

COLLECTIVE BARGAINING AGREEMENT
between the
COMMONWEALTH OF MASSACHUSETTS
and the
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES
UNIT 3

July 1, 2009 – June 30, 2012

TABLE OF CONTENTS

<u>SUBJECT</u>		<u>PAGE</u>
PREAMBLE		4
ARTICLE 1	RECOGNITION	5
ARTICLE 2	MANAGERIAL RIGHTS/PRODUCTIVITY	6
ARTICLE 2A	RULES AND REGULATIONS	7
ARTICLE 3	UNION SECURITY	8
ARTICLE 4	AGENCY FEE	9
ARTICLE 5	UNION BUSINESS	11
ARTICLE 6	ANTI-DISCRIMINATION/AFFIRMATIVE ACTION	15
ARTICLE 6A	MUTUAL RESPECT	17
ARTICLE 7	WORKWEEK AND WORK SCHEDULES	18
ARTICLE 8	LEAVE	21
ARTICLE 9	VACATIONS	32
ARTICLE 10	HOLIDAYS	36
ARTICLE 11	EMPLOYEE EXPENSES	38
ARTICLE 12	SALARY RATES	40
ARTICLE 13	GROUP HEALTH INSURANCE CONTRIBUTION	43
ARTICLE 13A	HEALTH AND WELFARE	44
ARTICLE 13B	TUITION REMISSION	45
ARTICLE 13C	DEPENDENT CARE	46
ARTICLE 14	PROMOTIONS	47
ARTICLE 15	CONTRACTING OUT	52
ARTICLE 16	OUT OF TITLE WORK	53
ARTICLE 17	CLASSIFICATION AND RE-CLASSIFICATION	54
ARTICLE 17A	TECHNOLOGICAL CHANGE	55
ARTICLE 18	LAY-OFF/RECALL PROCEDURE	58
ARTICLE 19	SAFETY AND HEALTH	62
ARTICLE 19A	MANAGEMENT DIRECTIVES	64
ARTICLE 20	REASSIGNMENTS	65
ARTICLE 20A	EMPLOYEE LIABILITY	66
ARTICLE 21	CREDIT UNION DEDUCTION	67
ARTICLE 22	ARBITRATION OF DISCIPLINARY ACTION	68
ARTICLE 23	GRIEVANCE PROCEDURE	69
ARTICLE 24	PERSONNEL RECORDS	73
ARTICLE 24A	PERFORMANCE EVALUATION	74
ARTICLE 25	STATE-WIDE LABOR/MANAGEMENT COMMITTEE	76
ARTICLE 26	NO STRIKES	77
ARTICLE 27	SAVING CLAUSE	78
ARTICLE 28	RE-OPENER	79
ARTICLE 29	APPROPRIATION BY THE GENERAL COURT	80
ARTICLE 30	DURATION	81

APPENDIX A-1	SCHEDULES OF BIWEEKLY SALARY RATES	83
APPENDIX A-2	SCHEDULES OF BIWEEKLY SALARY RATES	84
APPENDIX A-3	SCHEDULES OF BIWEEKLY SALARY RATES	85
APPENDIX B	GRIEVANCE /WAIVER FORM	86
APPENDIX C	NON-SELECTION FORM	87
APPENDIX D-1	EMPLOYEE FMLA FORM	88
APPENDIX D-2	FAMILY MEMBER FMLA FORM	93
M.O.U.	ADOPTION ASSISTANCE PROGRAM	98
M.O.U.	DIRECT DEPOSIT OF SALARIES	99
M.O.U.	PART-TIME EMPLOYEES/OVERTIME/SICK LEAVE	100
M.O.U.	UNION BUSINESS LEAVE	101
M.O.U.	SKILLED TRADE POOL PILOT PROGRAM	102
M.O.U.	SICK LEAVE USE	103
M.O.U.	MBTA PASSES	104
M.O.U.	OUT-OF-TITLE ASSIGNMENTS AT DOT	105
APPENDIX D	EXPEDITED ARBITRATION	106
CODE OF CONDUCT		107

PREAMBLE

This Collective Bargaining Agreement entered into this _____ day of _____ by the Commonwealth of Massachusetts acting through the Commissioner of Administration and Finance and his/her Human Resources Division, hereinafter referred to as the "Employer", "HRD" or the "Commonwealth"; and by the National Association of Government Employees, hereinafter referred to as the "Union", Local R1-219; and has as its purpose the promotion of harmonious relations between the Union and the Employer. To this end, the parties recognize the importance of dealing with one another with mutual respect and dignity.

ARTICLE 1 RECOGNITION

Section 1.1

The Commonwealth recognizes the Union as the exclusive collective bargaining representative of employees of the Commonwealth in job titles in Unit 3, as certified by the Labor Relations Commission in its Certification of Representation dated December 19, 1996 (Case No. SCR-2225) with subsequent amendments.

In order to establish and maintain clear and concise employee/labor relations policy, the parties agree that the Human Resources Division, on behalf of the Secretary of Administration and Finance, is solely responsible for the development and implementation of all employee relations policies. Only the Human Resources Division has the authority to make commitments or agreements with respect to wages, hours, standards of productivity, performance and any other terms and conditions of employment, with NAGE as the exclusive union representative for Bargaining Unit 3.

Section 1.2

A. As used in this contract the term "employee" or "employees" shall include full-time and regular part-time persons employed by the Commonwealth in job titles in the bargaining unit included in Section 1 above, and seasonal employees whose employment is for a period of ninety (90) consecutive days or more.

B. Exclusion:

1. all managerial and confidential employees;
2. all employees employed in short term jobs established by special federal or state programs such as summer jobs for underprivileged youths and;
3. all intermittent employees (except as defined by HRD Regulations); and
4. all "03" or "07" consultants in accordance with past practice and the understanding of the parties.

C. A full-time employee is defined as an employee who normally works a full workweek and whose employment is expected to continue for twelve (12) months or more, or an employee who normally works a full workweek and has been employed for twelve (12) consecutive months or more.

A regular part-time employee is defined as an employee who is expected to work fifty percent (50%) or more of the hours in a work week of a regular full-time employee in the same title.

An intermittent employee is defined as an employee who is neither a full-time nor a regular part-time employee and whose position has been designated as an intermittent position by his/her Appointing Authority.

ARTICLE 2 MANAGERIAL RIGHTS/PRODUCTIVITY

Section 2.1

Except as otherwise limited by an express provision of this Agreement, the Employer shall have the right to exercise complete control and discretion over its organization and technology including but not limited to the determination of the standards of services to be provided and standards of productivity and performance of its employees; establish and/or revise personnel evaluation programs; the determination of the methods, means and personnel by which its operations are to be conducted; the determination of the content of job classifications; the appointment, promotion, assignment, direction and transfer of personnel; the suspension, demotion, discharge or any other appropriate action against its employees; the relief from duty of its employees because of lack of work or for other legitimate reasons; the establishment of reasonable work rules; and the taking of all necessary actions to carry out its mission in emergencies.

Section 2.2

Delivery of services to the public in the most efficient, effective, and productive manner is of paramount importance to the Employer and the Union. Such achievement is recognized to be a goal of both parties as they perform their respective roles and meet their responsibilities.

Section 2.3

It is acknowledged that during the negotiations which resulted in this Agreement, the Union had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining. Therefore, for the life of this Agreement, this Agreement shall constitute the total agreement between the parties, and the Union agrees that the Employer shall not be obligated to any additional collective bargaining.

Section 2.4

Any prior agreement covering employees in this bargaining unit shall be terminated upon the effective date of this Agreement and shall be superseded by this Agreement.

ARTICLE 2A
RULES AND REGULATIONS

The Rules and Regulations governing Vacation Leave, Sick Leave, Travel, Overtime, Military Leave, Court Leave, Other Leave, Charges and State Personnel, Accident Prevention, as authorized by Section 28 of Chapter 7 of the General Laws (Red Book) and those Rules and Regulations governing Classifications, Salaries, Allocations, Individual Reallocations, Salary Increments as authorized by Section 45(5) and Section 53 of Chapter 30 of the General Laws (Gray Book) shall not apply to employees covered by this Agreement.

ARTICLE 3 UNION SECURITY

Section 3.1

The Union shall have the exclusive right to the check-off and transmittal of Union dues on behalf of each employee.

Section 3.2

An employee may consent in writing to the authorization of the deduction of Union dues from his/her wages and to the designation of the Union as the recipient thereof. Such consent shall be in a form acceptable to the Employer, and shall bear the signature of the employee. An employee may withdraw his/her Union dues check-off authorization by giving at least sixty (60) days notice in writing to his/her department head.

Section 3.3

An employee may consent in writing to the authorization of the deductions of an agency fee from his/her wages and to the designation of the Union as the recipient thereof. Such consent shall be in a form, acceptable to the Employer, and shall bear the signature of the employee. An employee may withdraw his/her agency fee authorization by giving at least sixty (60) days notice in writing to his/her department head.

Section 3.4

The Employer shall deduct dues or an agency fee from the pay of employees who request such deduction in accordance with this Article and transmit such funds in accordance with departmental policy as of July 1, 1976 to the comptroller of the Union together with a list of employees whose dues or agency fees are transmitted provided that the State Treasurer is satisfied by such evidence that he may require that the comptroller of the Union has given to the Union a bond, in a form approved by the Commissioner of the Department of Revenue, for the faithful performance of his/her duties, in a sum and with such surety or securities as are satisfactory to the State Treasurer.

Section 3.5

When a Unit 3 employee is promoted or changes job titles within Unit 3 or is recalled from layoff, or returns from an authorized leave of absence without pay, the employee shall continue with his/her dues deduction and no new dues deduction authorization card will be requested, if at the time of his/her change of status there is in effect a current dues deduction card authorizing dues to be deducted and paid to the Union. Notification of any cancellation of dues deduction will be sent to the Union in accordance with Article 5.7.E. In any event there shall be no liability on the part of the Employer under this section.

Section 3.6

The parties agree that it is the sole responsibility of an employee who promotes to a management position title, or out of the bargaining unit, to notify the Department/Agency payroll office to cease any/all union dues deductions.

Section 3.7 Political Education Fund

Deductions for the purposes of a political education fund shall be made in accordance with section 17 J of Chapter 180 of the Massachusetts General Laws.

Any employee who objects to said political education fund fee may terminate his/her deduction by notifying his/her payroll clerk and the Union on a form provided by the Union.

ARTICLE 4 AGENCY FEE

Section 4.1

Each employee who elects not to join or maintain membership in the Union shall be required to pay as a condition of employment, beginning thirty (30) days following the commencement of his/her employment or the date of the signing of this Agreement, whichever is later, a service fee to the Union in any amount that is proportionally commensurate with the cost of collective bargaining and contract administration, but not to exceed the amount of periodic dues paid by employees who are members of the Union.

Any agency fee shall be calculated in accordance with the provisions of Chapter 150E and regulations adopted thereunder and shall not include costs for the following activities:

- 1) contributions to political candidates or political committees formed for a candidate or political party;
- 2) publicizing of an organizational preference for a candidate for political office;
- 3) efforts to enact, defeat, repeal or amend legislation unrelated to the wages, hours, standards of productivity and performance, and other terms and conditions of employment, and the welfare or the working environment of employees represented by the exclusive bargaining agent or its affiliates;
- 4) contributions to charitable, religious or ideological causes not germane to its duties as the exclusive bargaining agent;
- 5) benefits, which are not germane to the governance or duties as bargaining agent, of the exclusive bargaining agent or its affiliates and available only to the members of the employee organization.

Section 4.2

This Article shall not become operative as to employees in the bargaining Unit 3 certified to the Union until this Agreement has been formally executed, pursuant to a vote of a majority of all employees in bargaining Unit 3 present and voting.

