



*National Weather Service  
Employees Organization*

# **Collective Bargaining Agreement**

**between**

**NOAA, National Environmental Satellite, Data, and Information  
Service (NESDIS), Office of Satellite and Product Operations**

**and**

**The National Weather Service Employees Organization**

**EFFECTIVE: SEPTEMBER 16, 2020**

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### **Preamble**

Pursuant to the policy set forth in Title 5, U.S.C. Chapter 71, hereinafter referred to as the "Statute", this Agreement is made between the United States Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Environmental Satellite, Data, and Information Service (NESDIS), Office of Satellite and Product Operations (OSPO) (hereinafter referred to as "Management") and the National Weather Service Employees Organization (NWSEO), (hereinafter referred to as "Union"). The "Union" and "Management" are collectively referred to as the "Parties."

## ARTICLE 1: RECOGNITION AND UNIT DEFINITION

**Section 1.** Management recognizes the Union as the exclusive representative of all employees in the unit. Such recognition shall continue as long as the Union is representative of the employees under the criteria set forth for exclusive recognition by the Statute. The Union recognizes the responsibility in accordance with the Statute of representing the interests of all such employees with respect to conditions of employment as outlined in the Statute. Nothing in this Agreement shall change the certifications issued by the FLRA concerning the Units listed below.

**Section 2.** This Agreement will apply to multiple Parties, with the following bargaining unit descriptions, in accordance with FLRA Case No. WA-RP-16-0058 (March 1, 2017):

***Included:*** All nonprofessional employees of the Wallops Command and Data Acquisition Station, the Mission Operations Division, and the Satellite Products and Services Division in the Office of Satellite and Product Operations of the National Environmental Satellite, Data and Information Service, National Oceanic and Atmospheric Administration.

***Excluded:*** All professional employees, supervisors, Management officials, temporary employees with no reasonable expectancy of continued employment, and employees described in 5 U.S.C. § 7112 (b)(2), (3), (4), (6), and (7).

## ARTICLE 2: PARTIES AND PURPOSE OF AGREEMENT

**Section 1.** This Agreement has been made in the spirit of mutual cooperation. It is the intent of the Parties that labor Management conflicts arising during the life of the Agreement be resolved promptly and informally whenever possible. To that end, the Parties will make every effort to expeditiously bring such problems or disputes to the attention of the Union or Management at the lowest possible level.

**Section 2.** It is the intent and purpose of both Parties of this Agreement to establish and foster an understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment; and to foster amicable discussion of matters of mutual interest to the Parties. The Parties hereby agree that the Labor-Management relationship and all matters relative thereto will be consistent with the provisions and intent of the Statute as well as all applicable laws, rules, and regulations, and will contribute to an effective and efficient workforce and work environment.

**Section 3.** The Articles contained within this Agreement constitutes the entire Agreement, and there shall be no side Agreements or understandings, written or implied, other than those embodied in the Agreement. It is agreed that any procedures or past practices not carried forth into this Agreement are terminated in their entirety. The Parties have had full opportunity to raise any and all issues during negotiations, and this Agreement represents the sum total of the terms and conditions which the Parties agree to abide by for its duration.

**Section 4.** Employee means bargaining unit employee. Position means bargaining unit position. Day means calendar day unless otherwise stated. Unit means bargaining unit.

**Section 5.** For purpose of the Agreement, Management is identified as any element of Management, within the chain of command, who exercises direct or indirect supervision over members of the bargaining unit.

**Section 6.** Where language in the Agreement is used to denote an employee, supervisor, or other individual and is expressed in terms of one gender, the language will be construed to include all genders, as appropriate. Whenever language in this Agreement appears to assign specific duties to specific individuals, it is intended only to provide a guide as to how a situation is to be handled. Management retains the right to determine who will perform specific duties.

**Section 7.** Whenever a provision of this Agreement requires notice to the Union or service of a document upon the Union, it should be sent directly to the NWSEO Regional Chairperson, unless otherwise designated in writing. Whenever a provision of this Agreement requires notice to Management or service of a document upon Management, it should be sent directly to the designated Management Representative for OSPO, unless otherwise designated in writing. Electronic communication via e-mail is acceptable.

### ARTICLE 3: PRECEDENCE OF LAW AND REGULATION

**Section 1.** In the administration of all matters covered by this Agreement, the Agency, Management and its officials, and the Union and the bargaining unit employees are governed by the following:

- a. Existing and future statutory laws;
- b. Existing government wide rules or regulations and government-wide rules and regulations issued after the effective date of this Agreement, provided they do not conflict with this Agreement;
- c. Existing and future Agency and future regulations (DOC, NOAA, and/or NESDIS) to the extent they are consistent with, and do not conflict with this Agreement, unless they change a condition of employment that is otherwise negotiable in accordance with 5 USC 7131;
- d. Except this Agreement shall not conflict with 5 USC 2302 (Prohibited Personnel Practices) or any rules and regulations promulgated there under.

**Section 2.** The provisions of this section will apply to all supplemental, implementing, or subsidiary, Agreements between the Parties. The execution of this Agreement terminates all existing Memorandums of Understanding (MOUs), and supplemental Agreements.

**Section 3.** To the extent that provisions of the Agency policies, rules or regulations, past practices, or informal Agreements conflict with this Agreement, the provisions of this Agreement shall govern.

## ARTICLE 4: MANAGEMENT RIGHTS

**Section 1.** Subject to Section 2, and pursuant to 5 USC 7106 (a), nothing in Title 5, Chapter 71 USC, or in this Agreement, shall affect the authority of Management:

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

**Section 2.** Nothing in this Article shall preclude Management and the Union from negotiating:

- a. At the election of Management, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing the work;
- b. Procedures which Management officials will observe in exercising any authority under this article;
- c. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such Management officials.

## ARTICLE 5: RIGHTS OF EMPLOYEES

**Section 1.** Each employee shall have the right to join or assist the Union, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Each employee shall have the right:

- a. To act for the Union in the capacity of a representative, and in that capacity to present the views of the Union to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
- b. To engage in collective bargaining with respect to conditions of employment as authorized by the NWSEO Regional Chairperson, this Agreement, and applicable laws

**Section 2.** The provisions of this Agreement shall not be construed to preclude an employee from being represented by an attorney or other representative of the employee's own choosing (other than the Union) in any grievance or appeal action, or exercising grievance or appellate rights established by law, rule, or regulation, except in cases of grievance procedures as negotiated in this Agreement.

**Section 3.** Nothing in this Agreement shall require an employee to become or remain a member of the Union, or to pay money to the Union, except pursuant to a voluntary, written authorization by the employee for payment of dues through payroll deductions.

**Section 4.** Each employee shall have the right to bring matters of personal concern to the attention of their immediate supervisor and/or Union representative. Resolution of individual employee concerns via such discussions does not constitute the creation of a "past practice."



## ARTICLE 6: RIGHTS OF THE UNION

**Section 1.** In accordance with 5 USC 7114(a)(1), a labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining Agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

**Section 2.** In accordance with 5 USC 7114(a)(2), an exclusive representative of an appropriate unit in an Agency shall be given the opportunity to be represented at:

- a. Any formal discussion between one (1) or more representatives of Management and one (1) or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or
- b. Any examination of an employee in the unit by a representative of the Agency in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee, and the employee requests representation.

The Union is entitled to advance notice and the opportunity to attend such discussions as described in Section 2.a. above. Management will provide two (2) workdays advance notice of any scheduled formal discussion whenever possible. The notice will be sent to the Union Regional Chairperson or other representative designated by the Union.

**Section 3.** Management shall furnish to the Union upon request and to the extent not prohibited by law, any information which is normally maintained in the regular course of business and is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining pursuant to 5 U.S.C. 7114(b)(4). Each request must be made in writing and identify the specific data requested and the Union's particularized need for the requested information. Management will make a good faith effort to provide the requested information within 30 calendar days of receipt of the request. If Management is unable to provide the information requested within 30 calendar days, it will notify the Union in writing of the delay and the expected date the request will be answered.

**Section 4.** Upon written request by the Union, but no more than four (4) times per year, Management will furnish the Union a list containing the names, position titles, and organizational codes of employees in the bargaining unit. Management will make a good faith effort to provide the requested information within 30 calendar days. If Management is unable to provide the requested information within 30 calendar days, it will notify the Union in writing of the delay and the potential date the request will be provided.

**Section 5.** A Union steward or designee will be permitted up to 30 minutes per month to meet with any newly hired bargaining unit employees to explain the role and responsibilities of the Union but may not use official time to solicit membership.

## ARTICLE 7: MID-TERM AND IMPACT AND IMPLEMENTATION BARGAINING

**Section 1.** In issuing, revising or canceling rules and regulations relating to personnel policy, practices, procedures and matters affecting conditions of employment, Management shall give due regard to the obligations imposed by applicable laws, rules, regulations, and this Agreement. The procedures in this article will be used when there is a change in a bargaining unit employee's conditions of employment that Management determines may have an adverse impact. Neither the Union nor Management shall waive any statutory rights during this process. Management recognizes its potential obligation, consistent with 5 U.S.C. 7106, to notify the Union of such changes and to negotiate, upon request of the Union.

**Section 2.** The negotiation of procedures and appropriate arrangements, pursuant to 5 U.S.C. §7106(b)(2) and (3), of local-level changes will be conducted and/or facilitated by the Agency Management Representative, (or designee) and the Union Regional Chairperson (or designee).

**Section 3. Applicable Negotiation Procedures.** The procedures contained in this Section shall constitute the ground rules for all negotiations under this Article.

a. Notification Procedure. Before making changes to bargaining unit employees' conditions of employment, or otherwise changing personnel policies or practices, Management shall provide the Union with specific written notice of the proposed change(s). Such notice will be provided to the Union by e-mail. All other correspondence under this Article shall be provided to the Union using similar means. The Union will provide Management with any response(s) in a similar manner. Specific procedures to be used pursuant to this Article are as follows:

1. Management will provide written notice to the Union of Management's intent to make a change(s) as noted above once Management has made a final decision to implement the proposed change(s). Management agrees to maintain the status quo until the bargaining process is complete.
2. Where the Union determines a response to the proposal is appropriate, the Union will submit its request along with written proposals to Management no later than fifteen (15) calendar days after receipt of the notice. If the Union determines that they do not intend to negotiate the change, they will so notify Management as soon as possible. Failure to submit written proposals within the prescribed time frames shall constitute a waiver of bargaining rights and the proposed changes will be implemented. Upon receipt of the Union's proposals, Management will provide proposed dates and times to begin negotiating, normally within seven (7) business days.
3. The Union may request additional information regarding the proposed change(s) and/or seek clarification of the reasons for the change outlined in Management's written notification during the course of negotiations. Information provided regarding the change, may be written or verbal between Management and Union.

b. Bargaining Procedure. The Parties agree to bargain, as appropriate and in accordance with

applicable law, rule and regulation, over procedures and appropriate arrangements for the change(s).

1. Management will provide a site or technology for negotiations. If in person, negotiations will be held at an OSPO facility of Management's choosing.
2. Each party shall designate its own negotiating team in writing no later than five (5) calendar days prior to the initial bargaining sessions, to include the name of the Chief Negotiator, changes to these designations must be made in writing. The Union will be authorized the same number of Union representatives as Management has representatives participating in the negotiations, generally no more than three (3) for each team. Management will not reimburse the Union or pay for travel expenses for Union officials attending bargaining sessions. Negotiations may take place in person or via electronic or telephonic means.
3. Either party may have a technical expert (TE) present as necessary who can provide information necessary for the successful completion of bargaining. Any TE (who is an Agency employee) for the Union may be granted time for participation in the bargaining sessions. Management will not reimburse or pay for travel expenses for the Union's TE.
4. Negotiations shall take place as soon as practicable, but no more than seven (7) business days after the Union has provided proposals, unless the Parties mutually agree to extend the period.
5. The Parties will attempt to resolve negotiability disputes informally. In the event there is a negotiability dispute which cannot be resolved informally, either party may address the matter to the Federal Labor Relations Authority (FLRA).
6. If bargaining results in a Memorandum of Understanding (MOU) between the Parties, the MOU will be subject to Agency Head Review.

#### **Section 4. Scheduling**

- a. Bargaining will normally occur on weekdays as agreed to, and during the hours of 8am-4pm EST, unless otherwise mutually agreed by the Parties. Either party has the right to reject negotiation dates proposed if a negotiator has already been approved for leave or overtime on the proposed dates. Management will make every attempt to not schedule negotiations that may cause Union negotiators to miss scheduled training classes.
- b. If identified as a Union Negotiator it is the employee's responsibility to notify their supervisor of the time needed to participate in negotiations as soon as they are aware of the dates, and to request a scheduling change as needed. Management should make every effort to rearrange the employee's schedule to accommodate

the negotiation schedule, so long as the change does not result in a loss of pay or additional premium pay for the employee.

- c. The Parties will endeavor to reach agreement and conclude bargaining within ten (10) business days from the start of negotiations, but that period may be extended by mutual Agreement of the Parties.

#### **Section 5. Post-Implementation Bargaining Procedure**

a. Definition. Post implementation bargaining is bargaining procedures and appropriate arrangements after a Management-initiated change has been implemented. When Management determines that a particular change is necessary or appropriate, in accordance with law, rule or regulation, and must be implemented by a certain date, post implementation procedures will apply if the Parties are unable to reach Agreement prior to the implementation date of the change.

b. Post Implementation Bargaining Procedure. The Union will be afforded the opportunity to submit bargaining proposals concerning the change for up to ten (10) business days following the date that implementation by Management has occurred.

**Section 6. Agency Head Review (AHR).** Agreements negotiated under this article will be subject to AHR pursuant to 5 USC 7114(c). In the event of disapproval at AHR, the Union will have the option of renegotiating the matter. The option to renegotiate must be exercised by the Union by written notice to Management within ten (10) calendar days of notice of disapproval. The Union is entitled to ratification of any negotiated Agreement prior to submission to AHR, upon written request. The Agreement must include the ratification language prior to signature by the Parties.

## **ARTICLE 8: OVERTIME, COMP TIME AND RELATED PAY PROVISIONS**

**Section 1.** Management agrees to administer overtime in accordance with this Agreement. Overtime shall be administered in accordance with this Agreement, current Agency and Government-wide rules and regulations. Overtime shall be assigned at Management's discretion to employees who are qualified to perform the work. In order to effectively and efficiently accomplish the tasks of each work unit, Management shall determine the numbers of employees and qualifications required to meet its overtime requirements and identify the employees who meet those requirements.

### **Section 2. DEFINITIONS.**

- a. "Primary/Prime" means the area in which an Operations employee is responsible for operating and monitoring a group of systems/missions. This is typically the employees' main function. Wallops Island Operations employees are additionally responsible for maintenance of equipment.
- b. "Backup" means the area in which an Operations employee is responsible for the operation and monitoring of a different group of systems/missions than their primary area.
- c. "Proficiency Shift" means a shift that is mandated by Management for an employee to maintain their Dual-Certification.
- d. "Dual-Certification" means that an employee is certified to perform both their primary and backup mission.

**Section 3.** Overtime assignments to shift-working bargaining unit employees in the **WALLOPS ISLAND OPERATIONS BRANCH** shall normally be made as follows:

- a. When an overtime requirement for a full 12-hour shift occurs, Management shall attempt to contact eligible employees for first refusal from those crews who are in the scheduled-off period. Employees with the lowest number of overtime hours based on the Overtime Log will be called first, and so on.
- b. Employees who are qualified in the specifically needed area and are also considered as "primary/prime" in that area will be called first based on the Overtime Log. If calls to the "primary/prime" list are exhausted, then those who hold the needed area of expertise as "backup" will be called in order as determined by the Overtime Log.
- c. The amount of overtime hours worked shall be recorded in the Overtime Log. No overtime hours will be entered in the log if an employee declines an overtime assignment.
- d. First refusal for partial shift requirements will be given to those qualified employees who are scheduled to work the preceding or succeeding shift, by contacting the qualified

employee as per section 3.a. above, with the lowest number of hours first, and so on. If attempts to fill partial shifts with the preceding and succeeding fail, then overtime will be offered to all other qualified employees in accordance with section 3.a.

- e. Employees for whom an overtime assignment would result in a double shift (twenty-four (24) consecutive hours) will be called last.
- f. When the need arises, an employee with a special expertise may be called without regard to the regular call-in order. If there is more than one employee with this special expertise, the employee with the lowest hours recorded in the Overtime Log will be called first. Annotation describing the special expertise needed will be recorded in the Overtime Log.
- g. The 4 hours of Overtime typically scheduled as part of the regular work week will not be recorded in the Overtime Log.

