

# COLLECTIVE BARGAINING AGREEMENT

FEDERAL MEDIATION AND  
CONCILIATION SERVICE

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NATIONAL ASSOCIATION OF  
GOVERNMENT EMPLOYEES LOCAL  
R3-118

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**PREAMBLE**

Pursuant to the policies set forth in the Civil Service Reform Act of 1978, as amended, this Agreement constitutes the total Agreement between the Federal Mediation and Conciliation Service referred to hereafter as the Employer, and the National Association of Government Employees, Service Employees International Union, Local R3-118, AFL-CIO, referred to hereafter as the Union.



## **ARTICLE 1. RECOGNITION AND UNIT DESIGNATION**

- A. The Employer recognizes that the Union is the exclusive representative of all employees in the Unit as defined in Section B below.
- B. The Unit to which this agreement is applicable is defined as follows, subject to any future decision of the FLRA:
  - 1. Included: All nonsupervisory, nonprofessional employees of the Federal Mediation and Conciliation Service National Office.
  - 2. Excluded: Professional employees: supervisors; management officials; mediators; temporary employees with no reasonable expectancy of continued employment; and employees excluded by law in 5 U.S.C. § 7112 et seq.
- C. The Office of Personnel will maintain a list of all bargaining unit positions and will furnish a copy of this list to the Union President within thirty days of the Agreement. The Office of Personnel will update changes in this list as soon as they occur and will immediately provide the Union a new list.



## **ARTICLE 2. EMPLOYEE RIGHTS**

- A. Employees have the right, freely and without fear of penalty or reprisal to form, join, or assist any labor organization or to refrain from any such activity. Each employee shall be protected in the exercises of such right.
  
- B. An employee shall not be the subject to discipline or otherwise discriminated against by the Employer because the employee has filed a grievance or petition, testified at a hearing, filed a complaint or given any information or testimony under the Civil Service Reform Act, or otherwise invoked his or her rights under this Agreement.



## **ARTICLE 3. UNION REPRESENTATION**

- A. The Employer agrees to recognize duly elected Union officers and duly appointed representatives to insure that employees have reasonable access to a representative.
- B. The Union shall furnish and maintain with the Director of Personnel a current list of all officers and Union representatives.
- C. The Employer agrees that national officers of the Union, and other duly designated representatives of the Union who are not active employees of FMCS shall be admitted to specific designated areas agreed upon in advance upon notification of the Employer by the Union for the purpose of meeting with employees and/or officials of the Employer during work hours.
- D. The Employer agrees that a Union officer or representative, after having obtained permission from their supervisor, shall be allowed to handle employee complaints, leaving their immediate place of work to go to other areas or offices when necessary, in attempting to bring about a prompt and expeditious resolution of grievance or complaint.
- E. The Union President will receive reasonable official time to engage in official representational activity. Time spent by the Union President attending Labor-Management Relations Committee meetings, as described in Article 28, infra, shall not be included in the allotted daily official time.
- F. The Employer will record all time spent by employee representatives in the performance of these functions on a record sheet. This time will not be charged to leave.



## **ARTICLE 4. VOLUNTARY WITHOLDING OF UNION DUES**

- A. Any bargaining unit employee who is a member in good standing of the Union, may authorize an allotment for the payment of dues for such membership provided:
1. The employee is employed in the organizational unit for which exclusive recognition has been granted;
  2. The employee has voluntarily completed a request (SF 1187) for such allotment of pay; and
  3. The employee regularly receives pay on the regularly scheduled paydays which is sufficient, after all other legal deductions, to cover the full amount of the allotment.
- B. The Union is responsible for procuring the prescribed allotment form (SF 1187), distributing the form to its members, certifying as to the amount of its dues, and informing and educating its members on the program for allotments for payment of dues and the uses and availability of the SF 1187.
- C. Allotment forms may be submitted to the Director of Personnel at any time. Allotment forms will be forwarded to the payroll office and will be effective at the start of the first full pay period following the Director of Personnel's receipt of the SF 1187.
- D. An allotment for dues withholding may be revoked by the employee by filing a revocation form or other written revocation request with the Finance Officer. An employee shall be eligible to revoke his/her dues on March 1 of each year after the anniversary date of his or her first deduction. An employee wishing to revoke dues withholding shall submit a dues revocation form during February 1-28 of each year. The effective date will be the first full pay period following March 1 or as soon thereafter as possible.
- E. The employer will notify the Union of the revocation of an allotment by an employee by forwarding a copy of the revocation notification to the Union within three workdays of the receipt of the revocation.





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## Article 4

- F. The employer will send to the NAGE Comptroller, Fiscal Officer, 159 Burgin Parkway, Quincy MA 02169-4213, the remittance of dues withheld after each payroll period for which deductions are made and a listing of names and amounts withheld. NAGE Local R3-118 will be furnished a copy of the submission made to the NAGE Comptroller simultaneously with its submission.



## **ARTICLE 5. MID-CONTRACT NEGOTIATIONS**

- A. Subject to the limitations in 5 U.S.C. §7106, the Employer shall not establish or change any personnel policy, practice, or working condition which terminates or conflicts with specific terms or conditions of this Agreement. However, mandatory amendments may be required after the effective date of this Agreement because of new laws, changes to existing laws, Executive Orders or regulations of appropriate authorities. In such an event, the parties shall attempt to meet within ten days after the effective date of such actions for the purpose of negotiating the impact and implementation of those amendments to the agreement required to bring this agreement into conformity with the new laws, changes to existing laws, Executive Orders or regulations of appropriate authorities. The parties shall agree on mutually satisfactory arrangements for the conduct of these negotiations. Amendments resulting from these negotiations shall be effective upon signing by the parties unless a later date is agreed to by the parties.
- B. Subject to the limitations in 5 U.S.C. §7106, where the Employer wishes to change a personnel policy, practice or working condition not controlled by the terms of this Agreement, it will notify the Union in writing. This notice will include:
1. A description of the proposed change;
  2. An explanation of how the change will be implemented;
  3. An explanation of why the requested change is necessary; and
  4. A statement of anticipated impact on employees.
- C. This notice will be sent to the Union thirty days before the Employer wishes to implement the requested change. The Union will have 14 days in which to invoke its rights to negotiate over the requested change or submit comments as appropriate. During this 14-day time period, the Employer will take no implementation action. The employer will delay the implementation of a negotiable change until the parties have reached agreement or satisfied requirements for invoking impasse procedures under paragraph D below on all negotiable issues concerned with the change. Only in cases when an emergency exists may the Employer take necessary action prior to satisfying its bargaining obligation.



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## Article 5

- D. In the event that the scope of the bargaining currently available to the parties is expanded due to change in the law or Government wide regulations, the parties may reopen this agreement by submitting proposals addressing these areas. Such negotiations shall be strictly limited to those areas that the scope of bargaining has specifically broadened.
  
- E. The parties shall resolve impasses pursuant to the provisions of the Federal Service Labor-Management Relations Statute. All issues at impasse shall be submitted at the same time for resolution.



## **ARTICLE 6. UNION ACCESS TO SPACE AND FACILITIES**

- A. The Employer will provide bulletin board space for the posting of Union material. The Union will be allotted one-third of the space on the bulletin board in the 7<sup>th</sup> floor corridor outside the Office of Personnel. The Union will also be allotted one-half the space on the bulletin boards located in the space on the bulletin boards located in the employee lounge and on floors 2, 6 and 8. The Union areas on all bulletin boards will be labeled NAGE Local R3-118 BULLETIN BOARD. The Union agrees to maintain the allotted bulletin space in an orderly and secure condition. Management shall permit material to be posted unless such material is libelous, scurrilous, inflammatory or contrary to government-wide regulation or statute.
  
- B. The Employer will provide the Union with one copy of the FMCS Directives Manual. If the Employer makes any changes to the manual, it shall provide the Union with updated versions.
  
- C. In the event the Employer is unable to provide a temporary office under the provisions of Section F of this Article, the Employer recognizes that the Union will from time to time need a private room to conduct its representational duties, as described in Article 3. The Employer therefore agrees that the Union can request and be assigned a conference room within the building. These requests shall be directed to the Office of Administrative Services which will assign a conference room. Union requests for conference rooms will be treated equally with all other requests. Conference rooms are assigned on a first come, first serve basis and are preempted only by FMCS official meetings that cannot be located in other conference rooms within the building. If no conference rooms are available, the Director of Administrative Services will provide a private office or other available and adequate private space for the Union to meet.
  
- D. The Employer will provide conference space after normal duty hours for Union meetings and elections, unless mission duty hours for Union meetings and elections, unless mission requirements prohibit the use of such space.



- E. The Employer will provide a four-drawer lockable file cabinet for Union use. This cabinet will be located in the vicinity of the NAGE Local President's work station.
  
- F. After renovation and construction of the floor on which the Union office space will be located, the Union will be furnished with a private and secure office. The Employer shall furnish the office with all the necessary equipment for conducting Union business. It is understood that any space provided is under the control of the Employer, and that its use is subject to any legitimate and overriding requirement of the Employer for the space. The decision to move or alter the Union office will be subject to bargaining. If bargaining is not concluded within ninety days after notification of the decision to move or alter the Union office, the Employer reserves the right to implement the proposed change. In the interim period, prior to the employer providing this office, the Employer agrees that it will endeavor to provide a location for a temporary office, it will be referenced in a Memorandum of Understanding to be attached as an Appendix to this Collective Bargaining Agreement. These efforts of the Employer concerning the temporary office shall not be subject to either grievance or arbitration.