Section 4.3

The Union shall reimburse the Employer for any expenses incurred as a result of being ordered to reinstate an employee terminated at the request of the Union for not paying the agency fee. The Union will intervene in and defend any administrative or court litigation concerning the propriety of such termination for failure to pay the agency fee. In such litigation the Employer shall have no obligation to defend the termination.

Section 4.4

Disputes between the parties concerning this Article shall be resolved in accordance with the grievance procedure contained in this Agreement.

In the event such a dispute is submitted to arbitration, the arbitrator shall have no power or authority to order the Employer to pay such service fee on behalf of any employee. If the

arbitrator decides that an employee has failed to pay or authorize the payment of the service fee in accordance with this Article, the only remedy shall be the termination of the employment of such employee if the employee continues to refuse to pay or authorize payment of the required service fee after sufficient time to do so.

Section 4.5

All members of the bargaining unit shall be entitled to representation and to all the rights and benefits provided under this agreement without regard to their membership, non-membership, or agency fee status within the Union or its affiliates.

ARTICLE 5 UNION BUSINESS

Section 5.1 Union Representation

Union staff representatives shall be permitted to have access to the premises of the Employer for the performance of official Union business, provided that there is no disruption of operations. Requests for such access will be made in advance and will not be unreasonably denied. The Union will furnish the Employer with a list of staff representatives and their areas of jurisdiction.

Section 5.2 Grievance Processing

Union stewards or Union officials shall be permitted to have time off without loss of pay for the investigation and processing of grievances and arbitrations. Requests for such time off shall be made in advance and shall not be unreasonably denied. The Union will furnish the Employer with a list of Union stewards and their jurisdictions. The Union shall delineate the jurisdiction of Union stewards so that no steward need travel between work locations or sub-divisions thereof while investigating grievances.

Grievants shall be permitted to have time off without loss of pay for processing their grievances through the contractual grievance procedure, except that for class action grievances no more than three (3) grievants shall be granted such leave.

Section 5.3 Paid Leave of Absence For Union Business

Leave of absence without loss of wages, benefits or other privileges may be granted to elected delegates of the Union to attend NAGE conventions and conventions of the State, AFL-CIO and parent organizations. Persons designated as alternate delegates shall not be granted paid leaves of absence to attend such conventions. Such paid leave shall not exceed a total of one hundred seventy-five (175) days per year.

Time off without loss of wages, benefits, or other privileges shall be granted to Union negotiating committee members for attendance at negotiating sessions.

Time off without loss of wages, benefits, or other privileges shall be granted to representatives and officers of the Union to attend joint labor/management meetings.

Time off without loss of wages, benefits, or other privileges shall be granted for not more than thirty-five (35) hours per week to a combined total of not more than six (6) Union Official equivalents from bargaining units 1, 3 and 6 to assist the Union President in conducting union business.

The Union will not request paid release time for Executive Board meetings more frequently than ten (10) work days per calendar year. The Union shall submit any request for paid union business leave for Executive Board Meetings not later than seven (7) calendar days in advance of the meeting date(s) and the Employer will respond not less than two (2) business days preceding the date of the Executive board meeting.

The Employer, upon being provided sufficient advance notice by the Union, shall grant Union Stewards paid release time for the purposes of receiving training. This paid release time for training shall not exceed one (1) day in duration. The Parties further agree that the Union will make this request of the Employer no more than once in any twelve (12) month period. No pyramiding of release time will be permitted.

All leave granted under this section shall require prior approval of the Human Resources Division. Requests for release time for the purpose of attending Union conventions must be made at least seven (7) calendar days in advance of such convention.

Section 5.4 Unpaid Union Leave of Absence

Upon request by the Union, an employee shall be granted a leave of absence without pay to perform full-time official duties on behalf of the Union. Such leave of absence shall be for a period of up to one year and may be extended for one or more additional periods of one year or less at the request of the Union. Approved requests will be granted by the Employer provided no adverse effect on the operations of the Department agency results.

Leave of absence without loss of benefits or other privileges (not including wages) to attend meetings, conventions and executive board meetings of the local, (except as set forth in Section 5.3) city, state, regional and parent organizations shall be granted to Union officers, stewards and elected delegates of the Union.

Representatives and officers of the Union shall be granted leaves of absence without loss of benefits or other privileges (not including wages) to attend hearings before the Legislature and State agencies concerning matters of importance to the Union.

Witnesses called by the Union to testify at a step III hearing or in an arbitration proceeding (Step IV) shall be granted time off without loss of benefits or other privileges (not including wages).

All leaves granted under this Section shall require prior approval of the Human Resources Division. Requests for unpaid leaves of absence for the purpose of attending Union conventions must be made at least seven (7) days in advance of such conventions.

Section 5.5 Union Use of Premises

The Union shall be permitted to use facilities of the Employer for the transaction of Union business during working hours and to have reasonable use of the Employee's facilities during off duty hours for Union meetings subject to appropriate compensation if required by law. This section shall not be interpreted to grant an employee the right to carry on Union business during his/her own working hours, not granted elsewhere in the contract

The Union shall be permitted one-half (1/2) hour per year to address its members regarding various union issues.

Section 5.6 Bulletin Boards

The Union may post notices on bulletin boards or on an adequate part thereof in places and locations where notices usually are posted by the Employer for employees to read. All notices shall be on Union stationery, signed by an official of the Union, and shall only be used to notify employees of matters pertaining to Union affairs. The notices may remain posted for a reasonable period of time. No material shall be posted which is inflammatory, profane or obscene, or defamatory of the Commonwealth or its representatives, or which constitutes election campaign material for or against any person, organization or faction thereof.

Section 5.7 Employer Provision of Information

The Employer shall be required to provide the Union with the following information:

- A. The Union and/or the employee shall furnish to the Department/Agency, a signed copy of the Union dues/agency fees deduction card that contains a waiver authorizing the use of

his/her Social Security Number for the purposes of conducting business between the Union and the Commonwealth. The Union and the Commonwealth agree that employee Social Security Numbers will not be released to any third party outside of the business relationship existing between the Union and the Commonwealth, unless directed in writing, by the employee.

NAGE further agrees that should it improperly disclose, release or distribute the social security numbers of employees in bargaining units 1, 3 and 6, it will indemnify the Commonwealth for any and all damages resulting from such improper disclosure by the NAGE.

- B. Concurrent with the issuance of bi-weekly wages to workers in the bargaining units represented by NAGE, the Employer will electronically forward a data file (MVEN005) to the Union for all employees for whom dues or agency fees have been deducted.
- C. Upon the issuance of bi-weekly wages to workers in the bargaining units represented by NAGE Employer will electronically forward a data file (MVEN002) to the Union for all employees whose job title is represented by the Alliance and for whom the Employer is providing contributions to the Health and Welfare Fund. This file shall contain:

- Agency/Departmental Code
- Social Security Number
- Employee ID
- Last Name
- First Name
- Middle Initial
- Home Address
- Date of Birth
- Marital Status
- Full/Part-time Code
- Gender
- State Service Date
- Date Employee Started in Bargaining Unit
- Bargaining Unit
- Pay Title Code
- Authorized Hours
- Information Date
- Action Date
- Employee Status
- Status Description
- Confidential Code
- Termination Date
- Action Code
- Action Reason Code
- Account Number
- Location Code
- Division Number/Mail Drop
- Calculated FTE
- Grade

- Step
 - Biweekly Salary-Comp rate
 - Civil Service Seniority Date
 - Owned Job Code
 - Dept Entry date
 - Effective date
 - Step Entry date
 - MA Dept Service Date
 - Hire date
 - Rehire Date
 - MA State Service Date
 - Employee Job Record #
- D. Upon the request of the Union, the Employer may electronically forward employee data file(s)/extracts, using tools (such as MS Access and the Commonwealth's Information Warehouse) that are commonly used by the Employer. These files may contain data which describes the employee, their job or personnel actions performed. The request for this data will not be unreasonably denied.
- E. The Employer shall provide to the Union an updated listing of codes on a semi-annual basis.
- F. The Union and the Employer shall establish a Labor-Management Committee consisting of an equal number of Union and Employer representatives to discuss issues related to the implementation of changes in deductions relating to employee dues/agency fees. This Committee shall meet prior to the submission of any request by the Union for a change in deductions for dues/agency fees.

Section 5.8 Orientation

The Department/Agency shall provide an orientation program for new employees, one-half (1/2) hour shall, upon written request of the Union, be allotted to the Union and to the new employee(s) during which time a Union representative shall discuss the Union with the employee.

ARTICLE 6
ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION

Section 6.1

The Employer and the Union agree not to discriminate in any way against employees covered by this Agreement on account of race, religion, creed, color, national origin, sex, sexual orientation, age, mental or physical handicap, union activity, or veteran status.

Section 6.2

The Union and the Employer agree that when the effects of employment practices, regardless of their intent, discriminate against any group of people on the basis of race, religion, creed, color, age, sex, national origin, or mental or physical handicap, or being a Vietnam Era Veteran, specific positive and aggressive measures must be taken to redress the effects of past discrimination, to eliminate present and future discrimination, and to ensure equal opportunity in the areas of hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation and in-service or apprenticeship training programs. Therefore the parties acknowledge the need for positive and aggressive affirmative action.

Section 6.3

The Statewide Labor/Management Committee established pursuant to ARTICLE 26 shall give priority to the area of affirmative action. The Committee shall review affirmative action programs and shall devote its best efforts to alleviating any obstacles that are found to exist to the implementation of the policy and commitments contained in the Governor's Executive Order No. 116 dated May 1, 1975 or as subsequently amended or in Governor's Executive Order #253 (1988) or as subsequently amended.

Section 6.4

The provisions contained in Article 14 and Article 18 shall not be construed to impede the implementation of affirmative action programs developed by department/agencies in accordance with goals set forth in this Article.

Section 6.5

The Employer and the Union acknowledge that sexual harassment is a form of unlawful sex discrimination, and the parties mutually agree that no employee should be subjected to such harassment. The term sexual harassment as used herein is conduct such as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature which constitutes sexual harassment when:

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

Section 6.6

A grievance alleging a violation of Section 5 of this Article shall be filed initially at Step II of the grievance procedure. Such action must be brought within twenty-one (21) days from the alleged

act or occurrence. However, an employee who has filed a complaint alleging sexual harassment under the Commonwealth's Statewide Sexual Harassment Policy may not file a grievance regarding those same allegations under this Section.

ARTICLE 6A
MUTUAL RESPECT

The Commonwealth and the Union agree that mutual respect between and among managers, employees, co-workers and supervisors is integral to the efficient conduct of the Commonwealth's business. Behaviors that contribute to a hostile, humiliating or intimidating work environment, including abusive language or behavior, are unacceptable and will not be tolerated. Employees who believe they are subject to such behavior should raise their concerns with an appropriate manager or supervisor as soon as possible, but no later than ninety (90) days from the occurrence of the incident(s). In the event the employee(s) concerns are not addressed at the Agency level, whether informally or through the grievance procedure, within a reasonable period of time, the employee or the Union may file a grievance at step III of the grievance procedure as set forth in Article 23. If an employee, or the Union, requests a hearing at step III, such hearing shall be granted. Grievances filed under this section shall not be subject to the arbitration provisions set forth in Article 23. No employee shall be subject to discrimination for filing a complaint, giving a statement, or otherwise participating in the administration of this process.

ARTICLE 7
WORKWEEK AND WORK SCHEDULES

Section 7.1 Scheduled Hours, Workweek, Workday

A. Except as otherwise specified in this Agreement, the regular hours of work for full-time employees shall be forty (40) hours per week excluding duty free meal periods, as has been established for that job title at the particular job location. Any employee whose regular workweek has averaged more than forty (40) hours excluding meal periods in the past shall have a forty (40) hour workweek.