**Section 4.** Overtime assignments to shift-working bargaining unit employees in the **WALLOPS ISLAND FACILITIES BRANCH** shall normally be made as follows:

- a. When an overtime requirement for a full 12-hour shift occurs, Management shall attempt to contact eligible employees for first refusal - from those crews who are in the scheduled-off period. Employees with the lowest number of overtime hours based on the Overtime Log will be called first, and so on.
- b. The amount of overtime hours offered shall be recorded in the Overtime Log, regardless of whether or not the employee worked the hours.
- c. First refusal for partial shift requirements will be given to those qualified employees who are scheduled to work the preceding or succeeding shift, by contacting the qualified employee as per section 4.a. above, with the lowest number of hours first, and so on. If attempts to fill partial shifts with the preceding and succeeding fail, then overtime will be offered to all other qualified employees in accordance with section 4.a.
- d. Employees for whom an overtime assignment would result in a double shift (twenty-four (24) consecutive hours) will be called last.
- e. When the need arises, an employee with a special expertise may be called without regard to the regular call-in order. If there is more than one employee with this special expertise, the employee with the lowest hours recorded in the Overtime Log will be called first. Annotation describing the special expertise needed will be recorded in the Overtime Log.
- f. The 4 hours of Overtime typically scheduled as part of the regular work week will not be recorded in the Overtime Log.

**Section 5.** Overtime assignments to shift-working bargaining unit employees in the **SUITLAND OPERATIONS BRANCH** shall normally be made as follows:

- a. Management will work directly with employees who have Dual Certification to assign two mandatory proficiency shifts on their backup mission, within every two pay periods. This is an exception to the following overtime procedures.
- b. When an overtime requirement for a full 12 hour shift occurs, Management shall attempt to contact eligible employees for first refusal from those crews who are in the scheduled-off period. Employees with the lowest number of overtime hours based on the Overtime Log will be called first, and so on.
- c. Employees who are qualified in the specifically needed area and are also considered as "prime" in that area will be called first based on the Overtime Log. If calls to the "prime" list are exhausted, then those who hold the needed area of expertise as "backup" will be called in order as determined by the Overtime Log.
- d. The amount of overtime hours worked shall be recorded in the Overtime Log. No overtime hours will be entered in the log if an employee declines an overtime assignment.
- e. First refusal for partial shift requirements will be given to those qualified employees who are scheduled to work the preceding or succeeding shift, by contacting the qualified employee as per section 5.b. above, with the lowest number of hours first, and so on. If attempts to fill partial shifts with the preceding and succeeding fail, then overtime will be offered to all other qualified employees in accordance with section 5.b.
- f. Employees for whom an overtime assignment would result in a double shift (twenty-four (24) consecutive hours) will be called last.
- g. When the need arises, an employee with a special expertise may be called without regard to the regular call-in order. If there is more than one employee with this special expertise, the employee with the lowest hours recorded in the Overtime Log will be called first. Annotation describing the special expertise needed will be recorded in the Overtime Log.
- h. The 4 hours of Overtime typically scheduled as part of the regular work week will not be recorded in the Overtime Log.

**Section 6.** Employees are not authorized to perform official duties outside of their established work schedule without the approval of their supervisor or other Management representative. If an employee believes that he/she was not properly relieved at the end of a tour of duty, the employee will immediately notify a supervisor or Management representative. The employee may remain on duty and incur overtime as applicable until the employee is properly relieved when required by the supervisor or Management representative.

**Section 7.** Management may cancel any previously authorized overtime if no longer needed, such as instances where employees cancel or return from previously approved leave.

**Section 8.** If an employee transfers to another crew, the overtime hours do not change/reset in the overtime log.

**Section 9.** An employee who is called back to the worksite outside of his/her regularly scheduled hours of work, shall be compensated for a minimum of two hours in accordance with appropriate regulatory provisions, regardless of whether the employee is required to work the entire two hours. If a single call back requires more than two hours and the time is continuous, the employee will be compensated for actual time worked. If an employee is contacted while off duty regarding work or required to perform a work-related activity when approved by a supervisor, the employee will be compensated in 15-minute increments if the work is 8 minutes or greater.

**Section 10.** All employees will provide Management with a current, working telephone number and e-mail address, and will notify Management timely whenever there is a change.

**Section 11.** Management will make an effort to relieve an employee of an overtime assignment to meet a personal need, provided that an employee: 1.) has a legitimate reason; and 2.) provides notification at least 24 hours prior to the start of the overtime assignment. The request is subject to Management's approval. If Management is unable to find a qualified replacement, the employee will be required to work the overtime.

**Section 12.** Management will, upon request of the employee, allow an employee to earn compensatory time off during periods of irregular or occasional overtime as compensation for overtime worked in accordance with Agency and Government-wide regulations, to include the Fair Labor Standards Act. All regularly scheduled overtime is not eligible for compensatory time and must be paid out.

**Section 13.** Employees are responsible for submitting time and attendance records that are accurate and include all hours worked. The employee must work a minimum of eight minutes to be eligible for each 15-minute block of pay. Management may monitor employees by electronic or other means to ensure that time worked is accurately reported for proper certification of time and attendance records.



## ARTICLE 9: UNION REPRESENTATION AND OFFICIAL TIME

**Section 1.** Management will provide designated Union representatives' official time in amounts that are reasonable, necessary and in the public interest under the provisions of 5 U.S.C 7131, pursuant to the Federal Service Labor-Management Relations Statute (FSLMRS) 5 U.S.C. 71, and shall be administered in accordance with said Statute and this Agreement.

- a. "Official time" under this article is defined as duty time that a Union representative spends performing representational duties pursuant to 5 U.S.C. 7131 and this Agreement; as well as time that an employee may use for a grievance brought on the employee's own behalf; time that may be used for an employee appearing as a witness in any grievance proceeding; or time that an employee may use to challenge an adverse personnel action brought against the employee under certain whistleblower laws.
- b. "Employee" under this article is defined as any bargaining unit employee, including Union Representatives.
- c. "Official Time Bank" is defined as the total number of available hours of official time per fiscal year that may be used in accordance with this article.

**Section 2.** Management will recognize Union Representatives, who are so designated in writing by the Union. The Union will provide the OSPO Designated Management Representative with a roster containing the name, Union position (i.e. steward, etc.), duty location, email address and telephone number of all designated Union representatives within thirty (30) calendar days after the effective date of this Agreement. The Union will notify the OSPO Designated Management Representative in writing of any changes to Union representatives. Unless so designated in writing, no employee may be recognized as a Union Representative.

**Section 3.** While on official time, an employee receives his or her regular salary if otherwise in a duty status. Official time will be granted to an employee only during regular working hours.

- a. Union representatives are not authorized to earn premium or differential pay, overtime or compensatory time (to include travel compensatory time) for their performance of Union representational duties.
- b. In accordance with 5 USC 7131 (b), the use of official time is prohibited for internal Union business, which shall only be performed during the time the employee is in a nonduty status.
- c. Union representatives may not use official time to prepare or pursue grievances (including arbitration of grievances) brought against the Agency/Management. This does not preclude Union representatives from being approved the use of non-duty time for this purpose (i.e. leave). An employee may use official time for a grievance brought on the employee's own behalf.
- d. Employees may not be permitted reimbursement for expenses incurred performing non-Agency business, unless required by law or regulation.

- e. No employee when acting on behalf of a Union may be permitted the free or discounted use of Government property or any other Agency resources if such free or discounted use is not generally available for non-Agency business.
- f. Lobbying or political activities are not appropriate activities for which official time may be used. The Agency will not pay for official time or any associated expenses for any lobbying or political activities.
- g. Consistent with 5 U.S.C. 71 and this Agreement, Union representatives may be granted official time, subject to availability as described below, for only the following representational activities:
  - 1. Term Negotiations—to negotiate a collective bargaining Agreement, in accordance with 5 U.S.C. 7131(a).
  - 2. Mid-Term Negotiations—to bargain over issues raised during the life of a term Agreement, in accordance with 5 U.S.C. 7131(a).
  - 3. Dispute Resolution—to appear in proceedings before the Federal Labor Relations Authority during such time as an employee would otherwise be in a duty status, as authorized in accordance with 5 U.S.C. 7131(c), excluding matters covered under the Parties negotiated grievance procedures.
  - 4. General Labor-Management Relations—to perform representational activities in accordance with 5 U.S.C. 7114 (a)(2)(A) and (B). Union representatives' representational duties for which official time may be authorized under this subsection include:
    - A. To be present at any formal discussion between one (1) or more representatives of Management and one (1) or more employees in the unit concerning any personnel policy or practices or other general condition of employment; or
    - B. To be present at any examination of an employee in the unit by a representative of the Agency in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee, and the employee requests representation.
- h. The Official Time Bank will consist of no more than 1 hour of official time per bargaining unit employee on board as of October 1<sup>st</sup> per fiscal year. Management will provide the Union with the total number of bargaining unit employees on board each fiscal year. Unused official time hours do not carry over into the next fiscal year.
- i. The amount of official time will be requested and approved on a case-by-case basis, taking into consideration the specifics and time needed for each unique case as well as the needs of the Agency.
- j. Employees may be authorized official time to meet with Union representatives as requested and approved in advance.

- k. Meetings for which the Union serves as the exclusive representative for bargaining unit employees will be authorized official time only for the actual time of the meeting in which they were serving as the representative.
- l. Travel will not be considered as official time. Travel may be considered dutytime.
- m. Official time may not be used without advance written authorization from the employee's Supervisor/Management Official. In cases where obtaining written prior approval is deemed impracticable, a verbal approval followed by a written authorization will suffice. In all cases, prior to approval, an official time request must first be submitted by the employee in writing in accordance with this Agreement.
- n. Union Representatives shall spend at least three-quarters of their paid time, measured each fiscal year, performing Agency business or attending necessary training (as required by the Agency). Union Representatives who have spent one-quarter of their paid time in any fiscal year performing non-Agency business may only continue to use official time in that fiscal year for purposes covered by 5 U.S.C. 7131 (a) and (c). Anytime a Union Representative's official time hours exceeds one-quarter of the employee's paid time in a fiscal year, the excess shall count toward subsequent fiscal years.

**Section 4.** Both Management and the Union agree that official time that is granted may have a direct impact on the staffing and ultimately the mission of OSPO, and official time should only be authorized if it is determined to be reasonable, necessary, and in the public interest. The Union agrees that in the interest of efficient government, all efforts will be made to use official time expeditiously, and that the effect on the work schedule of the employee's branch/section is a factor in the decision as to when official time may be authorized. Only one Union representative may serve as a designated representative at any one time.

- a. Any request for official time must be submitted in writing by the employee to their first line supervisor for approval as soon as possible. If the official time is for any event scheduled in advance, such as training, Union negotiations, meetings, etc., the request shall be made as soon as the employee becomes aware of the event, but no less than 10 days in advance of when the official time is to take place. In the case of an unscheduled event that requires the employee's attendance, official time shall be requested as soon as possible.
- b. Any requests for official time must be submitted in advance and in writing using the Agency's approved timekeeping system (i.e. WebTA) and include the following information:
  - 1. The amount of official time requested, and for what period of time;
  - 2. The destination, and employee's contact information; and
  - 3. Specify the reason, representational code and category in WebTA.
- c. Management will make every effort to accommodate official time requests as mission allows. Management will render a decision as soon as reasonably possible. The supervisor or designee shall propose an alternate time in those instances where requested official time is denied. Should the alternate time result in a delay of more than one (1) workday, Management will agree to toll and therefore extend the timelines in accordance with this

Agreement, by the same amount of days as the resulting delay. The Union will notify the appropriate Management official of the need for the delay due to the denial and rescheduling of official time.

- d. All employees are responsible for correctly recording and reporting any use of official time in the electronic time and attendance system (i.e. WebTA). The following are examples of codes and categories that should be used in completing their time and attendance:
  - 1. 35- Base/Negotiations/Reopen - example Negotiating a CBA
  - 2. 36- Base/Midterm Negotiations – example. Negotiating provisions of a CBA, to include issues raised during the life of the Agreement
  - 3. 37- Base/Labor-Management – example. see Section 3.g.4. of this Article
  - 4. 38 – Base/Grievances/Appeals – example. employee grievance brought on their own behalf
- e. Management will provide the Union with written notification whenever these codes and categories are updated/revised.

**Section 5.** In the performance of their representational duties, Union Representatives shall obtain the permission of their supervisor(s) and the supervisor(s) of the employee(s) of the organization they intend to visit during duty hours. They will provide the supervisor of the employee being visited the specific action to be accomplished, when, where, and by what means prior to consulting with said employee.

- a. In the event that a Union meeting or other Union event such as a membership drive, is to be held on an OSPO controlled facility, Union representatives must gain prior written approval to use the facilities to hold the meeting. Any on-duty bargaining unit employee must request and be granted leave in order to attend. An employee may not be in a duty status while attending these events. Official time will not be approved for these events.
- b. When Union representatives are performing their official representational duties, the need for privacy may arise. In accordance with this Agreement, and upon request, Management may provide appropriate space, if available, to meet this need. The granting of this space will not disrupt or otherwise impair the mission of OSPO.

**Section 6.** It is the Union’s responsibility to ensure that all official time is used appropriately and tracked in accordance with this Article.

**Section 7.** There shall be no restraint, interference, coercion or discrimination against any Union representative because of the performance of their official representational duties.

**Section 8.** Management and the Union agree that the NWSEO Regional Chairperson or his/her designee is authorized to consult with the OSPO Designated Management Representative on matters which may be of unit-wide concern or in individual cases which may be of such gravity that such action is deemed appropriate. This shall be the Union’s primary point of contact when raising these matters. Meetings with Management shall be pre-arranged between the Parties. The OSPO

Designated Management Representative may determine if attendance by other appropriate Management officials will be necessary to fully address concerns raised by the Union and request their participation in the discussion as they deem appropriate.

**Section 9.** Non-unit representatives of the Union may be granted access to OSPO premises upon request, if deemed necessary to conduct Union representational duties and otherwise approved by Management. Each request shall conform to all OSPO security requirements and will be subject to a seven (7) calendar day advance notice to obtain clearance with OSPO. All requests may be considered and accommodated if possible. At a minimum, the request for access shall:

- be in writing (name, date, time, company, and citizenship);
- identify the purpose for the access including who will be contacted during the visit;
- identify the OSPO employee sponsoring the visit;
- include the completion of any forms required by OSPO security.

## **ARTICLE 10: NEGOTIATED GRIEVANCE PROCEDURES**

**Section 1.** A grievance is any complaint:

- a. By an employee concerning any matter relating to his/her employment;
- b. By the Union concerning any matter relating to the employment of any employee in the bargaining unit;
- c. By an employee, the Union, or Management concerning;
  - 1. The effect or interpretation, or a claim of breach of this Agreement.
  - 2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**Section 2.** The purpose of this article is to provide a procedure for prompt resolution between the Parties. This procedure is the exclusive method available to the Parties for resolution of issues, including interpretation and implementation of this Agreement or portions thereof. This negotiated grievance procedure shall not apply with respect to any grievance concerning:

- a. Non-selection from a group of properly ranked and certified candidates;
- b. A notice of proposed disciplinary, adverse, or performance-based action;
- c. The granting of, or failure to grant, an award or any form of incentive pay, including cash awards; quality step increases; or recruitment, retention, or relocation payments;
- d. A return of an employee from a non-bargaining unit position as a supervisor or manager to a bargaining unit position;
- e. Any claimed violation of subchapter III of Chapter 71 of Title 5 U.S.C. as amended relating to prohibited political activities;
- f. The assignment of a performance rating of record;
- g. Retirement, life insurance, or health insurance;
- h. Actions relating to any examination, certification, or appointment;
- i. A suspension or removal for national security reasons;
- j. Termination of a probationary, trial period, term and/or temporary employee;
- k. Supervisory determination of job elements and performance standards;
- l. The content of any Agency Policy or regulation;
- m. The classification of any position which does not result in the reduction in grade or pay of an employee;
- n. Decisions to remove, suspend for greater than 14 days, or reduce in grade, any employee from Federal service for misconduct or unacceptable performance;
- o. Oral or written non-disciplinary corrective actions, including but not limited to, counseling, warnings, admonishments;
- p. A fitness for duty decision which does not result in an action against the employee;
- q. Any issue where there is no personal relief for the grievant;
- r. Filling of positions outside the bargaining unit;
- s. An action which terminates a detail or temporary or term promotion by its own terms.

**Section 3.** This negotiated procedure shall be the only procedure available to the Union and bargaining unit employees for resolving grievances except as provided in Section 6 below.

Employees reserve the right to request Union representation at any time during the grievance procedure. The designation of a Union representative must be in writing. Employees and the Parties shall cooperate to resolve grievances informally at the earliest possible time and at the lowest possible supervisory level.

