. Local lodges may increase their dues above the minimum by notifying the Employer, signifying the amount of the dues and the effective date.

The change shall be effected at the beginning of the first full pay period after notification is given to the servicing payroll office. Such a change may not be effected more than two (2) times in any calendar year.

Section 5

The payroll office of the Employer will terminate an allotment:

- A. As 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 from the Department of Veterans Affairs;
- C. At the end of the pay period during which the payroll office receives notice from the Union that the employee member has ceased to be a member in good standing;
- D. At the end of the pay period that any employee leaves the unit of exclusive recognition. In the event the Union disagrees that an employee is no longer in the unit and it files a unit clarification petition, the employee's dues will continue to be withheld pending a decision on the petition; or
- E. Annually, on the anniversary date of the employee's authorization (date of the SF 1187), or during the ten (10) calendar-day period immediately preceding the anniversary date by submitting a SF-1188. Dues revocation may only be received during this 10-day period.

Section 6

The financial officer of the NFFE Local to which the employee belongs will notify the Department of Veterans Affairs payroll office within seven work days after the employee ceases to be a member in good standing of the Union. Any written revocation of allotment authorization received by the Local to which the employee belongs will be sent within five (5) work days after it is received by the appropriate VA payroll office. The VA payroll office will send the local financial officer of the Union a copy of each written revocation of an authorization which it receives.

Section 7

Employees on dues withholding who are reassigned from one VA facility to another, but remain in the consolidated unit of recognition, will continue on dues withholding. Upon arrival at the new facility the receiving facility will begin withholding dues at the local rate. The local facility will notify the employee that the rate may be different at the new station. It is incumbent on the employee to contact the local Union for clarification.

ARTICLE 5: GRIEVANCE PROCEDURE

Section 1: Common Goals

The Employer and the Union recognize the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner that will maintain the self respect of the employee and be consistent with the principles of good management. To accomplish this, every effort will be made to settle grievances expeditiously and at the lowest level of supervision. The Parties encourage development of alternate dispute resolution (ADR) as a cost-effective and timely method of resolving grievances. The Parties will negotiate ADR procedures locally.

Section 2: Scope

Grievance means any complaint by any employee concerning any matter relating to the employment of the employee, by the Union concerning any matter relating to the employment of any employee, by any employee, the Union, or the Employer concerning the effect or interpretation, or a claim of breach of a collective bargaining agreement, including supplemental agreements, or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

This grievance procedure does not apply to:

- a) any claimed violation of 5 USC, Chapter 73, subchapter III, relating to prohibited political activities;
- b) retirement, life insurance, or health insurance;
- c) a suspension or removal under 5 USC § 7532;
- d) any examination, certification, or appointment;
- e) the classification of any position which does not result in the reduction in grade or pay of an employee;
- f) proposed disciplinary/adverse actions;
- g) non-selection for promotion from a group of properly ranked and certified candidates, except where discrimination is alleged;

- h) under Title 38, Section § 7422, (1) any matter or question concerning or arising out of professional conduct or competence, such as direct patient care or clinical competence; (2) any matter or question concerning or arising out of peer review; and/or (3) any matter or question concerning or arising out of the establishment, determination or adjustment of employee compensation under Title 38;
- i) termination during probationary period;
- j) decisions on individual incentive awards;
- k) any claimed violation of Section 508 of the Rehabilitation Act, 29 USC § 794d, as amended by Public Law 106-246 (Complaints under Section 508 are subject to a statutorily mandated complaint process under 29 CFR 1614.);
- l) reductions in force;
- m) decisions not to remove admonishments and reprimands early; and
- n) The criteria for promotions, including the procedures for determining promotions for Hybrid Title 38 employees.

Section 3

Employees have the option of raising the following matters under a statutory appeals procedure or the negotiated grievance procedure, but not both: adverse actions (5 USC § 7512); actions based on unacceptable performance (5 USC § 4303); and discrimination (5 USC § 2302 (b) (1)). An employee shall be deemed to have exercised his/her option under this Section to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing in accordance with the negotiated procedure, whichever event occurs first.

Section 4

The Parties encourage development of ADR programs as a cost effective and timely method of resolving difficult issues. Grievances and/or complaints related to equal employment opportunity are among the appropriate subjects for ADR.

Section 5

The Union has the exclusive right to represent employees in presenting grievances under the negotiated grievance procedure in this Agreement. A grievance may be undertaken by the NFFE Veterans Affairs Council (VA Council), by the Local, by an employee or a group of employees, or by the Employer. Employees in such grievances may be represented by a local Union, the NFFE VA Council or a Union representative. Any employee or group of employees may personally present a grievance and have it adjusted without representation by the Union. The Union will be given an opportunity by the Employer to be present at all discussions with the employee concerning the grievance. A reasonable amount of time during working hours will be allowed for employees and the Union representative to prepare, discuss and present grievances under this procedure. Any resolution must be consistent with the terms of this Agreement and supplemental agreements. In exercising their rights to present a grievance, employees and their representative(s) will be free from restraint, coercion, discrimination or reprisal.

Section 6

Employees and/or their representative(s) are encouraged to discuss issues of concern to them informally with their supervisors at any time. Likewise, employees and/or their representative(s) may request to talk with other appropriate officials about items of concern without filing a formal grievance.

Section 7

The following procedures are established for the resolution of grievances by an employee, a group of employees or a NFFE Local:

A. Step One: The issue shall first be taken up by the grievant (and representative or steward, if elected) with the employee's immediate supervisor or the lowest level management official with authority to render a decision. The Step One grievance will be initiated in writing, if not settled informally, with the Service/Division Chief or equivalent within 30 calendar days of the incident that gave rise to the grievance, unless the grievant could not reasonably be expected to be aware of the incident by such time. In that case, the grievance must be initiated within 30 calendar days of the date that the grievant became aware of the incident. A grievance concerning a continuing practice or condition may be initiated at any time. In the case of disciplinary or adverse action, a grievance must be initiated within 30 calendar days of receipt of the written decision from the deciding official. Either Party may request that a meeting be held on the matter. If the grievant wishes a meeting, the request will be included in the written grievance. If such a meeting is requested, it will be held prior

to the decision and not more than 10 days after the request is received. A decision will be given to the grievant in writing within ten (10) calendar days after presentation of the grievance or after the meeting if one is requested. Every effort shall be made to insure that the decision is clearly communicated and understood. Included with such decision shall be a written statement indicating the grievant's right to submit a grievance to Step Two.

B. Step Two: If the grievant is dissatisfied with the decision given in Step One, the grievant (and/or his/her representative) may submit the grievance in writing to the Director of the VA facility where the grievance originated within ten (10) calendar days after receipt of the decision on the Step One grievance. The Director will furnish the employee with a written/electronic acknowledgment of receipt. The Director or his/her designee (higher than the deciding official in Step One, unless there is no higher level official between him/her and the Director) will meet with the aggrieved employee if requested within 10 days after the request is received. A written decision will be given to the grievant within 14 calendar days after the Employer receives the second step grievance or after the meeting is held. Included with such decision shall be the reasons for the decision and a statement indicating the right of the grievant to request the Union to advance the grievance to arbitration.

Section 8

The Parties may mutually agree to extend any time limits of this procedure. If the due date at any stage falls on a Saturday, Sunday, or a government holiday, the due date shall be the next business day. If the Employer is unable to meet the time limits, the grievant will be notified of the reasons for any delay, and an extension of time will be requested. The grievant or Union, as applicable, will have the option of proceeding to the next step of the grievance procedure, arbitration, or granting an extension of time. If the grievant fails to pursue a grievance within the prescribed or extended time limit, the grievance may be considered resolved in the last step unless the grievant is able to reasonably justify his/her failure to meet the time limits.

Section 9

A grievance may be initiated at Step Two if the substance of the grievance directly concerns a specific action, directive, or decision made at a higher level than the initial step of the grievance process. In cases where a grievance is initiated at Step Two, the time limits of Step One will apply. If a grievance is against a VA Central Office official, the grievance may be filed initially at Step One with a higher level official designated to act on the grievance and at Step Two with the applicable Under Secretary or Administration head or designee. Prior to filing a grievance with a Central

Office official, the filing Party will contact the facility Human Resources Management Office (HRMO). Within three (3) work days the HRMO will identify, in writing, to the filing party the appropriate VA Central Office official to whom the grievance should be submitted. The days waiting for a response from the HRMO will not be counted in the 30-day grievance time frame.

Section 10

At any step of the negotiated grievance procedure, when any management deciding official designates someone to act on his/her behalf, that designee will have complete authority to render a decision at that step and will render the decision. The designee will never be someone who decided the issue at any previous step.

Section 11

It is agreed that when a group has an identical grievance it will be considered in the same manner as an individual complaint of one employee, and the decision will be binding on all identical cases.

Section 12

A. A grievance affecting more than one facility may be brought by the VA Council within 30 calendar days of an incident (or awareness of an incident) which gave rise to the grievance. A grievance concerning a continuing practice or condition may be brought at any time.

B. The appropriate official for these grievances will be the designated representative of VA Central Office from the appropriate administration.

C. The VA Central Office designee will render a written decision within 30 calendar days of receipt.

Section 13

VA Central Office may file a grievance with the President of the NFFE Council. Facility Directors may file a grievance with a local NFFE president. Grievances must be initiated in writing within 30 calendar days of the incident which gave rise to the grievance. A grievance concerning a continuing practice or condition may be brought at any time. The VA Council or NFFE Local will have 30 calendar days from receipt of the grievance in which to render a decision in writing.

Section 14

The Parties agree to raise any question of grievability or arbitrability of a grievance no later than the time the Step Two decision is given. If arbitration is invoked, all disputes of grievability or arbitrability shall be referred to the arbitrator as a threshold issue in the related grievance.

Section 15

Both the Union and the Employer encourage the parties involved in any grievance to seriously consider a variety of alternative dispute resolution techniques, including mediation, to resolve the dispute, even if the parties are reluctant to do so. The parties could use the services of a trained mediator neutral from the Federal Mediation and Conciliation Service, the community, another federal agency or another VA facility. The selection of which mediator neutral to use should be dependent on the earliest available to insure an expeditious attempt at settlement. This process must be initiated no later than five calendar days following a decision in Step Two. Each grievance or dispute will be dealt with on an individual basis. The recommendations that arise out of this process shall not be used as evidence during any third-party procedure. The use of this procedure will suspend the time frames for moving the grievance forward, including invoking arbitration, until one or both parties decide that the process will not be successful. The goal of the process is to reach an agreement prior to arbitration.

ARTICLE 6: ARBITRATION

Section 1

If the decision on a grievance processed under the negotiated grievance procedure is not satisfactory, the local Union or NFFE VA Council, either as a grievant or as a representative of the employee grievant(s), or the Department of Veterans Affairs, or a Department subordinate unit as grievant, may refer the issue to arbitration. The notice referring an issue to arbitration must be in writing, signed by the local Union president or NFFE VA Council President (for the Union), or signed by a local Department management official or by an appropriate VA Central Office official (for the Employer). The notice must be submitted to the other party within thirty (30) calendar days following receipt of the decision by the aggrieved party or within thirty (30) calendar days of the date a decision was due, whichever is earlier. Only the Union or the Employer may invoke arbitration. No employee may singularly bring a grievance to arbitration without the Union's sanction. Issues that were not brought up during the steps of the grievance procedure will not be brought up at the arbitration.

Section 2

A. Within seven (7) calendar days from the date of the request for arbitration, the moving party shall request the Federal Mediation and Conciliation Service (FMCS) to provide a list of five (5) impartial persons qualified to act as the arbitrator. If either party refuses to participate in the submission, the other party may make the request. Within fifteen (15) calendar days after receipt of such list, the Employer, the local Union and/or the Council shall meet to select the arbitrator. If the parties cannot agree on an arbitrator from the list, each party shall strike one name in turn from the list. The moving party shall strike the first name. After each party has struck two names from the list, the remaining person shall be the arbitrator. If either party refuses to participate in the selection process, the other party will make a selection of an arbitrator from the list.

B. Within five (5) calendar days following the selection of an arbitrator, the moving party will notify the FMCS as to the name of the arbitrator selected. A copy of the notification will be served upon the other party.

Section 3

A. All costs associated with the arbitration, including the fees and expenses of the arbitrator, shall be borne by the losing party. The FMCS fee will be rotated between the Employer and the Union. When a decision does not clearly favor one party over the other, the arbitrator will determine how the arbitration expenses will be applied. Any additional expenses such as transcripts will be paid for by the requesting party unless the request is mutual.

B. An employee who is found to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of his/her pay, allowances, or differentials is entitled, on correction of the personnel action, to receive reasonable attorney fees related to the personnel action, awarded in accordance with standards established under 5 USC § 7701(g).

Section 4

A. Upon selection of the arbitrator in a particular case, the respective representatives for the parties will communicate with the arbitrator and each other in order to select a mutually agreeable date for the arbitration hearing. The parties will endeavor to schedule the hearing within thirty (30) days after arbitration is invoked. The parties will attempt to jointly submit the issue(s) to the arbitrator. If the parties fail to agree on a joint submission, each shall make a separate submission and the arbitrator shall determine the issue or issues to be heard. Nothing in this Agreement shall preclude the parties from resolving the grievance at any time.

B. The parties agree that the primary purpose of this arbitration procedure is to provide a swift and economical method of resolving disputes fairly and equitably. The arbitrator shall have the authority to take steps necessary to see that the purpose is fulfilled.

- (1) Any hearing shall be informal.
- (2) There shall be no formal evidence rules.
- (3) Written transcripts will be made of the arbitration hearing only with the mutual consent of the parties.
- (4) The parties may mutually agree to direct the arbitrator to simplify or eliminate a written opinion.
- (5) When both parties agree to the facts at issue and agree that a hearing would serve no purpose, they will stipulate the facts to the arbitrator with a request for a decision based upon the facts presented.

C. The arbitration hearing or inquiry shall be held on the local Employer's premises, or in Washington, D.C., for cases at the Council level, unless the Parties mutually agree to another site, during the regular day shift work hours of the basic work week. The duty status of participants in the arbitration proceeding shall be consistent with the following:

- (1) The grievant shall be excused from duty during the arbitration proceeding. If the grievant's tour of duty is other than the regular day shift, the grievant will be temporarily placed on the day shift on the day of the arbitration proceeding. It is understood that workload and staffing needs may not always permit all grievants in a group

grievance to attend the arbitration proceeding at one time. In such cases, the Employer, whenever possible, will arrange the schedules of the grievants necessary to attend and properly present the case and will make a reasonable effort to accommodate the equitable rotation of the other grievants.

- (2) At least fourteen (14) calendar days prior to the arbitration hearing the parties will exchange their witness lists and inform the other party as to whom their representative will be. These lists may not be amended except in the event of unforeseen circumstances such as the sudden unavailability of a witness or the identification of other witnesses found to have additional information.
- (3) All witnesses necessary at the arbitration will be given excused absence if otherwise in a duty status, provided the Employer received at least fourteen (14) calendar days notice. In addition, upon at least fourteen (14) calendar days notice, the Employer will rearrange necessary witnesses' schedules and place them on duty during the arbitration hearing when the witnesses agree to such changes. Such schedule changes may be made without regard to contract provisions on hours of duty. The release of any witness not originally listed will be dependent on staffing and workload requirements.

Section 5

The arbitrator will be requested to render his/her decision within thirty (30) days after conclusion of the arbitration.

Section 6

The arbitrator shall have authority to resolve any questions of arbitrability, interpret, and define explicit terms of this Agreement, Department of Veterans Affairs policy, or controlling law or regulation, as necessary to render a decision. Questions of arbitrability shall be considered threshold issues on which the arbitrator will hear evidence and argument prior to deciding the case on its merits.

Section 7

In the interest of obtaining prompt decisions on matters appealed to arbitration and to implement financial safeguards which will limit back-pay awards, the parties will move swiftly in selecting and scheduling an arbitrator so that a decision is received timely. An arbitrator will be required to hold the arbitration hearing within three (3) months of a party filing for arbitration.

Section 8

Decisions of arbitrators shall be final and binding subject only to review under the terms of Title VII of the Civil Service Reform Act. Either party may file exceptions to awards of arbitrators to the Federal Labor Relations Authority (FLRA) in accordance with FLRA regulations or, where applicable, to the U.S. Court of Claims, U.S. Court of Appeals or Merit Systems Protection Board. However, any dispute over the interpretation of an arbitrator's award shall be remanded to the arbitrator for settlement.

ARTICLE 7: MANAGEMENT RIGHTS

A. Subject to subsection (b) of this Section, nothing in this chapter shall affect the authority of any management official of any 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 take other disciplinary action against such employees;
 - (b) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
 - (c) with respect to filling positions, to make selections for appointments from--
 - (i) among properly ranked and certified candidates for promotion; or
 - (ii) any other appropriate source; and
 - (d) to take whatever actions may be necessary to carry out the agency mission during emergencies.

B. Nothing in this section shall preclude any agency and any labor organization from negotiating—

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

ARTICLE 8: NEGOTIATIONS

Section 1

This Master Agreement shall constitute the Master Labor Agreement between the Parties. The Parties agree to negotiate in full accordance with 5 USC Chapter 71. The Parties agree to negotiate in good faith and the objective of such negotiations will be to reach an agreement by the diligent and serious exchange of information and views, and by avoiding unnecessary protracted negotiations. To the extent that VA Directives and government-wide regulations are subsequently changed or are amended, which may be in conflict with this Agreement, the provisions of this Master Agreement will govern. In the event that legislation is enacted or a government-wide regulation is published which affects any provision of this Agreement, the Parties shall reopen the affected provision(s) and renegotiate the contents of the affected provisions.