**ARTICLE 7. PERSONNEL RECORDS AND ACCESS TO INFORMATION**

- A. Upon written request and after appropriate identification, each employee and the employee's written designated representative shall be granted access to all record(s) pertaining to the employee with the exception of records restricted by the Office of Personnel, law or higher regulation or subject to an exemption under FOIA/Privacy Act.
- B. The parties agree that the Employer shall maintain Official Personnel Folders (OPFs) and other systems of personnel records in accordance with applicable law and regulation, including the Privacy Act of 1974.
- C. The Employer will simultaneously, to the extent possible, advise employees of any derogatory information placed in the investigatory file, and give such employee the right to rebut that information and request deletion prior to further dissemination or use in a manner adversely affecting such employee.
- D. The parties recognize individual leave records as being personal in nature. The Office of Budget & Finance will therefore disclose leave records only to those designated officials who need the information for a legitimate business purpose.
- E. The Employer shall date all documents. The Employer shall expunge from all files, including computer files, derogatory information on an employee that is not dated, unless the item is relevant to matters of concern to FMCS. In such case, an effort to reconstruct the date may be made by FMCS. In such case, an effort to reconstruct the date may be made by FMCS and the Union shall be notified of any reconstructed date. This notice shall be in writing and shall be furnished to the Union within fourteen days from the date of reconstruction. The Employer shall not maintain any document bearing an expiration date beyond that date in any system of records. The Employer shall remove all documents from official files and records upon the expiration date or other agreed upon date.



## **ARTICLE 8. ORIENTATION OF NEW EMPLOYEES**

- A. The Employer will provide an orientation session for new employees.
- B. During the orientation session, the Employer shall provide each new employee with a copy of this Agreement.
- C. The Union shall be entitled to be present and to address each new employee concerning the following: existence of the Union, a description of the represented bargaining unit and location and telephone numbers of Union representatives. The Union shall be allotted a time period of up to thirty minutes to address each new employee.



## **ARTICLE 9. HOURS OF WORK**

- A. Employees may make arrangements with supervisors, by mutual agreement, to change their hours from the 8:30 a.m. to 5:00 p.m. schedule as long as employees are present eight and one-half hours a day, five days a week. Employees must be present from 9:30 a.m. to 3:30 p.m., excluding lunch. Employees may start work from 7:00 a.m. to 9:30 a.m. and end work between 3:30 p.m. and 6:00 p.m. Computer operators may be required to work on a twenty-four-hour work shift basis. Such operators are entitled to applicable premium pay, night differential pay, overtime pay and other benefits allowable by law.
  
- B. An employee may request a change from his/her scheduled hours of work as needed within the above framework. The employee should make these requests in writing to his/her supervisor at least two weeks in advance of the date he/she wishes to begin the new hours. Supervisors shall make every effort to accommodate these requests. Supervisors shall provide to the employee a written decision within seven days. If circumstances warrant a delay in the decision, the supervisor shall give the employee a written reply detailing reasons for a delay. The delay in making the decision shall not exceed 7 days.
  
- C. When a new schedule is approved, it will remain in effect until the employee requests and receives approval for a change. If a supervisor proposes a change in an employee's work hours, such proposal is a subject for negotiation, discussion or consultation, as appropriate. Employees may, with prior approval of their supervisors, vary their hours for one or several days in the event of special circumstances without reestablishing their schedules.
  
- D. The supervisor during the public hours of 8:30 a.m. and 5:00 p.m.
  
- E. All FMCS pay and leave policies will remain unchanged by the adoption of flextime. Employees who are present less than eight and one half hours in any given day must take leave or be charged absent without leave. Actual hours will be recorded on the time and attendance form.





**ARTICLE 10. USE OF TEMPORARY EMPLOYEES**

- A. The parties agree that work normally performed by bargaining unit employees will not routinely be delegated to student interns (both paid or unpaid). This does not preclude the use of temporary employees for vacation replacements, for assistance during peak workload periods, or to eliminate a backlog.



## **ARTICLE 11. RIGHTS OF PROBATIONARY EMPLOYEES**

- A. Probationary employees are those in their first year of a career-conditional or career appointment. Personnel actions on such employees are governed by Appendix A of this Agreement and any other Government-wide rules and regulations.
- B. The one-year probationary period is a final and highly significant step in the recruiting and examining process. A person selected for appointment is presumed to have the skills and character traits necessary for satisfactory performance as a career employee. That presumption, however, must be verified through actual work performance. Therefore, the supervisor will closely observe the probationer's work performance, conduct, and general character traits.
- C. The Employer agrees to advise a probationary employee of his/her performance every ninety days during the probationary period. At the end of 90 days, 180 days, and 270 days, the supervisor of each probationary employee must submit FMCS computer generated form, Probationary Period Appraisal, to the Office of Personnel. The supervisor will also give a copy of the form to the probationary employee.
- D. If the supervisor recommends that a probationary employee should be separated, the employee's supervisor will give the affected employee written notice of the proposal to separate no later than seven days prior to separation. The notice will state specifically and in detail:
  - 1. The reasons for the proposed separation
  - 2. The effective date of the proposed action, and
  - 3. The right to request a hearing before a higher level agency official.

Any evidence used to support the proposed separation will be provided to the employee upon request. If the employee desires a hearing with the next higher level official than the one issuing the notice, he/she has made a decision to separate the employee or a decision to rescind the proposed removal. If the employee is represented by the Union, the Union shall simultaneously receive a copy of the Employer's decision. If the decision is to separate, the decision letter will state specifically and in detail:

- 1. The reasons for the separation;



2. The effective date of the action; and
  3. The employee's appeal rights.
- E. Because the one-year probationary period is an extension of the initial examining process, probationary employees are not entitled to the same job protection rights as non-probationary, permanent employees. Separations are not grievable. The parties agree, however, that a grievance may be brought solely on the grounds that a procedural requirement under this Contract has not been provided to the probationary employee. Such grievances may be submitted to arbitration, but the arbitrator shall be limited to an award correcting the procedural deficiency, and shall not have the authority to change the status of the employee to a status other than probationary.



## **ARTICLE 12. PART-TIME EMPLOYMENT**

- A. The Employer will consider employee requests to work part-time.
- B. When a part-time position is established, other than in response to an employee request, the position will be filled in accordance with Merit Promotion policy contained in this agreement.
- C. An employee can request a part-time position with limited duration. If such a request is granted, the employee may return to the original full-time position at the end of the specified period, contingent upon available funds and workload; however, the Employer may consider a subsequent request from the employee to continue in the part-time position.



## **ARTICLE 13. MERIT PROMOTION**

- A. This Article supplements the Government-wide policies and instructions set forth in Appendix B of this Agreement. It establishes a merit basis for promotion and placement actions of unit employees. If a conflict exists between the provisions in this Article and current FMCS policy regarding placement and promotion actions of unit employees, the language in this Article shall control. It is understood that matters not addressed in this collective bargaining agreement are subject to applicable laws and regulations of authorities outside FMCS. The purpose of this Plan is to insure selection from among the best qualified persons available to fill vacancies on the basis of merit, fitness, and qualifications and without regard to race, color, religion, national origin, marital status, sex, age, physical or mental handicap, labor organization affiliation, or political affiliations, or any other non-merit or non-job related factors, including personal friendship or other types of personal favoritism or patronage, as required by law or regulation. All officials concerned will avoid any practices that are indicative of illegal preselection for a position. This plan does not guarantee promotion, but rather is intended to insure that all qualified employees receive fair and equitable consideration for promotional opportunities.
- B. Competitive procedures must be used for:
1. The filling of a bargaining unit position with known promotion potential by reassignment, transfer, voluntary demotion, reinstatement or reemployment;
  2. The temporary promotion of a bargaining unit employee to a bargaining unit position for more than 120 days;
  3. Reinstatement or transfer to a bargaining unit position at a higher grade than the last grade held in the competitive service;
  4. Details of less than 120 days which are designed to provide training or developmental opportunities for possible future advancement; and
  5. Details of more than 120 days to higher grade positions or positions with known promotion potential, and to temporary positions for periods in excess of 120 days.
- C. Competitive procedures for periods of 120 days or less;
1. Temporary positions for periods of 120 days or less;



2. Career promotion- a promotion that does not require competition because competition was held previously when the position was advertised with known promotion potential;
  3. Re-promotion to a grade or position from which demoted without personal cause;
  4. Promotion resulting from reclassification of a position without significant change in duties and responsibilities on the basis of either a new classification standard or the correction of a classification error;
  5. Promotion after failure to afford the employee proper consideration in a competitive promotion action;
  6. Position change within the same agency from a position having known promotion potential to a position having no higher potential;
  7. A position change permitted in accordance with reduction in force regulations; and
  8. A career ladder promotion following noncompetitive conversion or a cooperative education student in accordance with the requirements of Appendix C of this Agreement.
- D. A supervisor filling a position through competitive procedures shall submit a Standard Form 52, Personnel Action Request, and a position description (of a new position) to the Office of Personnel. This request is then submitted to agency management for approval. If it is approved, the Employer shall determine grade or grades at which the position will be advertised in order to receive enough candidates for rating, establish the area of consideration, classify the position description, and establish rating criteria. For each vacancy, The Office of Personnel will prepare a vacancy announcement which will be posted throughout the area of consideration. The announcement shall contain the following information: title; grade (s); full performance level (known promotion potential); location of position; a brief description of duties; the qualification requirements; the selective factors, in any; the quality ranking factors, if any; area of consideration; opening and closing dates; application procedures; and an equal employment opportunity statement. The Employer shall announce all positions for a minimum of fourteen days. If the Office of Personnel determines that there are not three in-house qualified candidates, it shall, prior to broadening the area of consideration, notify the Union in writing.
- E. Supervisors are not precluded from submitting the names of employees they feel to be especially well qualified for a specific position. However, such recommendations shall only supplement names obtained by responses to vacancy announcements. The employees referred by this method must meet the same requirements and be evaluated by



the same means as other employees under consideration. The supervisor who is to make the final selection may not specify the desire to promote a particular candidate or submit a request for a particular candidate.