B. The work schedule, both starting times and quitting times, of employees shall be posted on a bulletin board at each work location or otherwise made available to employees and Union stewards.

C. When the Employer desires to change the shift or day off of an employee, the Employer shall, whenever practicable, give the affected employee ten (10) days written notice.

To the extent practicable, the normal work week shall consist of five (5) consecutive days, Monday through Friday, with the regular hours of work each day to be consecutive except for duty free meal periods. Similarly, to the extent practicable, employees in continuous operations shall receive two (2) consecutive days off in each seven (7) day period. This subsection shall not apply to employees in authorized flexible hours programs.

Section 7.2 Overtime

A. An employee shall be compensated at the rate of time and one-half his/her regular rate of pay for authorized overtime work performed in excess of forty (40) hours per week.

B. An employee whose regularly scheduled workweek is less than forty (40) hours shall be compensated at his/her regular rate for authorized overtime work performed up to forty (40) hours per week that is in excess of his/her regular workweek.

C. Compensatory time off in lieu of pay for overtime shall not be granted to employees. The Employer shall not, for the purpose of avoiding the payment of overtime, curtail the scheduled hours of an employee during the remainder of a workweek in which the employee has previously worked hours beyond his/her normally scheduled workday. This paragraph shall not apply to employees who, because of the nature of the duties of their positions, work an irregular workday, nor shall it apply to employees who have been permitted by the Employer to participate in an approved voluntary flexible hours program that has been duly authorized by the Appointing Authority and by the Chief Human Resources Officer.

D. With the exception of paid sick leave, all time for which an employee is on full pay status shall be considered time worked for the purpose of calculating overtime compensation. However, paid sick leave used by an employee during the same work week in which he/she is required to work overtime because of an emergency shall be considered time worked for the purpose of calculating overtime compensation for that work week, provided that nothing herein shall interfere with the Employer's right to request satisfactory medical evidence under the terms of Article 8, Section 1.

E. Prior to implementing mandatory overtime the Employer may directly contact employees to solicit volunteers from among the group of potentially affected employees and may select from among qualified volunteers.

F. There shall be no duplication or pyramiding of the premium pay for overtime work provided for in this Agreement.

G. The Employer shall make every effort to send out checks for overtime no later than the second payroll period following the payroll period of the overtime worked.

H. Overtime shall be distributed as equitably and impartially as practicable among persons in each work location who ordinarily perform such related work in the normal course of their workweek. Department heads and union representatives at each location shall work out procedures for implementing this policy of distributing overtime work.

I. The provisions of this Section shall not apply to employees on full travel status.

J. If overtime occurs on a shift for which there is a shift differential the time and one-half overtime shall be computed on the basis of the employee's regular salary plus the shift differential so that the overtime will be paid at the rate of one and one half (1 1/2) times the salary and the shift differential.

Section 7.3 Regular Meal Periods

A meal period shall be scheduled as close to the middle of the shift as possible considering the needs of the Department/Agency and the needs of the employee.

Section 7.4 Rest Periods

A. Employees may be granted a rest period of up to fifteen (15) minutes per work day. However, employees shall continue to enjoy the same rest period benefits which existed for them as of the effective date of this agreement.

B. Employees covered by recently expired contracts entitling them to clean-up time shall continue to enjoy the same clean-up benefits provided for in such contracts.

Section 7.5 Call Back Pay

A. An employee who has left his/her work place of employment after having completed work on his/her regular shift, and who is called back to his/her work place prior to the commencement of his/her scheduled shift shall receive a minimum of four (4) hours pay at his/her regular hourly overtime rate. This Section shall not apply to an employee who is called in to start his/her shift early and who continues to work that shift.

B. An employee who is called back to work as outlined above but is not called back to a work place shall receive a minimum of two (2) hours pay at his/her regular overtime rate. This shall include situations where an employee fulfills his/her call back assignment through the use of an electronic communication device such as a telephone or "networked" computer.

Section 7.6 Shift Differential

A. Full time Unit 3 employees, in any department/agency of the Commonwealth whose regular workday is on a second or third shift as hereinafter defined will receive a shift differential of one dollar and twenty-five cents (\$ 1.25) per hour.

Effective July 9, 2006, in addition to any other compensation to which they may be entitled, a premium of one dollar and twenty-five cents (\$1.25) per hour shall be paid to all Unit 3 employees who are regularly scheduled to work on either a Saturday or a Sunday, provided that no employee shall receive said differential for more than one (1) day worked per weekend.

B. For the purpose of this Section only, a second shift shall be one that commences at 1:00 p.m. or after and ends not later than 2:00 a.m. and a third shift shall be one that commences at 9:00 p.m. or after and ends not later than 9:00 a.m.

C. The overtime rate for employees whose regularly scheduled workday is on the second or third shift shall be computed based on the following method: the regular hourly salary rate plus the hourly shift differential times one and one-half equals the overtime rate.

D. For the purposes of this Section, employees who are regularly scheduled to work second or third shift shall receive the shift differential payment for all shifts that they are on paid leave status, including holidays. Employees otherwise entitled to a weekend differential under this Section shall receive the differential for days they are on paid leave status, including holidays, up to a maximum of one full day per weekend.

Section 7.7 Continuous Operations

Where a continuous twenty-four (24) hour operation is in existence no employee shall leave his/her workstation until properly relieved. "Properly relieved" shall mean no employee leaves his/her workstation until relieved by another employee of the same classification. When there is no employee in that classification available an employee in a higher classification may be assigned these duties.

Section 7.8 Stand-by Duty

A. An employee who is required by the Department head to be available on a stand-by basis leave to report to duty when necessary shall be reimbursed at a rate not to exceed seventeen dollars and fifty cents (\$17.50) for such stand-by period.

B. The stand-by period shall be fifteen (15) hours in duration for any night stand-by duty, and shall be nine (9) hours in duration for any day stand-by duty.

C. Stand-by duty shall mean that a department head has ordered any employee to be immediately available for duty upon receipt of a message to report to work. If any employee assigned to stand-by duty is not available to report to duty when contacted, no stand-by pay shall be paid to the employee for the period.

D. For the purposes of this Section, employees who are regularly scheduled to work second or third shift shall receive the shift differential for all shifts that are on paid leave status, including holidays. Employees otherwise entitled to a weekend differential under this Section shall receive the differential for days they are on paid leave status, including holidays, up to the maximum of one (1) full day per weekend.

E. An employee who is required by the Department head as a condition of employment to be available by electronic device to report to duty immediately upon being paged shall be reimbursed at a rate not to exceed seventeen dollars and fifty cents (\$17.50) for such stand-by period. Whenever practicable the electronic pager, if provided, shall be given to the Institution Maintenance Foreman if available for such duty or either to the Plumber Foreman or the Electrician Foreman.

**ARTICLE 8
LEAVE**

Section 8.1 Sick Leave

A. A full-time employee shall accumulate sick leave with pay credits at the following rate for each full calendar month of employment:

<u>Scheduled Hours per Week</u>	<u>Sick Leave Accrued</u>
40.0 hours per week	10.000 hours

An employee on any leave with pay or industrial accident leave shall accumulate sick leave credits. There shall be no limit to the number of unused sick leave credits which an employee may accumulate.

B. A regular part-time employee shall be granted sick leave credits in the same proportion that his/her part-time service bears to full-time service.

C. Sick leave shall be granted, at the discretion of the Appointing Authority, to an employee only under the following conditions:

1. When an employee cannot perform his/her duties because he/she is incapacitated by personal illness or injury;
2. An employee may use up to a maximum of sixty (60) days per calendar year for the purpose of:
 - a. caring for the spouse, child, foster child, step-child, parent, step-parent, brother, sister, grandparent, grandchild, parent or child of spouse, person for whom the employee is legal guardian, or a relative living in the household who is seriously ill; or
 - b. parental leave due to the birth or adoption of a child, to be concluded within twelve (12) months of the date of the birth or adoption. Eligible employees utilizing sick leave under this Section shall not be required to submit a medical certification, unless the Appointing Authority has reason to believe that the birth or adoption claim was not genuine. This leave benefit shall be in addition to the ten (10) days of paid leave set forth in Section 8.7.1 below.
3. An employee may use up to a maximum of ten (10) days of accrued sick leave in a calendar year in order to attend to necessary preparations and legal requirements related to the employee's adoption of a child, except that in no event may an employee charge more than a total of sixty (60) days of accrued sick leave in a calendar year for adoption related purposes.
4. When through exposure to contagious disease, the presence of the employee at his/her work location would jeopardize the health of others.

5. When appointments with licensed medical or dental professionals cannot reasonably be scheduled outside of normal working hours for purposes of medical treatment or diagnosis of an existing medical or dental condition.
6. When an employee is absent due to the excessive use of alcohol or narcotics, becomes and continues to be an active participant in an approved counseling service program.
7. An employee shall be entitled to use up to ten (10) days of accrued sick leave per calendar year for necessary preparations and/or legal proceedings related to foster care of DSS children, such as foster care reviews, court hearings and MAPS training for pre-adoptive parents. HRD may approve a waiver of the ten (10) day limit if needed for difficult placements. In addition, an employee may use the one (1) day per month of paid leave available to employees for volunteer work under the Commonwealth's School Volunteer or Mentoring programs for the above cited foster care activities.

D. A full-time employee shall not accrue sick leave credit for any month in which he/she was on leave without pay or absent without pay for a total of more than one day.

E. Upon return to work following a sick leave in excess of five (5) consecutive work days, or when the Appointing Authority has reason to suspect that an employee is unfit for duty, an employee may be required to undergo a medical examination by an Employer appointed physician to determine his/her fitness for work. If the examination by the Physician reveals that the employee is fit for duty, the employee will immediately return to duty without loss of wages or leave. If the examination by the Physician reveals that the employee is unfit for duty, the employee's own leave time will run from the time the employee left the work location. The employee, if found unfit for duty and if he/she desires, may then receive an examination by a physician of his/her own choice. The employer will bear the costs of the employee's initial examinations under this paragraph E.

F. Sick leave must be charged against unused sick leave credits in units of one-half hour or full hours, but in no event may the sick leave credits used be less than the actual time off.

G. An employee having no sick leave credits, who is absent due to illness may, at the employee's discretion, be placed on available vacation leave under Article 9. Additionally, the Appointing Authority may grant such employee a leave of absence without pay or an extension of a leave of absence without pay only upon the written request of the employee.

Such written request shall include a detailed statement of the reason for the requested leave and shall be accompanied by substantiating proof of such an illness. No leave of absence granted pursuant to this paragraph shall be for a period longer than three (3) months.

H. An employee who is reinstated or reemployed after an absence of less than three (3) years shall be credited with his/her sick leave credits at the termination of his/her prior employment. An employee who is reinstated or reemployed after a period of three years or more shall receive prior sick leave credits, if approved by the Chief Human Resources Officer, where such absence was caused by:

1. Illness of said employee;

2. Dismissal through no fault or delinquency attributable solely to said employee; or
3. Injury while in the employment of the Commonwealth in the line of duty, and for which said employee would be entitled to receive Workers' Compensation benefits.

I. A regular part-time employee shall not accrue sick leave credit for any month in which he/she was on leave without pay or absent without pay in the same proportion that his/her service bears to one day of service of a full-time employee.

J. Employees requesting sick leave under this Article must notify the designated representative of the Appointing Authority at least one (1) hour before the start of his/her work shift on each day of absence. In single-shift agencies, employees requesting sick leave under this Article must notify the designated representative not later than fifteen (15) minutes after the start of the work day on each day of absence. Repeated violations of these notification procedures may result in the denial of sick leave. Such notice must include the general nature of the disability and the estimated period of time for which the employee will be absent. Where circumstances warrant, the Appointing Authority or designee shall reasonably excuse the employee from such daily notification.