**Section 4.** Failure to adhere to the time limits expressed herein shall result in the grievance being advanced to the next higher step if Management incurs the delay. If the grievant or Union incur the delay, it shall render the grievance void or settled on the basis of the last decision given by Management, unless an extension of time limits has been agreed upon in writing. Extensions of time may be granted by mutual consent of the Parties.

**Section 5.** Employees have the option to use either this negotiated procedure or a statutory appeals procedure, but not both, for (1) Employment discrimination complaints, and (2) Final decisions on furloughs for 30 days or less. Employees exercise their option when they file a timely notice of appeal under the appropriate appellate procedure or file a timely grievance in writing under this procedure. In employment discrimination complaint actions, this election is made in accordance with procedures set forth in the Agency and EEOC regulations.

**Section 6. Employee Grievances.** The procedure will operate as follows:

- a. Step 1. The grievance shall be submitted in writing by the employee and/or his/her Union representative, if any, to the grievance official, i.e., the lowest level Agency Official with authority to grant the relief sought. Normally, this will be the employee's first-line supervisor. Grievances must be presented within fifteen (15) calendar days from the date the grievant became aware of the occurrence. The written grievance shall contain the following information:
  1. Name, title and duty station of the aggrieved;
  2. A specific and clear statement of the grievance;
  3. A statement of the items, regulations or Agreement alleged to have been violated, citing specific paragraphs of articles, sections and subsections;
  4. Personal remedy desired; and
  5. Designation of representative or statement of self-representation.

Within ten (10) calendar days of receiving the written grievance, the first step grievance official will request to meet with the employee on the next mutually agreeable workday to discuss the grievance. Arrangements for the representative to be present is the responsibility of the grievant. Within fifteen (15) calendar days following the meeting, the grievance official shall provide a decision to the grievant and his/her representative in writing. The Step 1 decision will include the name, e-mail address and telephone number of the Step 2 grievance official.

- b. Step 2. If the employee is not satisfied with the reply received at Step 1, then the grievant may submit the grievance within ten (10) calendar days to the Step 2 grievance official as identified in the Step 1 decision, normally the next higher person in the chain of command over the person rendering the Step 1 decision. The Step 2. Grievance shall be submitted in writing and will include all requirements outlined in Step 1 above, refer to the meeting

between the supervisor and grievant, and include a copy of the supervisor's written decision. Within fifteen (15) calendar days following receipt of the Step 2 grievance, the grievance shall be reviewed and the second step deciding official shall render to the grievant a written decision. The Step 2 decision will include the name, e-mail address and telephone number of the Step 3 grievance official.

- c. Step 3. The employee may advance the grievance by submission with a copy of all documents developed during the 1st and 2nd steps, within ten (10) calendar days, to the Step 3 grievance official identified in the Step 2 decision, normally the next higher person in the chain of command over the person rendering the Step 2 decision. Within fifteen (15) calendar days following receipt of the Step 3 grievance, it shall be reviewed and the third step deciding official shall render to the grievant a written decision. The Step 3 written decision is final and not subject to further review.
- d. If the matter is still unresolved, only the Union or Management may invoke arbitration under the provisions of the Arbitration Article of this Agreement.
- e. At any point during the grievance process, the Parties, by mutual written Agreement, may elect to engage in an Alternative Dispute Resolution (ADR) process. Time periods shall be tolled during the ADR process.

**Section 7.** An employee or group of employees may present their grievances to Management and have them adjusted with or without the services of the Union using the process outlined above. If presented without Union representation, such grievances may be adjusted without Union intervention, provided the adjustment is not inconsistent with the terms of this Agreement.

- a. Employees who choose to present their own grievances without intervention by the exclusive Union are not entitled to further review or consideration beyond the opportunity to present their grievance and have it adjusted, affirmatively or negatively. The decision of the Third Step Grievance Official is final as to the employee or employees who choose to present their grievance without the intervention of the Union.
- b. Neither new issues nor new remedies sought may be raised by either party to the Grievance Procedure or during arbitration unless they have been raised at Step 1 of the Grievance Procedure.

**Section 8.** Grievances may be filed by Management or the Union based on an action that concerns an alleged violation of the provisions of this Agreement or any supplement thereto. This is the sole vehicle for resolution of such charges.

- a. In the case of any grievance which the Union may have against Management or Management may have against the Union, such grievance shall be submitted in writing to the Management Representative, or the Union Regional Chairperson, respectively, within fifteen (15) calendar days after the date of occurrence of the event giving rise to the grievance. It shall contain the following:



1. A statement setting forth the facts upon which the grievance is based;
  2. The specific Article and section of the Agreement, law, rule, regulation or policy alleged to have been misapplied and/or misinterpreted; and
  3. The correction sought.
- b. If requested by either party, a meeting of the Parties will be held within fifteen (15) calendar days after receipt of the grievance. If the Parties meet, a written decision will be issued by the appropriate party within fifteen (15) calendar days after the meeting, or in the event of no meeting, within thirty (30) calendar days after the date the grievance is filed.

**Section 9.** If any employee resigns, transfers, or otherwise leaves the bargaining unit by any action before a decision is reached on a grievance which is being processed, action will be stopped, and the Parties will be notified that the case is being closed without decision. A copy of this notification will be made a part of the case file.

**Section 10.** If, at any step, the Parties to the grievance mutually agree that no misinterpretation or misapplication occurred, or they agree to the means of adjusting an acknowledged Agreement violation, they shall state their Agreement in writing, signed by all Parties. This will constitute the final resolution of the grievance. It is further agreed that in the interest of efficiency, once a specific issue has been grieved and a final decision rendered, any party to this Agreement will accept no grievance on the same issue.

**Section 11.** It is agreed that every effort will be made by Management, the Union, and the aggrieved party(s) to settle grievances at the lowest possible level. Unfair labor practices (5 USC Section 7116), shall not be utilized to resolve issues in dispute involving the interpretation and application of this Agreement.

## ARTICLE 11: ARBITRATION

**Section 1.** The Parties agree that prior to considering arbitration, every reasonable effort shall be made to resolve arbitrable grievances and will direct their efforts and resources toward achieving that goal. If such efforts fail, the grievances may, or the question of grievability /arbitrability may, upon written request of Management or the Union, whichever party is desiring arbitration, be referred to an arbitrator. Arbitration may be invoked only by the Union or Management.

**Section 2.** Arbitration will be invoked by submission of a written statement so stating to the other party not later than fourteen (14) calendar days after receipt of a final decision on a matter grieved through the required steps of Article 10 on matters mutually agreed as grievable. Within five (5) days the initiating party will request from the Federal Mediation and Conciliation Service (FMCS) a list of seven (7) impartial persons qualified to serve as arbitrators. A copy of this request will be provided the other party. Immediately upon receipt of this list, the receiving party will provide one (1) copy of the list to the other party.

**Section 3.** If the Parties cannot mutually select an arbitrator from the list within seven (7) calendar days, then Management and the Union will alternately strike a name from the list until one remains. The remaining person will be the duly selected arbitrator. The initiating party will strike the first name.

**Section 4.** Following selection of the arbitrator and indications of his/her availability, the Parties will attempt to agree, in writing, upon the precise issue(s) to be decided and will submit a joint statement to that effect in advance of any arbitration proceedings. A pre-hearing conference (telephonic or as agreed) to assist in framing or narrowing the issues, to receive joint stipulations, to schedule the hearing, and to assist in resolving remaining questions regarding the arbitration procedures shall be held. The Parties agree to hold this conference with or without the arbitrator's participation. The pre-hearing statement will present in question form the matter upon which the arbitration is sought and shall include the Agreement provisions governing arbitration. If the Parties are unable to concur, each party will specify the issue in writing with copies to each other and the arbitrator. The initiating party shall include with its statement of issues the redress it expects from arbitration. The arbitrator shall determine the issue(s) to be heard. The arbitrator will limit the award solely to the resolution of the issue(s) as specified in writing by the initial statement or statements as specified by the Parties, and nothing further.

**Section 5.** The arbitration hearing will normally be held on Management's premises during the regular work hours, Monday through Friday. The Union agrees to notify Management, in writing, at least five (5) workdays before the hearing date, of any employee witnesses it intends to call, so that arrangements may be made for the use of official time if possible. However, under no circumstances will overtime or compensatory time off be authorized under this section for either participants or witnesses called. In any arbitration where the Parties mutually agree to delay, postpone and/ or cancel an arbitration proceeding, the Parties will equally pay all fees associated with that change.

**Section 6.** At the arbitration hearing, the party requesting arbitration will present its case first and will have the burden of proving its case. The only exceptions to burden of proof on the initiating

party will be when the issue is the merits of an adverse personnel action having statutory review (appeal) procedures available and the issue has been raised solely under the negotiated grievance procedure. In this sole situation, the burden of proof on Management is: for disciplinary actions based on personal acts or omissions--the preponderance of evidence; for inefficiency-substantial evidence of defective (unsatisfactory) performance in one or more major duties as described in the individual's official position description and written performance standards. The other party will follow by presenting its case. Each party has the right to submit evidence in rebuttal.

- a. All witnesses will be sworn and no witnesses may be present in the hearing room except while testifying.
- b. Post-hearing briefs may be submitted.

### **Section 7. Witnesses.**

- a. The grievant, the grievant's technical representative and all employees who are approved by the arbitrator as witnesses will be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave provided that the Union gives Management advance notice of at least seven (7) calendar days prior to the hearing. Technical representatives who are also witnesses may remain during the entire proceeding.
- b. If Management determines that it will cause a disruption in its ability to carry out the Agency's mission by complying with a request for a witness, the Management representative shall notify the arbitrator and the Union of the reasons for that determination. If, in the arbitrator's judgment, the witness is essential to a full and fair hearing, he/she may postpone or continue the hearing until such time as Management is able to comply with his/her request.
- c. Bargaining Unit employees who are permitted to remain after giving testimony are not authorized official time to do so.
- d. Under no circumstances will Union witnesses or representatives be authorized overtime or premium pay as a result of participating in these proceedings unless previously scheduled for regularly scheduled overtime.

**Section 8.** If both Parties agree that no hearing is necessary, the Parties will so advise the arbitrator. The arbitrator will advise both Parties in writing as to what issue or issues will be decided before requesting or accepting evidence, briefs, or other written documents submitted by the Parties. Upon receipt of that information, each party may submit written evidence, Agreements or briefs to the arbitrator and other party, simultaneously.

- a. The arbitrator will specify the date by which all evidence and arguments must be submitted to him/her, with the date to be no earlier than 10 days after receipt of the tentative issues to be decided by the arbitrator.
- b. Written briefs may be submitted after the date all evidence must be submitted.

**Section 9.** In fashioning an award, the arbitrator shall not add to, subtract from, or otherwise modify any of the terms of this Agreement; nor shall the arbitrator substitute his or her discretion for that of Management or the Union whose either party has such discretion by virtue of the terms of this Agreement. The arbitrator shall interpret the existing provision(s) of the Agreement and apply them to the specific facts of the grievance. The award shall conform to law, executive orders and rules and regulations of appropriate authorities.

**Section 10. Attorney Fees.**

- a. The arbitrator must determine that any attorney fees are consistent with applicable law, and any attorney retained by the Union must present appropriate and customary documentation of fee entitlement.
- b. Upon the issuance of an award, the arbitrator shall retain jurisdiction to determine the entitlement to attorney fees, if any. Within thirty (30) calendar days of receipt of the arbitrator's award, the Union may submit a request for attorney fees. The Union's request shall be simultaneously served on Management. Within thirty (30) calendar days of receipt of the Union's request, Management shall submit its response. Management's response shall be simultaneously served on the Union. The attorney retained by the Union will have fifteen (15) days to reply after receipt of Management's submission. The arbitrator shall have the authority to grant extensions and decide whether to accept further rebuttal briefs.

**Section 11.** The cost of arbitration, if any, shall be shared as follows:

- a. Arbitrator's fees and expenses shall be shared equally by the Parties.
- b. If a transcript is required by the arbitrator, and/ or it appears the grievance may subsequently be heard by MSPB or EEOC, the cost shall be shared equally by the Parties. When a transcript is not required by the arbitrator, but either party desires a transcript, the requesting party shall bear the cost. If both Parties desire a transcript, the costs shall be shared equally. The transcripts, where required by the arbitrator or by mutual Agreement of the Parties, shall be executed by a certified court reporter.
- c. All other costs which the Parties mutually agree to incur shall be shared equally.
- d. Travel and other costs for Management representatives and witnesses; paid by Management.
- e. Travel and other costs for Union representatives and witnesses: paid by the Union.

**Section 12.** Any dispute over the application of an arbitrator's award shall be returned to the arbitrator for settlement, including remanded awards.

**Section 13.** The arbitrator will be requested to render an award as quickly as possible, but in no event later than thirty (30) days after the conclusion of the hearing, the period during which the arbitrator will accept evidence, or the filing of post-hearing briefs, whichever occurs later, unless

the Parties agree to a longer time. In rendering the award, the arbitrator will present to both Parties a written opinion clearly stating the decision, award and underlying reasoning. The opinion will state specifically what issue or issues the arbitrator decided.

**Section 14.** Either Party may file exceptions to an arbitration award with the Federal Labor Relations Authority (FLRA) under regulations prescribed by the Authority. The filing of such an exception shall act to stay the effect of an award until final adjudication by the FLRA.

**Section 15.** If the grieving party withdraws from arbitration, absent settlement, the specific grievance under arbitration is null and void and cannot be raised again.

## **ARTICLE 12: LEAVE**

**Section 1. ANNUAL LEAVE. Statutes and Regulations.** Employees will earn annual leave in accordance with the applicable statutes and regulations.

### **Section 1.1. Annual Leave Rules**

- a. Annual leave will be charged in increments of one-quarter hour and requested in increments of not less than one-quarter hour.
- b. The use of annual leave is a right of the Employee subject to the approval of Management, which is typically the first-line supervisor. Leave Approving Officials (LAO) may, consistent with operational demands, workload and with consideration of optimal staffing levels, determine when annual leave may be taken, refuse to grant annual leave, or revoke annual leave that has been granted, which may require recalling an employee to duty.
- c. Requested leave must not be considered officially authorized until approved by the LAO. When an employee has not received advance approval for annual leave but is not able to report for work for personal reasons, the Employee must, by no later than one hour prior to his/her normal start time, speak directly to his/her LAO (or designee) or leave a voicemail with a return number requesting leave and providing the reason for not having secured advance approval. The LAO will approve or deny the leave requested in a timely manner. Texting and email contact may be an acceptable form of communication as determined by the LAO.
- d. If leave is denied, or cancelled, Management will provide reasons for the denial in writing to the Employee, which may be by email or in Management's attendance system.
- e. It is the responsibility of the Employee to request annual leave in advance. However, when an employee is unable to make the request in advance due to unforeseen circumstances, the use of leave may be approved.

### **Section 1.2. Requesting Annual Leave**

- a. Employees are encouraged to submit requests for annual leave as far in advance as possible. Extended leave requests (any request for annual leave for periods of three (3) or more consecutive workdays and/or days off immediately preceding or following a holiday) should be submitted in advance. Such requests for annual leave will be approved or denied prior to the date the leave is needed, but, unless the workload cannot be properly assessed for the requested period, no later than ten (10) business days after receipt of the request.
- b. When an employee's request for extended annual leave conflicts with the request(s) of other employee(s) for the same dates(s), the employees affected who are equally qualified and capable of performing the needed work during that period will first try to resolve the conflict in requests informally. If resolution is not possible, the determination will be made by the supervisor, based on the dates on which the conflicting requests were submitted,

then seniority if submitted on the same day (Service Computation Date (SCD) for retirement).

### **Section 1.3. Changing Scheduled Leave**

- a. An employee may be permitted to change scheduled leave that s/he had requested to another time.
- b. Employees will be provided with the opportunity, where practical, to use any annual leave earned that will be in excess of the maximum allowable carry-over at some time during the course of the leave year so as to avoid losing annual leave. Each employee is responsible for monitoring his/her annual leave account throughout the leave year in order to make appropriate advance requests to Management for annual leave for vacation and other purposes which will contribute toward avoiding loss of annual leave.
- c. Employees upon request, may change previously authorized annual leave to sick leave where sick leave is appropriate, in accordance with governing statutes and regulations.

### **Section 1.4. Advanced Annual Leave**

- a. Management will consider and may, at its discretion, grant requests for advance annual leave upon proper application, when:
  - The employee is eligible to earn annual leave;
  - The request does not exceed the amount of annual leave that the employee is expected to accrue by the end of the leave year or the remainder of his/her appointment whichever is shorter; and
  - Management has reasonable assurance that the employee will return to duty, be in a pay status long enough to repay the advance and is not contemplating retirement or resignation.
- b. Annual leave earned on a current basis may not be used except in extenuating circumstances, until the amount of annual leave advanced to the employee has been repaid.
- c. Employees must repay any leave advanced and not earned at the time of separation. No repayment is necessary if the separation is due to the employee's death or disability retirement.