- F. Supervisors will make every reasonable effort to notify employees on temporary or extended absences of vacancy announcements. Employees who were on leave or travel when a position was announced and became aware of the vacancy after the closing date will be allowed to submit applications late if the final decision process has not been completed.
- G. The Employer shall utilize a rating panel if there are more than four qualified applicants for the position. The rating panel will consist of at least two Federal employees who are familiar with the duties of the vacant position. The selection official is excluded from the panel. A Personnel employee serves as a technical consultant to, but not a member of, the panel. The Union shall have the opportunity to submit names for participation on this panel. The rating panel will then evaluate the remaining candidates on the basis of pertinent experience and training, supervisory appraisal of performance, awards, self-development efforts, and outside activities. The Employer will publicize these factors in the vacancy announcements and will apply them uniformly to all candidates. Absence of a selective factor precludes the candidate from further consideration.
- H. When the rating is completed, the Office of Personnel will prepare a selection certificate, listing the best qualified top three candidates in alphabetical order along with the general schedule grades of the individuals. For multiple vacancies up to six candidates may be certified. The selecting official will be given the selection certificate and the application packages for such individuals listed. If the selecting official chooses to interview one candidate, then he/she must interview all candidates. For candidates outside the commuting area, a telephone interview may be used instead of a personal one. The selecting official will use the application packages, interviews, and reference checks to select the individual to fill the vacancy. The name shall be noted on the selection certificate which shall be signed and dated by the supervisor, and returned to the Office of Personnel. The Deputy Director approves/disapproves the selection. The Office of Personnel will arrange for the applicant's entry into the new position. The Employer shall make every effort to release an employee not later than two weeks after his or her selection.
- I. The Employer agrees to establish a merit promotion file containing the following:





1. A copy of the vacancy announcement and the distribution made on the vacancy announcement, if applicable;
2. A list of all candidates considered;
3. The names of candidates determined to be qualified;
4. The names of the rating panel, if applicable;
5. All referral lists of candidates; and
6. The name of the individual selected.

The Employer shall maintain such file for at least two years, indicating the date of receipt of the application.

J. The Office of Personnel shall furnish in writing the following information to any candidate considered for a vacancy:

1. The name of the individual selected;
2. Whether the candidate requesting the information was rated qualified on the basis of the minimum standards; if not, the Employer will provide the reasons for the lack of qualifications for such standards;
3. Whether the candidate was on the list from which selection to fill the position was made; and
4. Guidance to enable the candidate to improve his/her opportunity for future promotion.

K. Employee complaints arising out of all merit promotion actions except complaints regarding non-selection, shall be subject to the expedited grievance procedure outline in Article 31, § Q. An applicant or employee alleging discrimination on the grounds of race, color, national origin, religion, sex, age or handicap may utilize Equal Employment Opportunity complaint procedures or any other rights under the law.





## **ARTICLE 14. TRAINING AND DEVELOPMENT**

- A. The parties agree that the training and development of employees is a matter of importance to the Employer's ability to efficiently fulfill its mission. The Employer agrees to make available to all employees the training necessary for the performance of the employee's current duties. Training policies will be applied uniformly to all employees.
- B. The Employer will make available for review by all employees' information concerning training or educational programs provided to the Office of Personnel, including local colleges and universities, professional organizations, etc. In addition, the Employer shall circulate and/or post on bulletin boards all such information for employees, as opportunities arise.
- C. The Employer agrees to use counseling techniques to help employees maintain their careers if requested by the employee, and, as necessary, recommend developmental training opportunities.
- D. The Employer will provide career development counseling for employee who requests it. The Office of Personnel will assist the employee in assessing his or her education, job experience and interest vis-à-vis Government career opportunities. Such counseling will include, but is not limited to, the following information:
  - 1. Qualifications necessary for advancement, if possible, in the employee's present position classification series and training necessary to meet those qualifications requirements;
  - 2. A list of series with similar qualifications to the employee's present classification series and training necessary for the employee into those series; and
  - 3. Qualifications necessary for placement in a specific series or type of work that the employee is interested in and training necessary to meet those qualification requirements. The Office of Personnel shall maintain, for the duration of the this Agreement, a list of all employees who receive counseling, as described above. If a position in which an employee has expressed interest, through counseling, becomes available or appears that it will become available in the future, the Employer agrees to review the selected position for restructuring as a trainee position. If the Employer establishes a trainee position, the Employer shall fill such position through the procedures described in Article 13 (Merit Promotion).



- E. To the extent funds are available, the Employer will pay for employees to attend courses offered by other government agencies in accordance with Government wide regulations for courses which relate to their current position.

Employees desiring training will, in writing, request approval from their supervisor. The Employer shall respond to such request in writing, within seven days of receipt, indicating whether the request is approved or denied. If an employee's request is not approved by the Employer solely for budgetary reasons, that employee will be advised when monies are available and may resubmit a request for the training, with priority consideration given.

- F. If the Employer denies a training request for any reason other than for budgetary constraints, such denial shall be subject to the expedited grievance procedure outlined in Article 31, § Q, if training is subject to a time limit justifying expedited action.
- G. The Employer will, as herein provided, reimburse Unit employees who are eligible for Employer approved courses at area schools and for Employer approved correspondence courses at night in accordance with government wide regulations for courses which relate to their current position. Employees who do not successfully complete courses for which reimbursement has been made under this Section will be required to reimburse the Employer for all costs related to such course. Ordinarily course attendance is limited to non-duty hours in accordance with FMCS policy.
- H. The Employer, with participation from the Union, will provide, at least annually, for clerical and administrative employees in the National Office ongoing training, as necessary, which will cover subjects and training relevant to Government employment and job skills. Such training may include speakers, films, panel discussions and workshops. Various specialized workshops for smaller groups of employees may be conducted for part of the time during the training. Official time will be granted for all employees participating in such training.
- I. If a National Seminar is held, requiring National Office administrative and clerical support of a nature which may be performed by any one of several administrative and clerical employees, the Employer will consider Unit employees for the performance of these duties.



## **ARTICLE 15. PERFORMANCE AND APPRAISAL SYSTEM**

### A. Introduction

1. It is the purpose of this Article to ensure that performance appraisal systems for employees are used as a tool for executing basic management and supervisory responsibilities by:
  - (a) Communicating and clarifying agency goals and objectives;
  - (b) Identifying individual accountability for the accomplishment of organizational goals and objectives;
  - (c) Evaluating and improving individual and organizational accomplishments; and
  - (d) Using the results of performance appraisal as a basis for adjusting basic pay and determining performance awards, training, rewarding, reassigning, promoting, reducing in grade, retaining and removing employees.
2. Performance appraisals, in identifying unacceptable performance, serve and important source of information in making referrals to Agency counseling programs. Counseling programs are useful to the Employer, the Union, and employees in helping to pinpoint the causes of performance problems, and in many cases, can successfully assist employees in getting help and eventually correcting the problems. Supervisors and employees in programs are useful to the Employer, the Union, and employees in helping to pinpoint the causes of performance problems, and in many cases, can successfully assist employees in getting help and eventually correcting the problems. Supervisors and employees are encouraged to use the Employee Counseling Program to obtain advice on identifying and handling problems that are affecting or may affect performance.

### B. Definitions

1. Appraisal means the act or process of reviewing and evaluating the performance of an employee against the written performance standard(s).
2. Appraisal period means the period of time established by an appraisal system for which an employee's performance will be reviewed.



3. Appraisal system means a performance appraisal system established by an agency or subcomponent of an agency under subchapter I of chapter 43 of title 5 U.S.C. §430 et. seq. and 5 CFR §430 et. seq., which provides for identification of critical and non-critical elements, establishment of performance standards, communication of elements and standards to employees, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.
4. Critical element means a component of a position consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.
5. Non-critical element means a component of an employee's position which does not meet the definition of a critical element, but is of sufficient importance to warrant written appraisal.
6. Performance means an employee's accomplishment of assigned work as identified in the critical and non-critical elements of the employee's evaluation.
7. Performance Management Plan means the description of the agency's methods which integrate performance, pay, and awards systems with its basic management functions for the purpose of improving individual and organizational effectiveness in the accomplishment of agency mission and goals. The Performance Management Plan, which includes the performance appraisal plan must be submitted to Office of Personnel for review and approval required by 5 CFR §430 et. seq.
8. Performance Plan means the aggregation of all of an employee's written critical and non-critical elements and performance standard(s).
9. Performance Standard is the expressed measure of the expectations or requirements established by management for a critical and non-critical element at a particular rating level. A performance standard shall include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.
10. Progress review means a review of the employee's progress toward achieving the performance standards and is not in itself a rating.



11. Rating of record means the summary rating required at the time specified in the Performance Management Plan or at such other times as the Plan specifies for special circumstances.
12. Rating Official means the immediate supervisor who will rate the employee's performance.
13. Reviewing official means the second level supervisor who will review ratings by the Rating Official and indicate his/her approval or disapproval of the overall appraisal.
14. Summary rating means the written record of the appraisal for each critical and non-critical element and the assignment of a summary rating level.

#### C. Appraising Officials

1. The Rating Official has the authority and the responsibility for the development of performance elements and performance standards with the participation of subordinates and for appraising the performance of his/her employees. The Reviewing Official will meet with the immediate supervisor to resolve any conflicting issues of the appraisal. The Reviewing Official is the final decision maker on appraisals.
2. However, if an employee's supervisor has changed within 120 days before the end of the appraisal period, the performance appraisal and next year's performance elements and standards will be prepared by the second level supervisor who will serve, in this case, as the Rating Official. Input from both previous and current immediate supervisors will be solicited and used in the appraisal. The employee's third-level supervisor will serve as the Reviewing Official.
3. When an employee has been officially detailed to another position, either to the same or to a different supervisor for a period longer than 90 days, the employee's performance on the detail will be appraised by a supplemental appraisal so that the employee's records reflect this performance, and it can be given appropriate consideration in personnel decision.