K. 1. Where the Appointing Authority has reason to believe that sick leave is being abused, the Appointing Authority may require satisfactory medical evidence from the employee. This request shall be reduced to writing and shall cite specific reasons for the request. When medical evidence is requested, such request shall be made as promptly as possible. To the extent practicable, the employee shall receive prior notice that the Appointing Authority believes he/she is abusing sick leave and that he/she may be required to produce medical evidence for future use of sick leave.

2. Satisfactory medical evidence shall consist of a signed statement by a licensed Physician, Physician's Assistant, Nurse Practitioner, Chiropractor or Dentist that he/she has personally examined the employee and shall contain the nature of the illness or injury, unless identified as being of a confidential nature; a statement that the employee was unable to perform his or her duties due to the specific illness or injury on the days in question; and the prognosis for employee's return to work. In cases where the employee is absent due to a family or household illness or injury, as defined in Section 1.C.2 of this Article, satisfactory medical evidence shall consist of a signed statement by medical personnel mentioned above indicating that the person in question has been determined to be seriously ill and needing care on the days in question.

A medical statement provided pursuant to this Article shall be on the letterhead of the attending physician or medical provider as mentioned above, and shall list an address and telephone number. Failure to produce such evidence within seven (7) days of its request may result, at the discretion of the Appointing Authority, in denial of sick leave for the period of absence.

3. Any inappropriate use of sick leave shall be recorded as unauthorized leave without pay and (may) result in discipline.

L. In extraordinary circumstances, where the Appointing Authority, or the designated person in charge if the Appointing Authority is unavailable, has sufficient reason to believe that an employee has a mental or physical incapacity rendering him/her unfit to perform his/her job or which jeopardizes workplace safety or stability, the Appointing Authority or the designated person in charge may authorize the removal of such employee from the workplace. It is understood that the employee might not recognize or acknowledge such unfitness. Notification shall be made to the NAGE Attorney-of-the-Day as soon as possible, by the Appointing Authority or his/her designee when an employee is removed from the workplace in accordance with this paragraph.

The employee shall be required to undergo a medical examination to determine his/her fitness for work. The employee, if he/she so desires, may be represented by a physician of his or her own choice, in which case such verification and cost shall be the responsibility of the employee. However, the Appointing Authority shall reserve the right to obtain a second opinion from a Commonwealth designated physician to determine fitness for work. Such cost shall be borne by the Appointing Authority.

M. No employee shall be entitled to a leave under the provisions of this Article in excess of the accumulated sick leave credits due such employee.

N. Employees whose service with the Commonwealth is terminated shall not be entitled to any compensation in lieu of accumulated sick leave credits. Employees who retire shall be paid twenty percent (20%) of the value of their unused accrued sick leave at the time of their retirement. Upon the death of an employee who dies while in the employ of the Commonwealth, twenty percent (20%) of the value of the unused sick leave which the employee had personally earned and accrued as of the time of death shall be paid in the following order of precedence, as authorized by the Chief Human Resources Officer upon request of the Appointing Authority of the deceased employee:

First: to the surviving beneficiary or beneficiaries, if any, lawfully designated by the employee under the state employees' retirement system; and

Second: if there be no such designated beneficiary, to the estate of the deceased.

It is understood that any such payment will not change the employee's pension benefit.

O. Sick leave credits earned by an employee following a return to duty after a leave without pay or absence without pay shall not be applied to such period of time.

P. An employee who while in the performance of his/her duty receives bodily injuries resulting from acts of violence of patients or prisoners in his/her custody, and who as a result of such injury would be entitled to benefits under Chapter 152 of the General Laws, shall, if entitled under Chapter 30, Section 58 of the General Laws, be paid the difference between the weekly cash benefits to which he/she would be entitled under said Chapter 152 and his/her regular salary without such absence being charged against available sick leave credits, even if such absence may be for less than six (6) calendar days duration.

Section 8.2 Paid Personal Leave

A. On each January 1, full-time employees on the payroll as of that date will be credited annually with paid personal leave credits at the following rate:

Scheduled Hours per Week

40.0 hours per week

Personal Leave Credits

24.000 hours

Such personal leave may be taken during the following twelve (12) months at a time or times requested by the employee and approved by his/her Appointing Authority. Full-time employees hired or promoted into the bargaining unit after January 1 of each year will be credited with personal leave days in accordance with the following schedule:

<u>Date of Hire or Promotion</u>	<u>Scheduled Hours Per Week</u>	<u>Personal Leave Credited</u>
January 1 – March 31	40.0	24.000 hours
April 1 – June 30	40.0	16.000 hours
July 1 – September 30	40.0	8.000 hours
October 1 – December 31	40.0	0 hours

Except as provided for herein, any personal leave not taken by any December 31 will be forfeited by the employee. Personal leave days for regular part-time employees will be granted on a pro-rata basis. Employees’ personal leave balances shall be charged for time used on a one-half hour-for-one-half hour basis, e.g. one-half hour charged for one-half hour used, and may be used in conjunction with vacation leave. Charges to personal leave may be allowed in units of not less than one-half hour. An employee who cannot utilize his/her personal leave in the months of November and December, due to the operational needs of the Department/Agency, shall be permitted to carry-over one day of personal leave credit not utilized, to the next calendar year.

B. Nothing in this section shall be construed as giving more than three (3) days personal leave in a given year.

Section 8.3 Bereavement Leave

A. Upon evidence satisfactory to the Appointing Authority of the death of a spouse or child, an employee shall be entitled to a maximum of seven (7) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of said death.

B. Upon evidence satisfactory to the Appointing Authority of the death of a foster child, step child, parent, step parent, brother, sister, grandparent, grandchild, person for whom the employee is legal guardian, parent or child of spouse or person living in household, an employee shall be entitled to a maximum of four (4) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of said death.

C. Upon evidence satisfactory to the Appointing Authority, an employee shall be granted one (1) day of leave without loss of pay to attend the funeral of the brother, sister, grandparent or grandchild of the employee’s spouse.

Section 8.4 Voting Leave

An employee whose hours of work preclude him/her from voting in a town, city, state, or national election shall upon application be granted a voting leave with pay, not to exceed two (2) hours, for the sole purpose of voting in the election.

Section 8.5 Civic Duty Leave

A. Employees summoned for jury duty will be granted a leave of absence with pay for time lost from their regular work schedule while on said jury duty upon presentation of the appropriate summons to the department head by the employee.

B. An employee who receives jury fees for jury service upon presentation of the appropriate court certificate of service, shall either:

1. Retain such jury fees in lieu of pay for the period of jury service if the jury fees exceed his/her regular rate of compensation for the period involved; or
2. Remit to the Appointing Authority the jury fees if less than his/her regular rate of compensation for the period involved.

C. Jury fees for the purpose of this Article shall be the per diem rate paid for jury duty by the court not including the expenses reimbursed for travel, meals, rooms or incidentals.

D. An employee summoned as a witness in court on behalf of the Commonwealth or any town, city or county of the Commonwealth or on behalf of the Federal Government shall be granted court leave with pay upon filing of the appropriate notice of service with his/her department head except that this Section shall not apply to an employee who is also in the employ of any town, city or county of the Commonwealth or in the employ of the Federal Government or any private employer and who is summoned on a matter arising from that employment.

E. All fees for court service except jury fees paid for service rendered during office hours must be paid to the Commonwealth. Any fees paid to an employee for court service performed during a vacation period may be retained by the employee. The employee shall retain expenses for travel, meals, rooms, etc.

F. An employee on court leave who has been excused by the proper court authority shall report to his/her official duty station if such interruption in court service will permit four or more consecutive hours of employment. Court leave shall not affect any employment rights of the individual.

G. No court leave shall be granted when the employee is the defendant or is engaged in personal litigation.

Section 8.6 Military Leave

A. An employee shall be entitled during the time of his/her service in the armed forces of the Commonwealth, under Sections 38, 40, 41, 42, or 60 of Chapter 33 of the General Laws, to receive pay therefore, without loss of his/her ordinary remuneration as an employee.

B. An employee shall be entitled, during his/her annual tour of duty of not exceeding seventeen (17) days as a member of a reserve component of the armed forces of the United States, to receive pay therefore, without loss of his/her ordinary remuneration as an employee under Section 59 of Chapter 33 of the General Laws as amended.

C. An employee who is a member of a reserve component of the armed forces of the United States and who is called for duty other than the annual tour of duty of not exceeding seventeen (17) days shall be subject to the provisions of Chapter 708 of the Acts of 1941 as amended, or of

Chapter 805 of the Acts of 1950 as amended, or Chapter 671 of the Acts of 1966, and amendments thereto.

D. In accordance with Chapter 708 of the Acts of 1941, as amended, an employee who, on or after January 1, 1940, shall have tendered his/her resignation or otherwise terminated his/her service for the purpose of serving in the military or naval forces of the United States who does serve or was or shall be rejected for such service shall, except as otherwise provided by Chapter 708 of the Acts of 1941, as amended, be deemed to be or to have been on military leave, and no such person shall be deemed to have resigned from the service of the Commonwealth or to have terminated such service until the expiration of two (2) years from the termination of said military or naval service by him/her.

Section 8.7.1 Family Leave

During family leave taken in conjunction with the birth, adoption or placement of a child, an employee shall receive his/her salary for ten (10) days of said leave, at a time requested by the employee. The ten (10) days of paid family leave granted under this section may be used on an intermittent basis over the twelve (12) months following the birth of adoption, except that this leave may not be charged in increments of less than one (1) day. In addition, if the employee has accrued sick leave, vacation leave or personal leave credits available, the employee may use such credits for which he/she may otherwise be eligible under the sick leave, personal leave, or vacation leave provisions of this Agreement.

Section 8.7.2 Family and Medical Leave

A. Family Leave

1. An Appointing Authority shall grant to a full time or part time employee who has completed his/her probationary period, or if there is no such probationary period, has been employed for at least three consecutive months, an unpaid leave of absence for up to twenty-six (26) weeks in conjunction with the birth, adoption or placement of a child as long as the leave concludes within twelve (12) months following the birth or placement.
2. At least thirty (30) days in advance, the employee shall submit to the Appointing Authority a written notice of his/her intent to take such leave and the dates and expected duration of such leave. If thirty (30) days notice is not possible, the employee shall give notice as soon as practicable. The employee shall provide upon request by the Appointing Authority proof of the birth or placement or adoption of a child.
3. If an employee has accrued sick leave, personal leave, compensatory leave, or vacation credits at the commencement of his/her family leave, the employee may use such leave credits for which he/she may be eligible under the sick leave, personal leave or vacation provisions of this Agreement. The Appointing Authority may, in his/her discretion, assign an employee to temporarily backfill for an employee who is on family leave. Such assignment may not be subject to the grievance procedure.
4. At the expiration of the family leave, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the date of his/her leave. If during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the employee

will be extended the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

5. Employees taking an unpaid leave of absence under this provision will accrue sick and vacation leave benefits only for the first eight (8) weeks of such unpaid leave. Notwithstanding any other provision of the Agreement to the contrary, the family leave granted under this Article shall not affect the employee's right to receive any contractual benefits for which he/she was eligible at the time of his/her leave.
6. During the time an employee is on family leave, the employee shall be entitled to group health insurance coverage benefits on the same terms and conditions in effect at the time the leave began, provided the employee continues to pay the required employee share of premium while on leave. If the employee fails to return from leave, the Commonwealth may recover, as provided under FMLA, the cost it incurred in maintaining insurance coverage under its group health plan for the duration of the employee's leave.