## **Section 2. Sick Leave**

### **Section 2.1. Permissible Use**

- a. Employees may use sick leave accrued acquired in accordance with the law and regulations in the following situations:
  1. Incapacity for the performance of duties due to illness or injury;
  2. Emergency medical, dental, optical or surgical examination or treatment;
  3. Prescheduled medical, dental, optical or surgical examination or treatment;
  4. Incapacity for the performance of duties due to pregnancy or birth of a child;
  5. When presence at the worksite would, as determined by health authorities having jurisdiction or by a healthcare provider, jeopardize the health of others because of exposure to communicable disease; and
  6. The employee must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, court proceedings, required travel, and other activities necessary to allow the adoption to proceed.
- b. In accordance with the requirements and limitations set forth in 5 U.S.C 6307 and 5 CFR Part 630, Subpart D, (*Family Friendly Leave Act*), employees may also use accrued sick leave;
  1. To give care or otherwise attend to a family member having an illness, injury, or other condition which, if the employee had such condition, would justify the use of sick leave by that employee; and
  2. To make arrangements for or attend the funeral of such family member.
  3. For purposes of this section, “family member” is defined as the following relatives of the employee;
    - A. Spouse, and parents thereof;
    - B. Children, including adopted children and spouses thereof;
    - C. Parents, and spouses thereof;
    - D. Brothers and sisters, and spouses thereof;
    - E. Grandparents and grandchildren, and spouses thereof;
    - F. Domestic partners and parents thereof, including domestic partners of any individual in b through e of this definition; and
    - G. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- c. In accordance with the requirements and limitations of 5 U.S.C. 6381-6387 (FMLA), 5 C.F.R. Part 630, Subpart L, and (FMLA article) of this Agreement, employees may use accrued sick leave for the following reasons:



1. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter;
2. Because of the placement of a son or daughter with the employee for adoption or foster care;
3. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition; or
4. Because of serious health care condition that makes the employee unable to perform the functions of the employee's position.

## **Section 2.2. Unanticipated Sick Leave**

- a. If the use of sick leave cannot be anticipated, all requests for approval shall go to the immediate supervisor or designee at least one (1) hour prior to, but no later than one (1) hour after, the Employee's scheduled start time. Should the employee be unable to reach the immediate supervisor or designee, the employee may leave the immediate supervisor or designee a voicemail or email requesting the leave.
- b. An employee will inform his/her supervisor or designee of the anticipated duration of the absence and a contact number where the employee can be reached. If the absence extends beyond one (1) day, the employee must repeat the procedure in paragraph a. of this section on each day they require unanticipated absence, unless the supervisor or designee approves otherwise. If the absence extends beyond the anticipated period, the employee will inform his or her supervisor of the situation promptly for approval.
- c. On the first day back to work, the employee must submit a leave request to his/her supervisor or designee.

**Section 2.3. Anticipated Sick Leave.** Generally, an employee shall request advance approval for sick leave for the purpose of receiving non-emergency medical, dental or optical examination, operation or treatment. Such request shall normally be approved within three (3) days of receiving the request, unless the employee's absence would create a significant operational impact. Examples may include, but are not limited to the following;

- a. An inability to complete a specific or previously assigned work project in a timely manner;  
or
- b. Inadequate office coverage where physical presence is necessary.

**Section 2.4. Medical Certificate.** An employee may be required to furnish a medical certificate (i.e. reasonably acceptable evidence to substantiate a request for approval of sick leave) if the sick leave exceeds three (3) consecutive workdays. In accordance with 5 C.F.R. 630.201, medical certificate means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination or treatment, or to the period of disability while the patient was receiving professional treatment.

- a. In accordance with 5 C.F.R. Part 630.405 (Supporting Evidence for the Use of Sick Leave), when requested, Employees must provide administratively acceptable medical documentation as required to substantiate absences or request for leave. If an employee needs to provide medical certification for absences of less than three (3) days, the Supervisor will notify them of the requirement at the time of approval.
- b. When Management has reasonable grounds to question whether an employee is properly using sick leave including annual leave in lieu of sick leave (for example, when sick leave is used frequently or in unusual patterns or circumstances), Management may inquire further into the matter and ask the employee to explain. Absent a reasonably acceptable explanation, Management will counsel the employee that continued frequent use of sick leave, or use in unusual patterns or circumstances, may result in a written requirement to furnish administratively acceptable evidence for each subsequent absence due to illness or incapacitation regardless of duration. It is recommended that the counseling be documented. The leave restriction notification will be in writing and inform the employee at a minimum, that no request for sick leave, or other leave in lieu of sick leave, will be approved for a stated period, not to exceed six (6) months, unless supported by a medical certificate. Additionally, the leave restriction may establish additional procedures for the employee to follow when they have a need for unanticipated leave.

## **Section 2.5. Charging Sick Leave**

- a. Absences qualifying for the use of sick leave may be charged to annual leave at the request of the employee and subject to supervisor approval.
- b. An employee who becomes ill while on annual leave may have the time of illness changed to sick leave provided that the employee notifies the supervisor on the first day of the illness and otherwise complies with the requirements of this article and the use of sick leave.
- c. Sick leave will be charged in quarter-hour increments.

**Section 2.6. Advanced Sick Leave.** Employees may request advanced sick leave if he or she has a serious health condition and does not have enough leave to cover the anticipated period of incapacity. A request for advanced sick leave is essentially a request for sick leave; therefore, the medical documentation requirements for granting of sick leave apply. Advanced sick leave may be approved at the discretion of Management and each request will be considered on a case-by-case basis. All requests are subject to approval in accordance with current Office of Personnel Management (OPM) regulations. Employees may be approved for Advanced Sick Leave under the following circumstances:

- a. A written request with acceptable medical documentation as defined in 5 CFR 339 (*Medical Qualifications Determinations*) has been submitted;
- b. There is a reasonable assurance that the employee will return to duty;
- c. The employee has not applied for Disability Retirement; and

- d. The employee is not subject to, or currently on, a sick leave restriction.

**Section 2.7. Confidentiality.** Management will treat as confidential any medical information given by an employee in support of a request for sick leave. Management may disclose such information subject to its Privacy Act obligations, for work related reasons on a need to know basis.

### **Section 3. Family Medical Leave Act (FMLA)**

- a. Employees who have completed at least twelve (12) months of service and are not employed on an intermittent basis or a temporary appointment with a time limitation of one (1) year or less have the right, as established by the Family and Medical Leave Act (FMLA) and implementing regulations (5 CFR Part 630, Subpart L), to twelve (12) work-weeks of unpaid leave during any twelve (12) month period for the following purposes:
  - 1. the birth of a son or daughter of the employee and the care of such son or daughter;
  - 2. the placement of a son or daughter with the employee for adoption or foster care;
  - 3. the care of spouse, son, daughter, or parent of the employee who has a serious health condition; or
  - 4. a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.
  - 5. any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
- b. All statutory definitions found in 5 CFR 630.1202 apply to this section. The following brief definitions have been included here for ease of use:
  - 1. *Parent* means a biological, adoptive, step, or foster father or mother, or any individual who stands or stood in loco parentis to an employee meeting the definition of son or daughter below. This term does not include parents “in law.”
  - 2. *Son or daughter* means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing *in loco parentis* who is—
    - A. (1) Under 18 years of age; or
    - B. (2) 18 years of age or older and incapable of self-care because of a mental or physical disability.
  - 3. *Son or daughter on covered active duty or call to covered active duty status* means the employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age.
  - 4. *Spouse*, means a husband or wife, including same-sex or common-law marriage as governed by State law where the marriage was entered into (see 5 CFR 630.1202 for full definition).

- c. An employee may elect to substitute accrued annual leave and/or sick leave for any part of the 12-week period of leave without pay described in Paragraph a. above. However, this does not require Management to approve paid sick leave in any situation in which it would not normally approve such sick leave.
- d. An employee seeking leave under this section shall provide Management with notice as soon as practicable, regardless of how far in advance the leave is being requested, but not fewer than thirty (30) calendar days' notice before the date the leave is to begin. If the leave is required to begin within thirty (30) calendar days, the employee shall provide such notice as soon as practicable.
- e. Under 5 CFR section 630.1208 (Medical Certification) Management may require that a request for leave be supported by written medical certification issued by a healthcare provider. The written medical certification must include all information required under 630.1208 (b). The following procedure will be followed:
  - 1. An employee must provide the written medical certification no later than fifteen (15) calendar days after Management requests such medical certification. If it is not practical under the circumstances to provide the requested medical certification no later than fifteen (15) calendar days after the date requested by Management despite the employee's diligent, good faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but not later than thirty (30) days after Management requested the medical certification.
  - 2. Failure to provide the requested medical certification within the above listed time frames may result in denial of the FMLA request, and Management may charge the employee with absent without leave (AWOL); or allow the employee to request the leave be charged as leave without pay or to another type of accrued paid leave, as appropriate.
  - 3. If an employee submits a completed medical certification signed by a health care provider which provides all of the required medical information, Management may not request new information within the first 30 calendar days. However, Management's medical consultant may, with the employee's permission, contact the health care provider who completed the medical certification for the purposes of clarifying the medical certification.
  - 4. Management may require subsequent medical recertification on a periodic basis, but not more than once every thirty (30) calendar days, for leave taken for purposes relating to pregnancy, chronic conditions, or long-term conditions. For leave taken for all other serious health conditions and including leave taken on an intermittent or reduced leave schedule, if the health care provider has specified a minimum duration of the period of incapacity, Management may not request recertification until that period has passed. Management may require subsequent medical recertification more frequently than every thirty (30) calendar days, or than the

minimum duration of the period of incapacity specified on the medical certification, if the employee requests that the original leave period be extended, the circumstances described in the original medical certification have changed significantly, or the Agency receives information that casts doubt upon the continuing validity of the medical certification.

5. If Management doubts the validity of the medical certification, Management may require at Management's expense the employee obtain the opinion of a second health care provider designated or approved by Management concerning information certified in the medical certification. Any health care provider approved by Management shall not be employed by Management or be under the administrative oversight of Management on a regular basis.
  6. If the opinion of the second health care provider differs from the original certification, Management may require, at Management's expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by Management and the employee concerning the information certified above. The opinion of the third health care provider shall be binding on Management and the employee.
- f. All other conditions/requirements in 5 CFR section 630, Subpart L, are applicable to leave used under FMLA.
  - g. The employee is responsible for notifying the supervisor in writing of his/her intention to use FMLA leave as soon as they become aware of their need for leave.
  - h. An employee may not retroactively invoke his or her entitlement to FMLA. However, if an employee and their personal representative are physically or mentally incapable of invoking the Employee's entitlement to FMLA in which the Employee is absent from work for an FMLA-qualifying purpose the Employee may retroactively invoke their entitlement to FMLA leave within two (2) business days after returning to work.
  - i. If the employee is unable to provide the requested medical certification before leave begins, or if Management questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin, Management shall grant provisional leave pending final written medical certification in accordance with paragraph e. of this section.

### **Section 3.1. FMLA for Maternity or Paternity Purposes**

- a. Employees are entitled to twelve (12) weeks of FMLA leave for maternity or paternity purposes due to birth of a son or daughter, or placement of a son or daughter with the employee for adoption or foster care or for maternity sick leave purposes. Employees are also entitled to FMLA leave to engage in activities related to the placement of a son or daughter with the employee for adoption or foster care. Approval of leave for these reasons

will be consistent with the provisions of this Agreement and applicable statutes and regulations.

- b. Periods of incapacity due to pregnancy are considered a “serious health condition” under FMLA. Charges to sick leave are appropriate for the period of incapacitation due to pregnancy and confinement, consistent with medical requirements and applicable laws and regulations. The employee may request other types of accrued leave be substituted for sick leave in accordance with the Sick Leave provision of this Agreement.
- c. Upon mutual Agreement between Management and the Employee, an employee may be permitted to work an intermittent or reduced work schedule for care and bonding of their newborn son or daughter within the first 12 months of the birth of the child.

**Section 3.2. Adoption.** For purposes associated with adoption of a son or daughter, an employee may use annual leave, sick leave, LWOP, earned compensatory time and/or credit hours (see sick leave article for information about use of sick leave for adoptions.) The Parties recognize that it is in the interests of both the Employee and Management that such requests shall be made as early as possible. The employee should submit the leave for adoption purposes as early as possible, no less than thirty (30) calendar days, in advance of the prospective starting date. If the date of leave is not foreseeable (e.g. foreign adoptions) the employee shall provide such notice as is practicable. The individual circumstances must be considered in each instance by the leave approving official; reasonable requests shall be granted unless a workload or staffing problem prevents approval. Approval will be consistent with the provisions of the Agreement and applicable statutes and regulations.

### **Section 3.3. Usage**

- a. If an employee uses all 12 weeks of FMLA, they will have no more available within that 12-month period (that began with the first day the employee used FMLA).
- b. Additionally, the use of FMLA for the birth, adoption, or foster care of a son or daughter; and use of FMLA for those purposes has to take place within 12 months of the birth or placement of the son or daughter.

**Section 3.4. Denials.** Whenever leave requested under this Article is denied, Management shall provide the employee with the reason for the denial either verbally or in writing.

## Section 4. Other Leave

**Section 4.1. Leave Without Pay (LWOP).** Leave without pay is a temporary, non-pay status and absence from duty, that in most cases, must be requested by the employee. All employees are eligible for LWOP regardless of length of service. Requests to use LWOP are made in the same manner as requests for annual and/or sick leave. In most instances, granting LWOP is at Management's discretion. Management will examine each request closely to ensure that the value to the government and the serious needs of the employee are sufficient to offset the costs and administrative inconvenience.

- a. In accordance with applicable law, rule and regulations, the Employee has an entitlement to LWOP in the following situations:
  1. The Family and Medical Leave Act of 1993 (FMLA);
  2. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA);
  3. Executive Order 5396, July 17, 1930, provides that disabled veterans are entitled to LWOP for necessary medical treatment (provided that prior notice is given to Management); and
  4. Employees who are in receipt of compensation from the Department of Labor for work-related injuries or occupational diseases may not be in a pay status, and therefore must be carried in a LWOP status.
- b. In the following circumstances, requests for LWOP may be made by an employee and will be evaluated by Management in accordance with the terms of this article:
  1. For educational purposes when the course of study or research is in line with a type of work performed by the Employee and would continue the mission of Management;
  2. To serve as the elected National President or Executive Vice President of NWSEO, or serve full time in an appointive position of the Union; and
  3. Up to twenty-four (24) hours of LWOP during a twelve (12) month period may be used to attend to;
    - A. School & Early Childhood Educational Activities
    - B. Routine Familial Purposes; and
    - C. Elderly Relatives Health or Care needs.
- c. For all requests for LWOP, Management will consider whether the value to the government, public good or the needs of the employee are sufficient to offset the administrative inconvenience and the cost of granting the request. Such factors as increased job ability, protection or improvement of an employee's health, job performance, and retention of a desired employee may be considered. In addition, Management should have a reasonable expectation that the employee will return to duty at the end of the LWOP.

**Section 4.2. Excused Absence.** An excused absence from duty is administratively authorized by supervisors without loss of pay and without the charge to leave.

1. *Voting:* The Employee, upon request due to unusual circumstances, may be authorized an amount of excused absence that will permit him/her to report for work up to three (3) hours after the polls open or leave work up to three (3) hours before the polls close, whichever requires the lesser amount of time off. Provided that it does not interfere with mission requirements.
2. *Donating Blood:* Employees who donate blood to the Red Cross or other recognized Blood Banks, which the Agency sponsored, will be excused from duty upon request, for a period of not more than four (4) hours, including travel, and any necessary recovery time following the donation if it does not interfere with mission requirements.
3. *Bone Marrow and Organ/ Tissue Transplant;*
  - A. An employee may use up to seven (7) days of paid leave each calendar year to serve as a bone-marrow donor.
  - B. An employee also may use up to thirty (30) days of paid leave each calendar year to serve as an organ donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

#### **Section 4.3. Religious Compensatory Time**

1. Requests for compensatory time for religious observances will be granted in accordance with government-wide OPM regulations, unless approval of the request would interfere with the timely and efficient accomplishment of the unit's work or would prevent the availability of a sufficient number of employees to perform the unit's work.
2. When religious compensatory time off is requested, the employee must provide Management with the name and/or description of the religious observance, dates and times of absence, and dates and times the employee plans to earn religious compensatory time off.

#### **Section 4.4. Court Leave**

- a. Court leave is an approved absence from official duties, without loss of or reduction in pay or leave, and is provided to an employee who is summoned, in connection with a judicial proceeding, to;
  1. Perform jury duty in a federal, state, or municipal court; or
  2. Serve as a witness, in a nonofficial capacity, for the United States, the District of Columbia, or a state or local government.