#### D. Development of Elements and Standards



1. Procedures for Development. The Employer shall establish performance elements and performance standards which be consistent with the duties and responsibilities contained in the employee's position description. The supervisor shall encourage employee participation in establishing performance elements and standards. Employee, supervisor, and Union participation in the development of performance elements and performance standards shall be accomplished in accordance with the following procedures:
  - (a) Step 1. No later than thirty days prior to the beginning of the appraisal period, the supervisor shall hold a meeting with each employee, or group of employees where appropriate, to identify performance elements and standards each element so identified.
    - (i) Supervisors prepare for the initial performance planning meeting by reviewing the employee's position description and by obtaining information regarding work group objectives, management priorities, and any other items that may have a bearing on the employee's work.
    - (ii) Employees prepare for the initial performance planning meeting by reviewing their position descriptions, work assignments, problems encountered, and possible work-related changes necessary to do a better job.
    - (iii) In the initial meeting, the supervisor and employee:
      - (A) Shall discuss the work to be done and mutual expectations for accomplishing the work;
      - (B) Shall discuss the performance elements and performance standards for the job;
      - (C) Shall discuss the employee's career and personal development objectives as they relate to planned work; and
      - (D) Shall update out-of-date or inaccurate position descriptions.





- (iv) If group performance planning meetings are held, and an employee involved desires the Union to be present, the Employer shall notify and invite the Union to attend.
- (b) Step 2. Follow-up meetings will be held with supervisor and the employee as frequently as needed in the development of performance elements and performance standards.
- (c) Step 3. No later than fourteen days prior to the beginning of the appraisal period, the supervisor will furnish to the appropriate employee, and the Union, a copy of proposed performance elements and standards.
- (d) Step 4. The employee and the Union will have a reasonable opportunity to submit written comments on the proposed performance elements and standards to the supervisor and/or to meet with the supervisor to discuss the proposed elements and standards.
- (e) Step 5. Performance elements and performance standards are not appealable until an action, detrimental to the employee, results from their application. If agreement cannot be reached on the performance elements and performance standards, differences will be resolved by the Reviewing Official. All written comments received by the Rating Official in Step 4 will be considered. The employee may request a meeting with the Reviewing Official and may be represented at that meeting by the Union. The Reviewing Official shall make the final decision on performance elements and standards.
- (f) Step 6. The supervisor will issue, to each employee and the Union, a copy of his/her final performance standards at beginning of the appraisal period. A copy will be sent to the Reviewing Official, and the supervisor will retain a copy.
- (g) Content of Performance Elements and Performance Standards.
2. Specific in terms of quality, quantity, and time;
- (a) Realistic and attainable;
- (b) Described in terms of range of satisfactory performance and not perfection, unless nothing short of perfection is acceptable;



- (c) Flexible, so that if conditions warrant it, they may be modified;
- (d) Verifiable, so that it may be easily determinable whether they met;
- (e) Expressed in terms of a specific result, if possible; and
- (f) Fair and equitable.

## E. Appraisal

1. The appraisal is the comparison of an employee's performance against performance elements and performance standards which have been developed in accordance with section D, Development of Elements and Standards.
2. The formal appraisal occurs only once a year. However, periodic progress review is essential for revising performance elements and standards and for identifying and resolving any problems that result from changes in priorities or unforeseen workloads; at least one such periodic progress review must occur during each appraisal period. Situations beyond an employee's control, and unknown to both employee and supervisor at the time the critical and non-critical elements are established, will mandate revisions in elements and standards to reflect the changed circumstances as soon as reasonably possible.
3. The supervisor and employee should review the employee's progress throughout the appraisal period. Favorable or unfavorable instances of an employee's performance shall be discussed with the employee when they occur instead of waiting until a scheduled progress review. Employees will be informed if performance in a non-critical element is below standards and advised of the performance problems and told that unsatisfactory performance of non-critical elements could result in a reduction of the Final Performance Rating.
4. Performance appraisals provide management with information about an employee's past performance and are to be used to plan and assign work and make personnel decisions based on performance, provide employees with feedback on their strengths and weaknesses in performing their jobs, to indicate how they can improve their performance, and what they can do to enhance their careers. It is extremely important





that deficiencies, along with efforts to help the employee improve, be documented as early as possible during this appraisal period.

5. Supervisors must make every effort to motivate employees and provide formal and on-the-job training in order to bring performance to an acceptable level during the appraisal period.
6. The final appraisal meetings will be held within forty-five days of the end of the appraisal period (Aug. 4), and shall take place in a setting that is free of interruptions. These meetings will last as long as necessary. However, to review accomplishments, identify problems, discuss possible solutions, and determine changes to planned work, at least one-half hour be set aside. Only the supervisor and the individual employee will be in attendance at these meetings, unless the meeting is an examination of the employee in connection with an investigation or the employee reasonable believes the examination may result in disciplinary action and the employee requests representation.
7. The appraisal will be completed in writing on FMCS Form AP-75, Employee Appraisal, by the Rating Official at the end of each appraisal period. The Employer shall base the rating on the actual performance during the appraisal period and upon the agreed upon performance elements and standards.
8. Each performance element, both critical and non-critical, will be rated by the Rating Official as meets, does not meet, or exceeds the standard.
9. The Employer calculate the Final Performance Rating after the Rating Official has determined whether the employee has met, not met, or exceeded the performance standards of the employee's separate elements (critical and non-critical). A two-step approach shall be used to calculate the Final Performance Rating. First, preliminary rating is calculated based only on employee performance in critical elements. This preliminary rating may then be adjusted based on employee performance in non-critical elements.
10. The preliminary rating, based on critical elements only, is calculated as follows:
  - (a) Outstanding
    - (i) For employees having from 1 to 3 critical elements, performance must exceed the standards for all critical elements.



- (ii) For employees having from 4 to 6 critical elements, performance must exceed the standards for all but one of the critical elements, and must meet the standard for that one.
  - (iii) For employees having 7 or more critical elements, performance must exceed the standards for all but two critical elements, and must meet the standard for those two.
  - (b) Highly Successful. The employee must exceed the standard for at least 50% of the critical elements, and meet the standard for at least 50% of the critical elements, and meet the standards for the remaining critical elements.
  - (c) Satisfactory. The employee must meet the standards for all critical elements.
  - (d) Minimally Satisfactory. Does not apply to the critical element rating portion.
  - (e) Unsatisfactory. The employee does not meet the standard for one or more critical elements.
11. Once a preliminary rating, based on the critical element portion of an employee's elements and standards, is established as outlined above, the ratings on non-critical elements are considered to complete the calculations necessary to arrive at a Final Performance Evaluation. If performance in two or more non-critical elements does not meet the standards, the Rating Official may reduce the Final Performance Evaluation rating one level, (e.g., if an employee does not meet the standard for two non-critical elements, the final performance evaluation could be reduced from Outstanding to Highly Successful; from Highly Successful to Satisfactory; from Satisfactory to Minimally Satisfactory).
12. The Final Performance Evaluation is, therefore, calculated by determining the preliminary rating based on critical elements, and considering ratings of the non-critical elements, as outlined above.
13. The written performance appraisal (FMCS Form AP-75) will be signed and dated by the employee and the Rating Official. If an employee refuses to sign the appraisal, his/her refusal will be so noted on the form. The employee has the right to attach his or her written comments. The documents are forwarded to the Reviewing Official for his or her review. The Reviewing Official makes the final decision on the appraisal. A copy of the signed FMCS Form AP-75 will be sent to the supervisor, the employee, and



the Office of Personnel. The Office of Personnel will review all final performance appraisals for administrative accuracy.

## F. Unacceptable Performance

1. An employee may be subject to remedial action at any time during the appraisal cycle that the employee's performance, in one or more critical elements of his/her job, becomes unacceptable.
2. When an employee is determined by the supervisor to be performing at an unacceptable level, the supervisor will notify the employee, in writing, of his/her unacceptable performance up to an acceptable level, what assistance will be provided by the supervisor to help the employee improve his/her performance, and the employee will be given a reasonable time in which to bring his/her performance up to an acceptable level before adverse action is finally taken.
3. Reasonable time means an amount of time determined by the supervisor (not less than ninety days) commensurate with the duties and responsibilities of the employee's job which is sufficient to allow the employee to show whether he/she can meet performance standards.
4. If performance fails to improve to an acceptable level after a reasonable time, action may be taken against the employee. The Employer shall consider retraining, referral to a counseling program, or lateral reassignment before acting to reduce the employee's grade or to remove the employee for unacceptable performance or taking other disciplinary action.

## G. Appraisal Period

1. The appraisal period is July 1 to June 30. For employees who have been in a position less than ninety days, the appraisal will be delayed until the ninety-day requirement has been met. All employees, who have been in their positions for ninety days or more, will receive a written appraisal period and will be compared against the performance elements and performance standards for his/her position which were communicated to the employee, in writing, at the beginning of the appraisal period.

## H. Use of Performance Appraisals in Making Other Personnel Decisions



1. Within-Grade Increase. Employees not performing at an acceptable level in one or more critical elements of their position may not be granted a within-grade increase.
2. Awards. Performance appraisals must be considered when evaluating employees for awards and special commendations. Employees who receive a performance rating of Outstanding will be considered for an award. The supervisor, with higher level approval, may grant employees time off from duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations.
3. Training. The performance appraisal process will help identify individual employee training needs. When such needs are identified, supervisors and/or employees are encouraged to contact the Training Officer to arrange for appropriate training in an effort to improve performance.
4. Merit Promotion. Performance appraisals will be used in evaluating employees for merit promotions.
5. Reductions-in-Force. In the event a Reductions-in-Force action is taken, employees will receive additional service credit in accordance with Appendix D of this Agreement.
6. Supervisors, employees and the Union will receive basic information and guidance on the use of the performance appraisal process in recognizing and assisting employees. Furthermore, the Employer shall provide the Union a copy of any and all information or training documents given to first time supervisors.