Section 2: Midterm Negotiations

A. The Parties may propose changes in personnel policies, practices or conditions of employment for negotiations provided that the proposal is not in conflict with this Agreement. The Parties agree that in some instances the bargaining may be limited to impact and implementation. In other instances, bargaining may be substantive.

B. Either Party at the national level may delegate authority to negotiate issues to Parties below the national level in order to promote more effective and efficient resolution of issues when the issues impact more than one facility.

C. The Employer may implement changes in personnel policies or practices or conditions of employment not in conflict with this Agreement only after Union officials have been notified and given the opportunity to bargain to the maximum extent allowed by law.

D. National Level Bargaining:

(1) When the Employer proposes changes affecting personnel policies, practices or conditions of employment, the Employer will send the proposals and copies of any material to the NFFE VA Council President and/or designee. The Union has up to fifteen (15) work days to request negotiations. The Union shall have thirty (30) calendar days from the date of receipt of the notice to submit proposals. At the option of the Council it may request to:

(a) Negotiate as appropriate on the material as submitted, leaving additional bargaining to be conducted at the local level upon request.

- (b) Negotiate totally at the Council level with no additional negotiations at the local level (subject to Employer's compelling need as determined by the Authority); or
 - (c) Elect not to negotiate at all.
- (2) Negotiations on many issues can often be conducted on the telephone, by video conference, on email, or other electronic methods, thus eliminating the need for face-to-face negotiations. When the Parties cannot reach agreement using these methods, the Parties agree to meet for face-to-face negotiations. The Employer will pay for travel and per diem for Union negotiators equal to the number of management negotiators.

E. Local Level

- (1) Local management will furnish written proposals delineating proposed changes affecting personnel policies, practices and conditions of employment to the local Union president or designee. The local Union has up to ten (10) work days after receipt of the proposal to request negotiations by submitting to the Employer a written response indicating the Union's desire to negotiate. The Union will be allowed an additional ten (10) work days to prepare and submit proposals.
- (2) Using the same procedures and time frames, the Union will submit written Union initiatives to the Director or the Director's designee.
- (3) In some situations, it may be mutually advantageous to bring a Union official from another facility to help the local Union and management teams negotiate an issue. The NFFE VA Council President may request from the local facility director funding of travel and per diem for one (1) Union official to assist in negotiations. Requests will be approved when: 1) the Employer determines that such travel is in the primary interest of the government in a given case; 2) alternative technology resources have been exhausted; and 3) funds are available. The Employer will give good faith consideration to the merits of each request.

F. Data requests from either party shall automatically extend the time limits equal to the number of days it takes to receive such data. The parties agree that data requests will be prudent and necessary to respond to proposal(s).

Section 3: Supplemental Agreements and Memoranda of Understanding (MOU)

A. The Parties recognize that the interest of both the Employer and the Union can be effectively served if many issues of local concern are reserved for supplemental agreement negotiations between each facility and the local Union. Hence, the Parties agree that supplemental agreements subordinate to this Master Agreement may be negotiated between the local parties. Such agreements may cover all negotiable matters regarding conditions of employment insofar as they do not conflict with the terms of this Master Agreement, law or government-wide regulations. One supplemental agreement may be negotiated at each Local during the term of this Agreement. Such supplemental agreement will pertain only to the local parties where the agreement is negotiated.

B. Supplemental agreements must be approved or disapproved by VA Central Office within 30 calendar days after execution. If no action is taken within the 30 calendar days, the agreement shall become effective on the 31st day subject to the provisions of the Master Agreement, law, and government-wide regulations. Any disapproval must be consistent with 5 USC § 7114(c). If the Agreement is not approved, it shall be returned to the local parties, along with an explanation for the action. If a disagreement arises concerning whether a supplemental proposal is negotiable, the Employer will provide the Union with its reason, in writing, for its determination and the Union may file a negotiability appeal to the FLRA. However, if the Under Secretary for Health determines a proposal to be non-negotiable pursuant to 38 USC 7422(d), the matter will not be subject to the jurisdiction of the FLRA or a court, except as provided by 38 USC 7422(e).

C. Supplemental agreements or MOUs shall not duplicate, conflict with, or otherwise be inconsistent with the Master Agreement and will be subject to review by the Parties.

D. Existing supplemental agreements not in conflict with this Master Agreement will remain in effect in accordance with their terms.

E. Any past practices in conflict with this Master Agreement shall be superseded by this Master Agreement.

ARTICLE 9: USE OF OFFICIAL FACILITIES AND SERVICES

Section 1

The Employer recognizes the value of a constructive labor-management relationship and the need for Locals to have adequate office space and equipment necessary to perform their representational functions as the exclusive representative of employees in the bargaining unit. The following conditions will apply to the use of space and equipment: Such use will not injure the space and equipment and the space and equipment will be subject to the facility's sanitation and safety inspection program.

A. Office Space - The Employer agrees to furnish office space to the Union appropriate for carrying out its representational duties in locations easily accessible to employees. Space currently provided to a NFFE Local will be maintained as needed. The Employer will provide each Local at a minimum the following equipment:

- (1) Two standard locking file cabinets
- (2) A standard desk and/or table
- (3) Four chairs
- (4) A telephone line with FTS including speaker phone capability
- (5) Fax machine

B. Equipment - The Employer also agrees to provide each Local at a minimum the following:

- (1) Computer
- (2) Laser printer
- (3) Word processing software
- (4) Access to E-mail
- (5) VA Intranet and Internet for representational purposes

The Employer agrees that the equipment provided above will be functional and operational. The Employer also agrees to provide normal maintenance necessary to ensure all equipment is operational. The Parties agree that this equipment may be used for labor-management representational communications. The Parties agree that inappropriate use may result in individual termination of access. If appropriate, local Union and management representatives may meet

within 30 calendar days after approval of this Agreement to discuss providing the space and equipment. Use of surplus equipment including computers is a matter for local negotiations.

C. Reference Material - Upon request, the local facility will assist Union officials in how to access VA policies, handbooks, rules, and regulations. If available, the local facility will allow Union officials access to current research materials including:

- (1) Broida's FLRA Books
- (2) Broida's MSPB Books

D. The Employer agrees to provide the following to each Local:

- (1) Access to conference rooms upon reasonable advance request by the Union, normally 15 days;
- (2) Access to facility public address system;
- (3) Access to VANTS, V-tel, audio/visual equipment;
- (4) Access to photocopiers;
- (5) Access to training on new technology and computer software upgrades; and
- (6) Access to interoffice mail and metered mail pertaining to representational matters. The Local shall not utilize metered mail for mass mailing.

E. If the negotiated Union space and/or equipment is required for immediate needs of the facility, the Employer agrees to provide as much advance notice as possible, normally 60 calendar days, and to negotiate with the Union to the maximum extent allowed by law.

Section 2

The Employer recognizes the importance of the position of VA Council President. At the facility where the Council President is located, he/she will have an office to ensure privacy and will also be provided a desk, chair, two locking file cabinets, computer, laser printer and speaker phone with FTS.

Section 3

The Employer agrees to annually furnish the NFFE National Union and the VA Council a current list of all employees in the bargaining unit, showing name, position title and official duty station. Updated lists will be provided as necessary.

Section 4

At each facility, the Local will be provided bulletin board(s) in an area used for communicating with bargaining unit employees. The number and location of bulletin board(s) will be determined locally. The material posted must be clearly identified as that of the Union and must not be defamatory, scurrilous, or inflammatory.

Section 5

Upon request, the Employer agrees to permit each local Union the opportunity to conduct quarterly membership drives and provide adequate facilities in a location that allows for unrestricted access to unit employees during breaks, lunch times and before and after work. Details for membership drives are subject to local negotiations.

Section 6

When travel to another location within the jurisdiction of a Local is necessary for representational purposes consistent with the provisions of this Agreement and law, the local Union officials will be provided transportation on a space available basis. When a local representative uses a privately-owned vehicle because of the unavailability of a government vehicle, travel reimbursement will be made consistent with travel regulations if the activity is pre-approved.

Section 7

- A. Within 30 calendar days after this Agreement is approved, the Employer will post the text of the Agreement on the VA Office of Human Resources Management and Labor Relations web page and distribute a copy of the Agreement by e-mail to each facility Director and HR Manager where the Union represents employees.
- B. Within 30 calendar days after this Agreement is approved, the president of the NFFE National VA Council will distribute an electronic copy of the Agreement to each local president.
- C. The Employer will arrange for printing and distribution of the printed Agreement. The NFFE VA Council will receive 50 copies of the Agreement. Each Local will receive sufficient printed Agreements to distribute to each current bargaining unit employee. During new employee orientation, local management will distribute a printed copy to each new employee covered by this Agreement.

ARTICLE 10: PARTNERSHIP/COLLABORATIVE RELATIONSHIPS

Section 1: Purpose

A. Partnership/collaborative relationships involve the design, implementation, and maintenance of a cooperative working relationship between the Union and the Employer through pre-decisional involvement in order to achieve common goals.

B. The Employer and Union officials at the appropriate level will jointly determine the structure, nature, scope, and operation of these relationships. All partnerships will use consensus decision-making.

Section 2: Principles

The Employer and the Union leadership are encouraged to support collaborative relationships that will renew their efforts in improving service to veterans and providing a positive work environment for employees. The principles that guide this effort will be those developed by the VA National Partnership Council.

Section 3

Training on interest-based procedures and alternate dispute resolution will be provided. Payment for this training will be made on a case by case basis.

Section 4

Where consensus is not reached on those issues appropriate for bargaining, the parties do not give up their right to request negotiation.

Section 5

All partnership activities and preparations will be conducted on official time.

ARTICLE 11: MERIT PROMOTION & VACANCY ANNOUNCEMENTS (TITLE 5)

Section 1: Purpose

The purpose and intent of the placement procedures contained herein are to find the best qualified candidates for vacant positions in the bargaining unit and to ensure that selections and promotions are made equitably and in a consistent manner based on merit principles. Merit promotion principles are reflected in law at 5 U.S.C. § 2301.

Section 2

The provisions of this Article apply to filling positions within the bargaining unit only and are intended to ensure that merit principles are followed when filling vacancies. Competitive merit promotion principles apply to the following personnel actions:

- A. The filling of vacancies by temporary promotion or detail to a higher graded position or those with higher known promotion potential for more than 45 days;
- B. The selection for training which will prepare an employee for advancement and is required by the qualification standard for promotion;
- C. The reinstatement of an employee, including those made from reemployment priority lists, to a permanent or temporary position at a higher grade or with higher known promotion potential than the last grade held in a non-temporary position in the competitive service;
- D. The reassignment or change to a lower graded position which has greater known promotion potential than the position currently held by an employee (except as permitted by reduction-in-force regulations); and
- E. Promotion of an employee by transfer from another federal agency.

Section 3

Personnel actions not covered by the competitive merit promotion procedures of this Article include:

- A. Promotions to correct an erroneous classification determination, classification appeals, issuance of a new or revised classification determination or accretion of additional duties and/or responsibilities;
- B. Actions in a reduction-in-force which are technically promotions due to pay fixing policies;
- C. Temporary promotions of 45 calendar days or less;

- D. Promotions to a higher grade when the employee was appointed or selected pursuant to competitive promotion procedures for a position with clear, documented potential to a higher grade;
- E. Promotion change from a position with known promotion potential to another position with no higher known promotion potential or with no known promotion potential;
- F. Promotion of employees referred for priority consideration;
- G. Re-promotion to grades from which employees are demoted without personal cause and up to the grade previously held on a permanent basis (intervening grades) from which an employee was demoted without cause;
- H. Permanent promotion of an employee temporarily promoted provided the announcement stated that the promotion could become permanent;
- I. Mandated placements legally ordered by a third party or as the result of settlement agreements in third-party cases;
- J. Reinstatement from a reemployment priority list to a position not at a higher grade and with no higher known potential than the former employee's last non-temporary position in the competitive service;
- K. Consideration or selection of a person entitled to a higher order of consideration by law, government-wide regulation, or this Agreement such as restoration after military service, placement in lieu of disability retirement and return to duty after prolonged periods of approved leave without pay;
- L. Selection of a federal employee within reach on an OPM register for a higher graded position; and
- M. All details to positions with higher known promotion potential for less than 45 days.

Section 4: Area of Consideration

- A. The Parties agree that the Employer may use a number of recruitment methods simultaneously in order to reduce the total time to refer candidates.
- B. The Employer agrees that the first area of consideration will be facility-wide, including satellites. The second area of consideration will be VA-wide. Locally, the Parties may agree to narrow or expand the first area of consideration. All hiring will be conducted in accordance with applicable laws, rules and regulations.

Section 5: Postings

A. The Parties recognize that positions may be filled from any appropriate source in accordance with established laws, rules and regulations. Vacancy announcements will be posted on designated facility bulletin boards within the areas of consideration. The Employer will take appropriate steps necessary to assure announcements are not altered, defaced or covered. All vacancy announcements will be posted for 15 calendar days. Parties at the local level may agree to alternative methods of providing employees access to vacancy announcement information. A copy of each vacancy announcement will be sent to the local Union. An extension of the closing date shall be executed by amendment to the announcement. All vacancy announcements shall contain the:

- (1) announcement number;
- (2) opening date;
- (3) closing date;
- (4) title, series and grade;
- (5) organization and duty location;
- (6) summary of the duties and responsibilities;
- (7) qualification requirements;
- (8) selective or quality ranking factors;
- (9) known promotion potential of the position, if any;
- (10) area of consideration;
- (11) bargaining unit status;
- (12) availability of VA affiliated day care facilities;
- (13) list of rating factors;
- (14) application instructions;
- (15) nondiscrimination statement; and
- (16) any written test, certifications or licenses required by law, rule, or regulation.

B. The Employer shall consider only those applications received prior to the closing date of the announcement, except that employees on approved absence during the entire announcement period may submit a late application so long as they are able to provide any necessary information in time for that information to be processed and presented to the appropriate official(s) with those of all other applicants.

C. Applicants are responsible for providing full and complete information about their qualifications. Failure to furnish this information within the prescribed time limits may result in disqualification. SF171 or OF612 supplemental experience statements may also be used to demonstrate qualifications.

D. Announcements may be cancelled by notifying all applicants and the Union.

E. Multiple Grades and/or Multiple Vacancies

- (1) Multiple Grades: When an announcement is issued for multiple grade levels, candidates will be evaluated and ranked for each grade level for which they applied and are qualified. Separate certifications of best qualified candidates for each grade level, if available, will be referred for selection consideration.
- (2) Multiple Vacancies: Two or more vacancies may be filled from the same announcement for a period of up to 90 calendar days without re-announcing the vacancy.

NOTE: Open-continuous announcements are designed to provide the needed flexibility to effectively recruit eligible candidates for entry level positions, positions for which there is a frequent turnover, shortage categories or other hard to fill vacancies.

Section 6: Evaluation, Ranking and Rating Panel

A. The Employer recognizes the benefit to promoting from within the bargaining unit whenever appropriate. Therefore, selection officials will consider the rated and ranked list of in-house applicants concurrently with other applicants.

B. Qualified promotion candidates will be rated and ranked.

C. Qualified candidates will be evaluated using a rating guide developed in accordance with VA Handbook 5005. The information provided by the employee will be used to evaluate the qualifications of the candidates. All relevant information available on each qualified candidate, taken as a whole, will be evaluated against each rating factor or job element, as appropriate, to determine the amount of credit to be granted.

Section 7: Interviews and Considering Applicants for Selections

- A. The Employer will give the Union the questions used for performance-based interviews so that the Union may review whether the questions are job related. The Union will not share the questions with job applicants.
- B. If the selecting official interviews one candidate from a certificate for a specific grade level, then all candidates referred at that grade level must be interviewed. Telephone interviews may be conducted if a candidate is not available for a personal interview and requests such an interview. VHA facilities may use Performance Based Interviewing (PBI) techniques.
- C. The Employer may select applicants from internal recruitment sources prior to considering applicants from external recruitment sources.
- D. Non-selected candidates will be notified in writing within 15 calendar days after a selection has been made. All such notices will be sent at approximately the same time.
- E. At the employee's request, the selecting official or designee will meet with an employee to provide information on what areas, if any, the employee should improve to increase future chances of selection. The employee may also request that the information be provided without a meeting.
- F. The effective date for promotions will be no later than the start of the first pay period after the selection was made or within a reasonable time thereafter. The Employer agrees to process promotion actions as quickly as possible.

Section 8: Details

- A. A detail is the temporary assignment of an employee to a different position for a specific period to meet unforeseen situations such as training or absence of personnel. Details will be based on management needs and in the interest of economy and efficient employee utilization. At the end of the detail the employee will be returned to his/her regularly assigned duties.
- B. A qualified employee placed in a higher graded position or assigned to a set of duties that have been properly classified at a higher grade for a full pay period will be temporarily promoted into that position and paid accordingly.

Section 9: Promotion Records

A. Records of promotion actions will be maintained by the Employer and will be made available to the Union upon request. The record will include documentation of how each employee was ranked and rated and a copy of the selection register presented to the selecting official(s).

B. Non-selected employees may also review the promotion records consistent with the Privacy Act and appropriate laws, rules and regulations.

ARTICLE 12: PROFESSIONAL EMPLOYEES

Section 1

A. This Section is subject to 38 U.S.C. § 7422 and is for informational purposes only.

B. When the Employer changes the certification or licensure requirements of current employees, it will provide reasonable notice of the change in requirements and a reasonable period of time for affected employees to obtain the certification or meet the licensing requirements.