- b. Requests for court leave should be made as soon as the employee becomes aware they have been summoned to serve as a witness or a juror.
- c. An employee is responsible for informing his or her supervisor if he or she is excused from jury or witness service for one (1) day or more or for a substantial part of a day. (If there is no jury/witness service, there is no court leave. The employee would be charged annual leave, sick leave, or leave without pay, as appropriate.)
- d. In order to receive paid court leave, an employee must provide the leave approving official with documentation to support their eligibility.
- e. An employee who is summoned as a witness in an official capacity on behalf of the Federal Government is on official duty, not court leave.
- f. Granting Jury Duty.
  - 1. The Department, as an employer, shall not request that an employee be excused from jury duty or be granted a deferment from jury duty, except in cases of genuine emergency. Excuse from jury duty shall not be requested when a deferment will satisfy the operating requirements of the Department.
  - 2. In cases of genuine necessity, the head of the operating unit, or his or her designee, may write directly to the court requesting that the employee be excused from jury duty, or that the jury duty be deferred.
  - 3. An employee, however, may request exemption from jury duty for compelling personal reasons on his or her own initiative.
  - 4. Court leave shall be granted to an eligible employee for absence during the employee's regularly scheduled tour of duty, including regularly scheduled overtime, to perform jury duty. Court leave shall be granted only for those days and hours an employee would otherwise be in a pay status.
  - 5. An employee on annual leave who is called for jury duty is entitled to have otherwise proper court leave substituted for annual leave.
  - 6. An employee on annual leave under advance notice of separation due to a reduction in force who is summoned as a juror is entitled to have otherwise proper court leave substituted for annual leave. The court leave may not extend beyond the date administratively fixed for separation.
  - 7. An employee on leave without pay, although otherwise eligible, may not be granted court leave when called to jury duty.
  - 8. A night-shift employee who performs jury duty during the day may be granted court leave for his or her regularly scheduled night tour of duty.

9. An employee who performs duty for a full workday and then sits on a grand jury in the evening, may be granted court leave on the following day to the extent necessary to relieve hardship.
10. An eligible employee who is under proper summons from a court to serve on a jury shall be granted court leave for the entire period of such service. The period of court leave extends from the date on which the employee is required to report to the court until the time he/she is discharged by the court.
11. The term of jury duty, however, does not include time during which the employee is excused or discharged by the court for an indefinite period subject to call by the court or for a definite period in excess of one day. Therefore, court leave may not be granted covering such a period.
12. Employees may be required to contact their supervisors upon notification by the court of being excused or discharged. It is within the administrative discretion of the Agency to require an employee to return to duty or be charged annual leave if he or she is excused from jury duty for one day or even a substantial part of a day.
13. If an employee on court leave for jury duty outside the commuting area is excused for an indefinite period or discharged by the court, the travel time necessary for return to duty will be considered as court leave.
14. Similarly, an employee excused by the court for definite short periods of time (usually one day or less) may be continued on court leave if the leave-approving official determines the expense, distance or time involved in travel would make it impractical or create a hardship for the employee to return for duty during such periods.
15. For an employee to be granted court leave for jury duty, he or she must submit to his or her supervisor the order or subpoena which requires attendance in court.
16. In addition, upon return to the duty site, the employee must submit a certificate of attendance in court signed by a clerk of the court or other appropriate official. Based upon the evidence submitted, it is incumbent upon the leave-approving official to determine to which leave category an employee's absence will be charged.
17. Pay status during court leave for jury duty. Since it is mandated by statute that the compensation of an employee shall not be reduced because of jury duty, employees granted court leave for jury duty are entitled to the same compensation they would otherwise have received, including any premium pay and differentials.
18. A night shift employee who performs jury duty during the day is entitled to receive payment of night differential for his or her regularly scheduled night tour of duty.

19. An employee with a regular tour of duty which includes Saturdays, Sundays, or both, who serves on a jury for five weekdays, may be granted court leave and paid premium pay and differentials for the weekend days which are a part of his or her regular tour of duty.
20. In addition, an employee should not be expected to perform regular duties on weekends while on jury duty for five weekdays. However, if an employee is excused from jury duty on a weekday, he or she should work a weekend day in place of excused jury duty if no hardship is involved.
21. If an employee's absence is properly chargeable to court leave, he or she may not elect at the time, or at a later date, to have the absence charged to annual leave.

#### **Section 4.5. Military Leave**

- a. An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces. Any full-time Federal civilian employee whose appointment is not limited to 1 year is entitled to military leave. Military leave under 5 U.S.C. 6323(a) is prorated for part-time career employees and employees on an uncommon tour of duty.
- b. Employees in the National Guard or serving as a Reserve of the Armed Forces shall be entitled to fifteen (15) days per fiscal year for active duty, active duty training, and *inactive duty training*. An employee can carry over a maximum of 15 days into the next fiscal year as provided for in 5 USC 6323, as amended, and implementing regulations.
- c. The minimum charge to leave is 1 hour. An employee may be charged military leave only for hours that the employee would otherwise have worked and received pay.
- d. The employee must notify the leave approving official as soon as possible of the anticipated need for leave.
- e. The Employee will provide Management with official notification of their orders, as issued by competent military authority. Unless precluded by military necessity, advance notice must be provided.
- f. Additional provisions for Military Leave not covered here are outlined in 5 U.S.C. 6323, as amended.

## ARTICLE 13: WORK SCHEDULES

**Section 1. General Provisions for All Employees.** The basic work week is the calendar week of Sunday through Saturday. Nothing shall preclude Management from considering alternate work schedules in order to better achieve the mission. All employees are expected to be on time at the start of their shift. Employees may on occasion be required to continue on duty beyond their normal work schedule to complete any assignment in progress as deemed necessary by Management. Employees will be compensated for all hours of work in accordance with applicable laws, rules, and regulations.

- a. "Regularly scheduled"- means any work hours or shift scheduled in advance of the work week (before Sunday at 12:01 AM), including overtime and other premium pay shifts. Work assignments scheduled in advance of the work week has a direct effect on an employee's pay entitlements. Because the term "regularly scheduled" work is significant in determining premium pay entitlements; work schedules, and any time and attendance reports, must reflect the employee's regularly scheduled work requirements, including any periods of regularly scheduled overtime. Irregular or Occasional Overtime Work is overtime that is not scheduled "in advance of the work week" - it is irregular or occasional in nature.
- b. When Management finds it necessary to change an employee's work schedule, Management will provide a notice to the Union in accordance with Article 7 of the Parties' CBA, if alteration of a schedule is sought.
- c. To the extent practicable, employee work schedules will remain stable.
- d. When events take place like travel (TDY), training, or other work related participation which require the employee's attendance during administrative hours, the affected employee may be required to revert to an "administrative work week" consisting of a five 8-hour day, 40-hour work week schedule. Mutual rescheduling of the affected employee(s) shift between the employee and first level supervisor is encouraged and should be resolved at the lowest level. Employees will revert back to their regular schedule no later than the pay period following the completion of the event that caused the schedule change.
- e. All full-time employees, including those on flexible or compressed work schedules, are entitled to an "in lieu of" holiday when a holiday falls on a nonworkday. In such cases, the employee's holiday is the basic workday immediately preceding the nonworkday. If the nonworkday is Sunday (or an "in lieu of" Sunday), the next basic workday is the "in lieu of" holiday. A basic workday for this purpose includes a day when part of the basic work requirement for an employee under a flexible work schedule is planned or scheduled to be performed. An employee is not entitled to another day off as an "in lieu of" holiday if a Federal office or facility is closed on a holiday because of a weather emergency or when employees are furloughed on a holiday.
- f. Compensable work breaks during the workday may be authorized. Work breaks must not exceed 20 minutes during each four-hour period of work. Breaks must not be scheduled

immediately before or after lunch periods or at the start or end of a workday. Employees are not authorized to leave the facility during paid work breaks. Paid work breaks may not be combined.

- g. Shift-working employees do not receive an unpaid meal break during the workday, therefore a supervisor may designate an employee on each crew to leave the facility to retrieve meals/food for that crew. This task will be considered an assignment of work performed during normal duty hours.

## Section 2. Provisions Applicable to Bargaining-Unit Rotating Shift Workers (All Locations)

- a. Formal shift schedules will depict an annual cycle of the "Official Schedule" and will be promptly posted and distributed by Management. Best efforts will be made by Management to create and post the annual schedule one month prior to the expiration of each calendar year. Changes to work schedules will be handled in accordance with 5 U.S.C. 6131
- b. Shift working employees' schedules consist of seven, twelve-hour shifts per pay period. The normally worked shift schedules are listed below for each location.
- c. **Suitland Operational Schedule** - The day shift for the Suitland, MD location is from 0600 (6AM) to 1800 (6PM); and the night shift is from 1800 (6PM) to 0600 (6AM). All shift times are listed in local time. Example is provided below:

	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa		Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
Crew A	D				N	N	N				D	D	D					N	N	N	N					D	D	D	
Crew B		D	D	D				N	N	N				D		D	D	D				N	N	N	N				
Crew C	N				D	D	D				N	N	N					D	D	D	D					N	N	N	
Crew D		N	N	N				D	D	D				N		N	N	N					D	D	D	D			

- d. **Wallops Operational Schedule** - The day shift for the Wallops Island, VA location is from 0700 (7AM) to 1900 (7PM); and the night shift is from 1900 (7PM) to 0700 (7AM). All shift times are listed in local time. Example is provided below:

	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
Crew A	D				N	N	N					D	D	D				N	N	N			D	D	D			
Crew B		N	N	N				D	D	D				N		N	N				D	D	D				N	N
Crew C	N				D	D	D					N	N	N				D	D	D				N	N	N		
Crew D		D	D	D				N	N	N				D		D	D				N	N	N				D	D
Crew A		N	N	N				D	D	D				N		N	N				D	D	D				N	N
Crew B	N				D	D	D					N	N	N				D	D	D				N	N	N		
Crew C		D	D	D				N	N	N				D		D	D				N	N	N				D	D
Crew D	D				N	N	N					D	D	D				N	N	N				D	D	D		
Crew A	N				D	D	D					N	N	N				D	D	D				N	N	N		
Crew B		D	D	D				N	N	N				D		D	D				N	N	N				D	D
Crew C	D				N	N	N					D	D	D				N	N	N				D	D	D		
Crew D		N	N	N				D	D	D				N		N	N				D	D	D				N	N
Crew A		D	D	D				N	N	N				D		D	D				N	N	N				D	D
Crew B	D				N	N	N					D	D	D				N	N	N				D	D	D		
Crew C		N	N	N				D	D	D				N		N	N				D	D	D				N	N
Crew D	N				D	D	D					N	N	N				D	D	D				N	N	N		

- e. When Management finds it necessary to change an employee from one crew to another, at least two pay period advance notice will be provided to the employee.
- f. The total continuous hours of work during any shift shall not exceed sixteen (16) hours, except in emergent situations. When an employee is required to work sixteen (16) hours or more in a 24-hour period, the employee must be allowed a minimum of ten (10) hours of turnaround time between shifts to ensure that the employee's effectiveness, safety or job performance would not be adversely affected. Management may elect to adjust the employee's shift start time as they determine to be appropriate. Normally, Employees will not be scheduled to work more than ten (10) consecutive days in a row.

### Section 3. Provisions Applicable to Alternative Work Schedules (AWS) for Non-Rotating Shift Working Bargaining Unit Employees.

- a. The Parties agree the following details and stipulations, may govern the Alternative Work Schedules (AWS) for unit employees who do not perform rotating shift work.  
Management may modify or terminate an employee's AWS based on operational need.  
Management may temporarily terminate a non-shift working employee's AWS if the employee has been given a Notice of Opportunity to Improve for Performance issues and/or are on an active Leave Restriction for attendance issues.
- b. All eligible employees may work one of the AWS schedule options to fulfill their basic workweek requirements. The employee will submit the request to their supervisor one pay period prior to the requested effective date. If the request is denied, the employee will be notified in writing providing the basis for the denial. Within five (5) business days of receipt

of the denial, the employee may appeal to their second line supervisor. Should the second line supervisor deny the appeal, the employee may file a grievance in accordance with the negotiated grievance procedure. An employee who is on AWS may request to come off AWS by submitting their request in writing to their supervisor.

- c. With their supervisor's concurrence, unit employees are permitted to design their workday/week so that it allows them to be more flexible in scheduling their personal activities. The requested schedule will normally be effective within two pay periods from the date of the request. The Parties may mutually agree to waive the two pay period notice.
- d. Employees will be allowed a 30-minute unpaid meal break. This break will be taken between 1100 (11AM) and 1400 (2PM) unless otherwise authorized by their supervisor. Employees are allowed to leave the facility without prior supervisory approval. When determining the employee's choice of AWS, the work schedule start, stop, meal, and potential break times will be established with their supervisor in accordance with this Agreement. Managers and employees are encouraged to be flexible in the establishment or adjustment of work schedules to balance the needs of Management, while meeting the needs of the employee and the terms of this Agreement.
- e. At supervisor's discretion, Unit employees may be allowed Flexible Work Schedules (FWS).
- f. Unit employees who are detailed may retain his or her AWS at Management's discretion.
- g. Should any conflicts arise concerning typical AWS scheduling, such conflicts will normally be settled based on seniority.
- h. In the implementation of any AWS, Management may monitor the employee's arrival and departure times using various methods including the Security access control system.
- i. AWS allows employees to select their individual arrival and departure times from within the established flexible bands, as outlined below.

#### AWS Program Criteria

Workdays:	Monday through Friday 0600 (6AM) – 0900 (9AM) (arrival band) 1430 (230PM) – 2000 (8PM) (departure band)
Lunch Band:	1100 (11AM) – 1400 (2PM)
Core Hours:	0900 (9AM) – 1430 (230PM)

- j. The employees' normal AWS days off will be determined with their supervisor in accordance with this Agreement.

### **Section 3.1. Compressed Work Schedules (CWS)**

- a. Unit employees will be offered two Compressed Work Schedules (CWS). To meet the basic work requirement a unit employee must work 80 hours in a biweekly pay period but may be scheduled to work fewer than ten (10) workdays. The supervisor will make a best effort to support the unit employee's first CWS choice but may offer a different schedule.
- b. A compressed schedule involves longer but fewer workdays, so that you can complete a full 80 hours during each biweekly pay period in less than ten (10) workdays.
- c. For full-time employees, all hours worked in excess of the established compressed work schedule are overtime hours. An employee on a CWS may request compensatory time off only for the performance of irregular or occasional overtime work. Employees may not earn credit hours under CWS.
- d. These schedules are fixed; there is no flexibility about when you report to work and leave each day. Once established, your schedule does not change.
- e. Employees may choose from the following two compressed work schedules:
  - 1. 5-4/9 in which you work 8, 9-hour days and 1, 8-hour day in the pay period and get an extra day off.
  - 2. 4-10 in which you work 4, 10-hour days each week of the pay period and have an extra day off each week.

**Section 4. Timekeeping.** Time and attendance for all bargaining unit employees will be accomplished using the current approved Agency wide electronic system.



## ARTICLE 14: APPOINTMENTS, REASSIGNMENTS AND PROMOTIONS

**Section 1.** This Article applies to bargaining unit positions. It is agreed that all merit promotion actions to bargaining unit positions and all other personnel actions effecting bargaining unit positions as set forth in Section 2 below, will be made in accordance with Merit System Principles, DOC Merit Assignment Program, NOAA Administrative Order 202-1109 and the current NOAA Merit Assignment Plan (MAP), using procedures based on merit, and from among properly ranked and certified candidates or other appropriate sources without regard to race, color, sex, national origin, marital status, age, religion, sexual orientation, labor organization affiliation or non-affiliation, or other non-merit based factor. Where provisions of this Article differ from the DOC/NOAA policies outlined above, the provisions of this Article will apply.

**Section 2.** The Union and Management agree that candidates will be given full and fair consideration for advancement in accordance with this Article and the above listed DOC/NOAA policies and procedures.

- a. Personnel Actions Covered:** When merit promotion procedures are used, it is understood that the policies and procedures of the MAP and this Article apply to the following:
1. All promotions not listed in the "Exceptions to Merit Promotion Procedures" outlined in this Plan.
  2. Reassignment, transfer, or change to a lower graded position to a position that has greater promotion potential than a position previously held on a permanent basis in the competitive service (except as permitted by reduction-in-force regulations, if applicable).
  3. Transfer to a position at a higher grade or with greater promotion potential than a position previously held on a permanent basis in the competitive service.
  4. Reinstatement to a permanent or temporary position at a higher grade or with greater promotion potential than a position previously held on a permanent basis in the competitive service.
  5. Details to a higher grade, a position with higher promotion potential or statement of unclassified duties for more than 120 calendar days. Prior service during the preceding 12 months under a non-competitive detail to a higher graded positions and non-competitive temporary promotions counts toward the 120-calendar day total.
  6. Temporary or time-limited promotions for more than 120 calendar days (prior service during the preceding 12 months under non-competitive time-limited promotions and non-competitive details to higher graded positions counts toward the 120-calendar day total).