## **ARTICLE 16. ACCEPTABLE LEVEL OF COMPETENCE**

- A. An employee will be granted a within grade increase when he/she has completed the required waiting period and it is determined by the Employer that the employee has performed at an acceptable level of competence during the waiting period. Acceptable level of competence means that the employee is performing at the fully successful level as indicated in his/her most recent performance appraisal or in a mid-term appraisal. An employee whose current performance does not meet the established performance standard is not performing at an acceptable level of competence.
- B. The waiting period is 52 weeks to move to steps 2, 3, 4; 104 weeks to move to steps 5, 6, and 7; and 156 weeks for 8, 9, and 10.
- C. The employee will be notified in writing of the determination of his/her current status no less than forty-five days prior to being eligible for his/her next within grade increase.
- D. When the supervisor determine that an employee performance is not at an acceptable level of competence, the negative determination is not at an acceptable level of competence, the negative determination shall be communicated to the employee in writing no less than forty-five days prior to eligibility dates, and shall;
  - 1. Set forth the reasons for the negative determination and the respects in which the employee must improve his/her performance in order to be granted a within-grade increase; and
  - 2. Inform the employee of his/her right to request reconsideration of the determination.
- E. Reconsideration of a Negative Determination

When a supervisor issues a negative determination, the following procedures are established for reconsideration of a negative determination.

- 1. An employee or an employee's personal representative may request reconsideration of a negative determination by filing with the supervisor, not more than fifteen days after receiving the notice of determination, a written response to the negative determination setting forth the reasons FMCS shall reconsider the determination;



2. When an employee files a request for reconsideration, the agency shall establish an employee reconsideration file which shall contain all pertinent documents relating to the negative determination and the request for reconsideration, including copies of the following:
  - (a) The written negative determination and the basis therefore;
  - (b) The employee's written request for reconsideration;
  - (c) The report of investigation when an investigation is made;
  - (d) The written summary or transcript of any personal presentation made; and
  - (e) The agency's decision on the request for reconsideration.

The file shall not contain any document that has not been made available to the employee or his or her personal representative with an opportunity to submit a written exception to any summary of the employee's personal presentation. The time limit to request a reconsideration may be extended when the employee shows he/she was not notified of the time limit and was not otherwise aware of it, or that the employee was prevented by circumstances beyond his or her control from requesting reconsideration with the time limit.

An agency may disallow as an employee's personal representative an individual whose activities as representative would cause a conflict of interest of position, an employee whose release from his or her official duties and responsibilities would give rise to unreasonable costs to the Government, or an employee whose priority work assignment precluded his or her release from official duties and responsibilities.

3. An employee in a duty status shall be granted a reasonable amount of official time to review the material relied upon to support the negative determination and to prepare a response to the determination.
4. The second-level supervisor shall provide the employee with a prompt written final decision prior to the eligibility date, unless the Employer has granted an extension, pursuant to § E 2. Above.



5. When a negative determination is sustained after reconsideration, an employee shall be informed in writing of the reasons for the decision and of his or her right to appeal the decision to the Merit System Protection Board.

#### F. Continuing Evaluation after Withholding a Within-Grade Increase

1. After a within grade increase has been withheld, the supervisor may grant the within grade increase at any time after he/she determines that the employee has demonstrated sustained withholding a within grade increase, the supervisor, at a minimum, shall determine whether the employee's performance is at an acceptable level of competence after each 52 calendar week period following the original due date for the within grade increase.

#### G. Effective Date of Within-Grade Increase

1. A within-grade increase shall be effective on the first day of the pay period following completion of the required waiting period and in compliance with the conditions of eligibility.

When an acceptable level of competence is achieved at some time after a negative determination, the effective date is the first day of the first pay period after the acceptable level of competence determination has been made.





## **ARTICLE 17. POSITION CLASSIFICATION**

- A. The parties agree that the principle of equal pay for equal work shall be applied to all position classification actions.
- B. The Employer agrees to inform the Union of receipt of new classification standards which affect bargaining unit positions. They will also inform the Union when any change is made in the duties and responsibilities of bargaining unit positions due to reorganization.
- C. The Employer agrees that the position description for each position in the unit will accurately reflect the major duties of the employee filling that position. An employee may appeal the classification of his or her position to the Employer, and/or to the Office of Personnel, as provided for by the Civil Service Reform Act.
- D. Requests for a review of a position by the employee or supervisor will be in writing, and will contain the reason the position needs to be reviewed, and/or statement of accuracy, and will be submitted to the Office of Personnel. The review of the position will be completed no less than ninety days of receipt of the request. Immediately upon completion of the review, the new position description, if applicable, and any necessary changes appropriate policy and regulation.
- E. While a classification review in connection with an appeal is processed, the Employer will not reassign duties pending review.
- F. Upon request, the Employer agrees to review for possible reclassification any position where an employee has been assigned additional duties of a grade controlling nature for no less than 180 days.
- G. When an employee is placed in a new position, a copy of the new position will be attached to the personnel action (SF50). Position descriptions will be available for all Unit positions that are posted as Vacancy Announcements.





## **ARTICLE 18. TRAVEL**

- A. Unless it is necessary, as opposed to merely convenient, employees will not be required to schedule or arrange travel outside their standard workweek. Any travel time outside of the regular workweek will be recognized in accordance with acceptable Federal travel and pay regulations.
- B. Travel advances will be made available to employees prior to the date of departure, as long as the employee submits a request three workdays before travel is to commence unless extenuating circumstances create unforeseeable delays. The amount of the advance shall be based on a reasonable estimate of the expenses to be incurred. In cases of emergency travel, the Employer will issue an advance to the traveler from the imprest fund, up to the maximum allowable under law or other regulations.
- C. The Employer shall not routinely require an employee to use his or her privately owned vehicle in connection with the official business.
- D. Where an employee in a travel status becomes ill and is expected to remain so for any significant length of time, the Employer will pick up expenses in connection with returning that employee to his or her normal post of duty under appropriate travel regulations.



## **ARTICLE 19. OVERTIME**

- A. Time spent performing official business in excess of eight hours per day or 40 hours per week shall be considered overtime when it occurs in accordance with applicable law and regulations.
- B. Overtime pay for all employees shall be computed in accordance with applicable laws and regulations. All bargaining unit employees who are in a nonexempt status under the provisions of the FLSA will be paid accordingly.
- C. The Employer shall inform each employee on an annual basis that the Office of Personnel shall be available to answer any and all questions concerning overtime compensation and the use and accrual of compensatory time.
- D. The Employer will make every effort to distribute overtime equitably among qualified Unit employees within each organizational unit. Where an employee has been offered an overtime opportunity and turns that opportunity down, he/she will be considered to have served or received that amount of overtime for purposes of equitable distribution, but not for purposes of compensation.
- E. The supervisor will attempt to staff overtime assignments with qualified volunteers in the appropriate work unit. When more than one such qualified volunteer is available, the employee with the smallest number of overtime hours for the calendar year shall be selected. In the event that the hours are equal, the employee with the greatest amount of Federal service with FMCS shall be selected.
- F. The supervisor shall notify employees of overtime assignments as soon as he/she knows of the assignments.



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## Article 20

### **ARTICLE 20. COMPENSATORY TIME**

- A. Employees shall earn compensatory time in accordance with appropriate rules and regulations.
- B. The overtime rate for bargaining unit nonexempt employees is payment of time and a half; compensatory time is inappropriate unless specifically requested by the employee.
- C. Compensatory time earned and used will be recorded on time cards for the appropriate pay periods.



## **ARTICLE 21. ANNUAL LEAVE**

- A. Generally speaking, employees are not permitted to carry over from one leave year to the next more than their annual leave ceilings (for most employees, this is 240 hours). Any annual leave balance at the beginning of a leave year that is in excess of the leave ceiling is forfeited unless FMCS specifically restores the excess and places this amount in a separate leave account. This can occur or because the exigencies of the public business or sickness precluded use of the leave.
- B. Employees who wish to take annual leave must obtain approval by their immediate supervisor in advance. In emergency situations when it is not possible to get advance permission, employees must notify their supervisors of the desire to take annual leave as soon as possible.
- C. Supervisors will grant requests for annual leave whenever possible. They may withhold approval if granting the request would conflict with the work schedules or the interest of the Service. In this event, however, supervisors will meet with employees to enable the employee to take leave at a mutually convenient time.
- D. Supervisors will plan leave schedules at the beginning of each leave year so that insofar as possible, the desires of the employee as to leave dates will be accommodated and vacation and other leave periods will be taken at intervals throughout the leave year. Maximum staff should be available at anticipated heavy workload periods and adequate staff available for contingencies. In case of a conflict of scheduling leave, consideration shall be given to the following factors in descending priority:
  - 1. Employees who previously had to change their leave request due to a similar conflict; and
  - 2. Seniority with FMCS.

An employee may change his or her annual leave schedule as long as no conflict is created with another employee's previously approved leave or FMCS workload.

- E. Annual leave requested and approved in advance may not be canceled for reasons other than those related to the organizational unit's workload.



## **ARTICLE 22. SICK LEAVE**

- A. Sick leave shall be granted whenever an employee is unable to perform assigned duties because of illness, injury, pregnancy, confinement, or for related reasons. Such related reasons include:
1. Dental, optical, or medical examination or treatment, including treatment of alcohol or drug related problems;
  2. Exposure to a contagious disease that would endanger the health of co-workers; and
  3. Presence of contagious disease in employee's immediate family which requires the employee's personal care.
- B. An employee who is unable to report for duty because of sickness or injury shall notify the supervisor as early as practicable within the first two hours of business on the first full day of absence. Failure to give notification, unless excused, shall require the first day of absence to be charged to annual leave, leave without pay, or if appropriate, to absence without leave. Requests for sick leave for dental, optical, or medical examination or treatment shall be submitted for approval in advance of leave.
- C. When necessary, due to injury or illness, an employee may leave the work site to go to the health unit after receiving oral approval from his or her supervisor, whenever possible. An employee shall not be charged with leave for time spent at the health unit.
- D. With the exception of circumstances described in Section E below, for periods of sick leave of one to three days, employee's certification as to the reason for the absence is administratively acceptable as to the reason for the absence. A medical certificate is required for extended periods of sick leave for more than three consecutive work days, or for advanced sick leave.