C. The employees referred to in "A" shall be provided a reasonable amount of time to prepare for and to participate in required certification licensure or other board testing.

D. The Employer and Union recognize the importance of a professional code of ethics and expect staff to work within ethical boundaries. Employees who believe they are being asked to violate their professional code of ethics should immediately notify management through supervisory channels. Each facility will have a procedure for reporting and handling these issues.

E. When the Employer is notified of an employee's ethical concern relative to a clinical directive, the Employer will consider such concern and take appropriate action.

Section 2

Full-time board certified physicians and dentists appointed under 38 USC 7401(1) shall be reimbursed up to \$1,000.00 annually for professional education. Details on the submission of such requests for reimbursement may be negotiated at the local level.

Section 3: Union Officers

If a professional employee holds a Union office, the Employer will provide this employee with the same base pay and cost of living (COLA) he or she would be entitled to if he or she did not hold a Union position. The amount of physician and dentist pay will be prorated based upon the time spent performing assigned clinical duties.

Section 4

When an employee or the Union raises a concern of inequitable assignment of work among employees, the Employer will review and take appropriate action.

ARTICLE 13: PAY SURVEYS

Section 1: Nurse Locality Pay Survey

- A. To the extent practicable the Director shall use third-party industry wage surveys. VA-conducted surveys shall be done consistent with the provisions of 38 USC 7451 and VA regulations.
- B. If third-party industry wage survey data is unavailable and the Employer conducts a survey, the Union will have a mutually agreed upon representative on each Title 38 nurse pay survey team. Federal employees are prohibited from directly or indirectly influencing their own rate of pay. Both parties will ensure no conflicts of interest exist.
- C. Title 38 nurse pay adjustments are effective on the first day of the pay period after the Director approves the pay scale in accordance with law and VA regulations. Nurses who do not receive the pay raise due to a system error will receive retroactive pay.

Section 2: Special Salary Rate Surveys

VA-conducted surveys shall be done consistent with the provisions of applicable law and VA regulations. The Union will have a mutually agreed upon representative on each pay survey team. Federal employees are prohibited from directly or indirectly influencing their own rate of pay. Both parties will ensure no conflicts of interest exist.

Section 3: Releasing Information to the Union

- A. Access to survey data is to be restricted to data collectors and management officials responsible for authorizing or requesting special rates and to those responsible for reviewing special rates authorizations or requests or employees where required for them to perform their official agency duties. All individuals having access to the data are required to retain it in strict confidence. All federal employees will be subject to disciplinary action for violating the confidentiality of data obtained from a non-federal employer.
- B. If a request is made under the Freedom of Information Act (FOIA) for salary information from non-federal employers, such information might be exempt from disclosure pursuant to applicable FOIA exemptions.
- C. Data summarizing the results of a survey may be released to the local Union provided the information does not permit the reader to associate specific employers with specific rates of pay. Local policies may be developed for the routine release of information from the survey summary.
- D. Upon request by the Union, the Employer will provide the rationale for not conducting an annual pay survey.

ARTICLE 14: PHYSICAL STANDARDS BOARD

Section 1

When the Employer believes that a Title 38 employee is physically or mentally incapable of performing his/her duties, the Employer may convene a Physical Standards Board in accordance with the procedures set forth in VA Handbook 5019. The Union will be notified in advance whenever a Physical Standards Board will be convened regarding a bargaining unit employee. In the event that the Physical Standards Board believes that an employee is physically or mentally incapable of performing his/her duties, the employee shall be entitled to meet with the VA examining provider as set forth in the VA handbook and provide any oral and written information for the board's consideration before a recommendation is made. In any such meeting, the employee may choose to have Union representation. The facility will follow VA Handbook 5019 in determining the employee's condition. Where an employee is determined not to satisfy the physical or mental requirements of his/her current position, Management recognizes its obligations under the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

Section 2

If any decision is made that removes the employee from his/her position or duties for physical or mental inability to perform, the employee, consistent with Title 38, shall be able to use the appropriate appeals procedure and may have Union representation.

Section 3

Confidentiality must be maintained throughout the review process.

Section 4

The Employer shall offer the employee an opportunity to submit medical documentation from his/her personal physician and the Employer will consider such documentation in the decision-making process.

**ARTICLE 15: PROFESSIONAL STANDARDS BOARDS
(PURE TITLE 38 EMPLOYEES)**

Section 1

The Union may submit names of candidates for Professional Standards Boards. The Department will give serious consideration to appointing Board members from the list of candidates submitted by the Union.

Section 2

Employees normally will receive an annual review by the relevant Professional Standards Board.

ARTICLE 15A: PROFESSIONAL STANDARDS BOARDS (HYBRIDS)

Section 1

The Union will submit names of candidates for Professional Standards Boards. The Employer may appoint a qualified Union candidate. If appointed, the candidate will represent the profession on the Professional Standards Boards.

Members of Professional Standards Boards may be rotated in accordance with VA Handbook 5005, Part II, Chapter 3.

Section 2

The Professional Standards Boards will review and make recommendations on promotions to a higher grade and advancements to a higher level within a grade for those employees covered under this Article. These employees may be considered for promotion or advancement in accordance with the provisions of VA Handbook 5005, Part III, Chapter 4. These employees may also be considered for special advancement for achievement or performance in accordance with VA Handbook 5017, Part V.

Section 3

Employees' performance will be reviewed annually and employees may be considered for promotion to a higher grade in accordance with VA Handbook 5005, Part III, Chapter 4.

Section 4

A. Promotions at or below the full performance level will be effective on the first day of the first full pay period following approval by the second level supervisor. Promotion recommendations and actions that are administratively delayed beyond the time limits specified will be made retroactive. In no case will the promotion be effective later than the day of the first full pay period commencing sixty (60) calendar days after the employee's anniversary date as specified in VA Handbook 5005.

B. Promotions above the full performance level will be effective on the first day of the first full pay period following approval by the medical center director. Promotion recommendations and actions that are administratively delayed beyond the time limits specified will be made retroactive. In no case will the promotion be effective later than the day of the first full pay period commencing 120 calendar days after the employee's anniversary date, as specified in VA Handbook 5005.

C. Normally, notice of decisions on promotions and advancements shall be communicated in writing within ten (10) workdays of the action taken.

D. Normally, when employees are not promoted, they will receive a written explanation regarding the specific elements in which they are deficient. This will be communicated in writing within 10 workdays.

E. The Employer agrees to make a good faith effort to process board actions in a timely manner.

ARTICLE 16: PROFICIENCY RATINGS (PURE TITLE 38 EMPLOYEES)

Section 1

The Department will involve employees actively in the promotion/evaluation process. Employees will be notified at least 90 days prior to the due date for proficiency.

Section 2

Employees will be given at least 60 days to provide information that will be used in the proficiency rating.

Section 3

When employees meet time-in-grade requirements for promotion to the next grade, the employee will be evaluated for promotion at the next scheduled boarding.

Section 4

Employees will receive current copies of criteria for promotion and special advancement on initial employment. Employees will receive updated copies of promotion and special advancement criteria when changes are made.

Section 5

Where employees are not promoted, they will receive an explanation regarding those specific elements in which they are deficient.

Section 6

Proficiencies will be done timely to prevent delays in the boarding cycle. Employees whose proficiencies have been unduly delayed without good cause will be made whole.

ARTICLE 17: REPRESENTATION AT BOARDS OR HEARINGS

Section 1

Upon the request of the employee, the Union will be allowed to represent any unit employee at any hearing before a Title 38 Disciplinary Appeals Board (DAB) or whenever a probationary employee appears before a Summary Review Board (SRB). An employee's representative in a DAB or SRB may provide representation in accordance with VA regulations.

Section 2

Consistent with applicable laws and regulations, Union representatives must protect the confidentiality of any information to which they have access in connection with a board hearing.

**ARTICLE 18: VACANCY ANNOUNCEMENTS
(TITLE 38 AND TITLE 38 HYBRIDS)
Excludes Physicians, Dentists, Podiatrists and Optometrists**

Section 1: General

A. The Employer and the Union recognize the importance of considering current employees for opportunities for professional growth. The morale of employees is impacted based on their perception of being treated fairly when they seek developmental and growth opportunities. The Parties encourage facilities to consider establishing a recruitment and retention committee. The role and membership will be a subject for local negotiations.

B. Employees have an obligation to maintain and improve their skills and competencies and maintain their certifications and licensure in order to successfully vie for positions.

C. The Employer and the Union agree that positions may be filled from any appropriate source, including reassignment, appointment and reemployment. The methods may be used simultaneously.

Section 2: Contents of Vacancy Announcement

A. If announced, the qualifications for the positions, educational and certification level, location of the position, and specialized skills will be clearly defined on the vacancy announcement. If the requirements of the job/position change, the vacancy announcement will be amended reflecting the changes.

B. The Union will be provided with copies of all bargaining unit vacancies.

Section 3: Postings and Notices

A. All new bargaining unit positions will be announced facility-wide with posting and/or distribution as a proper subject for local bargaining. Although the methods for recruitment of these new positions may be used simultaneously, the Employer will consider internal candidates first for these new positions.

B. If facilities are consolidated or integrated, new positions will be posted at each geographic location. These announcements must be readily available for review by employees.

C. The Employer will maintain an open-continuous announcement that is updated periodically, identifying all vacant Title 38 and hybrid Title 38 positions that are within the normal grade progression. The methods to be used for making employees aware of these opportunities are a proper subject for local bargaining.

D. The Employer may announce Title 38 and hybrid Title 38 bargaining unit positions with duties attached to the vacancy announcement.

E. At the employee's request, the selecting official or designee will meet with an employee, who was not selected to fill a vacancy, to provide information on what areas, if any, the employee should improve to increase future chances of selection. The employee may also request that the information be provided without a meeting.

ARTICLE 19: EMPLOYEE AND UNION DATA SECURITY

Section 1

VA employees do not have a right or expectation of privacy while using any government information technology (IT) at any time, including accessing the World Wide Web or using e-mail in conformance with VA Directive 6001 governing office equipment including Information Technology. By using government IT, VA employees consent to disclosing the contents of any files or information maintained or passed through government IT equipment, and to management monitoring and recording with or without cause by authorized officials. Any use of government IT resources is made with the understanding that such use is generally not secure, is not private, and is not anonymous. Authorized staff will have access to any computer connected to the VA network in order to test for viruses, perform updates and insure that the use of government IT is consistent with governing laws and regulations.

Section 2

The Employer recognizes the need for the Union to have secure and confidential records. Therefore, the Employer will not search a computer provided to the Union by the Employer without just cause. The Employer agrees to educate IRM staff, and other staff as indicated, to the sensitivity of data contained in the computer provided to the Union. The Employer agrees to take necessary steps to make certain Union computers, whether existing on the VA network or logged in remotely, are not compromised by VA employees.

Section 3

The Union will be permitted to house and maintain Union owned computers in the Union office. If the computer is not connected to the VA network, the contents of the hard drive will be confidential and not subject to the VA IT agreement. The Employer may search the computer if it has reasonable suspicion that the computer is being used for criminal activity.

ARTICLE 20: RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Section 1: Definitions

A. Research program means a planned study of the manner in which public management policies and systems are operating, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

B. Demonstration project means a project under Title 5 where specific waivers to government-wide procedures and statutes are requested from OPM and Congress to determine whether a specified change in personnel management policies or procedures would result in improved federal personnel management.

Section 2: Project Initiation

A. When a demonstration project is considered, the Union at the appropriate level will be advised as soon as possible and provided specific information, including what proposals are being made, what laws, rules and/or regulations are being waived and the intended replacements for these waivers. The Union then will meet with the Employer to provide input, to negotiate, or to decline to participate as appropriate. Where the Parties agree on the project protocols, they are encouraged to jointly request demonstration authority from OPM and jointly develop the details of the demonstration project.

B. The Employer will notify the Union when it receives notification from OPM, another federal agency, or other public or private organization that a research or demonstration project is proposed to be conducted.

C. The Employer agrees not to enter into any research or demonstration project affecting unit employees without first meeting its obligation to negotiate with the Union.

D. Upon request, the Union shall receive:

- (1) Information concerning research programs or demonstration projects proposed to OPM by the Employer; and
- (2) Data and reports of research provided to the Employer by OPM or other federal agencies which concern research projects affecting unit employees.

Section 3: Comments on Reports

Whenever the Employer submits an evaluation report to OPM concerning a research or demonstration project affecting unit employees, the Union will be provided an opportunity to submit its views in an accompanying report.

ARTICLE 21: SAFETY AND HEALTH

Section 1

The Parties agree that safety is of prime consideration in the accomplishment of the Employer's mission and commit themselves to establishing and maintaining safe working conditions. The Department of Veterans Affairs is committed to maintaining a safety program that meets the requirements of applicable statutes and government-wide regulations.

Section 2

Safety and health matters are appropriate subjects for the annual labor-management committee meetings addressed in Article 2. At such meetings the VA Central Office Designated Agency Safety and Health Officer (DASHO), or designee, and a Union designated safety representative shall be participants if safety and health matters are discussed.

Section 3

A. The Employer recognizes that Union participation in its Occupational Safety and Health program is essential for the success of the program. The Union may designate a representative at the national level who will represent the interests of the Union and the bargaining unit employees in the development and implementation of the program. The Parties agree that work on the Safety and Health Program is a part of the ongoing collaboration between the Employer and the Union. Time spent serving as a Union representative during safety and health inspections, as a member of a Safety and Health Committee or its subcommittees, developing plans for abatement of materials, investigating accidents, and safety-related committee assignments will be considered official time. The Employer will provide basic and specialized safety and health training for the National Union Safety and Health Representative, which may include official time, per diem and travel expenses.

B. The NFFE National Safety and Health Representative will be entitled to official time, as specified in Article 2, Section 8A, to manage occupational safety policies and conduct health training initiatives in the Department. The NFFE Safety and Health Representative will be the point of contact on all safety and health initiatives that impact employee safety and health at the Department and administration levels.

C. The NFFE National Safety and Health Representative will be given access to all DASHO letters and all other national level communications to the field on safety and health matters, as well as all safety manuals and publications. The Employer will pay tuition, travel and per diem expenses for the National Safety and Health Representative to attend one safety conference a year.

D. The Parties agree that the NFFE National Safety and Health Representative needs office space, including a telephone (with FTS), facsimile machine, a computer with Microsoft Outlook access, and secure files in order to adequately perform the duties of this position. The location and size of the office space will be a matter of local negotiations but the negotiators at the duty station of the National Safety Representative will consider the needs of this representative in order to perform this role.

Section 4

Each Local shall have at least one Union representative on any local safety and health committee that considers safety and health issues for employees in the bargaining unit. Such representative will be allowed to participate in committee meetings on official time if otherwise in a duty status. Where no committees are established, the Employer agrees to meet with the Union upon request to discuss safety and health matters. Such meetings will include the safety officer or an appropriate official assigned by management concerned with the matter. Union members of the committee will receive training in their duties and will have access to Employer information necessary in the performance of their duties.

Section 5

Local Union officials will be allowed access to any information pertinent to bargaining unit employee's safety that is available at the facility and is releasable under applicable law and government-wide regulations.

Section 6

Where a Director of a VA facility chooses to participate in field federal Safety and Health Councils at a facility where the Union holds exclusive recognition, the Union will be allowed to provide a representative consistent with subpart K of 29 C.F.R. Part 1960.

Section 7

A local Union representative shall be given the opportunity to accompany the VISN safety and health officials during the annual physical inspection of any workplace as well as the official who conducts an inspection in response to a report of any unsafe or unhealthful condition made by a bargaining unit employee or the Union. The Union representative shall also be given the opportunity to accompany an OSHA inspector at any time the inspector conducts an inspection of the workplace of any unit employees. Copies of inspection reports will be furnished to the Union.

Section 8

The Employer shall acquire and maintain approved personal protective equipment, safety equipment and other devices, as necessary, to provide

protection of employees from hazardous conditions during performance of their official duties. Employees are responsible for ensuring that assigned personal protective equipment, safety equipment and other devices are serviceable and operating correctly. Deficiencies are to be brought to the attention of the immediate supervisor.

Section 9

The Employer agrees to provide adequate lighting, heating and ventilation in work areas. Where permitted by local policy, and subject to safety regulations and utility capabilities, employees will be allowed to bring in space heaters, heating pads, portable electric fans and similar items where inadequate or unreasonably uncomfortable conditions exist until the conditions have been corrected. In extreme conditions, consideration will be given to excusing employees without charge to leave. If extreme conditions exist and a decision is made not to excuse employees, supervisors will be liberal in granting employee requests for leave. The Employer agrees that in extreme conditions, employee performance may be adversely affected.

Section 10

A. The Employer shall encourage employees to work safely and to report any observed unsafe or unhealthy conditions to the employee's immediate supervisor. Stewards and other representatives of the Union, in the course of performing their normally assigned responsibilities, are encouraged to observe and report unsafe practices, equipment and conditions which may represent health or safety hazards. The Employer assures that there will be no restraint or reprisal as a result of an employee's reporting an unsafe practice or condition.

B. Employees will report abuse, attacks and assaults by patients, customers, employees, contractors or visitors upon other patients, customers, employees, contractors and visitors. Upon request, the Employer agrees to meet with employees and/or Union representatives to discuss the above misconduct and recommend remedial or corrective action.