7. Selection for training when training is required for promotion or part of an authorized training Agreement or promotion plan (such as a formal upward mobility program or a formal internship).

**b. Exceptions to Merit Promotion Procedures:**

1. Non-competitive actions. The Competitive procedures of this Policy do not apply to:
  - A. A promotion resulting from an upgrade of a position, without significant change in the duties and responsibilities, due to issuance and application of a new classification standard or the correction of an initial classification error;
  - B. A promotion resulting from an employee's position being classified at a higher grade because of additional duties and responsibilities. This type of promotion is also known as an "accretion of duties" promotion and is only applicable if the reclassification is based on the successor position absorbing the major duties of the original position resulting in the series remaining the same and the promotion to the next grade level is within the normal line of progression, see definition for "Accretion of Duties";
  - C. A position change permitted by Reduction-in-Force regulations.
2. A career ladder promotion of an employee who was appointed in the competitive service from an OPM register, by direct hire, through delegated examining authority, by noncompetitive appointment or noncompetitive conversion, or under competitive promotion procedures for a position with known promotion potential, or through merit promotion/assignment procedures for an assignment intended to prepare the employee for the full performance level of the position being filled (also known as a career ladder position). There is no guarantee that an employee in a career ladder will be promoted, nor a commitment that a promotion will be made at a set time.
3. Non-competitive conversion of a Pathways Program (Internship Program, Recent Graduates Program, Presidential Management Fellow Program) employee, Veterans Recruitment, or other excepted appointing authorities in Schedule A, B, C and D published that allow for noncompetitive conversion.
4. A temporary promotion or detail to a higher grade/band or with known promotion potential for 120 calendar days or less; all details to higher grade positions and temporary promotions, to same position, held during the preceding 12-month period are counted in the calculation of the 120-calendar day total.
5. A temporary assignment under the Intergovernmental Personnel Act (IPA).
6. A promotion, reassignment, demotion,, transfer, reinstatement or detail provided: (1) the position is at no higher grade/band than that previously held on a permanent basis under a career or career conditional appointment, (2) the position has no greater

promotion potential beyond that of the employee's current position or the potential is not more than the highest grade previously held on a permanent basis; and (3) the employee was not demoted or separated from that grade/band because of performance or conduct reasons.

8. A promotion of an applicant not given proper consideration in a competitive promotion related action.
9. Appointments of career Senior Executive Service (SES) appointees with competitive service reinstatement eligibility to any position for which they qualify in the competitive service at any grade /band or Senior-Level (SL)/ST positions established under 5 CFR Part 319.
10. Selection from the DOC reemployment priority list (RPL).
11. Voluntary change to a lower grade with no greater known promotion than a previously competitive position held on a permanent basis.
12. An increase in pay due to supervisory differential (CAPS positions only).
13. Selections under direct-hire authorities or competitive examining procedures.

**Section 3.** In the initial search for qualified applicants, the minimum area for consideration generally will be sufficiently broad to ensure the availability of a reasonably adequate number of best qualified and diverse applicants, taking into account the nature and level of the position. The area of consideration may be restricted to allow for targeted hiring from various sources, provided there is a good faith basis that the search will result in sufficient candidate pool. For example, an organizational element, or certain categories of applicants, such as Veterans or military spouses.

**Section 4.** All positions which are filled through the competitive merit promotion procedures of this Article may be publicized through job opportunity announcements issued under the authority of the servicing Human Resources Center. Job opportunity announcements, depending upon the area of consideration, may be posted on the Internet at <https://www.usajobs.gov/> or current applicable US Government internet site.

- a. Typically, job opportunity announcements under this article will be open for a minimum of seven (7) calendar days.
- b. When a job opportunity announcement is anticipated to receive a high number of highly qualified candidates, the job opportunity announcement may include a cut-off point, by limiting the announcement open period or number of applications received. For example: Due to the high volume of applications we anticipate for this position, this announcement will close the day (at midnight) the 50th application is received or after seven (7) calendar days, whichever comes first.

- c. At a minimum every job opportunity announcement will comply with the requirements of 5 C.F.R. 330.104 and the NOAA Merit Assignment Plan.

**Section 5.** Employees who wish to be considered for a posted vacancy must apply by submitting information and/or documents required in the job opportunity announcement.

- a. To be considered for a vacancy, candidates must submit all required application materials as requested in the announcement, in such a way that the information provided is complete, accurate, legible, and timely. Incomplete and late applications will not be considered.
- b. If an employee requires a reasonable accommodation to apply for a position, they may contact the issuing HR office prior to the closing date for assistance. Employees may request, and may be granted, assistance with automated staffing system.

**Section 6.** Candidates must meet the minimum qualification standards prescribed by OPM and all eligibility requirements by the closing date specified in the announcement to be eligible for consideration. Applicants who apply under open continuous announcements must meet all eligibility requirement by the established cut-off- dates, or other defined mechanism to be eligible for consideration.

- a. Candidates will be evaluated against basic eligibility requirements, selective placement factors, and other appropriate criteria established for the position.
- b. The servicing HR Office will determine which applicants meet the established minimum qualifications for the position at each announced grade.

**Section 7.** If a candidate meets basic eligibility and minimum qualification requirements, rating and ranking of applicants will be accomplished in accordance with the NOAA MAP. An employee who applies for a position and is found eligible may be notified after the establishment of a certificate or a Best Qualified list if the employee supplied an email address during the application process.

**Section 8.** The selecting official will make a selection based on merit-based factors without personal favoritism, without discrimination, and without consideration of non-merit factors. The selecting official will make the decision to select or not to select as soon as possible.

**Section 9.** Selected employees within NESDIS Office of Satellite and Product Operations will normally be released for promotion to the new position not longer than two full pay periods after the releasing official has been notified of the selectee's official job offer and acceptance of the position.

- a. Other personnel actions covered under Section 2 of this Article will be released as necessary in a manner that promotes the needs of the mission, but typically not longer than two full pay periods.

- b. Management may delay the reporting date if needed; in such a situation, the action will be affected on the earliest possible date.
- c. All actions covered by this Article shall be taken in accordance with applicable law, the NOAA/DOC MAP, and government-wide rules and regulations.

**Section 10. Career Ladder Promotion.** A noncompetitive promotion (without competition) up to the highest classified grade/band of the position when the employee previously competed for and was selected from an Applicant Referral Certificate for the position in which there was known promotion potential (KPP). Employees in a career ladder position may be promoted as they demonstrate the ability and readiness to perform at the next higher grade/band and meet all legal requirements, (e.g., time-in-grade/band/pay).

- a. No employee shall receive a career ladder promotion unless the employee's current rating of record is at least "Fully Successful" (level 3) for GS and FWS, or Eligible or higher for CAPS. In addition, no employee may receive a career ladder promotion if the employee has a rating below "Fully Successful" (level 3) for GS and FWS, on a critical element that is also crucial to successfully performing at the next higher grade of the career ladder. In cases where Bargaining Unit Employees are under an appraisal program that uses two levels to appraise elements/performance, the "meets or exceeds" rating is equivalent to "Fully Successful" for career ladder promotions.
- b. Although career advancement is the intent and expectation in the career-ladder system, promotions within career ladders are not guaranteed, automatic or mandatory. The determination to promote an employee to the next higher grade is at the discretion of Management.

**Section 11. Reassignments.** A reassignment is a permanent assignment of an employee from one bargaining unit position to another bargaining unit position without promotion, demotion or break in service. Reassignments will be carried out in accordance with applicable law, Agency and government-wide rules or regulations and this Article. Notwithstanding this definition, the procedures set forth in this Article apply only to substantive Reassignments; they do not apply to personnel actions that are denominated "reassignments; but are only technical in nature (e.g. changes to a position description number, organizational unit, etc. where the duties do not substantively change)."

- a. Management will strive to take efforts to minimize the adverse impact on employees involuntarily reassigned under this Article.
- b. Management has the right to reassign employees in its sole discretion.
- c. If necessary, Management may provide training for the reassigned employee.

- d. When Management determines that an involuntary reassignment of an employee is necessary, Management will follow all applicable laws, government-wide rules, and regulations.

## ARTICLE 15: DETAILS AND TEMPORARY PROMOTIONS

**Section 1.** A Detail is an assignment on a temporary basis of an employee to perform duties not covered by the official description or definition of his/her position or rating for the temporary periods of time authorized by the Office of Personnel Management and DOC regulations. It is agreed that details may be used to meet temporary needs of the work program of the activities when Management officials determine that necessary services cannot be obtained by other desirable or practicable means. To the maximum extent feasible, details from the next lower grade may be rotated among employees in the unit, at Management's discretion. Details may be made appropriately under circumstances such as, but not limited to, the following:

- a. To meet emergencies occasioned by abnormal workload, change in mission, organizations, or unanticipated absences such as sick leave or emergency annual leave.
- b. Pending official assignment, pending description and classification of new position, pending security clearance, and for training purposes.

**Section 2.** When an employee in the unit is detailed to any position in which the employee has had no previous experience, a reasonable break-in period with an experienced employee shall be provided.

**Section 3.** A detail to a higher grade position will be initially made for a maximum period not to exceed an aggregate of 120 calendar days in one calendar year. At the end of the 120th day, the employee will return to his/her regular position unless specifically notified by Management of the continued need of the employee's services in the detail. Upon such notification, and if the employee fully meets all qualification requirements for the higher grade position, action may be initiated by Management to effect a temporary promotion the first day of the pay period following approval by Personnel. An employee temporarily promoted to a higher grade position must be fully qualified for the vacant position. Temporary promotions exceeding 120 calendar days shall be processed through competitive promotion procedures in conformance with DOC MAP.

**Section 4.** The selection for temporary promotion for less than 120 days will normally be made from among employees in the unit. Such selections will be based upon Management's decision, as exceptions to the Merit Promotion Program. Such assignments, where feasible, will be rotated. Non-selection for temporary promotion will not constitute a basis for a grievance.

## **ARTICLE 16: POSITION DESCRIPTIONS AND CLASSIFICATION**

**Section 1.** The Parties agree that accurate position descriptions and proper classification are essential to sound personnel Management and proper compensation for Agency employees. The Agency is responsible for classifying the position and issuing the position description.

**Section 2.** Each employee covered by this Agreement shall be provided a Position Description (PD) that accurately reflects the major and grade-controlling duties, responsibilities, and supervisory relationships of the position. This will be provided to the employee at the time of assignment and upon request. Position Descriptions will be current, accurate, and classified to the proper occupational title, series, and grade in accordance with Chapter 51 of Title 5 U.S.C and OPM regulations for each position covered by this Agreement.

**Section 3.** If an employee believes that his/her position is not classified properly, the matter should first be discussed with the immediate supervisor. If unresolved, the employee should continue to utilize his/her chain of command. If still unresolved, the employee has the right to file a position classification appeal in accordance with Office of Personnel Management's guidelines.

**Section 4.** Position duties will not be misrepresented by any employee or his/her representative for any reason, to include wrongfully obtaining a promotion.

**Section 5.** Management has the right to assign duties. Any employee may be required to perform "other duties as assigned" which include tasks of an incidental or infrequent nature that are impractical to include in the narrative portion of the position description. Work based on words to the effect of "other duties as assigned" shall not be used for performance appraisals.

**Section 6.** If Management determines that a position is incorrectly classified, corrective action will be taken at the earliest practicable date and no later than eight (8) weeks following the date of the decision. There is no provision for retroactive pay, when a position is reclassified.



## **ARTICLE 17: ADVERSE ACTIONS**

**Section 1. Introduction.** This Article applies to all bargaining unit employees who have completed the applicable probationary or trial period, as appropriate.

### **Section 2. Appeals**

- a. For purposes of this Article, an appealable adverse action is defined under 5 U.S.C. 7512 as a suspension for more than fourteen (14) calendar days, indefinite suspension, reduction in grade or pay, furlough of thirty (30) days or less, and removal.
- b. This Article is intended to be applied in compliance with 5 U.S.C. Chapter 75, and C.F.R. Section 752, Subpart D.
- c. An appealable adverse action will be taken only for such cause as will promote the efficiency of the service.

**Section 3. Mitigating or Aggravating Circumstances.** In deciding what appealable adverse action may be appropriate, Management will consider relevant mitigating and/or aggravating circumstances. Management shall affect the discipline necessary to maintain an effective and efficient workplace. Only relevant mitigating and/or aggravating factors will be taken into consideration in determining an appropriate penalty.

### **Section 4. Procedures for Appealable Adverse Actions**

- a. Appealable Adverse actions will be proposed as soon as practicable under the following circumstances:
  1. after Management becomes aware of an alleged infraction, regardless of the date of the infraction;
  2. if an investigation is conducted, after Management receives an investigative report from an investigating authority.
- b. When Management proposes to take an appealable adverse action against an Employee, the following procedures will apply:
  1. In all cases of proposed appealable adverse actions, except as stated in Section 7 of this Article, an employee will be given at least thirty (30) days' advance written notice of the proposed action.
  2. This notice will provide specific reasons for the proposed action, including notice of the employee's right to review the material relied on to support the reasons for action given in the notice, and other notices required by rule, law or regulation.

Notices of proposed appealable adverse actions cannot be grieved through the negotiated grievance procedure under this Agreement.

3. The employee will be given twelve (12) calendar days from the date h/she receives the notice of proposed action, to respond orally and/or in writing and to furnish affidavits and other documentary evidence in support of their response. If the employee needs additional time to respond, they must submit a written request for an extension to the Deciding Official and include the reason an extension is needed.
4. Requests for an extension must be submitted prior to the expiration of the reply period. Responses submitted after the reply period has ended may be considered only at the discretion of Management.
5. The employee is entitled to be represented by an attorney or other appropriate representative. If the employee elects to have a representative, he/she must inform the deciding official or designee, in writing, of the representative's name and contact information.
6. Oral reply meetings where the employee and the deciding official are within the same commuting area may be conducted in person at Management's location or remotely (e.g., tele-conference, web-conference, video-conference), at the discretion of Management. Where the employee and deciding official are not in the same commuting area, the meeting will be conducted remotely (e.g., tele-conference, web-conference, video-conference), absent mutual Agreement otherwise.
7. Should the employee elect a representative, the employee's representative will participate in person or remotely, at the choice of the employee. However, Management will bear no associated travel costs.
8. A written decision and the specific reasons will be issued to the employee at the earliest practicable date. Management should make every effort to issue the decision within fifteen (15) business days after the Employee's oral and/or written reply (whichever is later) has been received.

#### **Section 5. Written Decision in Appealable Adverse Action**

- a. Management's designated Management representative will provide the final decision in an appealable adverse action covered by this Article to the Employee. The final decision will contain a statement of the employee's right to challenge the actions in one of the following procedures.
  1. An appeal with the Merit Systems Protection Board in accordance with applicable rule law or regulation.

2. A grievance filed in accordance with the negotiated grievance procedures covered by this Agreement, as applicable.
  3. A formal complaint of discrimination filed under the EEO process.
- b. An Employee may elect only one of the three procedures above. Once an Employee has elected one of the procedures above, they may not change thereafter to a different procedure.

**Section 6. Work Status During Notice Period.** Under normal circumstances, an employee for which an appealable adverse action has been proposed will remain in a duty status during the advance notice period. However, Management has the right to assign the employee to other duties or carry an Employee in a paid non-work status until a decision is implemented relative to the proposal, so long as the paid non-work status is consistent with law, rule or regulation.

**Section 7. Shortening Notice Period.** Management at his/her discretion, may shorten the notice period under the Exceptions set forth in 5 C.F.R. 752.404(d).

## ARTICLE 18: ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

### Section 1. General

- a. For purposes of this Article, an action based on unacceptable performance is a reduction in grade or removal of an employee whose performance fails to meet established performance standards in one or more critical elements.
- b. This Article applies to all members of the bargaining unit who have completed a probationary or trial period. Management has the sole discretion to determine if an employee's unacceptable performance shall be addressed through the procedures identified in 5 C.F.R 432 or 5 C.F.R. 752. This Article is only related to actions initiated under 5 C.F.R. 432.

**Section 2. Establishment of Performance Expectations.** Management has sole discretion to determine performance expectations and what constitutes acceptable and unacceptable performance, with respect to each of the specific job elements of the employee's performance plan. Unacceptable performance is defined as performance by an employee that fails to meet one or more critical job elements of his/her performance plan.