When a medical certificate is required as described above or in Section E and if no doctor was in attendance although the individual was incapacitated for duty, the employee shall submit, in lieu of the doctor's certification, a memorandum to his or her supervisor explaining the specific circumstances. In such cases, the memorandum and an SF 71 together with the supervisor's recommendations for approval or disapproval, shall be forwarded to the Office of Personnel. The supervisor shall not disapprove sick leave



request arbitrarily or in a discriminatory or unreasonable manner. When sick leave is disapproved, the supervisor shall recommend the type of leave to be charged (LWOP, AWOL or annual).

- E. In cases where, by review of past experience, the supervisor has reasonable cause to believe that sick leave is being abused by the employee, the supervisor shall first counsel the employee and explain the requirements and rules for taking leave. If the supervisor has reasonable cause to believe that the sick leave abuse is continuing, the supervisor shall inform the employee in writing that future requests for sick leave, regardless of length, will be submitted on an SF 71 and supported by a medical certificate. All cases requiring medical certification shall be reviewed not later than six months afterward. If no further abuse is indicated, the restriction will be removed and the employee shall be notified in writing. The employee shall also be notified of the reasons, in writing, if the restriction is to be continued.
- F. If the Employer places an employee on leave restriction, the Union may invoke the expedited grievance procedure outlined in Article 31, § Q.
- G. In case of serious illness or temporary disability, including disability due to pregnancy, a career or career-conditional employee may be granted sick leave in advance of its accrual up to a total of 240 hours.



## **ARTICLE 23. PARENTAL LEAVE**

- A. Leave for maternity reasons may be granted to a pregnant employee in anticipation of her return to duty after the leave period. Leave sufficient to cover the total absence from duty may be granted in a combination of sick leave, annual leave, and leave without pay.
- B. If after such leave period, the employee is unable to return to duty for medical reasons, the Agency Director may approve, upon submission of a note from the doctor, additional sick or annual leave or leave without pay under the same standards as are used for other temporary periods of disability.
- C. The Employer will assure continued employment in her position or a position of like seniority, status, and pay to the employee, unless termination is otherwise required by expiration of appointment, by reduction in force, for cause, or for similar reasons unrelated to the maternity absence. For such and employee, the total period of absence is based on appropriate medical opinion and FMCS authorization of appropriate leave.
- D. A male employee may request annual leave, compensatory time or leave without pay for purposes of assisting or caring for his minor children or the mother of his newborn or adopted child while she is incapacitated for maternity reasons. The Employer will approve leave for these reasons in a manner consistent with the policy of granting leave in similar situations.
- E. Supervisors shall make every effort to accommodate requests for annual or LWOP from employees who have adopted or are in the process of effecting the adoption of a child. The time required by an adoption agency for physical and psychiatric examinations of applicants shall be charged to annual leave or LWOP.
- F. If occasional duties, temporary assignments or unusual working conditions of a strenuous or hazardous nature arise, a pregnant or nursing employee may be temporary excused from these duties to protect her health or that of her unborn or nursing child in accordance with the provisions of Article 26, "Temporary Disability".





## **ARTICLE 24. ADMINISTRATIVE LEAVE**

- A. The Employer shall grant administrative leave for employees who desire to vote or register in any election or in referendum on a civil matter in their community. The Employer shall excuse employees in accordance with the Office of Personnel Management's regulations and issuances.

Under exceptional circumstances, the Employer may excuse an employee for such Additional time as needed for the employee to vote, considering the particular circumstances in his or her individual case. The Employer shall grant administrative leave for voter registration purposes on the same basis as for voting.

- B. All employees are to presume that the office is open each regular workday unless specifically announced otherwise. In emergency situations, where the normal operations of the office are interrupted by events beyond the control of the Employer that necessitate temporary closing of the office, the Employer will grant administrative leave for all employees in duty status to cover the time the office is closed. If the decision to close is made in advance of the time employees will begin to report for work, the Employer will make a reasonable attempt to notify employees as soon as possible.
- C. When the Office of Personnel decides to close operations government-wide in the DC area, the Employer shall not charge leave to employees not reporting to work. When such a decision is made to dismiss employees during the workday, the Employer shall excuse employees on duty at the time of dismissal without charge to leave or loss of compensation.
- D. The Employer shall excuse an employee for up to three days without charge of leave to make arrangements for or to attend the funeral of an immediate member of his or her family killed in line of duty in the Armed Services.
- E. The Employer may excuse an employee who donates blood for a maximum of four hours without charge to leave. This period includes both the time spent in donating the blood and any period of recuperation following the donation, and may be extended if medically necessary.
- F. The Employer shall grant administrative leave of up to four hours to employees wishing to attend funeral service for a current FMCS employee, if such service is held in the same metropolitan area as the employees.





## **ARTICLE 25. MISCELLANEOUS LEAVE PROVISIONS**

- A. The Employer shall administer leave policies in accordance with applicable law and regulations.
- B. The Employer shall record and charge all leave in increments of one hour.
- C. The Employer shall authorize official time in the amount of sixteen hours annually for each Union official desiring to attend Union sponsored training sessions or other training sessions not under the control of the Employer.
- D. The Employer will make every effort to grant annual leave, advanced annual leave, or leave without pay for up to five days where there has been a death in the employee's family. The concept of family shall include, at a minimum, the following:
  - 1. Mother, father, mother in-law, father in-law, spouse, brother, sister, brother in-law, sister in-law, child, grandparent, grandparent-in-law, grandchild, and household members.
- E. The Employer shall accommodate an employee whose religious beliefs require absence from work during certain periods of time.
- F. An employee who is a member of the National Guard or other reserve unit of the Armed Forces shall be entitled to military leave for each day of active duty in such organization. Approval of this leave shall be based on a copy of the orders directing the employee to active duty.
- G. An employee is entitled to court leave to the extent necessary to serve on a jury or to participate in a non-official capacity as a subpoenaed witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party, except that the provision of 29 CFR §1401.2 shall apply. Upon being notified that an employee needs court leave, the Office of Budget and Finance will advise the employee as to his/her rights to overtime, fees, travel expenses, and other appropriate compensation.
- H. Use of approved annual or sick leave will not be factors in promotion or disciplinary action.



**FMCS**  
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## Article 25

- I. When an employee is charged with leave for an unauthorized absence or tardiness, the supervisor will not require him/her to perform work for any part of the leave period charged against his/her account.



## **ARTICLE 26. TEMPORARY DISABILITY**

- A. To the extent practicable, the Employer shall assign employees who are temporarily unable to do their regularly assigned tasks light duty assignments for which they are qualified in order to avoid losing compensation, if such work is actually available. Employer shall not be required to bump or reassign another employee to create such work. Employees will provide a medical certificate stating the nature of the disability, its anticipated duration, and the types of tasks the employee should not perform. Upon return to work, the employee must provide a medical certificate of fitness for duty.



## **ARTICLE 27. EMPLOYEE COUNSELING PROGRAM**

- A. The Employer shall provide an employee counseling program for employees in the Unit. The program includes, but is not limited to, counseling and referrals for such problems as alcohol or drug abuse, financial problems, or other emotional problems. The Employer agrees to keep employees informed of procedures to make use of this program.

The Union will cooperate with the Employer in attempting to assist employees who participate in this program.

- B. The Employer shall grant employees undergoing a prescribed program of counseling leave according to appropriate regulations.

Further, it is understood that employees may be assigned to lighter job duties pursuant to Article 26, Temporary Disability.



## **ARTICLE 28. LABOR-MANAGEMENT RELATIONS COMMITTEE**

- A. The parties recognize that the negotiation of a formal agreement is but one element of successful and effective labor-management relations. Therefore, it is agreed that a Labor-Management Relations Committee (LMRC) shall be established for the purpose of exchanging information and discussing appropriate matters of concern and interest involving the broad areas of employee training and development, equal employment opportunity, health and safety, and other matters involving personnel policies, practices or working conditions.
- B. The LMRC shall consist of up to six representatives: three chosen by the Union and three chosen by management. One Union representative shall be the Local President. One management representative shall be the Agency Director or his or her designee.
- C. The LMRC shall meet monthly, and more frequently if mutually agreed upon. Such monthly meetings may be canceled or rescheduled only by mutual consent.
- D. The parties shall not consider specific grievances, complaints or appeals. However, this does not preclude the discussion of general personnel policies, practices and working conditions which might give rise to grievances, complaints, or appeals, so that future problems might be identified for possible preventative action. The parties may agree to limit the number of respective attendees and to go off the record when discussing matters of a sensitive nature.
- E. From time to time, the LMRC may establish working committees to formulate recommendations on issues which affect working conditions of Unit employees. The Employer agrees to permit at least one representative of the Union, designated by the Union, to sit on such committees, provided that there is no conflict of interest or position. Time spent in participation on the committee will be official time.



## **ARTICLE 29. EQUAL EMPLOYMENT OPPORTUNITY**

- A. The Employer and the Union agree to cooperate in providing equal employment opportunity in employment of all persons, to prohibit discrimination because of race, color, physical or mental handicap, age, marital status, political affiliation, religion, sex, or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative action program, in accordance with pertinent laws, regulations and procedures.
- B. The Labor Management Relations Committee, as described in Article 28, shall appoint members to develop recommendations concerning the Affirmative Action Program for FMCS. These recommendations will be considered by the Deputy Director and Director of EEO for incorporation into the annual review/evaluation of the EEO program. A minority report may be included in these recommendations of the LMRC. Changes made to the FMCS Program will be subject to consultation or negotiation, as appropriate.
- C. EEO counselors will be selected by the Employer. The Employer shall consider the recommendations of the Union for EEO counselors prior to their selection. Vacancies shall be filled within thirty days of their occurrence.

The EEO counselors will be adequately trained by the Employer to assist employees in resolving their discrimination complaints informal in accordance with appropriate regulations and procedures.

EEO counselors' names, office locations, and phone numbers shall be posted on bulletin boards. The Employer and the Union agree that the EEO counselors shall be afforded full cooperation by management and employees.

- D. Any employee seeking to file a complaint shall be free from reprisal. If a complaint is filed, the employee shall have the right to be accompanied, represented and advised by a personally chosen representative. The chosen representative may assist the complainant during all phases of the EEO complaint process. Both the employee and the employee's representative shall be afforded a reasonable amount of official time for the preparation of his or her complaint at each step of the complaint procedure. Two copies of any formal resolution of a complaint shall be provided to the employee.