C. The Parties agree that low-level aggressive behavior and physical violence in the workplace adversely affect employee satisfaction and performance and organizational performance. Both Parties are committed to providing a work environment that is free from intimidation, harassment, threats, assaults, or acts of violence. Threats of violence or of physical harm and any form of physical or sexual assault or threats of physical assault are prohibited. This also includes conduct that harasses, threatens or interferes with another person's work performance or creates an intimidating or hostile work environment. Both Parties are therefore committed to encourage employees to conform to this policy and to report threats or actual incidents of aggressive or violent behavior to a supervisor or other appropriate official. The Employer will take appropriate administrative action to address reported verified instances of harassing, aggressive or violent behavior by employees, patients, customers or visitors.

Section 11

The Employer agrees to assure prompt response to employee reports of unsafe or unhealthful working conditions and will require an inspection within 24 hours for employee reports of imminent danger conditions, or within 3 workdays for potentially serious safety and health conditions. If any inspection is made, the Union will be informed and given an opportunity to be present and participate during the inspection. After an abatement of any area the Union shall be given an opportunity to be present at the final inspection before the acceptance of the area for employee occupancy. However, an inspection may not be necessary if, through normal management action and with prompt notification to employees and safety and health committees, the hazardous condition(s) identified can be abated immediately. Employees are responsible for reporting unsafe or unhealthful working conditions to their supervisors, and shall have the right to report the unsafe or unhealthful working conditions to a safety officer or an appropriate official assigned by management, the Union representative or OSHA, and request an inspection of the workplace for this purpose.

Section 12

The Employer agrees to ensure prompt abatement of unhealthful and unsafe working conditions, including but not limited to asbestos exposure. Once it has been determined that an unsafe or unhealthful working condition exists and cannot be abated immediately, a notice will be posted in accordance with 29 C.F.R. 1960. In accordance with 29 C.F.R. 1960.30, whenever the facility cannot abate an unsafe or unhealthful working condition within 30 calendar days, it shall prepare an abatement plan with the cooperation of the facility's safety and health official or designee and the Safety and Health Committee. A copy of the abatement plan will be forwarded to the Safety and Health Committee. If there is no committee, the plan will be sent to the Union. Such plan shall contain a proposed timetable for abatement and a summary of steps being taken in the interim to protect employees from being injured as a result of the unsafe and/or unhealthful working condition. All unit employees subject to the hazard shall be immediately advised of the interim measures in effect and shall be kept informed of subsequent progress of the abatement plan. Prior to the establishment of the abatement plan, management will take interim steps for the protection of the employees. When unhealthful or unsafe working conditions exist, the Employer will institute interim measures or assign the employees to work in other areas that are healthful and safe. In extreme conditions, the Employer may release employees from duty.

Section 13

The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures (29 CFR 1960.2). In

the case of an imminent danger situation, employees shall make reports by the most expeditious means available. The employee has the right to decline to perform his or her assigned tasks because of a reasonable belief that under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. However, in these instances, the employee must report the situation to his/her supervisor or the next higher-level supervisor who is immediately available. The Employer is responsible for reporting suspected conditions of imminent danger to the safety officer and Union representative. If the Employer believes the condition or corrected condition does not pose an immediate danger, then the Employer shall request an inspection by the appropriate safety officer as well as contact the designated Union representative. A Union representative shall be afforded the opportunity to be present at the time inspection is made. Inspections shall be conducted by inspectors qualified to recognize and evaluate hazards of the work environment and to suggest general abatement procedures. All inspection hazard assessments and recommendations will be provided in writing. If the Employer decides the condition does not pose an imminent danger, the instruction to return to work shall be in writing and contain a statement declaring the area or assignment to be safe. Any refusal to perform such assignment after the Employer's decision or written instruction to return to work might be cause for discipline. However, continued refusal by the employee at this point would be justified if there were a reasonable basis for the employee to believe the imminent danger still exists. It is also understood that at any time the management official finds there is an imminent danger, the employee will not be obligated to return to the assignment until the imminent danger is removed.

Section 14

In the interest of safety of the employees, when requested, the Employer agrees to provide assistance when available to employees who are requested to move any furnishings such as desks and filing cabinets. When such assistance is not immediately available, the Employer will normally wait a reasonable time before making the move in order to see if assistance becomes available.

Section 15

The Employer agrees to maintain an employee occupational health and wellness program and to provide the following services:

A. Emergency diagnosis and initial treatment of injury or illness that becomes necessary during working hours and that is within the competency of the professional staff and facilities of the health service unit. If the illness or injury is too severe for the health service unit to provide the level of medical services necessary, the employee will be transported to the nearest appropriate medical facility at no charge to the employee to the extent permissible by laws and regulations;

- B. Special health examination for specific categories of employees whose work environment presents peculiar health hazards;
- C. Subject to availability of resources and staff, individual facilities may provide diagnosis and/or screening tests and health educational programs, such as stress management. Participation in such training will be excused without charge to leave if the employee is otherwise in a duty status and can be spared from assigned duties; and
- D. Referral, upon request of the employee, to private physicians, dentists, and other community health resources. An employee will be expected to notify his/her supervisor of the intention to seek medical treatment in a health unit.

Section 16: Communicable Diseases

- A. The Employer recognizes its responsibility to identify areas that may pose a hazard from highly communicable diseases. Areas that may contain highly communicable diseases will be identified along with appropriate information regarding protective measures needed. Employees will receive instructions on procedures for cleaning areas that have been identified as containing highly communicable diseases. Materials needed to clean or sanitize a room or a person will be made available to employees. This includes providing a sufficient number of proper fitting functional gloves that provide appropriate protection and assure safe use. Technology/material may change during the life of the contract. Non-powdered gloves will also be provided as needed.
- B. Exposure to blood and body fluids will be handled in accordance with 29 CFR 1910.1030. In the event of blood or body fluids exposure, the employee will be permitted to immediately shower and change his/her clothing. The employee will be given full disclosure and prophylactic treatment in accordance with OSHA guidelines and VA procedures. Employees will report to a supervisor an exposure incident immediately upon occurrence.
- C. The Parties recognize the need to follow universal precautions. The Parties understand that HIV is not recognized as a highly communicable disease but that it could be life threatening if proper procedures are not followed. Facilities and employees will follow all applicable regulations and guidelines relating to the prevention of transmission of blood and airborne blood pathogens in the health care setting, commonly known as universal blood and body fluid precautions or "universal precautions." For example, having an approved HIV germicidal available for immediate use as established by the Centers for Disease Control (CDC).
- D. Employees will not be required to take leave after exposure to contagious diseases, such as measles, unless they are considered "susceptible" after appropriate medical screening by the health service unit. CDC publishes and maintains a list of contagious diseases.

Section 17: Emergency Preparedness

A. Each facility shall have an emergency preparedness plan. This plan will include a chain of command. The plan will also include a member of management who will be physically present for employee direction during all scheduled work hours in each installation. The plan will also cover employee procedures and procedures to notify the Union in the event of fire, earthquake, bomb threat, tornado, flood, hurricane, threats of terrorism, biohazard exposure, or similar emergency. Emergency drills will be conducted in accordance with JCAHO standards.

B. The Employer will notify the Union and employees of any verified threat against a specific facility.

C. In the event of a biohazard or chemical exposure, the Employer will immediately take action to contain the exposure, isolate and screen the affected employees, and protect other employees until such time as the incident is investigated and determined to be safe. The Employer will notify the Union of the exposure.

ARTICLE 22: LEAVE

The Parties recognize the Employer's every day efficiency is enhanced through a dependable and reliable workforce which is characterized by employees scheduling leave in advance (but for unforeseen illnesses and emergencies), reporting to work timely, and remaining on duty during the full period of their tours unless in an approved leave status. Local parties are encouraged to develop programs that foster these characteristics. It is an employee's right to accrue and use his/her annual and sick leave upon approval. Leave will be administered in accordance with Department regulations and applicable laws.

Section 1: Annual Leave

Annual leave is earned in accordance with appropriate statutes and regulations. The Employer shall allow each employee to schedule annual leave as he or she requests, subject to approval by the appropriate official based on workload and staffing needs. Approving officials must give appropriate consideration to employees with emergency situations. The amount of leave for an emergency will not be arbitrarily assigned but will depend upon the appropriateness of the situation.

A. Scheduled Leave

- (1) Employees are encouraged to take two consecutive weeks of annual leave for vacation purposes each year, provided that the employee has sufficient accrued leave and that the workload within the organization permits. This is not meant to preclude employees from taking more or less than two consecutive weeks of annual leave.
- (2) Normally, the employee will submit, through the electronic time and leave system, a scheduled leave request between October 1 and December 1. The supervisor must approve/disapprove the request in the electronic time and leave system not later than December 15th.
- (3) When making a routine request for annual leave, the employee need not state the reason for the request. When leave is approved in advance for extended periods, such approved leave will be honored where staffing needs permit. When situations arise where previously approved leave must be canceled, the employee will be informed by the supervisor of the cancellation and, upon request, will be given a written statement or e-mail message stating why the leave was canceled. The employee will be permitted to reschedule the leave as soon as staffing needs permit. Consideration will be given to that employee in accordance with the priority list.

B. Unscheduled Leave

- (1) Employees normally will be informed whether leave is approved or disapproved at the time it is requested. When a decision cannot be given immediately, it will be given as soon as possible after the request has been made and normally not later than 24 hours. Upon request, employees will be furnished the reasons for disapproval in writing or e-mail message. Supervisory staff will not arbitrarily deny leave.
- (2) Where unforeseen circumstances or emergencies arise and the employee requests annual leave, employees must contact their supervisor or designee, either personally or by phone, to request leave as soon as possible but not later than two hours after the beginning of the regular work shift. If the employee is unable to call the Employer due to unusual circumstances, a family member or other responsible person may call for the employee. This requirement may be waived because of special or unusual circumstances that preclude notification.

C. Scheduling Process

- (1) Any employee in a use or lose status must be given consideration for their leave to be used by the end of the leave year in accordance with the priority list contained in paragraph 2 below. The Employer agrees to assist employees in scheduling use or lose leave. Such assistance will include a written notice to employees on or before June 1 of each year. Such notice will advise employees of the importance of requesting an adequate amount of leave to avoid the loss of leave. If the Employer prevents an employee from using previously scheduled and approved leave at the end of the year, that leave will be reinstated to be used in accordance with applicable regulations.
- (2) If there is a conflict in scheduling leave or when there is a mission need to cancel leave already approved that cannot be resolved by the individuals involved, the following priority list will be used:

Priority 1: Annual leave as well as holiday leave scheduled before December 1st:

- (a) Employees who were employed at the local facility for the previous calendar year;
- (b) Employees who did not have that time scheduled during the previous year;
- (c) Employees who have not had a choice from the same group of holidays that year;
- (d) Service computation date (SCD); and

- (e) Employees who have already incurred a substantial financial expenditure for use of that time period (after the leave has already been scheduled).

Priority 2: Leave scheduled after December 1st:

- (a) Employees who have already incurred a substantial financial expenditure for use of that time period (after the time has already been scheduled);
- (b) Hardship;
- (c) Date of request;
- (d) Employees who have use or lose leave; and
- (e) Service computation date.

Once an employee's vacation time has been scheduled, he or she will normally be permitted to change his/her selection only if workload permits and no other employee's choice is disturbed or if another employee agrees to trade.

Any management-directed movement of an employee from one work location to another will not normally result in loss of an employee's use of approved leave.

The Employer agrees to make a good faith effort to honor an employee's request for two scheduled days off before and after a vacation.

Section 2: Holidays

A. Holidays for VA employees will be those established by statute or Executive Order.

B. The Employer acknowledges that more liberal annual leave approval may be appropriate on days before and after holidays.

C. Holidays shall be divided into (3) three groups as follows:

- Group 1: Martin Luther King's birthday, President's Day, Columbus Day, and Veterans Day
- Group 2 : Memorial Day, Independence Day and Labor Day
- Group 3: Thanksgiving, Christmas and New Years Day

The scheduling of holidays off (or days observed as holidays) within each of the individual groups listed above shall be equitably distributed consistent with the provisions of Section 1 of this Article. The Employer shall strive to allow the maximum number of employees off on holidays as staffing and workload requirements permit.

D. Requests for holidays off in connection with annual leave will be considered as exercising an option for the holiday. Normally, requests are to be submitted at least six weeks before any given holiday.

E. If a supervisor determines that not all employees who have indicated a preference for a given holiday can be excused on that holiday, the conflict between employees shall be resolved by using the priority list in Section 1 of this Article.

F. Requests for cultural, religious and ethnic holiday leave are appropriate subjects for local bargaining.

Section 3: Sick Leave

A. Sick leave shall be granted to employees upon request for any of the following reasons:

- (1) When the employee is incapacitated for the performance of duty because of sickness, injury, pregnancy and confinement, or childbirth;
- (2) Medical, dental, or optical examination or treatment;
- (3) When a member of the employee's immediate family is afflicted with a contagious disease and requires the personal care and attendance of the employee;
- (4) When, through exposure to contagious disease, the presence of the employee at the place of duty would jeopardize the health of others;
- (5) To participate in substance abuse treatment programs or counseling that would not be covered by authorized absence; and
- (6) Under the Family Medical Leave Act (FMLA) to provide medical care to a family member.

B. A medical certificate, or equivalent, will not be required for a sick leave period of three consecutive work days or less unless an employee is suspected of sick leave abuse. Normally, employees will be advised in advance in writing or by e-mail of such requirement. All written notices shall explain in detail why the requirement has been established and what actions must be taken in order to get it removed. In all cases, the written notice shall be reviewed with the employee no later than 6 months after it is issued. If no sick leave misuse is shown during the six-month period, the requirement shall be removed and the notice removed from all records. If the notice is continued, the employee will be notified in writing or by e-mail of the reason for the continuance. Use of all available leave or absence on approved leave on many occasions does not in itself constitute misuse of sick leave.

C. Employees on sick leave for more than 3 consecutive workdays or on leave restriction must furnish satisfactory evidence of their need for sick leave, normally within fifteen (15) calendar days but not later than thirty (30) calendar days after returning to duty. When a medical certificate is not furnished due to a shortage of physicians, remoteness of locality, the nature of the illness did not require a physician's services, or other valid reason, the employee's signed statement of reasons why other supporting evidence is not furnished will normally be accepted in lieu of a medical certification. However, if an employee is on leave restriction, the Employer may require a physician's statement for every use of sick leave.

D. It is the responsibility of an employee who is sick to report or to have some responsible person report his or her illness as soon as possible to the supervisor or designee. This must be accomplished no later than two hours after the employee is scheduled to report for duty unless there are mitigating circumstances. An employee who expects to be absent more than one day shall, if possible, inform the supervisor of the approximate date of return to duty. If he or she does so, daily reports will not be required. An employee will not routinely be required to reveal the nature of illness as a condition for approval. Failure to furnish the nature of illness will not, in itself, serve as a basis for disapproval.

Section 4: Maternity/Paternity Leave

Sick leave, annual leave, or leave without pay may be granted as appropriate to any employee who is pregnant, during delivery, confinement, and for care of the infant. Annual leave, sick leave or leave without pay may be granted to a male employee in accordance with the Family Medical Leave Act and implementing regulations, and the VA Handbook 5005, as applicable. In order to aid or assist in care of his minor children or the mother of the newborn child in relation to confinement for maternity reasons. Sick leave, annual leave, or leave without pay, as appropriate, also may be granted to any employee when adopting a child.

Section 5: Military Leave

A. Employees will be granted military leave in accordance with 5 USC § 6323, and VA Handbook 5011, as applicable. Employees will be provided advice on leave benefits by the Human Resources Management Office.

B. To use military leave employees must:

- (1) Notify their supervisor as soon as possible after receiving notification of the training or active service;
- (2) Provide evidence of the requirement (written orders or confirmation of orders by the individual's military commander);
- (3) Request military leave, annual leave, or leave without pay as appropriate using Standard Form 71, Application for Authorized Leave, or electronic procedures; and
- (4) Furnish a certification of completion of training or active service from the military commander or superior upon returning to their civilian position.

C. Employees may be granted military leave, annual leave or leave without pay for all required military time, including drill weekends, in accordance with the policies and procedures set forth in VA Handbook 5011, Part III, Chapter 2, Paragraph 9. Requests to perform active or inactive duty for training shall be granted upon request in accordance 5 C.F.R. §353.208.

Section 6: Administrative Leave or Excused Absence

Consistent with Agency policy, management officials may grant absences from duty without charge to leave. The following gives some of the activities for which excused absences normally will be authorized. This is not an all-inclusive list. Administrative leave is treated as time worked for all purposes, except that the employee is excused from his regular assigned duties.

A. Infrequent or brief periods of absence or tardiness of less than one hour due to circumstances beyond the employee's control.

B. Employees who give blood without compensation may be excused without charge to leave for any portion of the day blood is donated, for travel to the donation site, donation and recovery. Normally this will not exceed 4 hours unless travel time is required.

C. For registering to vote and/or voting in governmental elections. When the polls are not open at least three hours either before or after an employee's regular hours of work, he or she may be granted an amount of excused absence to vote which will permit the employee to report for work 3 hours after the polls open or to leave work 3 hours before the polls close, whichever requires the lesser amount of time off.

- D. Fulfillment of administrative responsibilities in connection with a non-local transfer.
- E. Time spent in approved training.
- F. Non-duty status when allowing the employee to continue working would be dangerous to life or property or otherwise inconsistent with the fulfillment of the agency mission.
- G. Severe weather and emergency situations.
- H. Emergency treatment due to an on-the-job injury.
- I. Jury duty.
- J. As a witness in the employee's official capacity as a federal employee, serving as a witness in behalf of the Employer or the United States in compliance with applicable regulations.
- K. Court leave.