B. Medical Leave

1. An Appointing Authority shall grant to any employee who has completed his/her probationary period or, if there is no probationary period, who has been employed at least three (3) consecutive months, an unpaid leave of absence for up to twenty-six (26) weeks to care for a spouse, child or parent who has a serious health condition or for a serious health condition which prevents the employee from being able to perform the functions of his/her position.
2. Upon the submission of satisfactory medical evidence that demonstrates an existing catastrophic illness, the Appointing Authority shall grant the employee on a one-time basis, up to an additional twenty-six (26) weeks of non-intermittent FMLA leave.
3. At least thirty (30) days in advance, the employee shall submit a written notice of his/her intent to take such leave and the dates and expected duration of such leave. If thirty (30) day notice is not possible, the employee shall give notice as soon as practicable. The employee shall provide, upon request by the Appointing Authority, satisfactory medical evidence. Satisfactory medical evidence is defined under Section 1.K.2 of this Article. If the Appointing Authority has reason to doubt the validity of the medical evidence, it may obtain a second opinion at it's own expense.

In the event there is a conflict between the second opinion and the original medical opinion, the Appointing Authority and the employee may resolve the conflict by obtaining the opinion of a third medical provider, who is approved jointly by the Appointing Authority and the employee, at the Appointing Authority's expense.

4. Intermittent leave usage and modified work schedules may be granted where a spouse, child or parent has a serious medical condition and is dependent upon the employee for care. Where intermittent or a modified work schedule is medically necessary, the employee and Appointing Authority shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the operations of the workplace.

5. If the employee has accrued sick leave, personal leave, compensatory leave, or vacation leave credits at the commencement of his/her medical leave, that employee may use such leave credits for which he/she may be eligible under the sick leave, personal leave or vacation leave provisions of this Agreement.
6. At the expiration of the medical leave, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the date of his/her leave. If during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the Employer will extend the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.
7. Between periods of unpaid medical leave, where an employee returns to the payroll for a period of less than two (2) weeks, when a holiday falls during that time, no holiday pay or compensatory time shall be granted for such holiday.
8. During the time an employee is on medical leave, the employee shall be entitled to group health insurance coverage benefits on the same terms and conditions in effect at the time the leave began, provided the employee continues to pay the required employee share of premium while on leave. If the employee fails to return from leave, the Commonwealth may recover the cost it incurred in maintaining insurance coverage under its group health plan for the duration of the employee's leave, in compliance with the requirements set forth under the FMLA and regulations thereunder.

Section 8.8 Non-FMLA Family Leave

A. Upon written application to the Appointing Authority, including a statement of any reasons, any employee who has completed his/her probationary period, or if there is no probationary period who has been employed at least three (3) consecutive months who has given at least two (2) weeks prior notice of his/her anticipated date of departure and who has given notice of his/her intention to return, may be granted non-FMLA family leave for a period not exceeding ten (10) weeks. Such leave shall be without pay or benefits for such period. The Appointing Authority may, in his/her discretion, assign an employee to back fill for an employee who is on non-FMLA family leave. Such assignment may not be subject to the grievance procedure.

The purpose for which an employee may submit his/her application for such unpaid leave shall be limited to the need to care for, or to make arrangements for care of grandparent, grandchild, sister or brother living in the same household, or child - whether or not the child (or children) is the natural, adoptive, foster, stepchild or child under legal guardianship of the employee.

B. Ten (10) days of non-FMLA family leave may be taken in not less than one-day increments. However, such leave requires the prior approval of the Appointing Authority or his/her designee.

C. If an employee has accrued sick leave, personal leave, compensatory leave, or vacation leave credits at the commencement of his/her non-FMLA family leave, that employee may use such leave credits for which he/she may be eligible under the sick leave, personal leave, or vacation leave provisions of this Agreement.

D. Between periods of non-FMLA family leave, where an employee returns to the payroll for a period of less than two (2) weeks, when a holiday falls during that time, no holiday pay or compensatory time shall be granted for such holiday.

Section 8.9

For the purposes of ARTICLE 8-LEAVE, ARTICLE 9-VACATIONS, and ARTICLE 10-HOLIDAYS, the term "day" with respect to employees who work an irregular workday or whose regular workday is longer than the normal seven and one-half or eight hour workday shall mean seven and one-half or eight hours, whichever is appropriate, and for the purpose of ARTICLE 9-VACATIONS, the term "week" with respect to such employees shall mean thirty-seven and one-half (37.5) or forty (40) hours, whichever is appropriate.

Section 8.10 Educational Leave

A. Employees may be granted a paid leave of absence in accordance with the policies of the Employer for educational purposes to attend conferences, seminars, briefing sessions or other functions of a similar nature that are intended to improve or upgrade the individual's skill or professional ability. The employee shall not suffer any loss of seniority or benefits as a result of such leave.

Section 8.11 Authorized Leave of Absence Without Pay

The Department/Agency head, or his designee, may grant an employee a leave of absence or an extension of a leave of absence upon written request filed by the employee. The written request shall include a detailed statement of the reason for the requested leave and if the absence is caused by illness, shall be accompanied by substantiating proof of such illness. A copy of the approved written request shall be placed into the employee's personnel file.

No leave of absence for a period longer than three (3) months, except one granted because of illness as evidenced by the certificate of a physician and approved by the Appointing Authority, shall be granted pursuant to this section without the prior approval of the Appointing Authority.

If an employee shall fail to return to his/her position upon completion of the period for which a leave of absence has been granted, the Appointing Authority shall, within fourteen (14) days after the completion of such period, give notice that his/her employment is considered to be terminated.

Section 8.12

A. Where an eligible full-time or part-time employee and his/her eligible spouse are both employees of the Commonwealth they may jointly be granted a total of not more than twenty-six (26) weeks of unpaid leave under this Section to care for the employee's parent with a serious medical condition; or in conjunction with the birth, adoption or placement of a child as long as the leave(s) conclude(s) within twelve (12) months following the birth or placement. If the leave is requested because of the illness of a child or of the other spouse, each spouse is entitled to twenty-six (26) weeks of unpaid leave. The female employee is entitled to up to eight (8) of those combined twenty-six (26) weeks under M.G.L. c. 149, Section 105D for maternity or adoption purposes.

B. Where an eligible full-time or part-time employee and his/her eligible spouse both use a portion of the total twenty-six (26) weeks FMLA to care for an employee's parent with a serious medical condition or in conjunction with the birth, adoption or placement of a child as indicated in paragraph A, the spouses would each be entitled to the difference between the amount he/she has taken individually and twenty-six (26) weeks for FMLA leave in order to care for the spouse

or child of the employee if such spouse or child has a serious health condition or because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

C. Pursuant to the Family and Medical Leave Act, 29 U.S.C. 2611 *et seq.*, and accompanying regulations, 29 C.F.R. Part 825, the employer may request medical certification after the leave commences if the employer later has reason to question the appropriateness of the leave or its duration. Said certification shall be in accordance with Section 1.K.2 of this Article.

Section 8.13 Domestic Violence

An employee may use up to a maximum of fifteen (15) paid days per calendar year for the purpose of arranging for the care of him/herself, his/her spouse or his/her child(ren) or for attending to necessary legal proceedings or activities in instances where the employee, his/her spouse or his/her child(ren) is a victim of domestic abuse and where the employee is not the perpetrator. Said fifteen (15) paid days are in addition to any other paid leave, which the employee may accrue under the provisions of this Agreement.

If the employee has accrued sick leave, personal leave, compensatory leave or vacation leave credits at the completion of his/her domestic violence leave, that employee may use such leave credits for which he/she may be eligible under the sick leave, personal leave or vacation leave provisions of this Agreement.

**ARTICLE 9
VACATIONS**

Section 9.1

The vacation year shall be the period from January 1st to December 31st, inclusive.

Section 9.2

A. Vacation leave with pay shall be credited to full-time employees employed by the Commonwealth on the last day of each full month worked based on work performed during that month as follows:

<u>Length of Continuous Full Time "Creditable Service"</u>	<u>Scheduled Hours Per Week</u>	<u>Vacation Credit Accrued</u>
Less than 4.5 years	40.0	6.667 hours
4.5 years, but less than 9.5 years	40.0	10.000 hours
9.5 years, but less than 19.5 years	40.0	13.333 hours
19.5 years or more	40.0	16.667 hours

B. For determining vacation status under this Article, "creditable service" only shall be used.

All service beginning on the first working day in the state agency where rendered, and all service thereafter becomes "creditable service" provided there has not been any break of three years or more in such service as referred to in Section 12 of this Article.

Section 9.3

A full-time employee on leave without pay and/or absent without pay for twenty (20) or more cumulative days in any vacation year shall have his/her vacation leave earned that year reduced by the percent determined by dividing the days without pay by the scheduled work days in the vacation year.

In addition, any such leave or absence without pay for twenty (20) or more cumulative days in any vacation year shall result in the permanent loss of one year of continuous service for the purpose of vacation credit, unless such leave or absence is attributable to one of the following reasons:

- serious illness requiring hospitalization for all or a portion of the period of absence
- industrial accident
- maternity/adoptive leave
- FMLA/Non-FMLA
- military leave
- educational leave
- civic duty leave

in which case "continuous service" for purposes of vacation credit shall not be affected.

Section 9.4

Vacation leave earned during any vacation year in which an employee achieves the next higher vacation accrual status shall be credited at the rate at which the employee began the current

vacation year. Adjustments necessary to reflect the higher vacation accrual status shall be credited on the last day of the vacation year.

Section 9.5

A regular part-time employee shall be granted vacation leave in the same proportion that his/her part-time service bears to full-time service.

Section 9.6

A regular part-time employee who is absent without pay and/or on leave without pay for that number of hours that his/her service bears to twenty (20) days of service of a full-time employee shall have his/her vacation leave earned that year reduced by the percent determined by dividing the hours without pay by the total number of scheduled hours of work in his/her vacation year. In addition, any such leave or absence without pay for twenty (20) or more cumulative days in any vacation year shall result in the permanent loss of one year of continuous service for the purpose of vacation credit unless such leave or absence is attributable to one of the following reasons:

- Serious illness requiring hospitalization for all or a portion of the period of absence
- industrial accident
- maternity/adoptive leave
- FMLA/Non-FMLA
- military leave
- educational leave
- civic duty leave

in which case "continuous service" for purpose of vacation credit shall not be affected.

Section 9.7

An employee who is reinstated or re-employed after less than three (3) years shall have his/her prior service included in determining his/her continuous service for vacation purposes.

Section 9.8

The Appointing Authority shall grant vacation leave in the vacation year in which it becomes available, unless in his/her opinion it is impossible or impracticable to do so because of work schedules or emergencies. In cases where the vacation requests by employees in the same title conflict, preference, subject to the operational needs of the Department/Agency, shall be given to employees on the basis of years of employment with the Commonwealth.

Unused vacation leave earned during the previous two (2) vacation years can be carried over on January 1 for use during the following vacation year. Annual earned vacation leave credit not used by December 31 of the second year it was earned will be forfeited.

The department head is charged with the responsibility of seeing that vacation is taken in order that the employee does not lose vacation credits. Each employee shall receive annually, on or before October 1, as of September 1 a preliminary statement of the available vacation credits from the local office. A central office statement shall be forthcoming to each work location by October 31 for dissemination to each employee.

The parties recognize the need to ensure the granting of personal leave, vacation, holiday and compensatory time when it is requested and as it becomes available. Towards this end the

department heads and union representatives at each work location shall work out procedures for implementing this policy of granting time off.

Section 9.9

Absences on account of sickness in excess of the authorized sick leave provided in the Agreement (or for personal reasons not provided for under said sick leave provisions), may be charged to vacation leave upon request of the employee and subsequent approval by the Appointing Authority.