EEO counselors shall be free from restraint, coercion, discrimination, or reprisal with respect to the performance of their counselling functions.



- E. The Employer and the Union agree that EEO complaints must be filed in accordance with the EEO complaint procedure. A copy of the EEO regulations, which include the EEO complaint procedure, shall be maintained in the FMCS Personnel Office and shall be made available to any employee upon request.
  
- F. All resolutions of EEO complaints shall be made in accordance with government-wide rules and regulations as those regulations may be amended from time to time.



## **ARTICLE 30. DISCIPLINARY ACTION AND ADVERSE ACTIONS**

- A. No unit employee will be the subject of a disciplinary or adverse action except for such cause as will promote the efficiency of the Service.
- B. Disciplinary and adverse actions include an admonishment, a reprimand, a suspension without pay, and involuntary demotion in grade or pay for cause, a removal, or any other action defined as discipline by statute or regulations. Procedures governing disciplinary actions for unacceptable performance are contained in the section of this Agreement entitled "Performance Appraisal".
- C. All disciplinary and adverse actions will be taken in accordance with applicable regulations as stated in Appendix F of this Agreement and related documents.
- D. All adverse action proposal and decision letters must be reviewed by the Office of Personnel for compliance with applicable Federal regulations.
- E. At an employee's request, the Employer shall grant the Union the opportunity to be present at any examination of an employee by a representative of the Employer in connection with an investigation, if the employee reasonably believes that the examination may result in disciplinary action against the employee. Notice of this employee entitlement shall be given to all FMCS employees through issuance of a bulletin annually and immediately prior to any examination of an employee.
- F. The Employer's representative shall, prior to the beginning of the examination, provide the employee with any and all available information and a description of the subject matter of the investigation; the names of the individuals providing the information may be excluded. If the employee requests Union representation, he/she will be given a reasonable amount of time to secure such representation if the Employer's representative wishes to proceed with the examination.
- G. In a disciplinary action, the Employer shall provide an employee with a copy of all material relied on by the Employer to support its proposal.
- H. An official reprimand and admonishment must:
  - 1. Be in writing and be signed by a supervisor at the Division Director level or above in the employee's chain of command;





2. Cite specifically and in detail the reasons for supporting the action;
  3. State the employee's right to grieve the reprimand and the appropriate procedure and the applicable time limits for doing so; and,
  4. If a reprimand is issued, state that a copy of the official reprimand will remain in the employee's OPF for a period of up to one year, except that the Employer may remove it at any time earlier, and if an admonishment is issued, state that a copy of the admonishment will remain in the employee's OPF for a period of six months, except that the Employer may remove it at any time earlier.
- I. When the Employer chooses to initiate an action to suspend and employee for fourteen days or less, or furlough for less than thirty days, the following procedures will apply;
1. The immediate supervisor in the employee's chain of command will provide the employee and the Union written notification not less than twenty-one days in advance of the proposed action;
  2. The proposal will state specifically and in detail the reasons for the proposed action;
  3. The proposal will state that the employee has the right to be represented by an attorney or other representative;
  4. The employee shall have a reasonable amount of official time to prepare a reply to the notification to suspend or furlough and a copy of the material on which the proposal was based;
  5. The employee will be given fourteen days from the date he/she receives the notice of proposed suspension or furlough in which to deliver an oral and/or written reply to the Deputy Director;
  6. The Deputy Director will review and reply to requests for extensions; and
  7. The final decision will be made by the Deputy Director.

The final decision letter will contain the Employer's findings with respect to each reason and specification made against the employee in the notice of the proposed action. If the decision is to effect a suspension or furlough, the date(s) of suspension or furlough will be stated in the final decision and may be no earlier than three days from the date of the final decision.

- J. When the Employer chooses to initiate an action which may result in a suspension of more than fourteen days, furlough for thirty days or more, reductions in grade or pay for cause, and removal, the following procedures will apply:



1. The proposing official (immediate supervisor) will provide the affected employee thirty days advance written notification of the proposed action;
  2. The written proposal will state specifically and in detail the reasons for the proposed action;
  3. The employee shall have a reasonable amount of official time to prepare replies to the proposal or the material on which the proposal was based;
  4. The employee will be given fifteen days from the date he/she received the notice of proposed discipline in which to deliver an oral and/or written reply to the Deputy Director;
  5. The Deputy Director shall review and reply to requests for extensions;
  6. In delivering a reply, the employee may make any presentation he/she believes might sway the final decision in the matter;
  7. Where an employee chooses to make an oral reply, the reply will be heard by the Deputy Director;
  8. The employee will be given a right to representation; and
  9. The final decision in any disciplinary action covered by this section will be made by the Deputy Director. The decision letter shall be given to the employee at least seven days prior to its effective date and shall inform the employee of his/her appeal and grievance rights.
- K. In the event of any disciplinary suspension, reduction in grade for cause, or removal, the employee may file a grievance with the Deputy Director. Such grievance will be filed at Step 3 of the grievance procedure, in accordance with Article 31, § K. The suspension or removal shall not take effect until the Deputy Director issues the final determination. The final determination of the Deputy Director shall be the final step in the grievance procedure for purposes of referral to arbitration under Article 32, "Arbitration."



## **ARTICLE 31. GRIEVANCE PROCEDURE**

- A. The Employer and the Union recognize and endorse the importance of bringing to light and resolving grievance in a prompt manner. This procedure is designed to provide an orderly and equitable means for resolving grievances.
- B. Grievances may be initiated by employees, singly or jointly, by the Union for itself, or by the Union on behalf of employees.
- C. A grievance is defined as any complaint:
  - A. Concerning any matter relating to the employment of the employees;
  - B. By the Union concerning any matter relating to the employment of an employee; or
  - C. By any employee, the Union, or the Employer concerning:
    - 1. The effect, interpretation or application or claim of the breach of this collective-bargaining Agreement; or
    - 2. The violation, misinterpretation or misapplication of any law, rule or regulation applicable to employees affecting conditions of employment.
- D. Excluded from the coverage of this procedure are complaints concerning:
  - (a) Any claimed violation relating to any complaint over retirement, life insurance, health insurance, examination, certification, or appointment;
  - (b) The classification of any position which does not result in the reduction in grade or pay of an employee;
  - (c) Matters outside the control of the Employer, such as decisions or rules or regulations of higher authority;
  - (d) Separation during a temporary position of more than ninety days or probationary period, except for cause (see Article 11, supra);
  - (e) Non-selection for promotion from a properly ranked list of candidates;



- (f) Performance standards and critical elements used as the basis for a performance appraisal;
  - (g) Equal Employment Opportunity complaints; and
  - (h) Matters appealable to the Merit Systems Protection Board, with the exception of removal and disciplinary suspensions of fourteen days or greater.
- E. The Employer shall grant a reasonable amount of official time to employees and Union representatives to investigate, prepare and present a grievance.
- F. In the event that two or more grieving employees have filed grievances involving similar fact patterns and a similar issue, the grievances may be joined and processed as one if mutually agreed upon by the complaining parties.
- G. An employee processing a grievance under this section may be represented by any person of his/her choice, provided no conflict of interest or position exists. The Union is entitled to be present at any formal meeting between the Employer and an employee or his/her representative for the processing of a grievance. The Union shall be given advance notice of such a formal meeting as soon as the Employer has set up such a meeting. The parties agree that an adjustment of a grievance must not be inconsistent with the terms and conditions of this Agreement.
- H. The Employer agrees to produce all relevant information when requested in accordance with applicable rule, regulation, case law or statute. At their request, employees or their representatives will be provided with a copy of any of the material reviewed that is necessary to process the grievance.
- I. If the Employer alleges that a complaint is not subject to the grievance procedure or to arbitration, the Employer must notify the Union in writing, stating the reasons for such a determination.

When the Employer alleges an issue is non-grievable or non-arbitral, the Employer shall notify the Union in writing, stating the reasons for such a determination. Upon receipt of this determination, the Union will have fourteen days to resubmit an amended grievance if it desires. The Union may resubmit such amended grievances at the level at which the issue was raised and will continue to be processed in accordance with this section. Nothing in this section precludes the Union from advancing the grievance in accordance with this Article and Article 32, "Arbitration."



J. The following are the steps of the Negotiated Grievance Procedure:

1. **Step One:** The employee shall present a written grievance to the immediate supervisor within fourteen days after the date the aggrieved employee becomes aware of the incident out of which the grievance arose.

The written grievance shall include the nature of the incident giving rise to the grievance and the adjustment requested. The immediate supervisor shall meet with the aggrieved employee and his/her representative within seven days for the purpose of clarifying and resolving the grievance. The immediate supervisor shall render a written decision within five days after the meeting on the grievance.

2. **Step Two:** If the grievant(s) is not satisfied with the Step One decision, the employee may appeal the grievance in writing to the Office Director or higher level within fourteen days of receipt of the Step One decision.

The appropriate official shall meet within seven days with the aggrieved employee, and his/her representation for the purpose of clarifying and resolving the grievance. The official shall render a written decision within five days after the meeting on the grievance.

3. **Step Three:** If the grievant (s) is not satisfied with the Stop Two decision, he/she may appeal the grievance in writing to the Deputy Director within fourteen days of receipt of the decision.

The Deputy Director will meet with the aggrieved employee and his/her representative within seven days for the purpose of clarifying and resolving the grievance. The Deputy Director shall render a final decision within fourteen days after the meeting on the grievance.

K. Steps of the negotiated grievance procedure may be waived, enabling the employee to move directly to a higher step, under the following circumstances:

1. If an employee works directly for a Division Director, the grievance procedure shall begin at Step Two.
2. If an employee works directly for the Director or Director of FMCS, the grievance procedure shall begin at Step Three.