Section 7: Leave Without Pay

Employees who do not have leave to their credit and wish to take leave for emergencies or other necessities may be granted leave without pay (LWOP) upon request. Employees may also be granted LWOP upon request if they have leave to their credit but choose not to take it.

LWOP may be granted on an extended basis for:

- A. Educational purposes;
- B. An employee who has suffered an incapacitating job-related injury or illness and is waiting adjudication of a claim for employee compensation by the Office of Workers' Compensation Program;
- C. As an officer or representative of the Union or the NFFE Council of Consolidated VA Locals when involved in matters other than those covered by official time;
- D. Pending a decision on disability retirement; and
- E. A reservist or National Guard member for military duties in accordance with appropriate military orders.

Requests will be considered on an individual basis and may be granted for other reasons consistent with Department policy. The Employer will notify each employee of the effect that taking a period of extended LWOP would have upon his/her employment status and benefits. This will be done as close as possible to the time the leave is scheduled.

Section 8: Disabled Veterans

When a disabled veteran employee presents a statement from a medical authority that treatment is required, annual leave or sick leave will be granted, if available; otherwise, LWOP will be granted. The granting of such leave is mandatory provided that the veteran gives prior notice of definite days and hours of absence for medical treatment.

Section 9:- Family Friendly Leave

A. Employees may use sick leave in accordance with 5 CFR 630.401 D for the following:

- (1) To provide care for a family member, which includes spouses and their parents, children, parents, siblings and their spouses, and any individual related by blood or affinity whose relationship to the employee is the equivalent of a family relationship as a result of such family member's physical or mental illness, injury, pregnancy, childbirth or medical, dental or optical examination or treatment; or
- (2) Make arrangements necessitated by the death of a family member or attend the funeral of a family member as defined in (1).

B. Annually, full-time employees may use 104 hours of sick leave for the purposes defined in (1) and (2) above.

Section 10: Family and Medical Leave

A. The following provisions are intended to be interpreted consistent with 5 CFR part 630, subpart L (§ 630.1201 – 630.1211), which provides up to a total of 12 administrative workweeks of unpaid leave during a 12-month period. Leave for these purposes may be used for:

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

B. Employees will request FMLA from the appropriate leave approving official and provide acceptable medical certification. Employees may elect to substitute their annual leave or sick leave, if appropriate, for unpaid leave under FMLA.

ARTICLE 23: PAY, LEAVE STATEMENTS AND PER DIEM

Section 1

The Employer will assist any employee who does not receive a salary payment in a timely fashion. The Employer will initiate immediate action, in accordance with U.S. Treasury and VA regulations, to secure pay for employees who do not get paid in a timely fashion. The Parties agree whenever the Employer's error results in a failure of an employee to receive full salary payment on time, the Employer will take immediate action to process a special pay to the employee using the payroll system.

Section 2: Pay and Earnings and Leave Statements

The Parties recognize that it is the employee's responsibility to timely make arrangements for delivery of the employee's pay.

A. Employees are to have their pay delivered by direct deposit or Electronic Funds Transfer (EFT) to a financial institution of their choice. Statements will be provided as outlined in B below.

B. Procedures:

- (1) Each employee will be provided an Earnings and Leave Statement (E&L). E&L statements will be available on a secure web site or mailed to each employee to insure security and confidentiality.
- (2) If the employee is not at the duty station, the employee can obtain the E&L statement on a secure web site or mailed to the address in the employee's master record.
- (3) The above procedures will be communicated to each new employee as soon as possible and not later than 30 days after being employed.

Section 3: Per Diem

A. Employees who are considered frequent travelers are required to use the government contractor-issued travel charge card for all official travel expenses unless granted an exemption, and will be required to follow the provisions governing its use. New employees will be required to take the VA online travel card training before a travel card is issued. Recurring travel card training is required every three years.

B. The per diem rate and the duration of the official travel will be noted on each employee's travel authorization. The Employer will make a determined effort to provide the travel authorization to the employee at least 48 hours in advance

of the scheduled trip. Employees will be reimbursed for expenses involved in official business in accordance with VA regulations and the Federal Travel Regulations (FTR).

C. Employees who do not have a government travel charge card will be provided a per diem advance in accordance with VA regulations and the FTR.

D. Employees who are authorized to use their privately owned vehicle (POV) for the performance of official duties may be reimbursed for mileage and parking expenses in accordance with VA regulations and the FTR.

E. If the employee has incurred out-of-pocket travel expenses and has not received reimbursement within 30 calendar days after submitting a properly completed travel voucher, the Employer will initiate follow-up with the appropriate fiscal authority in an effort to secure payment and pay the employee any interest due for a voucher not paid within 30 calendar days. Employees recognize that they are responsible for paying their government contractor-issued travel card bill in a timely manner, even when their travel settlement has not been paid.

F. An employee who submits a travel voucher for reimbursement of travel expenses in a timely manner will not have his/her travel card revoked or suspended by the Employer due to untimely reimbursement.

ARTICLE 24: PERFORMANCE APPRAISAL SYSTEM

Section 1: Purpose

The Parties recognize that a high performance level by employees is essential to the efficient operation of the Department and is necessary for the achievement of its goals and programs. The performance appraisal system will be fair, equitable and related to job performance. The Employer's performance appraisal system will be administered in accordance with the requirements of 5 USC § 4301 et seq. and 5 CFR, Part 430, as amended, and in accordance with the VA performance appraisal program outlined in VA Handbook 5013.

Section 2: Performance Plan

A. To the extent allowed by law, employees and their Union representatives will be involved in the development of performance plans and changes to performance plans. Both Parties encourage participation of employees and employee representatives in full cooperation in the development and implementation of organizational performance appraisal programs.

- (1) Any changes to newly established standards and critical elements must be communicated to the employee prior to implementation.
- (2) A copy of changes to newly established critical elements or performance standards will be provided at least 10 calendar days in advance to the affected employee and the Union representative for review, comments and input.
- (3) When requested, the Employer, employees and the Union will discuss changes to newly established critical elements or performance standards prior to issuing the final plan to employees.
- (4) The Employer will meet with affected employees to explain the changes and rationale for the changes and define satisfactory performance and what is necessary to achieve the various levels of performance.

B. Employees who enter unit positions or are promoted, demoted, or reassigned to a different unit position should have their new performance standards communicated to them within a reasonable time, but normally no later than 30 calendar days after assuming the duties of the new position.

Section 3: Performance Standards

To the extent feasible, each employee's performance standards will permit the accurate evaluation of job performance on the basis of objective, reasonably attainable criteria related to the employee's job. A performance standard may include quality, quantity, timeliness or manner of performance, but in any case must be objectively measurable.

Section 4: Performance Rating Procedures

The evaluation of employees shall be objective to the extent possible.

A. In the interest of providing for objectivity in an appraisal, an employee should have been working under the performance plan for at least 90 days. When this is not the case, the rating will be deferred until this time frame is met.

B. The rating official shall be a supervisor/management official who has direct knowledge about the employee's performance and the type of work performed and has had access to all of the employee's performance records.

C. The rater will discuss the employee's job performance in private. Performance discussions should be done on a continuous basis, but at least at the midpoint and at the end of the rating period. The review shall be documented in writing.

D. If the rater has identified shortcomings in the employee's performance, the employee shall be notified when the problem is perceived. Where performance is less than satisfactory, the rater will document and suggest ways for the employee to improve his/her work in order to more satisfactorily perform duties at expected levels.

E. Employees will be rated annually in accordance with applicable rules and regulations. Employees will be notified and afforded ten workdays to submit a self-assessment providing information related to their performance during the appraisal period. The rater will consider all information, such as assignments of any duration, abnormal work situations and factors beyond the employee's control.

F. Within 60 days after the end of the appraisal period, a written rating of record shall be prepared and given to each employee.

ARTICLE 25: ACTIONS BASED ON UNACCEPTABLE PERFORMANCE (TITLE 5)

Section 1

Performance based actions do not apply to:

- A. The reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed 1 year of current continuous employment; or
- B. The reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar position.

Section 2

- A. The Employer's performance appraisal system will be administered in accordance with applicable laws, rules and regulations, including the requirements of 5 USC § 4301 et seq. and 5 CFR, Part 430, as amended, and in accordance with the VA performance appraisal program outlined in VA Handbook 5013 and this Article.
- B. Performance Improvement Period

When an employee's performance is unacceptable, the employee will receive a written performance improvement plan that will contain:

- (1) A notice of unacceptable performance in one or more critical elements of the employee's performance standards and at least 90 days to bring his/her performance to an acceptable level. During the improvement period, the employee will be given the opportunity to work on those portions of the job that are unacceptable while maintaining an acceptable level of performance on all other critical elements;
- (2) Information as to how the supervisor will assist the employee in becoming successful;
- (3) Information as to what the employee must do to bring performance to an acceptable level during the period;
- (4) Continuous evaluation of the employee's performance during the improvement period; and
- (5) Notice that a failure to improve performance to the successful level during the improvement period may result in the employee being removed, demoted, or reassigned to another position or removed from federal service.

C. If at the end of a performance improvement period, the individual is performing at a successful level, the employee will be so notified in writing. The employee must maintain this level for one year from the beginning date of the improvement period. Failure to do so may result in a proposal to demote or remove the employee without benefit of another improvement period.

D. Notice of Proposed Demotion or Removal and Decision Letter

- (1) An employee whose reduction in grade or removal is proposed is entitled to:
 - (a) Thirty (30) days advance written notice which contains:
 - (i) The specific instances of unacceptable performance by the employee on which the proposed action is based;
 - (ii) The critical element(s) of the employee's position involved in each instance of unacceptable performance;
 - (iii) The employee's entitlement to representation by a Union representative(s) or other representative; and
 - (b) A reasonable amount of time to answer orally and in writing (not less than 14 days).
- (2) Once a decision is made to demote or remove, the employee is entitled to a written decision by a higher level person than the supervisor who proposed the action. The notice will contain:
 - (a) The specific instances of unacceptable performance by the employee on which the reduction in grade or removal is based;
 - (b) The employee's appeal rights including his/her right to appeal the action to the Merit Systems Protection Board (MSPB) or through the negotiated grievance procedure, but not both and;
 - (c) A statement informing 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 procedures.
- (3) A notice of removal or reduction in grade will be delivered to the employee at least seven (7) calendar days prior to the effective date of the action.

ARTICLE 26: DISCIPLINARY ACTIONS, ADVERSE ACTIONS AND MAJOR ADVERSE ACTIONS

Section 1

A. The Parties agree that the objectives of disciplinary measures are to prevent the recurrence of misconduct, to correct employee behavior, to maintain morale among other employees and to apply appropriate penalties. The Employer agrees that action taken against unit employees will be taken for just cause, be consistent with applicable laws, and be fair and equitable. The Parties agree that the concept of progressive discipline, designed primarily to correct and improve employee behavior, rather than to punish, will usually be followed. Usually, progressively more severe penalties will be administered before removal is initiated unless the offense is so serious that immediate removal is justified. Employees will not be subjected to arbitrary or unreasonable acts by supervisors.

B. The Parties agree that in order for discipline to be effective, it must be initiated in a timely fashion.

C. Letters of admonishment and reprimand, once expunged from an employee's e-OPF, will not be used to support future discipline.

D. Alternative Discipline

The Parties recognize that traditional discipline may not be indicated in all cases. In many situations alternative discipline techniques may provide a more constructive approach to positively influencing future behavior. In these cases the local Parties are encouraged to consider using such techniques. Alternative discipline is a means to replace traditional disciplinary and adverse actions with non-traditional penalties such as community service, donation of annual leave to the leave transfer program, use of leave without pay instead of suspensions, or combinations of these or other agreed-to alternatives. The option to enter into an alternative discipline agreement is voluntary on the part of the employee. All alternative discipline agreements will include a clause informing the employees that they may discuss the agreement with a Union representative before signing.

Section 2: Investigations

In every case, when determining what action is warranted, the Employer will make a determined effort to inquire into the incident or situation as soon as possible. Normally, the inquiry will be made by the appropriate line supervisor. However, as appropriate, it may be necessary for other management officials to make the preliminary inquiry. The Union shall be given the opportunity to be present at any examination of any unit employee by a management official in any investigation in accordance with 5 USC § 7114(a)(2)(B). The subject of the investigation, and any other persons who may have pertinent information

about the case, will be questioned and signed statements ordinarily will be obtained. The subject of the investigation will be informed of the progress of the investigation to the extent it does not compromise the conduct of the investigation. Information will be developed impartially and a reasonable effort will be made to reconcile conflicting statements by developing additional evidence. Written material, such as supervisory notes, may be used to support an action detrimental to an employee if such material has been shown to the employee in a timely manner after the occurrence of the act and a copy provided to the employee upon request.

Section 3

For the purpose of this Article, disciplinary actions are taken to correct misconduct and to enforce prescribed rules of behavior. The Parties agree to consider the use of alternative discipline. Discipline will be timely administered based upon the circumstances and complexity of each case. The Employer agrees that the employee shall be given up to 8 hours of time to review evidence on which the notice of disciplinary action is based and that is being relied on to support the proposed action. In complex cases, the Employer may grant more than 8 hours. The following definitions apply:

A. For Title 5 and Hybrid Title 38 employees:

- (1) A disciplinary action is defined as an admonishment, reprimand, or suspension of fourteen (14) calendar days or less; and
- (2) Adverse actions are removals, suspensions of more than fourteen (14) calendar days, reduction in basic pay or grade, or furloughs of thirty (30) calendar days or less in accordance with 5 C.F.R. 752.401 and 752.402.

B. For Title 38 employees:

- (1) A disciplinary action is defined as an admonishment or reprimand taken against an employee for misconduct or performance; and
- (2) A major adverse action is a suspension, transfer, reduction in grade, reduction in basic pay, or discharge taken against an employee for misconduct or performance.

Section 4

Admonishments will be retained for six months to one year and reprimands will be retained for one to two years. However, in cases of patient abuse, disciplinary actions may be retained in the e-OPF for as long as the individual is employed by the Employer. The employee may, after 6 months, make a written request to the issuing official that an admonishment be withdrawn. The employee may, after one year make a written request to the issuing official that a reprimand be withdrawn.

Removal of these actions is at the sole discretion of the Department, who should consider such things as no further instances of misconduct, the seriousness of the offense, and the factors the supervisor considered in selecting the original penalty. If the Department decides not to remove the disciplinary action, the supervisor will explain the reasons to the employee. The Employer agrees to consider the freshness of prior discipline when deciding on a penalty for discipline. Suspensions which are more than 3 years old will be examined closely to determine their appropriateness in support of further disciplinary/adverse actions.

Section 5: Procedures

A. Letters of Admonishment or Reprimand: An admonishment or reprimand will be in the form of an official letter to the employee describing the action taken and why it was taken. (NOTE: Admonishments and reprimands for Title 38 employees covered under VA Handbook 5021, Part II, will be proposed in accordance with VA procedures outlined therein.) It will advise the employee that a copy of the disciplinary action and any written explanation or comments regarding the disciplinary action will be placed in the employee's e-OPF. The Title 5 disciplinary action will contain a statement advising the employee of the right to appeal the action under the negotiated grievance procedure. Title 38 employees disciplined for matters not related to professional conduct and competence will be informed of their right to appeal the actions under the negotiated grievance procedure or the agency grievance procedure.

B. Suspensions, Adverse Actions and Major Adverse Actions:

- (1) An employee against whom a suspension, adverse action or major adverse action is proposed is entitled to thirty (30) days advance written notice, except when the crime provisions of 5 USC § 7513(b) (1) have been invoked. A notice of proposed adverse action against an employee shall be in writing and shall inform the employee:
 - (a) Of the nature of the proposed penalty;
 - (b) Of the specific charges for the proposed action including names, dates, places and other data sufficient to enable the employee to fully understand the charges and to respond to them;
 - (c) Of any specific law, regulation, policy, procedure, practice or other instruction that has been violated as it pertains to the charge(s);
 - (d) That the employee may answer orally and/or in writing and may submit affidavits or other written statements in support of that answer;
 - (e) That the employee's response will be considered by the deciding official and identification of the official who will receive any oral and/or written reply;

- (f) Of the employee's status during the notice period;
 - (g) Of the right to review the material relied upon to support the reasons for the proposed action, including any prior applicable discipline or adverse actions;
 - (h) That the employee may choose his/her own representative or elect self-representation;
 - (i) That the employee will have 14 calendar days to respond; and
 - (j) That the employee and/or representative shall be granted a reasonable amount of official time to review the material relied on to support the reasons in the notice.
- (2) After carefully considering all the evidence and the employee's response, if any, including any mitigating factors, the Employer will make a determined effort to render a decision within ten (10) calendar days after the employee's reply or the suspense date established for such response in the event the employee does not respond. This time frame may be extended if the employee or the representative raises new issues or affirmative defenses. The penalty may not be more severe than that which was originally proposed. Extensions for replying to proposed actions may be granted for just cause.
- (3) The decision letter shall contain, at a minimum, the following information:
- (a) A statement of the reason(s) for the action being taken;
 - (b) A statement of what was considered in arriving at the decision;
 - (c) The employee shall be advised that he/she has the right to grieve the decision under the negotiated grievance procedure, if applicable, and/or to appeal under any other statutory processes; and
 - (d) A statement that the employee has the right to be represented by an attorney, Union representative or other representative of the employee's choice at all stages of the process, except for a grievance under the negotiated grievance procedure, in which case only a Union representative may be chosen, or the employee may chose to represent him/herself. The letter will also contain the local Union contact information.