**Section 3. Opportunity to Demonstrate Acceptable Performance.** Performance deficiencies should be addressed as soon as they become evident. Many deficiencies may be addressed through interactions between the employee and rating official. An Opportunity to Demonstrate Acceptable Performance (ODAP) notice may be issued at any time during the performance period and not only at the mid-year or end-of-year review.

- a. Before taking an action based on unacceptable performance, Management will notify the employee in writing of the critical element(s) for which performance is unacceptable, inform the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance in his/her position and advise the employee what he/she must do to bring his/her performance up to an acceptable level. Management may give an employee an ODAP notice at any time during the performance appraisal cycle.
- b. Management will provide the employee a thirty (30) calendar day opportunity period (except in rare circumstances when Management determines that a longer period is necessary to provide sufficient time to evaluate an employee's performance) to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position. Management will inform the employee that, unless his/her performance improves to and is sustained at an acceptable level during such period of time, Management may reduce the employee's grade or remove him/her.
- c. Management also will inform the employee that, unless his/her performance in the identified critical element(s) is sustained at an acceptable level for at least one year from receipt of the written notice, Management may reduce the employee's grade or remove him/her.

- d. A grievance may not be filed on the substance or procedural aspects of the ODAP notice, or the action which results from failure during the opportunity period, i.e. removal or reduction in grade.

**Section 4. Continued Acceptable Performance.** When the employee improves identified unacceptable performance to an acceptable level within the improvement period, as specified in Section 3.c. of this Article, but the employee's performance in the same critical element(s) again becomes unacceptable within one year of the initial notice, Management may initiate action to reduce the employee's grade or remove him/her as set forth in Section 5 of this Article without offering another performance improvement period.

**Section 5. Procedures.** Management will follow the procedures outlined in the Adverse Actions Article of this Agreement when proposing and deciding to take an action to remove or reduce in grade an employee for unacceptable performance. An action taken against an employee under this Article must be supported by substantial evidence.

**Section 6. Within-Grade-Increase (WIGI).** A within-grade-increase (WIGI) is a periodic increase in an employee's rate of basic pay from one step of the grade of his/her position to the next higher step of that grade in accordance with applicable law, rule and regulation. WIGIs apply to GS employees who occupy permanent positions and who are paid less than the maximum rate of their grade. WIGIs will be applied in accordance with current law, rule and regulation.

- a. In order to earn a WIGI, an employee's performance must be rated as fully successful or equivalent. When an employee's performance has reached a less than satisfactory performance level and that employee is eligible for a WIGI, the employee must be informed that their WIGI will not be granted.
- b. Upon successful completion of the ODAP, Management shall effect the WIGI in accordance with 5 CFR 531.409, Acceptable Level of Competence Determinations. The WIGI may be retroactive at the discretion of Management and in accordance with law.

**Section 7. Appeal Rights.**

- a. An employee may challenge a removal or demotion decision under this Article in only one of the following ways:
  - 1. By filing an appeal with the MSPB in accordance with applicable law and regulations; or
  - 2. By filing a formal complaint of discrimination filed under the administrative EEO process.
- b. The final decision letter issued to the employee will contain a statement of his or her right to challenge the action in one of these two ways. Once an employee has elected one of these procedures, the employee may not change thereafter to a different procedure.

## **ARTICLE 19: DISCIPLINARY ACTIONS**

**Section 1. Introduction.** This Article applies to all employees who have completed the applicable probationary or trial period, as appropriate.

### **Section 2. Discipline**

- a. The Parties recognize that discipline may be progressive in nature if it is to correct the conduct of an offending Employee. It is understood, however, that progressive discipline need not follow any specific sequence of disciplinary actions and that major offenses may be cause for severe action, including removal, irrespective of whether previous disciplinary or adverse actions have been taken against the offending Employee.
- b. In effecting actions, Management shall give due regard to the existence of mitigating and aggravating circumstances. No employee will be disciplined except for such cause as will promote the efficiency of the service.
- c. Disciplinary actions will be proposed as soon as practicable under the following circumstances:
  - 1. after Management becomes aware of an alleged infraction, regardless of the date of the infraction;
  - 2. if an investigation is conducted, after Management receives an investigative report from an investigating authority.

### **Section 3. Inclusions and Exclusions**

- a. For purposes of this Article, disciplinary actions include Letters of Reprimand, and suspensions of fourteen (14) calendar days or less.
- b. Disciplinary actions exclude counselings, warnings, or guidance, whether oral or in writing.

**Section 4. Disciplinary Action Process.** When Management proposes to take disciplinary action against an Employee, the following procedures will apply:

- a. Advance written notice of the proposed action that specifies the reasons for the proposed action and informs the Employee of his/her rights to review the material that was relied on in proposing the suspension.
- b. The employee will be given eight (8) calendar days from the date h/she is considered to have received the notice of proposed action, to respond orally and/or in writing and to furnish affidavits and other documentary evidence in support of their response. If the employee needs additional time to respond, they must submit a written request for an extension to the Deciding Official and include the reason an extension is needed. Responses submitted after the reply period has ended may be considered only at the discretion of Management.

- c. The Deciding Official may extend the reply period if s/he determines that good cause exists for an extension based on extenuating circumstances. Management will designate an official to hear the Employee's oral response who has the authority to make a final decision on the proposed disciplinary action. The right to answer orally in person does not include the right to a formal hearing with examination of witnesses.
- d. The employee is entitled to be represented by an attorney or other appropriate representative. If the employee elects to have a representative, he/she must inform the deciding official or their designee, in writing, of the representative's name and contact information.
- e. Oral reply meetings where the employee and the deciding official are within the same commuting area may be conducted in person at Management's location or remotely (e.g., tele-conference, web-conference, video-conference), at the discretion of Management. Where the employee and deciding official are not in the same commuting area, the meeting will be conducted remotely (e.g., tele-conference, web-conference, video-conference), absent mutual Agreement otherwise. If the reply meeting is during the course of the employee's scheduled workday and they are required to travel from one duty station to another to submit their reply, that time will be considered duty time.
- f. The employee representative will participate either in person or remotely, at the choice of the employee. However, Management will bear no costs associated with this travel.
- g. A written decision and the specific reasons will be issued to the employee at the earliest practicable date.
- h. The written decision will identify the dates of the suspension, if applicable, and any rights the employee may have, including a statement of the employee's right to challenge the action in one of the following two procedures.
  - 1. A grievance filed under this Agreement; or
  - 2. A formal complaint of discrimination filed under the EEO process.

An Employee may elect only one of the procedures above. Once an Employee has elected one of the procedures listed above by notifying the appropriate official, the employee may not change thereafter to a different procedure.

## **Section 5. Letters of Reprimand**

A reprimand is a written letter to an Employee based on unacceptable conduct or poor performance. Prior notice is not required before the issuance of a reprimand. A reprimand shall state the specific reasons for the action. A reprimand will remain in an Employee's Official Personnel Folder (OPF) for up to two (2) years from the date of issuance, but may be removed by Management, at its sole discretion, anytime within the two-year period. A reprimand shall inform the Employee of his/her appeal/grievance rights as required by law.

## ARTICLE 20: TRAINING

**Section 1.** Management and the Union recognize that the training and development of employees is an important part of Office of Satellite and Product Operations (OSPOs) program for efficient operations. The choice of subject matter, areas for training, selection and assignment of training priorities is a function of Management, as is the responsibility for encouraging learning, providing on the job training and assisting, with the development of skills to stimulate and encourage employees' efforts at self-development.

**Section 2.** Management and the Union recognize that each employee is responsible for applying reasonable effort, time, and initiative toward increasing his or her potential value through self-development training. The Parties, therefore, agree to encourage employees to take advantage of training and educational opportunities, which will add to the skills and qualifications needed to increase their efficiency in the performance of their duties and for possible advancement.

**Section 3.** Management agrees that, subject to the availability of funds, training opportunities shall be offered to employees within and across occupational or position groupings as equitably as is practicable, considering the following factors:

- a. Need for training in relation to the job;
- b. Extent to which knowledge, skill, attitude or performance is likely to be improved by training;
- c. The degree to which NOAA, and NESDIS, expect to benefit from training;
- d. Interest and efforts toward self-development and work improvement;
- e. Potential for advancement;
- f. Ability to pass the training on to others; and
- g. Probability of successful completion of training.

**Section 4.** Management agrees to make available to unit employees, the available current listings, brochures, or announcement of the job-related training courses.

**Section 5.** All new and reassigned employees will be provided with training, to the extent deemed necessary by Management whose decision is final, to meet the requirements of their job assignments. If an employee does not feel training is sufficient, he or she can communicate this to Management, who will make the determination whether training is required. Management's decision shall be final.

**Section 6.** In instances where employees were invited to apply by Management and did apply for consideration to attend external job-related training courses, Management agrees to notify the applicants of their selection or non-selection for the training. In cases of non-selection, the reasons will be given to the employee when requested.

**Section 7.** Management agrees to fully consider the utilization of the training and experience of employees gained through training and individual career development plans.



## **ARTICLE 21: EQUAL EMPLOYMENT OPPORTUNITY**

**Section 1.** The Union agrees to cooperate with Management in providing equal opportunity in employment for all persons to prohibit discrimination because of age, race, color, religion, sex, national origin, political affiliation, marital status or physical handicap and to promote full realization of equal employment opportunity through a continuing affirmative program.

**Section 2.** The Union will be furnished copies of the EEO (Affirmative Action) plans which apply to employees covered by this Agreement. Union input is encouraged and will be considered in the development of the NESDIS Affirmative Action Plan.

## ARTICLE 22: SAFETY AND HEALTH

**Section 1.** It is the responsibility of Management and the employees to provide and maintain safe working conditions. The Union will cooperate with and assist Management and the employees to live up to this responsibility.

**Section 2.** Management will encourage and expect all employees to comply with all applicable safety rules and regulations as established by NOAA, DOC, OSHA and NFPA 70E. Management and the Union insist on the observance of safety rules and safe procedures by all employees and insist on correction of unsafe conditions.

**Section 3.** Employees are responsible for advising Management when unsafe conditions arise within their work area. When employees become aware of an unsafe working condition, reports shall be made to OSPO supervisors/managers using the DOC Form CD-351, Report of Possible Safety/Health Hazard. There will be no restraint or reprisal to any employee as a result of reporting an unsafe practice or condition. Management will investigate all reports and determine whether unsafe working conditions exist. If necessary, Management will take steps to correct any such unsafe working conditions.

**Section 4.** Employees may voluntarily participate in immunization programs when NOAA can provide such services. Arrangements for these programs will be made locally. The Union encourages the unit members to participate in NOAA Health Programs and any other services made available to the employees.

**Section 5.** CPR, AED, and first aid training will be given to employees who work on energized equipment in accordance with NFPA 70E. Duty time will be provided to employees who work on energized equipment and need to complete required training.

**Section 6.** The Parties encourage other employees to take advantage of specialized health and safety expertise offered by professional groups, such as the American Red Cross, Fire Departments, Rescue Squads and other local community groups. When requested by the employees, Management shall make a reasonable effort to provide formal, locally administered, first aid and cardiopulmonary resuscitation (CPR) courses. Excused absence or duty time may be provided to employees as appropriate and approved in advance.

**Section 7.** The Parties agree that other than to test/troubleshoot no one should ever work on any electrical equipment that remains energized. However, if it is unavoidable to do so, any employee working on exposed energized equipment in excess of 50 volts shall have a qualified worker who has been trained on CPR present. Present means within visual sight and close enough to prevent other people from entering the area immediately around the employee working on the energized circuit. The Qualified worker acting as a Safety observer will have access to the communication equipment necessary to summon help immediately to allow trained medical personnel to arrive promptly (within OSHA requirements) in the event of an electrical shock to the employee or an arc flash should occur. The Safety Observer will have access to an AED and a First Aid kit readily available. If an employee feels that these safety provisions are not present, and that proceeding with the work could result in injury or death, the employee should immediately contact

Management to address the issue and ensure that the work is deemed safe prior to proceeding. If working on live equipment operating at 50 volts or higher, the Management official and the employee will review the Job Safety/Hazard Analysis for the assigned task in question. If the employee disagrees with the Job Safety/Hazard Analysis the employee will have the right to raise their concerns/discrepancies to a higher level of supervision and/or safety official.

**Section 8.** When an employee becomes seriously ill or injured at work, Management shall contact the appropriate emergency medical services as needed to ensure the employee receives immediate medical care. If requested by the employee, or if the employee is unable to request on his or her own behalf, a Management official shall notify the employee's emergency contact of record or party designated by the employee, of the occurrence, status and location of the employee if known.

**Section 9.** When an employee is unable to do so because of incapacitation, Management shall make every reasonable effort to assist, on the behalf of the employee, the employee's family or employee representative, in preparing and filing appropriate documents for any entitlements, which may be due to the employee or the employee's family.

**Section 10.** Employees are required to immediately report to their supervisor any accident or injury, major or minor, which occurs on the job, in the workplace, or while on official travel. When an employee suffers a work-related illness, the employee must advise the supervisor as soon as possible. If the employee is medically unable to notify the supervisor of the accident or injury, an authorized representative or accident/injury witness may inform the supervisor. The supervisor will provide the appropriate forms, such as a CA-1 or CA-2, or their electronic equivalent, to be completed by the employee or their designee, as appropriate. If requested by the employee, his/her supervisor will assist the employee in the completion of the appropriate workers compensation benefit forms to the extent possible. The Parties recognize that the Office of Workers' Compensation Programs (OWCP), Department of Labor (DOL), approves or disapproves workers compensation claims and the amounts to be paid, and that Management has no control over the DOL OWCP. Regulations covering traumatic injury or occupational illness are defined in Department Administrative Order (DAO) 202-810.

**Section 11.** An employee recuperating from a non-job-related illness or injury and who is temporarily unable to safely perform the duties of his or her assigned position without additional risk or harm to the employee or his or her co-workers, may submit a written request to his or her supervisor for temporary assignment to productive duties commensurate with the disability and the employee's qualifications. The employee shall provide administratively acceptable evidence signed by a licensed/registered physician, or other practitioner, attesting to the illness or injury and the probable length of the employee's disability. Management shall give proper and due consideration to the employee's request. If the criterion for a Reasonable Accommodation is met the employee may use those procedures.

**Section 12.** The Parties agree that it is not intended for an employee to be exposed to unsafe working conditions beyond requirements imposed by the job. Such conditions shall be regulated by applicable laws, regulations and Agency publications.

**Section 13.** In the event of construction, remodeling, or the use of hazardous chemicals within an occupied facility, Management will ensure that proper safeguards are put in place to prevent injury, illness or exposure to hazardous conditions. Management will notify the Union if Management determines that there may be an adverse impact on employees, and provide the Union an opportunity to engage in bargaining in accordance with Article 7.

**Section 14.** Employees who perform duty involving exposure to hazardous conditions or physical hardships may be entitled to hazardous duty pay differentials, as appropriate, when required by applicable law and regulations.

**Section 15.** To ensure the safety and health of handicapped employees, Management will make facilities accessible to the handicapped in accordance with applicable Federal laws, rules, and regulations.

## **ARTICLE 23: TRAVEL, TEMPORARY DUTY (TDY), AND COOP**

**Section 1.** Travel, TDY, and COOP shall be in accordance with law, government-wide rules and regulations, Agency Continuity of Operations Plans (COOP), including applicable Federal Travel Regulations.

**Section 2.** Employees required to travel shall be given as much advance notice as is practicable prior to the anticipated travel.

**Section 3.** To the maximum extent practicable, the Agency shall schedule the time to be spent by an employee in a travel status away from his or her official duty station within the employee's regularly scheduled tour of duty.

**Section 4.** All travel arrangements and authorizations for expenses will be booked for approval using the approved DOC/NOAA travel system. Those employees who have a valid government credit card for travel purposes may use such credit card to obtain necessary and appropriate cash advances, in accordance with applicable Federal Travel Regulations.

**Section 5.** Management may decide to grant an appropriate amount of administrative/weather leave to emergency employees who are required to report for duty and who demonstrate they have made a diligent effort to get to work on time but are prevented from doing so because of hazardous weather related emergencies.

**Section 6.** Employees will be given a two-pay period notice when deploying in connection or participating in a COOP exercise to the maximum extent possible. The notice will include the dates and location of the COOP exercise. Additionally, the notice will include the schedule of the bargaining unit employee. Within this notification period, employees will confirm their hotel reservation. The Management notification will be made in person, by phone, or via email to the employee. If unable to reach the employee, a voice mail will be left, and this will serve as notice. If Management leaves a message, then the employee is expected to return the call to acknowledge receipt.

**Section 7.** Employees who, as part of their duties, must operate vehicles over public roads, highways, or interstate throughways shall not be required to physically operate a vehicle without relief, in excess of any duty period to exceed fourteen hours. The employee(s) will have the right to a minimum of eight (8) hours rest after exceeding the fourteen (14) hours.