Section 9.10

Employee's vacation leave balances shall be charged on an hour-for-hour basis; e.g., one hour charged for one hour used. Charges to vacation leave may be allowed in units of not less than one-half hour.

Section 9.11

Employees who are eligible for vacation under this Article whose services are terminated shall be paid an amount equal to the vacation leave which has been credited but not used by the employee up to the time of separation, provided that no monetary or other allowance has already been made therefore.

Upon the death of an employee who is eligible for vacation credit under this Agreement, the Chief Human Resources Officer may, upon request of the Appointing Authority of the deceased person, authorize the payment of such compensation in the following order of precedence:

- First: To the surviving beneficiary or beneficiaries, if any, lawfully designated by the employee under the state employees' retirement system, and
- Second: If there be no such designated beneficiary, to the estate of the deceased.

Section 9.12

Employees who are reinstated or who are re-employed shall be entitled to their vacation status at the termination of their previous service and allowed such proportion of their vacation under Section 2 of this Article. No credit for previous service may be allowed where reinstatement occurs after an absence of three years unless approval of the Chief Human Resources Officer is secured for any of the following reasons:

- A. Illness of the employee;
- B. Dismissal through no fault or delinquency attributable solely to the employee; or
- C. Injury while in the service of the Commonwealth in line of his/her duties and for which the employee would be entitled to receive Workers' Compensation benefits.

Section 9.13

Vacation credits shall accrue to an employee while on a leave with pay status or on industrial accident leave.

Section 9.14

Vacation leave earned following a return to duty after leave without pay or absence without pay shall not be applied against such leave or absence.

Section 9.15

If an employee is on industrial accident leave and has available vacation credits which have not been used, and who, because of the provision of Section 8 of this Article would lose such vacation credits, the Appointing Authority of such employee shall convert such vacation credits to sick leave credits on December 31st of the year in which such vacation credits would be lost if not taken.

ARTICLE 10 HOLIDAYS

Section 10.1

The following days shall be holidays for employees:

New Year's Day
Martin Luther King Day
Washington's Birthday
*Evacuation Day
Patriot's Day
Memorial Day
*Bunker Hill Day
Independence Day
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Christmas Day

*Only in Suffolk County

Section 10.2

All holidays shall be observed on the Commonwealth's legal holiday unless an alternative day is designated by the Employer.

Section 10.3

When a holiday occurs on the regular scheduled workday of a full-time employee, he/she, if not required to work that day, shall be entitled to receive his/her regular day's pay for such holiday.

Section 10.4

When a holiday occurs on a day that is not an employee's regular workday, he/she, at the option of the Employer shall receive pay for one day at his/her regular rate or one compensatory day off with pay within sixty (60) days following the holiday to be taken at a time approved by the agency head.

Section 10.5

Effective 1/1/2008, notwithstanding any other contract provisions, an employee who is required to work his/her regular shift on a holiday (and the employee was otherwise not scheduled to work said holiday), shall be entitled to elect, for the first five times per calendar year that such occurs, to receive either: (a) one day's pay in addition to regular pay for compensation for working on the holiday; or (b) a compensatory day off with pay within sixty days following the holiday to be taken at a time requested by the employee and approved by the agency head or if a compensatory day cannot be granted by the agency/department because of a shortage of personnel or other reasons then he/she shall be entitled to pay for one day at his/her regular rate of pay in addition to pay for the holiday worked. Once five such occasions per calendar year have passed the employee shall then receive a compensatory day off with pay within sixty days following the holiday to be taken at a time requested by the employee and approved by the agency head or if a compensatory day cannot be granted by the agency/department because of a

shortage of personnel or other reasons then he/she shall be entitled to pay for one day at his/her regular rate of pay in addition to pay for the holiday worked.

Section 10.6

A. A part-time employee shall earn pay for a holiday or compensatory time in the same proportion that his/her part-time service bears to full-time service.

B. A part-time employee who is scheduled but not required to work on a holiday, who receives less holiday credit than the number of hours he/she is regularly scheduled to work, may use other available leave time, or upon the request of the employee and approval by the Appointing Authority, subject to operational needs, may make up the difference in hours that same workweek. The scheduling of these hours will be at a time requested by the employee and approved by the Appointing Authority, subject to operational needs.

Section 10.7

A. An employee who is on leave without pay or absent without pay for that part of his/her scheduled workday immediately preceding or immediately following a holiday that occurs on a regularly scheduled workday for which the employee is not required to work shall not receive holiday pay for that holiday.

B. The above procedure may be waived by the Employer if an employee is tardy due to severe weather conditions or if an employee is tardy for not more than two (2) hours due to events beyond the control of the employee. Denial of said waiver by the employee may be appealed up to Step III of the grievance procedure if the Union feels that said denial was arbitrary or capricious.

Section 10.8

An employee who is granted sick leave for a holiday or part of a holiday on which he/she is scheduled to work shall not receive holiday pay or a compensatory day off for that portion of the holiday not worked.

Section 10.9

A. An employee not otherwise entitled to the Suffolk County holidays, pursuant to Section 1 above, and who is scheduled to work on such a holiday shall be entitled to a day off with pay, within sixty (60) days following the holiday, to be taken at a time approved by the agency head, or if a compensatory day cannot be granted by the agency/department because of a shortage of personnel or other reasons then he/she shall be entitled to pay for one day at his/her regular rate of pay in addition to pay for work on the Suffolk County holiday.

B. Additionally, an employee who is not scheduled to work on a Suffolk County holiday, if the employee's usual work-week is five or more days, shall be entitled to a day off with pay, within sixty (60) days following the holiday, to be taken at a time approved by the agency head, or if a compensatory day cannot be granted by the agency/department because of a shortage of personnel or other reasons then he/she shall be entitled to pay for one day at his/her regular rate of pay.

**ARTICLE 11
EMPLOYEE EXPENSES**

Section 11.1

A. Effective July 10, 2005, when an employee is authorized to use his/her personal automobile for travel related to his/her employment he/she shall be reimbursed at the rate of forty (\$0.40) cents per mile.

Mileage shall be determined by the odometer reading of the motor vehicle, but may be subject to review for reasonableness by the appointing authority who shall use the Milo Mileage Guidebook or a Web-based service as a guide.

Effective July 10, 2005, employees shall be reimbursed for reasonable associated costs for parking and tolls for authorized travel.

B. An employee who travels from his/her home to a temporary assignment rather than to his/her regularly assigned office, shall be allowed transportation expenses for the distance between his/her home and his/her temporary assignment or between his/her regularly assigned office and his/her temporary assignment, whichever is less.

C. Employees shall not be reimbursed for commuting between their home and office or other regular work location. With the approval of the Chief Human Resources Officer, an employee's home may be designated as his/her regular office by his/her Appointing Authority, for the purposes of allowed transportation expenses in cases where the employee has no regular office or other regular work location.

Section 11.2

A. An employee who is assigned to duty that requires him/her to be absent from his/her home for more than twenty-four (24) hours shall be reimbursed for reasonable charges for lodging including reasonable tips and for meal expenses, including tips, not to exceed the following amounts:

<u>Meals</u>	<u>Maximum Allowance</u>	<u>Applicable Period</u>
Breakfast	\$3.75	3:01 to 9:00 A.M.
Lunch	\$6.50	9:01 to 3:00 P.M.
Supper	\$9.50	3:01 to 9:00 P.M.

B. On the first day of assignment to duty in excess of twenty-four (24) hours, employees shall not be reimbursed for breakfast if such assignment commences after six (6:00) a.m., for lunch if such assignment ends before noon or for supper if such assignment ends before ten (10:00) p.m.

C. On the last day of assignment to duty in excess of twenty-four (24) hours, employees shall not be reimbursed for breakfast if such assignment ends before six (6:00) a.m., for lunch if such an assignment ends before noon or for supper if such assignment ends before six (6:00) p.m.

D. For travel of less than twenty-four (24) hours commencing two (2) hours or more before compensated time, employees shall be entitled to the above breakfast allowance. For travel of

less than twenty-four (24) hours ending two (2) hours or more after compensated time, employees shall be entitled to the above supper allowance. Employees are not entitled to the above lunch allowance for travel of less than twenty-four (24) hours.

E. Employees who are required to travel out of state for assignments of more than twenty-four (24) hours in duration shall, in lieu of the meals reimbursement provided in paragraphs A through D of this Section, receive a payment of twenty-four dollars and fifty cents (\$24.50) for each whole day during which they are on such assignment. Said payment shall be prorated for each partial day during which said employees are on such assignment. For the purposes of this paragraph:

1. A whole day shall be a twenty-four (24) hour period commencing at midnight;

and
2. The duration of an out of state travel assignment shall begin upon the employee's departure from his/her home or work location directly to the destination of the travel assignment, and shall conclude with the employee's arrival at his/her home or work location directly from said travel assignment.

Section 11.3

Employees who work three (3) or more hours of authorized overtime, exclusive of meal times, in addition to their regular hours of employment, or employees who work three (3) or more hours, exclusive of meal times, on a day other than their regular work day, shall be reimbursed for expenses incurred for authorized meals, including tips, not to exceed the following amounts and in accordance with the following time periods:

Breakfast	3:01 a.m. to 9:00 a.m.	\$2.75
Lunch	9:01 a.m. to 3:00 p.m.	\$3.75
Dinner	3:01 p.m. to 9:00 p.m.	\$5.75
Midnight Snack	9:01 p.m. to 3:00 a.m.	\$2.75

ARTICLE 12 SALARY RATES

Section 12.1

The following shall apply to full-time employees:

A. Effective June 30, 2010, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one percent (1%) increase in salary rate.

1. If FY 2010 tax revenues equal or exceed \$20.3 billion, employees will receive an additional one percent (1%) increase in salary rate, for a total of a two percent increase effective June 30, 2010.
2. If FY 2010 tax revenues equal or exceed \$21.4 billion, employees will receive an additional two percent (2%) increase in salary rate, for a total three percent increase effective June 30, 2010.

B. Effective June 30, 2011, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a three percent (3%) increase in salary rate.

C. Effective June 30, 2012, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a three percent (3%) increase in salary rate.

The dates contained in Sections 12.1A, 12.1B or 12.1C above may be advanced by six months in each of the three years, or by three months in each of the three years, if the following tax revenue targets are met:

- FY 2010 – 6 months = \$19.45 billion; 3 months = \$19.00 billion
- FY 2011 – 6 months = \$20.42 billion; 3 months = \$19.95 billion
- FY 2012 – 6 months = \$21.44 billion; 3 months = \$20.94 billion

In addition, if tax revenues for Fiscal Year 2010, 2011, or 2012 achieve one of the aforementioned indices, the Commonwealth agrees to accelerate the wage rate increase for that fiscal year and for each of the above-listed fiscal years by six (6) or three (3) months, as applicable.

Section 12.2

Employees who receive a "Below" rating on their annual EPRS evaluation shall not be eligible to receive the salary increases provided in Section 12.1 of this Article, nor any step increases. Employees who receive a "Below" rating will have their performance reviewed on a monthly basis in accordance with Article 24A of this Agreement and will become eligible for the salary and step rate increase previously denied effective upon the date of receiving a "Meets" or "Exceeds" rating.

Section 12.3

The salary rate for new employees hired, reinstated or re-employed on or after July 1, 1990 shall be Step 1 for the job group of his/her position except in cases where a new employee is hired by a Department/Agency at a salary rate approved by the Chief Human Resources Officer above

Step 1. However, new employees shall not be recruited into Unit 3 positions without the prior written agreement of the Union.