See VA Handbook 5021, Part I, Chapter 3 for additional information regarding notices and decision letters relating to adverse actions for Title 5 and hybrid employees and Part II for Title 38 employees.

Section 6

Two copies of the letter of admonishment or reprimand and notice of proposed action and decision will be furnished to the employee.

Section 7

In accordance with applicable law and regulation, when notification is required to an outside entity regarding a professional bargaining unit member, the employee will be provided a copy of the information released.

Section 8

All proposed adverse actions will contain information about the Employee Assistance Program (EAP). An employee's participation in the EAP may be considered a mitigating factor. In all cases, the information obtained will be documented.

ARTICLE 27: EMPLOYEE ASSISTANCE PROGRAM

Section 1: Policy

The Employer shall maintain an effective Employee Assistance Program (EAP) that meets the requirements of applicable laws, regulations and guidelines found in Public Law 91-616, Public Law 92-255, and 5 C.F.R. Part 792. Locally, the Union and the Employer shall discuss and negotiate consistent with the law and VA policy any proposed changes or recommendations relative to the program for employees with medical and behavioral problems. These can include marital, family, financial, workplace or domestic violence, alcohol, drug, legal, emotional, stress or behavioral concerns which may adversely affect employee job performance. Union members involved in representation pursuant to this Article shall be considered to be on official time.

Section 2: General

- A. The Employer recognizes alcoholism, other drug or chemical dependencies, and mental health conditions as illnesses. Employees who have these illnesses will receive the same careful consideration and respect as employees who have other illnesses. The Employer will respect individuals' right to privacy.
- B. It is the basic function of a supervisor to identify poor job performance and to take corrective action. The Employer recognizes, however, that supervisors may not have the professional qualifications to diagnose such problems as alcoholism, drug dependency, or mental illness.
- C. Diagnosis and/or treatment should be accomplished by referral of employees to professional treatment and assistance sources.
- D. The Parties agree that confidential handling of problems under this program is essential.

Section 3: Responsibilities and Guidelines

- A. Normally the supervisor shall immediately refer to the EAP any employee who acknowledges having a medical or behavioral problem, either of his or her own or of a family member, which is affecting the employee's performance or conduct. If the supervisor reasonably suspects that the employee has a problem in this area, he or she should refer the employee to the EAP.
- B. Employees may voluntarily seek assistance under EAP.
- C. A coordinator or counselor will be made available upon request within a reasonable time period to employees at all locations.

- D. Participation in the EAP shall not jeopardize an employee's job security or his/her opportunity for promotion.
- E. Sick leave, annual leave, or leave without pay will be granted for treatment or counseling sessions consistent with practices for other illnesses or circumstances.
- F. The Employer shall maintain an up-to-date listing of professional resources, health care providers, self-help groups and community facilities for treatment and corrective resources for medical, behavioral, marital, legal and financial problems. Such listing shall include the cost of such services, employer-based health insurance information and eligibility requirements.
- G. The employee may request to be accompanied by any individual (such as a Union representative, family member or clergyman) at the initial discussion with a program counselor.
- H. The Union will be kept informed of all policy updates to EAP.

Section 4: Confidentiality

The confidential nature of medical records of employees with medical/behavioral problems shall be maintained. Neither the counselor nor any management official shall reveal the name of a person voluntarily seeking assistance without the employee's written consent.

Section 5: Publicity

The Employer is committed to providing an effective EAP that instills confidence in the employees that rehabilitation is available and that positive efforts will be made to return the employee to full performance. The Employer will provide reasonable publicity about the EAP aimed at enhancing employee understanding of the program, such as bulletin boards, e-mail, employee newsletters, employee handbooks, etc., to include assurances of confidentiality for participants.

Section 6

The Union may have a representative at any EAP training program provided for unit employees. The Union representative will be provided official time if otherwise in a duty status for such training. At the option of the Employer, Union officials may be invited to management training on the program. If the Employer elects not to invite Union officials, the Employer agrees to provide the Union with a briefing of the training conducted.

ARTICLE 28: EQUAL OPPORTUNITY AND UPWARD MOBILITY

Section 1

A. The Parties agree that they are mutually committed to the principle and promotion of equal opportunity in employment or conditions of employment of all persons. They further agree that discrimination because of race, color, religion, sex (including sexual harassment and pregnancy), sexual orientation, genetic information, national origin, age (40 years of age and older), disability or reprisal for prior EEO complaint activity shall be prohibited.

B. The Union will be allowed at least one member on local EEO committees.

Section 2: Equal Employment Opportunity Program

The Employer's EEO program shall be designed to promote equal employment opportunity in every aspect of the Employer personnel policy and practice in accordance with applicable law and government-wide rules and regulations. The program shall include, but not be limited to:

A. Following the recommendations of appropriate qualified experts, providing reasonable job accommodations for qualifying disabled employees;

B. Selecting processes and staffing procedures which are consistent with governing federal EEO rules and regulations;

C. Making reasonable accommodations for the religious needs of employees; and

D. Affirmative Employment Plan(s).

Section 3: Reasonable Accommodations for Employees with Disabilities

A. In accordance with Section 501 of the Rehabilitation Act of 1973, as amended, Section 403 of the Vietnam Veterans Readjustment Assistance Act of 1974, as amended, the Americans With Disabilities Act, as amended, and other laws, government-wide rules and regulations pertaining to the employment of individuals with disabilities, the Employer is committed to affirmative employment, placement, and advancement of qualified employees with disabilities.

B. The Parties recognize that individual accommodations will be determined on a case-by-case basis, taking into consideration the employee's specific disability, the employee's suggestions for reasonable accommodations, existing limitations, the work environment, and undue hardship imposed on the operation of the Employer's program as defined above. Reasonable accommodation will be provided as required or permitted by applicable statute or regulation. The current regulation on this point is 29 CFR part 1614.

C. The Parties agree that reasonable accommodation means:

- (1) The Employer shall make reasonable accommodation to the known physical or mental limitations of an applicant or employee who is an individual with a qualified disability, unless the Employer can demonstrate that the accommodation would impose an undue hardship on the operations of its program.
- (2) Reasonable accommodation may include, but shall not be limited to:
 - (a) Making facilities readily accessible to and usable by individuals with handicaps; and
 - (b) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment, the provision of readers and interpreters, and other similar actions.

D. For employees with disabilities, job restructuring is one of the means by which some qualified workers with disabilities can be accommodated. The steps in restructuring jobs include, but are not limited to:

- (1) Identify which factor, if any, makes a job incompatible with the worker's disability;
- (2) If a barrier is identified in a nonessential job function, the barrier may be eliminated so that the capabilities of the person may be used to the best advantage; and
- (3) Job restructuring does not alter the essential functions of the job; rather, any changes made are those which enable the person with a disability to perform those essential functions.

E. An employee will be provided assistive devices if the Employer determines that the use of the equipment is necessary to perform essential duties. Such equipment does not cover personal items which the employee would be expected to provide such as hearing aids or eyeglasses.

F. The Employer's facilities shall be accessible to all employees with disabilities.

G. The Employer will grant leave as appropriate to accommodate the disability-related medical condition of employees. For example:

- (1) Leave without pay may be granted for illness or disability; and
- (2) Sick leave can be appropriately used for equipment repair, guide dog training or medical treatment by an individual with a disability who uses prosthetic devices, a wheel chair, crutches, a guide dog, or other similar type devices.

H. The Employer will provide individuals with disabilities full consideration for all training opportunities. Once an employee is selected for training, the Employer will provide reasonable accommodation to the employee to attend and complete the training. It is the intent of the Employer to provide on-the-job training opportunities to qualified disabled employees on the same basis as non-disabled employees consistent with operational needs. Training opportunities for employees who require reasonable accommodations shall be handled in the same manner as any other job training.

I. To provide employees with disabilities equal opportunity to perform official business travel, certain additional travel expenses necessarily incurred to reasonably accommodate the employee's disability will be reimbursed under the Federal Travel Regulations.

J. Employees with disabilities may utilize telework where appropriate.

Section 4: Affirmative Employment Plans

The Employer's Affirmative Employment Plan (AEP) shall be designed to promote positive opportunities for all employees to contribute to the Employer's mission to the maximum extent possible, consistent with EEO principles. The Employer shall ensure that in situations of under representation, aggressive recruitment and development plans will be implemented. The Union will receive a copy of all AEPs.

A. The Union is encouraged to submit recommendations for the Affirmative Employment Plan in its role as a representative on the EEO committee or other appropriate forum.

B. The Employer will fulfill any labor-management obligation with the Union as appropriate under law, rule or regulation at the national and the local levels prior to submitting any AEP to EEOC for approval.

C. Data Access

- (1) The Employer agrees to provide employees access to written information describing the discrimination complaints procedures and their facility's AEP(s).
- (2) The Employer agrees to post the Office of Resolution Management phone number on designated facility bulletin boards.
- (3) The Employer agrees to provide the Union with copies of the national and local AEPs and any other reports and statistical data in a timely manner.
- (4) The Union will be provided a copy of the AEP outcomes as part of the Employer's strategic plan.

Section 5: EEO Counselors

- A. The Parties agree that proper training will be provided to EEO counselors consistent with appropriate EEOC regulations.
- B. The Employer will assure that EEO counselors are available and accessible to employees who may have a discrimination complaint. All counselors will be specifically informed of the unit employee's right to file a grievance under the negotiated grievance procedure or file an EEO complaint.
- C. Training on the subject of sexual harassment may be included in the Employer's training programs provided to EEO counselors.

Section 6: Special Emphasis Program Managers

The Employer will request nominations from the local Union when considering individuals to serve as Special Emphasis Program Managers on a collateral duty basis.

Section 7: Complaints

- A. Any employee who wishes to file or has filed an EEO complaint shall be free from coercion, interference, dissuasion and reprisal. The Employer will take appropriate and prompt action against employees engaging in discriminatory acts against other employees.
- B. EEO counselors will fully advise employees who seek their assistance of the procedures (including time limits) involved in processing an EEO complaint under the statutory EEO appeal procedure. The EEO counselor will also advise the complainant of the right to file a grievance under the negotiated procedure. If the employee elects to file a complaint, the employee must choose to file the complaint under the negotiated grievance procedure or the statutory EEO process, but not under both. If there is an established dispute resolution procedure and the aggrieved has agreed to participate in the procedure, there will be an extension of no more than ninety (90) calendar days of the EEO counseling period.
- C. The employee may have a representative of his/her choice at any stage in the processing of an EEO complaint, including a Union representative. When the employee chooses to proceed through the EEO procedure, his/her designation of a representative shall be in writing. A Union representative will be provided information necessary to properly represent the employee in accordance with law, regulation and this Agreement.
- D. The complainant may elect to use an existing alternate dispute resolution (ADR) process; however, the complainant's rights to pursue an EEO complaint are not waived during the ADR process. At the same time, the complainant's responsibilities to comply with all requirements of the EEO process (for example,

time limits and points of contact) must be adhered to. In the event that ADR is terminated for any reason, the complainant will be issued a Notice of Right to File a Complaint of Employment Discrimination form from the EEO counselor. Guidance on the requirements of discrimination complaint appeals will be available in the appropriate administrative office or from an EEO counselor.

E. The Parties agree that they will adhere to contractual obligations in settlement agreements with bargaining unit employees. If any term of an executed settlement agreement results in a change to conditions of employment of bargaining unit employees (including changes that may impact the potential promotion or transfer of bargaining unit employees), the Union will be promptly notified of the term and afforded the opportunity to bargain, as appropriate.

F. Upon request, the Employer agrees to provide the Union with current statistics concerning discrimination complaints filed by employees.

ARTICLE 29: POSITION DESCRIPTIONS (TITLE 5)**Section 1**

Each unit employee is entitled to a complete and accurate position/job description, which shall be reviewed annually by the employee and management. Duties and responsibilities which may have an impact on the series, grade level or performance standards of the position shall be promptly incorporated in the position/job description to insure that the accuracy of the classification is maintained. The term “performs other duties as assigned” as used in position/job descriptions means duties related to the basic job, and such phrase will not be used to regularly assign work to an employee that is not reasonably related to the basic position/job description. In no way does this infringe on the Employer’s rights to assign work or assign employees to meet mission requirements. The duties in an employee’s position description should be linked to the performance standards for that position.

Section 2

Upon written request, the Union will be provided a copy of new or revised position descriptions and the material utilized to arrive at the assigned title, series and grade.

Section 3

The Employer agrees to provide the Union access to any new classification standards for bargaining unit positions and, when requested, copies of any position classification audits performed on bargaining unit positions resulting in a change of series and/or grade.

Section 4

Any employee in the unit who feels that he/she is performing duties outside the scope of the position/job description or that his/her position is inaccurately described or classified, may request, through the immediate supervisor, that the position be reviewed. In conducting such reviews, the reviewer will consider the employee’s written or oral comments. The employee may be assisted or represented by a local Union representative. If the employee and/or the employee’s Union representative are not satisfied with the accuracy of the position/job description after discussion with the supervisor, they may present their views to the Human Resources Management (HRM) official responsible for the classification. The HRM official will look into the position and advise the employee, or his/her representative, of the findings. If the employee is not satisfied with the results of such a review, s/he shall be furnished written information on appeal rights and procedures. An employee who files a classification appeal to the Employer shall have such appeal decided within

60 days from the date of the Employer's receipt of the employee's completed statement. Employees or their representatives will be provided a copy of the classification appeal file. Employees can exercise their rights to file a classification appeal directly to the Office of Personnel Management under 5 CFR 511.604.

ARTICLE 30: WORKWEEK, HOURS OF WORK AND ALTERNATIVE WORK SCHEDULES

Section 1: Title 38 Medical Professionals

With respect to employees in occupations listed under 38 USC § 7401(1), the terms of this Article shall be interpreted consistently with 38 USC § 7422, which exempts from collective bargaining matters concerning or arising out of professional conduct or competence (meaning direct patient care and/or clinical competence), peer review, or the establishment, determination or adjustment of employee compensation. Scheduling of Title 38 medical professionals is an issue of direct patient care and clinical competence. Accordingly, the provisions of this Article shall be interpreted consistently with and to allow for exceptions within the Employer's discretion to schedule medical professionals consistent with changing patient care needs.

Section 2

To the extent practicable, alternative work schedules may be established at the local level in accordance with applicable law and regulations and subject to the following conditions:

- A. Flexible work schedules shall consist of flexi-tour and modified flexi-tour as described in VA Handbook 5011, Part II, Chapter 2 and Chapter 3;
- B. Compressed work schedules shall be as described in VA Handbook 5011, Part II, Chapter 2 and Chapter 3;
- C. Employees continuance under any compressed workweek/flexitime schedules now in effect will be decided at the local level. When local management makes a determination to implement, change or terminate a compressed work week/flexi time schedule, the Union will be notified and, upon request, negotiations will take place as permitted by law and regulation; and
- D. All employees enrolled in educational courses may request an exception to work schedules and tours of duty.

Section 3: Religious Observances

In accordance with law and regulations, an employee whose personal religious beliefs require that s/he be absent from work during his/her scheduled work period may request, subject to the approval of the overtime approving officials, to engage in overtime work for time lost and be granted (in lieu of overtime pay) compensatory time for the hours missed for religious observance.

Section 4: Rest Break

Each employee is authorized one fifteen (15) minute rest break within each four hour work period, including overtime. Where possible, employees shall be allowed to take the rest break away from the immediate worksite. It is agreed that the rest periods may not be continuations of the lunch period and they may not be granted immediately after the beginning of the work shift or immediately prior to quitting time, nor shall they be accumulated.

Section 5

A. Employees whose regularly scheduled shift includes a 30 minute non-paid lunch period may normally leave their worksites during their lunch breaks. Where employees are required to work all or part of their scheduled lunch period, they shall receive overtime or compensatory time for such time worked.

B. Where workload permits, employees whose regularly scheduled shift of 8 hours or more does not include a non-paid meal period will be afforded the opportunity to eat at some time during this tour.

Section 6

Except in emergencies, employees will not be required to report to work unless they have had at least ten (10) hours off-duty time between work tours. Exceptions may be made with the approval of the employee and supervisor. This will not preclude work on an overtime basis.

Section 7

Every effort will be made to assure that work schedules will not include more than six (6) consecutive days for eight-hour tours, three (3) consecutive days for twelve (12) hour tours, and four (4) consecutive days for ten- hour tours, and that each tour will include no less than two (2) consecutive days off.

Section 8

The Parties recognize that the Employer determines qualifications and competence required when it needs to float employees to another unit. The rotation of qualified, competent staff to another unit is a management right and should be equitably distributed where patient care needs permit, among qualified, competent employees. Records of employees floated will be maintained by the Employer and will be available to the Union upon request.

ARTICLE 31: OVERTIME-TITLE 38 REGISTERED NURSES

The Parties intend for this article to be interpreted consistent with 38 U.S.C. 7422

Section 1

Employees will receive overtime in accordance with applicable laws and regulations, such as 38 USC § 7453, for work performed after the employee's normal daily or weekly tour.