3. If an employee brings a grievance based on a disciplinary action taken against him, the grievance procedure shall begin at Step Three.
- L. The parties may waive by mutual consent any step of this grievance procedure. Upon mutual consent, in the interest of time or if circumstances warrant, Step One and Step Two may be combined into a single step adhering to the time limits of Step Two.
- M. If the Employer fails to observe the time limits for any step, this shall have the effect of a grievance being denied at that next step, at which point the grievant may appeal to the next step.
- N. The Employer agrees to provide both the grievant (s) and the Union with one copy of all final decisions rendered from grievances filed under the provisions of this section.
- O. Minor errors contained in a grievance shall not be grounds for nullifying a grievance.
- P. If the grievant (s) is not satisfied with the Step Three decision, the Union may invoke arbitration of the grievance in accordance with Article 32, "Arbitration." The referral to arbitration will be made within thirty days of the receipt of the Step Three decision.
- Q. Expedited Grievance Procedure. All grievances concerning Article 13 (Merit Promotion- except when the basis of the grievance is a non-selection action), Article 14 § E (Training and Development) and Article 22, § E (Sick Leave), will be processed as follows:
  1. The grievance will first be informally discussed with the Personnel Specialists involved in the action. This will be done within seven days of the incident being grieved. If the matter is not resolved to the employee's satisfaction, within three workdays, a written grievance may be filed. The selecting official in Merit Promotion grievances will be notified that a dispute exists over the filling of the vacancy as soon as possible after the matter has been brought to the attention of the Personnel Specialist.
  2. If the grievance is not resolved to the employee's satisfaction, a written grievance may be filed with the Deputy Director within three workdays of receipt of the above decision. The Employer will render a written decision within seven days of receipt of the written grievance. The Union shall have the right to invoke arbitration in accordance with §P of this Article.



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- R. Employer grievances shall be filed in writing with the President of the Union. The grievance shall specify the basis for the relief sought. The President shall issue a written decision within twenty-one days of receipt of the grievance.





## **ARTICLE 32. ARBITRATION**

1. If a question arises concerning interpretation of this Agreement or if the decision rendered at the final step of the negotiated grievance procedure is not satisfactory, either party may submit the issue to final and binding arbitration pursuant to 5 U.S.C. §7122. The parties shall jointly refer the matter to arbitration by requesting to the Federal Mediation and Conciliation Service a panel of seven arbitrators. The panel shall consist of arbitrators who are experienced in dealing with labor relations in the Federal sector.
2. Within seven days after receipt of the list of arbitrators, the parties shall meet and attempt to select an arbitrator. If the parties cannot agree on one of the listed persons, the Employer and the Union shall alternatively strike one name from the list until only one name remains. The remaining name shall be the arbitrator. The flip of a coin will determine which party strikes the first name. If the arbitrator is unable to serve, the parties, shall immediately request a new panel from FMCS.
3. All fees and expenses of the arbitration shall be shared equally, including the cost of obtaining a transcript if such is required.
4. By mutual agreement, the parties may arrange for pre-hearing conferences, with or without the arbitrator, to consider possible settlement and other means of expediting the hearing.
5. In advance of ten days before the hearing or inquiry, each side shall submit to the other a written list of the witnesses to appear before the arbitrator. The Employer shall make available FMCS employees as witnesses to the fullest extent possible. Such employees will be in duty status during their participation.
6. Questions concerning grievability or arbitrability of a grievance shall be resolved by the arbitrator.
7. The inquiry or hearing is not open to the public or press. Rules of evidence shall not be strictly applied, but the arbitrator may exclude irrelevant or unduly repetitious matter. Decisions on the admissibility of evidence shall be made by the arbitrator. Testimony may be taken with or without oath or affirmation at the discretion of the arbitrator.





8. The arbitrator is restricted to making a determination specifically on the issues submitted. He/she shall not have authority to add to, modify or delete any terms of this agreement.
9. The arbitrator shall prepare a written decision containing findings of fact and conclusions. It should be served on the Employer and the Union within thirty calendar days of the close of the inquiry or hearing, and must be served within forty-five days unless the parties agree to an extension of time.



## **ARTICLE 33. HEALTH AND SAFETY**

- A. The Employer will provide a safe and healthy work environment for employees in accordance with Government-wide standards and regulations.
- B. The Employer and the Union will cooperate in the continuing effort to eliminate accidents and health hazards. The Labor Management Relations Committee (LMRC), as described in Article 28, shall appoint individuals to inspect facilities and recommend measures for the elimination or control of conditions hazardous to the health and safety of the employees.
- C. Each employee shall be afforded time from regular duties without loss of pay or charge to leave in order to conduct these quarterly inspections and to prepare recommendations.
- D. The LMRC shall present recommendations to the Agency Director for action. The Deputy Director will take and report appropriate action within two weeks. If no action or partial action is taken, he/she shall provide written justification within the same time period.
- E. Employees are encouraged to inform the Employer or the Union of any unsafe or unhealthy practice, equipment, or condition which might present a health and safety hazard.
- F. The employer will annually take steps to insure that all National office employees are aware of proper procedures for building evacuation.
- G. If a dangerous condition arises at an employee's work station, that employee shall notify his or her supervisor, if possible, and request permission to move to a safer or healthier location. The condition must be corrected or determined to be safe by the Office Director.
- H. The Employer agrees to maintain an occupational health program covering the employees that provides;
- I. A health unit in the vicinity of the National Office, if financially feasible, that is staffed during normal duty hours by a qualified nurse as provided in any contract or Memorandum of Agreement between the Employer and the Public Health Service;
- J. A posting on bulletin boards of the names, work areas and phone numbers of all employees who have had either First-Aid or Cardiopulmonary Resuscitation (CPR) Training;



- K. The Employer will notify employees when such training is offered; and
- L. Screening programs for such conditions as diabetes, glaucoma, cancer, etc., and immunizations against such health threats as influenza as provided in any contract or Memorandum of Agreement between FMCS and the Public Health Service.
- M. The Employer will provide the Union with a copy of reports on accident statistics submitted to the Department of Labor.
- N. Requests for compensation for damages to personal property or clothing as a result of an on the job accident or a hazard will be submitted to the employee's supervisor. The employee will be notified of a determination on reimbursement within ten days of receipt of such a request by the Employer. If request is denied, reasons will be provided in writing.
- O. The Employer agrees to maintain computer and related equipment in a safe condition and to train employees in the proper use of such equipment.
- P. The Employer shall review government and/or private industry practices and recommendations regarding computer processing operations to insure that employees do not experience health hazards or discomfort and to prevent problems from developing. After such review, the Employer shall provide the Union a copy of any report prepared, including any report submitted to O.S.H.A. The Employer agrees to bargain or consult, as appropriate, with the Union on proposals to improve conditions in computer processing work units.



## **ARTICLE 34. RETIREMENT**

- A. The Employer will offer all National Office employees an in-house retirement counseling program. Such program will be provided at no cost to the employee. Inquiries concerning this opportunity will be treated as confidential.
- B. Each employee who separates voluntarily or involuntarily, except by retirement, will be informed by the Employer as to his/her right to file for disability retirement if he/she has at least five years of civilian service, his/her rights to apply for a discontinued service annuity, and his/her eligibility for a deferred annuity at age 62 provided he/she has at least five years of civilian service and leaves his/her money on deposit with the Office of Personnel.
- C. The Employer will permit an employee to withdraw his/her resignation or retirement before its effective date unless the Employer has a valid reason, such as administration disruption or the hiring of another employee.



## **ARTICLE 35. REDUCTION-IN-FORCE**

- A. A Reduction in Force (RIF) exists when an agency releases an employee from his/her competitive level by separation, demotion, or furlough for more than 30 days, or reassignment requiring replacement; when lack of work or funds or reorganization requires the Employer to release the Employee.
- B. The Employer agrees to bargain with the Union over the impact and implementation of a reduction in force, reorganization or major reclassification action when it affects bargaining unit positions directly or by probable displacement of bargaining unit by bumping procedures. Bargaining will commence as soon as plans have been formulated, but no less than six days prior to the effective date of a general notified of a RIF, reorganization, or reclassification.
- C. The Employer agrees to retrain employees to the extent possible in order to keep them as employees of the FMCS and to keep them at their present grade level. The Employer also agrees to review any possible restructuring of existing positions in order to save grade or jobs.
- D. The Employer agrees to notify employees at least sixty days prior to transferring them on an involuntary basis. The Employee will be given an opportunity to express his/her reaction to the transfer either orally or in writing. The Employer will explain the reason for the transfer.
- E. During a reduction in force, vacancies shall not be filled from the outside. The Employer agrees that separated employees of the unit will be offered positions at the same or lower grade from which separated for which they are qualified that develop within two years after the reduction in force before the Employer can hire candidates from outside. Employees who wish to be considered for such positions shall maintain an application on file with the Office of Personnel and shall have twenty days to respond. The Employer must notify the employee as to these provisions.
- F. The Employer, through the Office of Personnel, will make every effort to assist displaced employees by making them aware of their right and benefits as RIFed employees and by assisting them to locate other Government employment.
- G. The Employer shall continue to provide health benefits to involuntarily separated employees who elect to continue for up to 18 months. The Employer shall continue to pay



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the employer share of the premiums. The employee is responsible only for the employee share that the employee was responsible for prior to separation.

- H. Employees may appeal RIF actions resulting in separation or reduction in grade or pay through the grievance exemption provision to the Merit Systems Protection Board.



## **ARTICLE 36. DURATION OF THE AGREEMENT**

- A. This agreement shall remain in full force and effect for a period of three years from the date of its approval by the head of the Agency or from the thirty-first day of execution, whichever is sooner. The Agreement shall automatically be renewed for three year periods thereafter unless written notice of a desire to negotiate the Agreement is served by either party between the 105<sup>th</sup> and 60<sup>th</sup> day prior to the expiration of the Agreement.
- B. When the renegotiation of this Agreement is pending or in process, and the parties are unable to complete such renegotiation by the termination date of the Agreement, the terms and conditions of this Agreement shall continue in effect until a new Agreement is affected.