Section 12.4

A. Under the terms of this Agreement, an employee shall advance to the next higher salary step in his/her job group until the maximum salary rate is reached, unless he/she is denied such step rate by his/her Appointing Authority. An employee shall progress from one step to the next higher step after each fifty-two (52) weeks of creditable service in a step commencing from the first day of the payroll period immediately following his/her anniversary date.

A. In the event an employee is denied a step rate increase by his/her Appointing Authority, he/she shall be given a written statement of reasons therefore not later than five (5) days preceding the date when the increase would otherwise have taken effect. Time off the payroll is not creditable service for the purpose of step rate increases.

Section 12.5

Whenever an employee paid in accordance with the salary schedules provided in Appendix A of this Agreement receives a promotion to a higher job group, the employee's new salary rate shall be calculated as follows:

1. For employees who are below the maximum step within their current job:
 - a. Determine the employee's current salary rate and step within his/her current job group; then
 - b. Find the salary rate of the next higher step within the employee's current job group; and
 - c. Multiply the employee's current salary rate by one and three one-hundredths (1.03); then
 - d. Compare the higher of the resultant amounts from 1.b or 1.c. above to the salary rates for the higher job group into which the employee is being promoted.
 - e. The employee's salary rate shall be the first rate in the higher job group that at least equals the higher of the resultant amounts from 1.d above.
2. For employees who are at the maximum step within their current job:
 - a. Determine the employee's current salary rate and step within his/her current job group; then,
 - b. Multiply the employee's current salary rate by one and three one-hundredths (1.03); then,
 - c. Compare the resultant amount from 2.b above to the salary rates for the higher job group into which the employee is being promoted.
 - d. The employee's salary rate shall be the first rate in the higher job group that at least equals the resultant amount from 2.c above.

Section 12.6

- A. Salary rates of full time employees are set forth in Appendix A of this Agreement which is attached hereto and is hereby made a part of this Agreement.
- B. The salary rates set forth in Appendix A shall remain in effect during the term of this Agreement. Salary rates shall not be increased or decreased except in accordance with the provisions of this Agreement.
- C. Employees shall be compensated on the basis of the salary rate for their official job classification.

Section 12.7

A regular part-time employee shall be entitled to the provisions of this Article in the proportion that his/her service bears to full-time service.

Section 12.8

- A. An employee entering a position within a bargaining unit covered by this Agreement from a position in an equivalent salary grade in a bargaining unit not covered by this Agreement shall be placed at the first step-in-grade up to the maximum of the grade, which at least equals the rate of compensation received immediately prior to his/her entry into the bargaining unit.
- B. Employees entering a position covered by this agreement from a position in a higher salary grade shall be placed at a step in grade within his/her new job grade based upon the employee's creditable years of service in the new job grade or higher job grade, provided that in no event shall the employee receive a salary higher than that received in the position held prior to being lowered in job group.
- C. An employee who, as a result of a reduction in force, is demoted in grade shall have his/her salary calculated as step to step, unless the employee's years of creditable service in the job grade to which he or she is demoted or higher job grade equates to a higher step. For employees that were recruited into the higher job grade, professional recruitment/comparable service credit shall be counted as creditable service. No employee subject to this provision shall receive a salary in his/her lower grade or title that exceeds his/her salary prior to the demotion.

Section 12.9

Effective July 1, 1999, or on such a later date as may be determined by the Employer, all employees covered by the terms and conditions of this Collective Bargaining Agreement shall be paid on a bi-weekly basis.

Effective July 1, 1999, salary payments shall be electronically forwarded by the Employer directly to a bank account or accounts selected by the employee for receipt.

ARTICLE 13
GROUP HEALTH INSURANCE CONTRIBUTIONS

The Commonwealth and each covered employee shall pay the monthly premium rate for the Group Health Insurance Plan in a percentage amount determined by the General Court for the type of coverage that is provided for him/her and his/her dependents under the Plan.

ARTICLE 13A HEALTH AND WELFARE

Section 13A.1 Creation of Trust Agreement

The parties have agreed to establish a Health and Welfare Fund under an Agreement and Declaration of Trust drafted by the Employer and executed by the Union and the Employer. Such Agreement and Declaration of Trust (hereinafter referred to as the "trust agreement") provides for a Board of Trustees composed of an equal number of representatives of the Employer and the Union.

The Board of Trustees of the Health and Welfare Fund shall determine in their discretion and within the terms of this Agreement and the Agreement and Declaration of Trust such health and welfare benefits to be extended by the Health and Welfare Fund to employees and/or their dependents.

Section 13A.2 Funding

A. Effective the first pay period in January 2011, the Employer agrees to contribute on behalf of each full-time employee equivalent the sum of \$14.50. The Board of Trustees shall continue to maintain the Day Care Assistance Program for the duration of this Agreement.

B. Effective the first pay period in January 2012, the Employer agrees to contribute on behalf of each full-time employee equivalent the sum of \$15.00. The Board of Trustees shall continue to maintain the Day Care Assistance Program for the duration of this Agreement.

C. The contributions made by the Employer to the Health and Welfare Fund shall not be used for any purpose other than to (1) provide health and welfare benefits; (2) maintain a Dependent Care Assistance Pilot Program; and (3) to pay the operating and administrative expenses of the Fund. The contributions shall be made by the Employer in an aggregate sum within forty-five (45) days following the end of the calendar month during which contributions were collected.

Section 13A.3 Non-Grievable

No dispute over a claim for any benefits extended by this Health and Welfare Fund shall be subject to the grievance procedure established in any collective bargaining Agreement between the Employer and the Union.

Section 13A.4 Employer's Liability

It is expressly agreed and understood that the Employer does not accept, nor is the Employer to be charged hereby with, any responsibility in any manner connected with the determination of liability to any employee claiming under any of the benefits extended by the Health and Welfare Fund. The Employer's liability shall be limited to the contributions indicated under Section 2 above.

ARTICLE 13B
TUITION REMISSION

Full-time employees shall be eligible for tuition remission as follows:

- A. For enrollment in any state-supported course or program at the undergraduate or graduate level at any Community College, State College or State University excluding the M. D. Program at the University of Massachusetts Medical School, full tuition remission shall apply;
- B. For enrollment in any non-state supported course or program offered through continuing education at any Community College, State College or State University, excluding the M. D. Program at the University of Massachusetts Medical School, fifty percent (50%) tuition remission shall apply;
- C. Remission benefit is subject to space available and usual and ordinary admission policies. It is also subject to the approval of the Board of Higher Education and the policies and procedures of same.
- D. A committee shall be established to evaluate the experience of this program and to consider possible extension of the program and to make recommendations concerning both.
- E. Spouses of full time employees shall be eligible for the remission benefits contained in this Article and subject to the other provisions of this Article. It is understood that any program of spousal eligibility developed by the Board of Higher Education in conjunction with the Employer (HRD) require the subordination of spousal eligibility rights to those remission benefit rights extended to full time state employees in different bargaining units as well as full time employees covered by the provisions of this Agreement.

ARTICLE 13C
DEPENDENT CARE

The Employer shall continue the voluntary Dependent Care Assistance Plan (DCAP) which complies with the requirement for federal tax deductibility.

ARTICLE 14
SENIORITY, TRANSFERS, PROMOTIONS, REASSIGNMENTS,
FILLING OF VACANCIES AND NEW POSITIONS

Section 14.1 Definitions and Applicability

A. A promotion shall mean an advancement to a higher salary grade within an employee's Department/Agency except where there is more than one Appointing Authority in the Department/Agency a promotion shall mean an advancement to a higher salary grade within the jurisdiction of the employee's Appointing Authority. This Article shall apply to all vacancies filled except for those filled from a certified Civil Service list with the following exception, this Article shall not apply to positions which are reasonably expected to exist for less than one (1) year.

B. A transfer shall mean a change in work location within a facility or from one facility to another facility or a change in Appointing Authority within the department/agency so long as the employee remains in the same classification and the duties are substantially the same.

A reassignment shall mean a change involving different days off and/or shift within a facility but without a substantial change in duties and without any change in the work unit or classification.

Section 14.2 Procedure

A. Eligibility Criteria

1. The Appointing Authority may determine the experience and educational prerequisites for hiring and promotion. These prerequisites may exceed the minimum entrance requirements established by the Chief Human Resources Officer pursuant to Civil Service as to the extent that the criteria established are reasonably related to the actual job duties of the position for which there is an opening.
2. In positions where licenses and/or registration are required in the job specification or by state approving agency, an applicant must possess the adequate license or certificate of adequate registration on the date application is made.

B. Selection Criteria

1. Nothing in this Article shall preclude an Appointing Authority from hiring outside Applicants after all applicants within the Appointing Authority's jurisdiction have been considered.
2. The Appointing Authority will use the following criteria in selecting from candidates who are presently employees covered by the Agreement in the priority order of listing, that is, if two or more employee applicants have equal ability to do the job, the Appointing Authority will next compare the work histories, and so forth:
 - a. Ability to do the job, (applicant must possess any and all licenses or registrations required on job specification at the time of application).
 - b. Work history, including attendance record.
 - c. Experience in related work.

- d. Education and training directly related to the duties of the vacancy.
- e. In the event that two or more applicants are considered approximately equal in accordance with the foregoing factors and one or more of the applicants are current employees, then seniority as measured by length of service within the Appointing Authority, prorated for time off the payroll greater than thirty (30) days shall be the decisive factor.

C. Posting

- 1. Posting shall be made at the appropriate work unit(s) within the Appointing Authority for no fewer than ten (10) calendar days. The Union shall be furnished a copy of all such postings.
- 2. For promotions made pursuant to this Article, the Appointing Authority shall post promotional opportunities in the following sequence:
 - b. within the work unit
 - c. within one or more of the work units, where there is no qualified applicants within the work unit where the vacancy exists.
 - d. within the Appointing Authority's jurisdiction when there is no qualified applicant under a) or b) or when b) is not utilized.
The work unit and/or units shall be designated by the Appointing Authority. Once designated, the work unit and/ or work units shall not be arbitrarily changed.
- 3. When an applicant for promotion has been selected to fill the vacancy, the selection shall be posted for ten (10) calendar days. In addition, each applicant who was not selected shall be sent immediately the Notice of Selection and Notice of Non-Selection which shall contain the reasons for non-selection of the individual applicant, using the form attached at the end of this contract.

D. Promotional Probationary Periods

- 1. An employee promoted in accordance with this Article shall serve a probationary period of six (6) months.
- 2. All promotions made pursuant to this Article or resulting from a promotion pursuant to this Article shall be contingent on successful completion of the probationary period.
- 3. Only time actually with full time duties of the new position shall be counted toward fulfillment of this probationary period.
- 4. If an employee's performance is determined to be unsatisfactory during the probationary period and the promotion was made within the same Appointing Authority, said employee shall be returned to a vacant, fillable position in the job title from which he/she promoted.

- a. The employee displaced by such return shall be returned to his/her former job title. Where more than one position in the back filled job title was filled pursuant to this Article, the employee last selected to backfill shall be the one displaced.
 - b. In the event that no position in the former job title is available when the employee is to be returned, the employee shall be given his/her rights in accordance with Article 18 of this Agreement.
- 5. If an employee's performance is determined to be unsatisfactory during the probationary period and the promotion was made to a different Appointing Authority, said employee shall be terminated or demoted to a lower position in the discretion of the new Appointing Authority.
 - 6. As close to the mid-point of the above designated probationary periods as possible, the supervisor of the promoted employee shall meet with the employee to discuss his/her performance in the new position.
 - 7. At any time during a probationary period where said promotion was made within the same Appointing Authority, at the employee's request, he/she shall be returned to a position in the job title from which he/she was promoted.
 - 8. If any employee is returned to his/her former position. voluntarily or involuntarily within the same Appointing Authority or demoted due to poor performance within the new Appointing Authority, said employee will not be eligible to apply for promotion pursuant to this Article for a period of nine months.