- A. Overtime is creditable in increments of fifteen minutes.
- B. For part-time employees and intermittent employees, overtime hours are those hours of work after which a full-time employee would begin receiving overtime pay. When there is a need to perform work and the regularly scheduled employees are insufficient to perform that work, the Employer will consider other options before mandating overtime. These options will be subject to local negotiations as referenced in Section 2 of this Article.
- C. When overtime is necessary, the Employer will give consideration to the employees' individual needs, such as health related issues, childcare or other personal responsibilities, in assigning an employee to work overtime.
- D. In some cases, the employee who has volunteered to work overtime may need to leave work to make family, child care or necessary personal arrangements and then return to duty to work overtime. The Employer will balance the employee's personal needs and the needs of patient care in assigning the overtime.
- E. Employees will not perform work outside the employee's established tour of duty unless specifically approved by the Employer.

Section 2

The method of scheduling overtime will be subject to negotiations at the local level. Overtime will be administered in a fair and equitable manner among those employees determined to be qualified to perform the work required. The method of scheduling among those employees can include criteria such as seniority. Overtime will not be used as a punishment or a reward.

Section 3

Overtime records shall be maintained and will be made available to the Union upon request. These records will also be made available at the unit level for staff to review.

Section 4

A. An employee who is officially scheduled to be on-call outside the employee's regular duty hours shall receive not less than 10 percent of the employees' applicable overtime rate for on-call duty. While in an on-call status, an employee shall be available for prompt return to duty when notified that the employee's services are needed. While on call, the employee's freedom will not be unduly restricted. If the employee on call is required to use a pager, cellular phone or other electronic device, the Employer will be responsible for all costs associated with the electronic device.

B. An employee who is called back to work while in an on-call status will be paid a minimum of two hours overtime. On-call shall be suspended during the actual period of overtime duty. When released from overtime duty, the employee shall return to the remaining scheduled on-call, if any, and receive on-call pay accordingly. When the period of callback overtime merges with the employee's regular tour of duty, two hours minimum overtime pay does not apply.

C. Employees may request to be temporarily removed from on-call status in advance of being called in by contacting the Employer for appropriate arrangements. The Employer and the Union will negotiate on-call policies at the local level.

D. When on-call is mandated for a particular occupation and/or unit, the Employer agrees to solicit volunteers for on-call status. When sufficient qualified volunteers are not available, on-call duty status will be scheduled in a fair and equitable manner among qualified staff. In determining whether there are sufficient qualified staff, the Employer will consider factors such as the number of qualified staff, the frequency of the scheduled rotation, the potential frequency of being called in, and the duration of work required when called back to duty.

E. On-call records shall be maintained in the same manner as overtime records. (See Section 3 of this Article.)

Section 5

Compensatory time is earned under the same criteria as overtime.

Compensatory time in lieu of overtime is at the employee's written request. The Employer shall not require an employee to accept compensatory time in order for the employee to be considered for work that is overtime work.

Section 6

If the Employer chooses to require standby under 38 USC § 7457, it will be considered duty status and considered hours of work for which the employee will receive overtime pay or annual premium pay, whichever the Employer chooses. Criteria for standby are outlined in 5 USC § 5545.

ARTICLE 32: OVERTIME- TITLE 5 AND HYBRID TITLE 38**Section 1**

Employees will receive overtime in accordance with applicable laws and regulations, such as 5 USC § 5542, for work performed after the employee's normal daily or weekly tour.

- A. Overtime is creditable in increments of fifteen minutes.
- B. Overtime is paid for full-time, part time and intermittent tours of duty.
- C. Consistent with law and government-wide regulation, employees covered by the Fair Labor Standards Act (FLSA) will receive overtime pay unless they request compensatory time in writing for directed overtime. Employees covered by FLSA may be asked by the Employer to perform overtime work for compensatory time. However, as stated in statute, (Title 5 USC § 5543, paragraph A (1)), the decision for compensatory time will be at the request of the employee. The overtime pay rate for exempt employees is either one and one-half times the rate for GS 10, step 1 or their regular rate of pay, whichever is greater.
- D. In some cases, the employee who has volunteered to work overtime may need to leave work to make family, child care or necessary personal arrangements, and then return to duty to work overtime. The Employer will balance the employee's personal needs and the needs of patient care in assigning the overtime.
- E. When overtime is necessary, the Employer will give consideration to the employees' individual needs, such as health related issues, childcare or other personal responsibilities, in assigning an employee to work overtime.

Section 2

The method of scheduling overtime will be subject to negotiations at the local level. Overtime will be administered in a fair and equitable manner among those employees determined to be qualified to perform the work required. The method of scheduling overtime among those employees can include criteria such as seniority. It will not be used as a punishment or a reward.

Section 3

Overtime records shall be maintained and will be made available to the Union upon request. These records will also be made available at the unit level for staff to review.

Section 4

A. Hybrid Title 38 occupations may receive on-call pay under 38 U.S.C. § 7457. An employee who is officially scheduled to be on-call under 38 U.S.C. § 7457 outside the employee's regular duty hours shall receive not less than 10 percent of the employee's applicable overtime rate for on-call duty.

Title 5 employees may be subject to on-call status in accordance with 5 C.F.R. Part 550

While in an on-call status, an employee shall be available for prompt return to duty when notified that the employee's services are needed. While on call, the employee's freedom will not be unduly restricted. If the employee on call is required to use a pager, cellular phone or other electronic device, the Employer will be responsible for all costs associated with the electronic device provided by the Employer."

B. An employee who is called back to work while in an on-call status will be paid a minimum of two hours overtime. On-call shall be suspended during the actual period of overtime duty. When released from overtime duty, the employee shall return to the remaining scheduled on-call, if any, and receive on-call pay accordingly. When the period of callback overtime merges with the employee's regular tour of duty, two hours minimum overtime pay does not apply.

C. Employees may request to be temporarily removed from on-call status in advance of being called in by contacting management for appropriate arrangements. The Employer and the Union will negotiate on-call policies at the local level.

D. When on-call is mandated for a particular occupation and/or unit, Management agrees to solicit volunteers for on-call status. When sufficient qualified volunteers are not available, on-call duty status will be scheduled in a fair and equitable manner among qualified staff. In determining whether there are sufficient qualified staff, Management will consider factors such as the number of qualified staff, the frequency of the scheduled rotation, the potential frequency of being called in, and the duration of work required when called back to duty.

E. On-call records shall be maintained in the same manner as overtime records. (See Section 3 of this Article.)

Section 5

If the Employer requires employees to perform work after hours from home, the procedures for assigning this work and overtime, as appropriate, are subject to local negotiations.

ARTICLE 33: OUTPLACEMENT (TITLE 5)**Section 1**

In the event that career or career-conditional unit employees are separated as a result of a RIF, transfer of function or change in duty station, facility management will establish a program of outplacement assistance consistent with the requirements of 5 CFR part 330 subparts F and G, VA Handbook 5005, ,part IV, Chapter 2, Section I, and the VA Career Transition Assistance Plan, where applicable. The primary aim of the program will be to find continuing federal employment for affected employees.

Section 2

The Union and the Employer will jointly encourage each employee to see that his/her personnel file , Optional Form (OF) 612, resume or reasonable facsimile are up-to-date as soon as the RIF, transfer of function, change in duty station or reorganization is announced. The Employer will add to the personnel file appropriate changes or amendments requested by the employee. The personnel file, the SF-171, OF 612, resume or reasonable facsimile will be used as needed to match employees with vacancies.

Section 3

The Human Resources Management Office will review the e-OPFs of employees being separated to identify the specific grades and series of positions for which the employees qualify and determine the interest of employees in order to develop the best opportunities for continued employment. The Union, with the employee's permission, may review the above-mentioned files.

Section 4

An eligible employee may participate in the program unless he/she accepts or declines a reasonable offer of a non-temporary position for which the rate of basic pay is equal to or higher than the rate to which the employee is entitled under pay retention.

ARTICLE 34: REDUCTION-IN FORCE AND REORGANIZATION

Section 1

The Employer and the Union jointly recognize the desirability of maintaining the stability of employment of employees. The provisions of this Article are intended to be interpreted consistent with VA Handbook 5005, Part IV, Chapter 3, and 5 CFR Part 351 and applicable laws and regulations.

Section 2

The Employer agrees to notify the Council President at least 120 calendar days prior to the effective date of any reduction in force, reorganization, transfer of function or change in duty station involving one NFFE bargaining unit which may result in separation of 50 or more employees, or more than one NFFE bargaining unit which may result in separation of 100 or more employees. In all cases, the local Union will be notified in writing of a proposed reduction in force, reorganization, transfer of function or change of duty station at least 60 calendar days prior to the effective date. At that time, the Employer will advise the local Union of the reasons for the reduction in force, reorganization, transfer of function, or change of duty station, the number, title, series and grade of positions which it expects to be abolished, and the measures which the Employer proposes to take to reduce the adverse impact on employees. The above notices to the Union will be done before any notification is given to employees. Notice to employees shall comply with the requirements of 5 CFR Part 351, VA handbook 5005, Part 4, Chapter 2, Section E, any other written VA policies and this Agreement, and shall include information regarding employee appeal rights.

Section 3

The Employer will give employees a 60-calendar days specific written notice before the effective date of the RIF, except if the reduction in force is caused by circumstances not reasonably foreseeable. Then the Employer, with approval of the Office of Personnel Management, may shorten the notice period to not less than 30 calendar days before the effective date of the RIF.

Section 4

The Employer recognizes that it has an obligation to notify the Union of any reduction in force or reorganization and negotiate, upon request, to the maximum extent allowed by law.

Section 5

The Union and the Employer will jointly encourage each employee to see that his/her e-OPF and SF-171, Optional Form (OF) 612, resume or other reasonable facsimiles are up to date as soon as the reduction in force, reorganization, transfer of function or change of duty station as listed in Section 2 is announced. The Employer will add to the e-OPF appropriate changes or amendments provided by the employee. The e-OPF with appropriate qualification documents will be used as needed to match employees with vacancies. The Employer will notify all employees at least 20 days prior to the cut-off by which the employees must have all information that may affect their placement rights updated and verified in their e-OPF or optional form OF-612. The Employer and the Union jointly recognize the importance of an accurate, updated e-OPF or OF-612 for RIF purposes.

Section 6

- A. The Employer is not obligated to fill vacancies in a RIF or reorganization.
- B. In the event of a RIF, existing vacancies will be used to the maximum extent possible to place employees in continuing positions to minimize adverse actions and to reduce separations during a reduction in force. When the Employer chooses to offer vacancies, qualifications may be waived in accordance with applicable regulations.
- C. Employees may be offered lower-graded positions. Employees who are offered and accept such positions will be granted grade and pay retention in accordance with applicable regulations.
- D. Offers of positions outside the local commuting area to employees whose positions have been downgraded and who are entitled to save grade or save pay protections under Title 7 of the Civil Service Reform Act, may be declined by the employee and shall not affect the entitlement to saved grade or saved pay. The distance involved in the local commuting area shall be subject to local negotiations.

Section 7

The Employer will provide the Union with a copy of computerized retention registers no later than 3 working days after specific notices are issued. The Employer agrees to brief up to three Union representatives on the use of the retention register. The briefing will include how employees bump or retreat, the various groupings and how competitive levels are determined.

Section 8

A. An employee who is assigned to a lower grade position has a right to review all the records pertaining to the action and to see a copy of the applicable regulations pertaining to a RIF. This includes the retention register for his/her competitive level and those for other positions for which he/she believes he/she is qualified, down to and including those in the same or equivalent grade as the position, if any, which constitutes the best offer.

B. An employee whose separation is proposed has a right to review all the records pertaining to the action and to see a copy of the applicable regulations pertaining to a RIF. This includes the retention register for his/her competitive level and all positions equal to and below the grade of his/her current position within his/her assignment rights.

Section 9

Any career or career-conditional employee who is separated as a result of a RIF, and who has not declined placement equal to the position held, will be placed on the employment priority list if the employee so requests. Such employees shall be given preference for reemployment in accordance with applicable regulations.

Section 10

RIF actions that can be appealed to MSPB are excluded from the negotiated grievance procedure.

Section 11

Employees who will be separated as a result of a RIF will be granted 8 hours of authorized absence for the purpose of updating resumes or applying for positions.

ARTICLE 35: CONTRACTING OUT WORK

Section 1

This Article applies to those situations where the possibility exists that VA bargaining unit employees will be displaced as a result of contracting out activities, such as A-76, competitive outsourcing or other similar procedures.

Section 2

Periodic briefings will be held with Union officials at the local and national levels for the purpose of providing the Union with information concerning any Employer decisions to contract out bargaining unit work. The Union will be notified as soon as an initiative to contract out bargaining unit work is known.

Section 3

Employees who are displaced due to the contracting out of their jobs will be given the first opportunity to fill employment openings created by the contractor. This applies only to job openings for which such displaced employees are qualified and does not apply when such employees would otherwise be prohibited from such employment by the government post employment conflict of interest standards. All contractors shall be informed of the requirement before they enter the contract.

Section 4

If the Employer makes a decision to contract out the work of bargaining unit positions and bargaining unit employees are affected, then the Employer will advise the Union at the local level as soon as a decision is made to contract out bargaining unit work in order to provide the local Union the opportunity to request negotiations over the impact and implementation of this decision.

Section 5

After the proposed cost comparison decision has been announced, contract award information will be made available to the Union. Debriefings related to the contract awards shall be provided consistent with the Federal Acquisition Regulation. Requests for other information will be handled in accordance with Chapter 71 and confidentiality laws, including the Freedom of Information Act (5 U.S.C. §552) and VA's implementing regulations..

Section 6

The Employer will provide the Union a copy of the schedules of all up-coming and on-going contracting out initiatives and copies of the reports of those studies.

Section 7

The Employer will establish an MEO (most efficient organization) or other work group as required by law or regulation to develop the management plan and performance work statements.

ARTICLE 36: TRAINING

Section 1

Although it is expected that employees are qualified and competent to perform the duties of their positions as a prerequisite to employment, the Parties recognize the possible need for additional training, retraining or continuing education to maintain competence. The Employer will remind employees annually of the nomination procedure and availability of training.

Section 2

The Employer is responsible for ensuring that employees receive sufficient training for the purpose of performing the duties of their positions. Supervisors are responsible for assessing the training needs of employees in their respective work units, but employees may bring to the attention of the supervisor any perceived training needs relating to their work assignments.

Section 3

Once job-related training needs are determined to exist, appropriate methods for meeting those needs within available resources will be the responsibility of the Employer. Training may be conducted by various methods, including on-the-job training, classroom training, satellite broadcasts and web-based training.

Section 4

- A. When training is required by the Employer, it will be scheduled during duty time.
- B. When the primary objective of the training is improvement of general skills, knowledge and abilities or career growth, the employee may request a work schedule adjustment to accommodate the education or training program.
- C. For employees who are required to obtain continuing education in order to maintain their state board certification, the Employer will approve, to the extent possible, requests for authorized absence if the course is not offered at any time other than the employee's regularly scheduled duty hours. It is the employee's responsibility to maintain current licensure.
- D. Both Parties agree that existing teleconference and video conferencing equipment and the Intranet/Internet may be used for training.

Section 5

Evidence of completed training furnished by the employee will be recorded in the employee's e-OPF or other recording system for training.

Section 6

The Employer agrees to consider the reimbursement of expenses incurred by an employee in attendance at work-related courses on his/her own time. Such consideration will be subject to the availability of funds and the priorities of training needs. The approval of partial or full reimbursement will be in accordance with existing policies and regulations. Subject to the approval of local management, employees who are enrolled in such courses may use items such as calculators and computers at mutually agreeable times during their non-duty hours.

Section 7

Notice of training, seminars and workshops will be given a reasonable time in advance.

Section 8

Reference and training material related to performance in the duties of an employee's position will be maintained in a location reasonably accessible to the employee.

Section 9

The local Union shall be allowed membership on the facility training committee. Membership on other training committees, where they exist, will be subject to bargaining at the appropriate level.

Section 10

Consistent with budget and staffing restrictions, the Employer agrees to make a reasonable effort to provide training to any bargaining unit employee whose position is adversely affected by reorganization or changes in mission, budget or technology, in order to assist in the placement of the employee in existing vacancies.

Section 11

To assure that the requirements of the law will be effectively implemented, the Employer will provide appropriate training and information to bargaining unit employees on the performance appraisal and proficiency rating process.

Section 12

In situations where the Employer changes licensure or certification standards and or requirements for professional employees already employed, the Employer agrees to:

- A. Permit bargaining unit members reasonable time to obtain certification or licensure. Where appropriate, the Employer agrees to modify the employee's position description or functional statement after the employee has had the opportunity to obtain the extra required licensure or certification;
- B. Upon request, seriously consider providing bargaining unit employees with reimbursement for training materials in order to obtain the certification or licensure sought by the Employer; and
- C. Consider employees for awards for any completed certification in accordance with applicable rules and regulations.

Section 13

The Employer agrees to work with the Union and employee to address retraining needs that result from changes to an employee's certification or licensure, and may result in a change to the existing position description/functional statement. The Parties recognize that a reasonable amount of time and access to proper training should be allowed.

ARTICLE 37: LABOR-MANAGEMENT RELATIONS TRAINING

Both Parties recognize that labor-management relations training fosters a collaborative working environment that accomplishes the Employer's mission. Therefore, requests to attend such training will be given priority.

Section 1

A. Official time will be granted to Union officials for the purpose of attending Union-sponsored training and other training sessions which pertain to labor relations, and are of mutual benefit to both Parties (e.g. contract administration, grievance handling and researching labor relations laws, regulations, and procedures, agency policy, working conditions, work schedules, performance ratings, employee grievance procedures, pay, adverse action appeals, whistle blowing, and negotiated agreements). The employee's request for official time should include a specific agenda of the scheduled LMR training and should be submitted as soon as practicable, but not later than 15 workdays prior to the training session.