**Section 8.** To ensure an employee(s)' safety, the employee will not be compelled to ride as a passenger driven by any government employee when they feel it is unsafe.

**Section 9.** OSPO COOP locations are identified in each locations COOP. If COOP locations change, employees and the Union will be notified. Management typically schedules a COOP exercise annually. An employee directed to attend a COOP exercise and/or event may find a volunteer to replace them, subject to Management approval. If denied, the reason will be given to the employee in writing.

## **ARTICLE 24: REDUCTION IN FORCE, TRANSFER OF FUNCTION OR REORGANIZATION**

**Section 1.** Management and the Union jointly recognize that occasions may arise where adjustments of the work force may be necessary by Reduction-In-Force (RIF), Transfer of Function, or Reorganization.

**Section 2.** The Union will be informed of any RIF, Transfer of Function, or Reorganization that affects bargaining unit employees and changes to their conditions of employment prior to official employee notification. The notification to the Union will include reasons for the RIF, Transfer of Function or Reorganization, the number of specific BUEs affected and approximate date individual employees will be affected. The information furnished to the Union will be held in strict confidence. No specific information shall be furnished to employees until a final decision is made. The Union can attend any formal meetings conducted by Management with Unit employees to explain the procedures and answer any questions. Management will notify the Union in accordance with Article 7 as applicable.

**Section 3.** Management will attempt to assist in the placement of employees who may be adversely impacted by a RIF, Transfer of Function, or Reorganization.

## ARTICLE 25: FURLOUGH

**Section 1.** The Parties agree to the following procedures for Furlough.

### Definitions:

- a. "Administrative" furlough is a planned event by the Agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget situation other than a lapse in appropriations.
- b. "Shutdown" furlough occurs when there is a lapse in appropriations or authorization, and can occur at the beginning of a fiscal year, if no funds have been appropriated for that year, or upon expiration of a continuing resolution, if a new continuing resolution or appropriations law is not passed. In a shutdown furlough, an affected Agency would have to shut down any activities funded by annual appropriations that are not excepted by law. Typically, an Agency will have very little to no lead time to plan and implement a shutdown furlough.
- c. "Exempt" from furlough employees are not affected by a lapse in appropriations. This includes employees who are not funded by annually appropriated funds. Employees performing those functions will generally continue to be governed by the normal pay, leave, and other service rules.
- d. "Excepted" employees refers to employees who are funded through annual appropriations but are excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations or authorization. Excepted employees include employees who are performing emergency work involving the safety of human life or the protection of property, or certain other types of excepted work. Emergency employees are not automatically deemed excepted employees for the purpose of shutdown furloughs.
- e. "Non-Excepted" Employees who are not designated as "excepted" are barred from working during a shutdown, except to perform minimal activities as necessary to execute an orderly suspension of Agency operations related to non-excepted activities. These employees will be furloughed.
- f. "RDO" means "Regular Day Off" when referring to an employee's work schedule.
- g. "Authorized Absence" means an absence from work approved by Management during a Shutdown Furlough.

### Section 2. Furlough Procedures

- a. Management shall provide furlough notifications to all effected bargaining unit employees in person, by phone and/or by email notification.

- b. A non-excepted employee whose RDO falls on the first day of a furlough will report on their next scheduled workday, unless directed otherwise by Management. At a minimum the employee must coordinate with Management prior to the furlough regarding when they will perform any necessary shutdown tasks.
- c. Excepted employees who are assigned to an operational unit and are on official time will revert to their excepted status position during a furlough.

### **Section 3. Leave**

- a. Excepted employees who are required to perform work during a lapse in appropriations "shall be entitled to use leave" under 5 U.S.C. chapter 63, if applicable, and in accordance with Article 12 of the CBA, but that compensation for the leave will be paid after the lapse ends. Any leave that has been approved may be canceled. Canceled or interrupted annual or sick leave is not forfeited, but may be used at a later date pursuant to Agency and government-wide rules and regulations governing the use of leave.
- b. The use of such paid leave is subject to the applicable rules for the leave program, including leave request and approval procedures. While excepted employees have the option to use their paid leave (i.e. establish entitlement to paid leave to be paid after the lapse ends), they are not required to use leave to cover periods of authorized absence from work. Instead, they may choose to remain in the default status of being furloughed during any such authorized absence during the lapse. Employees must advise their Supervisor of their election either to take leave or to be furloughed. We expect employees generally to choose to allow the default furlough status to be applied to any authorized absence.
- c. If an employee has pre-approved leave and/or are out on approved leave and a furlough occurs, the employee will contact their supervisor for reporting instructions. Management will contact any employees that are in a pre-approved leave status to provide instruction. Requests for leave during the furlough will be handled in accordance with Article 12 of this CBA.

### **Section 4. Restoration of Forfeited Annual Leave**

- a. Employees should make every effort to use any "use or lose" annual leave throughout the entirety of the leave year. However, if this is not possible due to a furlough, the employee may request restoration of leave in the amount permitted by government-wide rule and regulation if they were prevented from using their "use or lose" annual leave due to a shutdown furlough.
- b. Restoration Deadline, often referred to as the "Use-or-Lose Request Deadline," means the last day annual leave must be scheduled and approved, in writing, in order to qualify for restoration (except restoration that results from an administrative error). This date is set by the Office of Personnel Management each year and is generally the last day of Pay Period 23, typically before the end of November. After the established deadline, leave not scheduled for the current pay year will not be restored.



**Section 5. Details.** Employees who are on detail before a furlough occurs will be informed of the Agency's furlough policies and procedures and any changes to their details if necessary.

**Section 6. Travel.** Employees who are on government travel when a furlough occurs must contact their supervisor to determine if they should return home as soon as practicable, or if they are to remain on travel as the continuation of travel is in direct support of an excepted Agency activity.

**Section 7. Performance Appraisals.** Allowances for the effects of a furlough on employees regarding assigned work may be made when applying the performance appraisal system.

**Section 8. Return to Work After a Furlough.** During a shutdown furlough, employees should monitor the Office of Personnel Management's (OPM) website, and media outlets for notification that the President has signed a continuing resolution or appropriated funds. Management will attempt to provide sufficient notice of expected return to duty to employees to avoid any instances of employees losing pay and/or being placed in an Absent without Leave (AWOL) status. However, these notices advising employees when they should return to work at the conclusion of a shutdown or furlough would have to be tailored to the specific situation. Employees on furlough should expect to return to work on their next scheduled workday following the President's signing of a continuing resolution or appropriation of funds.

## **ARTICLE 26: CONTRACTING OUT**

**Section 1.** Management reserves its rights under Article 4 (Management Rights), particularly the right "to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted." Management may act on contracting out as follows.

**Section 2.** For encumbered Federal positions within the Bargaining unit, Management agrees to inform the Union regarding a proposed action to contract out functions normally performed by a bargaining unit employee when Management determines that the unit employee would be adversely impacted. Management agrees to notify the Union of the pending change and to discuss the adverse impact to the bargaining unit employee.

**Section 3.** For vacant Federal positions within the Bargaining unit, Management may decide how best to fill the position in accordance with law, rule, and regulation.

**Section 4.** For both encumbered and vacant contractor positions, Management has sole discretion to incorporate or merge the functions into Federal positions. If a change in conditions of employment arises because of a contracting out action, the Agency will notify the Union and follow the procedures outlined in Article 7 of this Agreement.

## **ARTICLE 27: BULLETIN BOARDS AND PUBLICATIONS**

**Section 1.** Bulletin board spaces shall be made available in designated areas for the display of Union literature, correspondence, notices, etc. Management-designated spaces will be provided in each of the following locations upon request: One in Wallops Island, VA; Two in Suitland, MD; and One in College Park, MD. The Union will provide Management with a bulletin board for each location not to exceed 3ft x 5ft in size. Management agrees to post the bulletin board in a location easily accessible by bargaining unit employees.

**Section 2.** The Union is responsible for the content of all Union materials posted or distributed.

**Section 3.** Management will prepare and print ten (10) copies of this Agreement for use and distribution by Union and Management.

## **ARTICLE 28: AWARDS**

**Section 1.** Recognition by awards is a means of improving employee morale, efficiency, and productivity, and encouraging all team members to work together towards the achievement of Agency goals. All awards shall be issued in accordance with applicable law, regulation, government-wide rule, and Agency policy. All awards are contingent upon the availability of funds and budgets and are the exclusive right of Management. Awards are not guaranteed and are based solely at Management's discretion. Management will make every effort to ensure that awards are distributed fairly and equitably.

**Section 2.** No later than 31 December of each year, Management shall furnish the Union a list of awards made to bargaining unit employees within the preceding fiscal year. This list will include the employee's position title, the type of award received (i.e. performance, on the spot, etc.), and the monetary amount of the award, if any, unless release of this information is prohibited by law.

## ARTICLE 29: UNION DUES

**Section 1.** Eligible employees who are members of the Union are permitted to pay dues through the authorization of voluntary allotments from their compensation. This article covers all eligible employees:

- a. Who are members in good standing in the Union;
- b. Who voluntarily complete Standard Form 1187, Request and Authorization for Voluntary Allotment of Compensation for payment of Employee Organization Dues;
- c. Who receive compensation sufficient to cover the total amount of the allotment; and
- d. Who are in an exclusive bargaining unit and are members of a local Union holding exclusive recognition in that unit. The provisions of this Article are subject to, and will be governed by, applicable Federal laws, rules and regulations issued by the Office of Personnel Management, Federal Labor Relations Authority, and Department of Commerce regulations, and will be modified by any future amendments thereto.

**Section 2.** The Union is responsible for:

- a. Notifying the NOAA Labor Relations Office in writing of:
  1. Current authorized names and titles of officials who will make the necessary certification of Standard Form 1187 in accordance with this Article.
  2. Any change in the amount of dues to be deducted.
  3. Any employee who is no longer in good standing within 10 calendar days of the date of such determination.
- b. Forwarding properly executed and certified Standard Form 1187 to the servicing Employee & Labor Relations Specialist on a timely basis;
- c. Keeping the NOAA Labor Relations Office informed of the name, title and address of the allottee to whom remittance should be sent, by submitting a completed Direct Deposit Standard Form 1199A which includes NWSEO's current financial institution information.
- d. Keeping the NOAA Labor Relations Office informed of the allottee to whom checks shall be payable, to include the current address.

**Section 3.** NOAA is responsible for:

- a. Permitting and processing voluntary allotment of dues in accordance with this Article;
- b. Withholding dues on a bi-weekly basis;

- c. Notifying the Union when an employee is not eligible for an allotment;
- d. Withholding new amounts of dues upon certification from the authorized Union official;
- e. Transmitting remittance checks or electronic funds transfer each pay period to the allottee designated by the Union including a listing of employees for whom deductions were made. Each remittance listing shall include the name of each employee for whom a deduction has been authorized during the current pay period and:
  - 1. the amount withheld and;
  - 2. the reason for no deduction, such as, "wages inadequate," "organization cancellation," "employee separated," "temporary promotion," or canceled due to promotion."

#### **Section 4. Joint Stipulations**

- a. The amount of the dues to be deducted as allotments from compensation will normally not be changed more frequently than once each twelve (12) months.
- b. The Union will maintain a roster of the anniversary dates of all members and will notify them annually of their upcoming anniversary date at least two months before the anniversary date.
- c. Administrative errors in dues remittance will be corrected and adjusted in the next dues remittance to be issued to the employee organization. If the Union is not scheduled to receive a remittance check after discovery of an error, the gaining party agrees to promptly refund the erroneous remittance.

#### **Section 5. The effective dates for actions under this Agreement are as follows:**

- a. Starting dues withholding: First pay period after date of receipt of properly executed and certified Standard Form 1187 by Payroll office. An employee must remain on payroll deduction for one (1) year after commencement of dues withholding.
- b. Changes in amounts of dues: First pay period after receipt of certification in Payroll office.
- c. Revocation by employee: First pay period after receipt of properly executed and signed by the NWSEO President of a standard Form 1188 from the employee. The Standard Form 1188 will then be forwarded to the servicing Employee & Labor Relations Specialist for processing.
- d. Termination due to loss of membership in good standing: First pay period after receipt of notification in Payroll office.
- e. Termination due to loss of exclusive recognition on which allotment was based: First pay

period after receipt of notification in Payroll office.

- f. Termination due to separation or movement to an area not covered by this Agreement:  
First pay period after receipt of notification in Payroll office.

**Section 6.** The Union is responsible for informing its members of the voluntary nature of the system for the allotment of employee organization dues and of the conditions under which the allotment may be revoked once a year. Employees may revoke their dues once a year by close of business on the employee's membership anniversary, but not earlier than the fourteen (14) calendar day period immediately preceding that date. Timely and properly executed requests for revocation of dues shall be submitted to the designated Union representative and subsequently forwarded to [Membership@NWSEO.org](mailto:Membership@NWSEO.org) for processing. An untimely request shall be returned to the employee.

**Section 7.** Union Grievances on alleged violations of this Article will be submitted by the President, NWSEO, or designee, to the servicing NOAA Employee & Labor Relations Specialist within thirty (30) calendar days of the action or condition giving rise to the action. Decisions by the NOAA Employee & Labor Relations Specialist shall be rendered in writing no later than 30 calendar days following receipt of the grievance.

**Section 8.** If NOAA and NWSEO come to a new Agreement concerning dues, then the new Agreement will supersede this article. In that case, the new Agreement will become Article 29. The Parties agree to amend the CBA in this manner to replace this article.

## **ARTICLE 30: AMENDMENTS TO AGREEMENT**

**Section 1.** This Agreement may be opened at any time for amendment provided that both Parties mutually agree. Any request for amendment shall be in writing and must be accompanied by a summary of the amendment proposed. Within a reasonable time of receipt of such request, representatives of Management and the Union will meet to negotiate the matter. No changes other than those covered by the summary shall be considered. Agreement shall be evidenced by written amendment duly executed by both Parties. No other type change to the Agreement shall be recognized.

**Section 2.** Amendment to this Agreement may be required because of changes in applicable laws, rules, regulations, or policies issued by higher authority after the effective date of this Agreement. In this event the Parties will meet for the purposes of negotiating new language that will meet the requirements of such higher authority. Such amendments will be duly executed and will become effective on a date determined to be appropriate under the circumstances.



## **ARTICLE 31: DURATION AND TERMS OF AGREEMENT**

**Section 1.** This Agreement is effective on the date it is approved by the head of the Agency or, absent approval or disapproval, on the 31<sup>st</sup> day after execution. It shall remain in full force and effect for a period of five (5) years from its effective date. It shall remain in effect from year to year thereafter until either party gives written notice of its desire to renegotiate, amend or terminate the Agreement. Such notice shall be served on the other party between 105 days and 60 days prior to the expiration date of the Agreement.

**Section 2.** Once notice is given under Section 1, the moving party must submit its proposal(s) to the other party not less than 30 calendar days before the expiration date. The party receiving the proposal(s) may submit counter-proposals and/or proposals to the other party during the next 30-day period. If negotiations on a new Agreement are not concluded prior to the expiration date, this Agreement shall continue in full force until a new Agreement has been approved.

**Section 3.** When notice of desire to re-open, amend, modify, or terminate is given, the Parties shall confer within ten (10) business days to schedule a meeting for the purpose of negotiating ground rules for the conduct of negotiations on a new Agreement.

## Signature Page

This document constitutes Agreement between the DOC, NOAA, National Environmental Satellite, Data, and Information Service (NESDIS), Office of Satellite and Product Operations, and the National Weather Service Employees Organization (NWSEO) on the Collective Bargaining Agreement that precedes this signature page. This Agreement becomes effective on the date it is approved by the head of the Agency or, absent approval or disapproval, on the 31<sup>st</sup> day after the execution date below in accordance with 5 U.S.C. §7114(c)(2), whichever is earlier.

### For Management

MARLOW.RICHARD. Digitally signed by  
GREGORY.1522118 MARLOW.RICHARD.GREGORY.15  
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Richard G. Marlow, Director  
NOAA/NESDIS  
Office of Satellite and Product Operations

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AVERNE.10597813 WRIGHT.PAMELA.LAVERNE.10597  
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Pamela Wright, Management Representative  
NOAA/NESDIS  
Office of Satellite and Product Operations

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IGH.1045095785 WELLER.JOSIE.LEIGH.1045095785  
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Josie Weller, Chief Negotiator  
NOAA/Office of Human Capital Services  
Workforce Relations Division

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Date Signed/Executed

### For the Union

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Hugh Sharkey, Chief Negotiator  
Regional Chairperson  
NESDIS/NWSEO

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Arla Tillman, Negotiator  
Vice Regional Chairperson  
NESDIS/NWSEO

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Date Signed/Executed