B. The amount and use of official time that is necessary and reasonable for labor-management relations training is an appropriate subject for local negotiations. Where Employer-sponsored labor-management training is concerned, including joint labor-management relations training, Union officials in attendance will be allowed to attend on official time if otherwise in a duty status.

C. Costs for Union sponsored training (except for salary otherwise payable) and arrangements for training will be the responsibility of the Union.

D. One joint Master Agreement training will be provided by the Parties as soon as possible after the Agreement has been finalized. The duration of the training shall be one day of preparation for the trainers and up to two days of face-to-face training for the participants. An agenda will be jointly prepared prior to the preparation meeting. The cost of training for up to twenty-seven (27) Union officials, named by the VA Council will be paid by the Employer. Training will be done jointly; however, this does not preclude additional training by each Party. The Union and VA management officials will prepare the training material. The Parties will make reasonable efforts to conduct the training within ninety (90) days of the effective date of the Agreement.

E. Annually, a national labor-management relations meeting will be coordinated by the Parties. The agenda will be prepared jointly to discuss topics current and germane to professional employees. The duration of the meeting will be determined by the agenda. The cost of up to (5) five Union officials will be paid by the Employer. Union members will be on official time and travel shall be reimbursed in accordance with the Federal Travel Regulations (FTR). This

labor-management relations meeting will be held during the same week as the VA annual meeting in Washington DC referenced in Article 2 Section 5A. The Union is responsible for proposing a meeting date and agenda. The duration of the meeting will be determined by the parties.

Section 2

Existing technology, such as teleconference, video teleconferencing equipment and intranet/internet, may be used for training. The Union may request to use such technology with 15 days advance notice and the Employer shall approve usage based on availability.

ARTICLE 38: ORIENTATION OF NEW EMPLOYEES

Section 1

During initial processing, all bargaining unit employees will be informed by the Employer that NFFE/IAMAW is the exclusive representative of employees in the bargaining unit. Each new bargaining unit employee will be offered a copy of this Agreement, as well as a copy of any supplemental agreement between the Department of Veteran Affairs and the NFFE/IAMAW local at the employing facility. Employees will be informed that the Agreement is available electronically. Upon receipt of the information from the Union, the Employer shall also provide each new bargaining unit employee the most current list of the officers and representatives of the local Union.

Section 2

A representative of the local Union shall be afforded a period of time, up to 30 minutes, unless otherwise mutually agreed upon at the local level, to speak to all new unit employees at scheduled group orientation sessions and to provide such employees with an introduction to the role of the Union. At stations where there is more than one Union, NFFE/IAMAW may choose to meet separately with their bargaining unit members. This meeting will be reflected in the orientation schedule.

Section 3

On a monthly basis, the Employer shall furnish the president of the local Union the following information regarding all employees who are members of the bargaining unit.

- A. Full name
- B. Position title and grade
- C. Organizational assignment
- D. Date of entrance on duty
- E. Bargaining unit designation code

ARTICLE 39: PROBATIONARY/TRIAL PERIOD EMPLOYEES (TITLE 5)

Section 1

The Parties agree that the probationary/trial period is a highly significant step in the examining process, which provides the final and indispensable test of actual performance on the job of an individual's fitness for permanent federal service.

Section 2

Within one week of entrance on duty, a probationary/trial period employee will be informed by the Employer of the duties of the position, the training that will be made available and what will generally be expected of the employee in the position.

Section 3

The Employer will periodically review the employee's performance during the probationary/trial period and shall inform the employee of any shortcomings, deficiencies in performance, or instances of misconduct perceived by the supervisor. Although persons selected for employment are presumed to possess the skills and character traits necessary for satisfactory performance as a permanent employee, during the initial period of employment, appropriate management officials must make a sincere effort to orient new employees and provide essential training in the new work situation.

Section 4

Probationary/trial period employees shall be given a full and fair opportunity to demonstrate their suitability for permanent federal employment. When it is determined that a probationary/trial period employee has failed to demonstrate suitability for continued federal employment after having been provided such an opportunity, action may be initiated by the Employer to separate the employee during the probationary/trial period. Such action may be based on deficiencies in work performance, lack of aptitude or cooperativeness, misconduct, suitability grounds or other reasons deemed appropriate by Employer.

Section 5

When the Employer makes a decision to separate an employee during his/her trial period, the employee will be provided a written notice which summarizes the reasons for the management determination. Normally, a notice of separation will be given to the employee ten calendar days prior to the effective date of separation unless the circumstances indicate that a shorter notice period would be appropriate.

ARTICLE 40: SEXUAL HARRASSMENT

Section 1

Sexual harassment is a form of workplace misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes in the work productivity of its victims and co-workers. It requires immediate and sensitive action by those to whom the problem is made known.

Section 2

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Section 3

Each facility required to submit affirmative employment plans will include as part of that plan an outline of reasonable action for the prevention of sexual harassment. A copy of the plan will be reasonably available and accessible for review by employees.

Section 4

An employee may grieve an incident of sexual harassment or file a complaint of discrimination, regardless of whether the incident results in the loss of an economic or employment benefit.

ARTICLE 41: CHILDCARE

Section 1

The Parties agree that the issue of childcare shall be the subject of local bargaining and that a good faith effort to establish childcare centers will be made where surveys show that a need exists and that it is economically feasible.

Section 2

At facilities where childcare centers are not available, local management and the local Union may conduct a survey to determine if a need exists. Where economically feasible, the facility may consider establishing a childcare center or may consider making available childcare services with a provider close to the facility. Fees and costs will be established locally by the childcare center provider; however, if possible, the fees and costs negotiated with the provider should be based on factors such as number of children to be cared for, cost of care provider, teachers and overhead expenses (land, building, supplies, etc.). The operator of the childcare center will determine hours of operation, but where possible, hours should be negotiated to be flexible enough to meet as broad a need as economically feasible.

Section 3

Where childcare services are available, efforts will be made to develop with the provider an agreement that will allow for payroll withholding for childcare costs of VA employees.

Section 4

It is the Employer's intention to utilize available funds nationwide to foster local solutions to childcare needs. These may include construction of on-site facilities or near-site facilities, participation in shared facilities with other federal agencies, establishment of mini-centers or other childcare services. In accordance with the Tribal Amendment, 40 USC Sec. 590, any agency of the government which provides or proposes to provide childcare services for its employees may reimburse travel and per diem expenses for training and conferences related to childcare for any federal or non-federal person employed to provide childcare services.

Section 5

The head of each facility or appropriate designee will provide inquiring employees with a current listing of the qualified, licensed child care centers in the immediate area. Recognizing that a broad range of childcare needs exists, the Employer will request specific information, such as age groups served, types of programs offered and special needs programs.

Section 6

A local childcare committee will be established to evaluate the feasibility of establishing a childcare center at local facilities when interested employees, employee groups, the Unions, or the Employer express an interest in establishing on-site childcare services. The committee will be comprised of one management representative, one Union representative, two parent representatives, and other Parties as appropriate. The Employer will have subject-matter experts available to meet with the committee on an as-needed basis. The committee will guide development of the local childcare program, including development of marketing strategies, operating procedures, and enrollment priorities.

Section 7

The committee will have the opportunity to review and make recommendations which will be considered in the design of the facility. The Committee will participate in the selection of the childcare provider.

Section 8

Once the center becomes operational, the committee will be replaced by a Board of Directors, which the committee will assist in establishing.

Section 9

Committee members who can be spared from their assigned duties will be on duty time, or official time, as appropriate, when performing childcare committee functions.

Section 10: Employee Needs

A. It is agreed that the responsible official may grant emergency annual leave requests and consider emergency requests for leave without pay brought about by unexpected changes in childcare arrangements contingent upon operational exigency. The Employer is encouraged to approve employees' requests for emergency leave under these conditions.

B. The Employer agrees to utilize programs which may assist employees with childcare needs; for example, part-time employment, job sharing, leave and flextime.

Section 11

In accordance with 40 USC 590(b), the Employer will provide, when available, space, equipment, furnishings, and other services necessary to support the operation of each childcare facility on federal property.

Section 12

The Parties agree that this Article will not delay or impact on any pending childcare initiatives. The Union will be kept informed of the childcare initiatives.

ARTICLE 42: PARKING

Section 1

Where employees are not being charged for parking that is available at the time of this Agreement, no charge will be initiated for the duration of this Agreement unless required by law. The Parties agree that secure, adequate and accessible parking for employees helps better serve customer needs and should be a consideration in local arrangements.

Section 2

The Parties agree that certain aspects of parking are appropriate for local supplemental negotiations. Where employee parking is available and within the control of the facility Director, each Local shall be given one designated parking space. The local Parties will negotiate the location of the space. The availability and security of parking are subjects for local bargaining.

Section 3

An employee will receive two (2) courtesy warnings prior to receiving a parking citation by VA police except where a vehicle is parked in clearly marked emergency lanes or clearly designated parking spaces. The citation or parking warnings will be purged in accordance with the VA Records Control Schedule.

Section 4

The Employer will provide adequate parking in instances where an employee is required to return to the facility for an emergency or an employee is called back to work. Special parking arrangements may be negotiated locally.

ARTICLE 43: ALTERNATE DISPUTE RESOLUTION (ADR)

Section 1

The Employer and Union are committed to the use of ADR problem-solving methods to foster a good labor-management relationship and to resolve disputes among employees. The Union and Employer at all levels should be committed to the use of ADR problem solving methods as a priority to resolve disputed matters.

Section 2

- A. The Employer and the Union at the local facility will jointly develop and administer an ADR program.
- B. Periodic information and/or training will be provided at the local level on the ADR process.
- C. Both Parties recognize the importance and need to maintain confidentiality in the ADR process.
- D. Settlement agreements will be binding on the Parties and will not violate any law, rule, regulation or collective bargaining agreement.

It is understood by the Parties that the time frame for grievances and arbitrations will be held in abeyance until the ADR process is complete.

Section 3

- A. The Union will be notified when a bargaining unit member has chosen to utilize ADR. The Union has the right to attend any ADR process involving a bargaining unit member.
- B. The Union will concur on settlement agreements affecting bargaining unit employees.
- C. Official time will be granted for Union officials when representing members during the ADR process.

ARTICLE 44: MISCELLANEOUS

Section 1

Electronic Official Personnel Folders (*e-OPF*) and other personal records

A. The Employer will maintain an e-OPF for each employee. Local management will provide computer access and duty time to allow bargaining unit employees (BUEs) to access their e-OPF. Access to the e-OPF will be subject to local bargaining. Employees may make copies of any documents in their e-OPF in accordance with applicable laws, rules and regulations.

B. Employees will have access to a record, which is identifiable to the employee, where the law or authority provides for access. Requests for review or copies of documents by the Union representative will be subject to applicable laws and regulations. All information received by the Union in this capacity is considered confidential and will be treated accordingly.

Section 2: Personal Items at Work

The Employer agrees that employees may have personal items that are appropriate in or on their desk or in the immediate work area as long as space allows. Desks may be subject to inspections for safety, sanitation and security reasons. The Employer is not responsible for loss or damage to personal items.

Section 3: Lounges and Eating Areas

Each local facility will provide and maintain, to the maximum extent possible, suitable lounge and eating facilities for employees. Designation of break and eating facilities are appropriate topics for local negotiations. Handicap access will be provided by the Employer.

Section 4: Restrooms

The Employer agrees to take appropriate action to assure the facility restrooms used by unit employees are maintained in a sanitary manner. Furthermore, the Employer agrees to make certain all restrooms are in compliance with the provisions of the Rehabilitation Act and Americans with Disabilities Act, as amended.

Section 5: Uniforms

A medical center memorandum may be established at each facility concerning employee uniforms. Issues related to employee uniforms are appropriate topics for local negotiations.

Section 6

The Employer agrees to notify the Union at least 15 days prior to any price increase in the Canteen (VCS) to provide the Union an opportunity to negotiate impact and implementation on bargaining unit employees.

Section 7: Canteen Funds

Annually, upon request, the Union will be provided a copy of expenditures from the Veterans Canteen Service Promotional Funds that the medical center director approved. The accounting will include the amount expended and the organization that organized the event. Nothing prohibits a bargaining unit employee, like other medical center employees, from suggesting that Canteen funds be used for an appropriate purpose.

Section 8: Searches

A. Desks, lockers, computers and other government property may be subject to inspections for safety, sanitation and security reasons.

B. Normally, searches of personal property will not be conducted without probable cause.

Section 9: Agency Regulations, Policy and Memoranda

Employees may access agency regulations, policies and memoranda on the VA Intranet. Employees will be permitted to make copies of regulations, policies and memorandums at no cost to the employee.

Section 10: H1-B Non- Immigrant Provisions

- (1) For facilities that employ J-1 or H1-B non-immigrants, the Employer agrees to follow the provisions of 20 CFR 655.730 or 22 CFR Part 62, as appropriate.
- (2) The Employer agrees not to retaliate against bargaining unit employees for their participation in US Department of Labor investigations regarding the Immigration and Naturalization Act (INA) provisions as they apply to non-immigrant Visa Waiver Programs.

ARTICLE 45: TELEWORK

- A. Telework will be administered in accordance with law, government-wide regulations and the VA policy in VA Directive and Handbook 5011.
- B. The above-cited telework policy provides employees with the opportunity to perform their work at locations other than the traditional office settings, and may include home-based telecommuting, community-based tele-centers, and mobile/virtual offices. This does not preclude the Employer from assigning work in accordance with the statute.
- C. Participation in a telework arrangement is not an employee right; however, whenever appropriate, the Employer may consider establishing telework arrangements. Telework benefits both the Employer and employees by providing an alternative work situation which may improve services to the veterans, improve productivity, recruit and retain personnel and improve the quality of life for participants.
- D. Union officials are not precluded from participation in telework. Such participation will be the subject of local negotiations.

ARTICLE 46: FUNCTIONAL STATEMENTS (TITLE 38)

Section 1

Except for employees who function under clinical privileges, Title 38 employees in the bargaining unit will be given a copy of their functional statement or scope of practice. Employees who are privileged will receive a copy of the approved privileging document. The functional statement or scope of practice shall be reviewed annually by the employee and Employer. Prior to assigning new responsibilities, the Employer will provide training and/or orientation it deems necessary.

Section 2

The Union will be provided a copy of new or revised functional statements, if applicable.

Section 3

Any employee in the unit who believes that s/he is requested to perform duties outside the scope of her/his competencies may request that the Employer review the employee's concerns. The employee is entitled to Union representation.

Section 4

All functional statements shall delineate those duties the professional employee is expected to perform.

Section 5

Professional employees who feel their functional statements do not represent their present duties should provide suggested changes. Upon request, the Employer agrees to meet with the employees and the Union for the purpose of reviewing their functional statements.

Section 6

Functional statements will be commensurate with the employee's scope of practice.

ARTICLE 47: WORKERS' COMPENSATION**Section 1**

The employees will report to their supervisors as soon as possible all injuries received on the job.

A. The Employer agrees to assist the employee in filing the appropriate forms on the Automated Safety Incidents and Surveillance Tracking Systems (ASISTS) and documentation regarding the injury or illness. Such assistance will include an explanation of benefits and options available to the employee under the Federal Employee Compensation Act, including the employee's option to seek medical assistance from the Emergency Room, Employee Occupational Health Office, or personal physician.

B. Information maintained by the Employee Health Office relating to the employees may be released to the employee and/or the employee's physician as designated by the employee in writing.

Section 2

This Article in no way precludes the employee or Union from using any other means available to settle federal employees' compensation disputes such as Congressional representatives or private attorneys secured by the employee.

Section 3

The Employer will annually distribute information to employees about both parties' rights and responsibilities under the Federal Employee Compensation Act.

Section 4

The Employer and the Union agree that it is in both Parties' interest to return injured employees to work as soon as possible within the employee's medical restrictions.

ARTICLE 48: DURATION

Section 1

This Agreement shall become effective on the date of approval by the Secretary of the Department of Veterans Affairs, or designee, or on the thirty-first day following the date on which the Agreement is executed, whichever comes first.

Section 2: Reopener

Negotiations initiated by either Party during the term to add to, amend, or modify this Agreement may be conducted by mutual consent of the Parties. If mutual consent is reached, such notice to renegotiate must be accompanied by the revised proposals for the Article(s) the Party wishes to renegotiate. The Parties will meet for the purpose of renegotiating the amendments or modifications within thirty (30) calendar days of the receipt of the proposals from the moving Party.

Section 3

This Agreement shall remain in effect for a period of three (3) years and will automatically renew itself for one-year intervals, unless either Party serves the other Party with a written notice of its desire to amend, modify or negotiate the Agreement. Such notice must be given no less than sixty (60) calendar days or more than one-hundred-five (105) calendar days prior to any expiration date. If such notice is given and negotiations are not completed by the expiration date, this Agreement will be extended until the changes have been negotiated and approved.

Section 4

Only the VA Council President or his/her designee and the VA management at the national level or his/her designee may reopen the Master Agreement during its term.

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**2011 Labor Master Agreement
between the
U.S. Department of Veterans Affairs
and the
National Federation of Federal Employees**

Department of Veterans Affairs
Office of Labor Management Relations
810 Vermont Avenue, NW
Washington, DC 20420

**NFFE VA Council
of Consolidated Locals**
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To access or download Master Agreement:

Office of Labor Management Relations
Phone: 202-461-5300

<http://www.va.gov/lmr/>

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