Section 14.3 Grievability of Promotions

- A. The selection of employees is grievable only upon allegation that the employer did not follow the procedure as indicated in Section 2 or upon allegation that the selection was arbitrary and capricious.
- B. Remedial jurisdiction of the arbitrator shall be limited to ordering a reposting and re-determination from among new applicants.
- C. The evaluation and/or the return of an employee to a position in his/her former title during the probationary period is not grievable.

Section 14.4 Grievability of Outside Candidate Selections

The selection of an outside candidate is grievable up through Step III only upon the allegation that the selected candidate did not meet the minimum entrance requirements established by the Chief Human Resources Officer pursuant to the Civil Service Law.

Section 14.5 Transfers

- A. 1. a. An employee seeking a transfer to a different work unit shall submit a written transfer request to his/her Appointing Authority or designee.
- b. An employee seeking a transfer to a different work facility under the jurisdiction of another Appointing Authority shall submit a written transfer request to that appointing authority or designee prior to posting.

2. a. Selection between employees seeking a transfer other than a substantial change in duties shall be made on the basis of seniority from among those employees considered by the Appointing Authority to be able to adequately perform the duties of the position.
- c. An employee seeking a transfer involving a substantial change in duties shall submit a written transfer request to his/her Appointing Authority or designee and selection shall be made on the basis of the seniority from among those employees considered by the appointing authority to be qualified to perform the duties of the position.
3. Requests for transfers shall be kept on file for a period of twelve (12) consecutive months from the date of submission by the employee seeking the transfer and shall be considered and where appropriate, implemented by the Appointing Authority or designee prior to filling of any vacancy. Transfer requests not approved within this period must be resubmitted by the employee in order to remain active for consideration.
4. An employee who moves from one Appointing Authority within a department/agency to another facility under a different Appointing Authority without a change in classification or job title and without and without an interruption of continuous service shall retain all seniority for the purpose of this Agreement and shall not otherwise be subject to a probationary period.

B. Reassignments

1. An employee seeking a reassignment shall submit a written request to his/her Appointing Authority or designee.
2. Selection between employees seeking a reassignment shall be made on the basis of seniority.

C. Procedures

1. Written requests for transfer /reassignment shall remain active and on file for a period of twelve (12) consecutive months from the date of submission by the employee seeking the transfer/reassignment. Transfer/reassignment requests not approved within this period must be re-submitted by the employee in order to remain active for consideration.
2. Nothing in this Section shall be interpreted to preclude an employee from requesting and/or an Appointing Authority from granting any transfer/reassignment not referred to in this Section.

D. Transfers and Reassignments by the Employer

In the event it becomes necessary for the Employer to involuntarily transfer or reassign an employee, the Employer will provide the employee at least ten (10) working days prior written notice, except in cases of emergencies involving the protection of the property of the Commonwealth or involving the health and safety of those persons whose care and/or custody have been entrusted to the Commonwealth. In emergency situations management, shall at the Union's request, provide the reason(s) for the transfer/reassignment. However, a declaration of said emergency shall not be used for the purpose of avoiding the payment of overtime. The

Employer shall use the joint criteria of ability to do the job and inverse seniority in determining which of the potentially affected employees shall be transferred/reassigned.

E. Implementation

1. For the purpose of this Section, seniority shall be defined as length of service in the Department/Agency. If seniority in the Department/Agency is equal, then length of state service will be used to determine the more senior employee.
2. The Employer and the Union at the agency level shall develop simplified forms and procedures to implement the transfer and reassignment language contained in this Section and shall review its functioning periodically.

ARTICLE 15 CONTRACTING OUT

Section 15.1

There shall be a Special Labor Management Committee to advise the Secretary of A & F on contracting out of personnel services. The Committee shall consist of two persons designated by the National President of the NAGE and two persons designated by the Chief Human Resources Officer. Said Committee shall develop and recommend to the Secretary of A & F procedures and criteria governing the purchase of contracted services by the Commonwealth where such services are of a type traditionally performed by bargaining unit employees.

Section 15.2

In the event that the NAGE desires to discuss the purchase of services which are the type currently being provided by employees within a department/agency covered by this agreement, the National President of the NAGE shall request in writing a meeting of the Special Labor Management Committee established in Section 1.

The Committee shall examine both the cost effectiveness of such contracts and their impact on the career development of NAGE members. In the event that the parties fail to reach an agreement in the Committee, the parties agree to submit the matter to an expedited fact-finding process.

Section 15.3 When a Department/Agency contracts out work which will result in the layoff of an employee who performs the function that is contracted out, the Union shall be notified and the Employer and the Union shall discuss the availability of similar positions within the Department/Agency for which the laid-off employee is determined to be qualified and the availability of any training programs which may be applicable to the employee. In reviewing these placement possibilities, every effort will be made to seek matches of worker skills and qualifications with available, comparable positions.

Section 15.4

In the case of 03 contracts with individuals, the Committee shall review them to determine whether the work to be performed is long term in nature, and whether it should more appropriately be performed by regular employees provided nothing in this Article shall limit the authority of the Secretary of A & F to promulgate rules and regulations covering contracting out of services pursuant to Chapter 29, Section 29A.

Section 15.5 The Employer shall notify employees in writing at their time of hire that they may request credit for prior service as a personal service contractor (03) or vendor employee (07). Employees shall have one (1) year from the date of notification to file a request for such credit. If the employee fails to file a request within the allotted one (1) year, they shall only be eligible to receive creditable service on a prospective basis.

ARTICLE 16 OUT OF TITLE WORK

Section 16.1 Work in a Lower Classification

While an employee is performing the duties of a position classified in a grade lower than that in which the employee performs his/her regular duties, he/she will be compensated at his/her regular rate of pay as if performing his/her regular duties.

Section 16.2 Work in a Higher Classification

Any employee who is assigned by prior written directive signed by his/her Appointing Authority or designee when such designee has been formally assigned to act as the Appointing Authority's agent in this regard, to a vacant, fillable position in a higher grade for a period of more than thirty (30) days, shall receive the salary rate for the higher position from the first day of the appointment, provided such assignment is made pursuant to civil service law.

This Article shall not authorize the payment of an employee for working in a higher grade unless the procedures of this Article are complied with and shall not apply to working in a higher grade when the holder of the higher grade is absent on vacation leave.

Section 16.3 Overtime Compensation

A. An employee who performs work in a higher classification shall have overtime compensation computed at the first step rate of the higher classification, unless the employee's regular rate of compensation is higher, in which case the overtime compensation shall be computed at the employee's regular rate of compensation.

B. An employee who performs overtime work in a lower classification shall have overtime compensation computed at the employee's regular rate of compensation unless it is higher than the maximum of the grade in which overtime is rendered, in which case he/she shall be paid at the maximum rate for the grade in which service is rendered.

ARTICLE 17
CLASSIFICATION AND RE-CLASSIFICATION

Section 17.1 Class Specifications

The Human Resources Division shall determine:

- A. job titles;
- B. relationship of one classification to the others; and
- C. job specifications.

The Employer shall provide the Union with a copy of the class specification of each title covered by the Agreement for which such a specification exists.

Section 17.2 Employee Access

Each employee in the bargaining unit shall be provided with a copy of his/her class specification.

Section 17.3 Individual Appeal of Classification

Individual employees shall continue to have the same right to appeal the propriety of the classification of his/her position through the Chief Human Resources Officer or the Civil Service System which the individual employee enjoyed on June 30, 1976, and such appeal may not be the subject of a grievance or arbitration under Article 22.7 herein.

Section 17.4

Class reallocations may be requested by the Union whenever they believe a reallocation is justified by the existence of an inequitable relationship between the positions covered by the reallocation request and other positions covered by this agreement. If the employer agrees that such an inequity exists, the employer and the Union agree to jointly petition the General Court for such class reallocation. If, however, the parties are unable to reach agreement the matter shall not be subject to the grievance procedure.

Section 17.5

The Employer and the Union agree that the procedure provided in Section 17.4 shall be the sole procedure for class reallocations for all classes covered by this Agreement. No other class reallocations shall be granted under any other provisions of this Agreement.

ARTICLE 17A TECHNOLOGICAL CHANGE

Section 17A.1 Introduction

A. The Commonwealth and the Union recognize that automation and technological change are fast becoming an integral part of work in many of the departments/agencies in the state. Both parties are aware of the enormous impact these changes will have and are having on employees and the way in which they perform work. The Employer and the Union are committed to making this transition to automation in as responsive a way as possible to both the human issues and the provision of services to the public.

The Commonwealth and the Union are committed to the concepts that technology was not intended to replace state employees: that the transition be orderly and comfortable to agencies and employees; that the Union provide input in developing implementation, health and safety guidelines; and that adequate and appropriate training be available to employees to provide for job protection and advancement or retraining.

B. The Employer will notify the Union at least ten (10) working days in advance of any proposed technological change, including the introduction of VDT's in the work place.

C. The Commonwealth and the Union further recognize that automation and technological change are integral components of the way all departments and agencies better meet the challenges of effectuating business practices which ensure that they more effectively and efficiently attain their missions.

The Commonwealth and the Union recognize that the Commonwealth's Human Resources/Compensation Management System (HR/CMS) is the most comprehensive review of business processes regarding payroll, personnel, and other processes ever undertaken by the Commonwealth, replacing such current systems as PMIS and CAPS.

Therefore, the Commonwealth and the Union agree that HR/CMS shall become the cornerstone of the Commonwealth's payroll and personnel system.

To ensure that any of the changes required by HR/CMS are introduced and implemented in the most effective manner, the Union agrees to support the Commonwealth's implementation and accepts such changes to business practices, procedures, and functions as are necessary to achieve such implementation (e.g. the change from a weekly to bi-weekly payroll system). The Commonwealth and the Union will establish a Special Labor-Management Committee made up of an equal number of Union representatives and Management representatives. This committee shall be the sole forum for the parties to discuss any issues of impact to the bargaining unit arising from the implementation of HR/CMS.

Section 17A.2 Joint Committee on Technological Change and Automation

To ensure that the introduction and implementation of technological changes in the workplace occur in the most effective manner, a Joint Committee with equal representation from HRD and the Union be established. The purpose of the Joint Committee will include:

1. To review the impact of technological changes as soon as possible after the development of the implementation plan,

2. To meet and discuss the impact of the implementation plan on such issues as wage and classification changes; career ladder realignment; methods of introduction of new equipment and operating procedures; ergonomic specification; health and safety issues; training and job redesign.
3. To develop and recommend specific training programs and/or procedures regarding use and operation of computer equipment.
4. To review specific problems as they arise.

Section 17A.3 Ergonomic Guidelines

A. The State guidelines on visual display terminals, CRT's and printers, originally issued in 1984 and periodically amended, shall be used as a reference for this Agreement, to be applied where practicable.

B. The Union will be notified in advance of any proposed changes in these guidelines.

Grievances alleging a violation of this section may be grieved through Step III of the grievance procedures of Article 23, Section 2.

Section 17A.4 Classification

The parties agree that where jobs are significantly impacted by the introduction of technology/automation, these jobs will be subject to the appropriate review through the class reallocation appeals process designated in Article 17.4 of this Agreement. Where possible, new job classifications will be included in the bargaining unit.

Section 17A.5 Health and Safety

A subcommittee of the Joint Committee will be established to review and discuss health and safety guidelines.

A. Pregnant employees who work on VDT systems may request temporary reassignment within their job description or a comparable position, and be reassigned within two (2) weeks of notification, for the duration of the pregnancy. Such work assignment shall be determined by the Appointing Authority or his/her designee. This request must be made in writing to the Appointing Authority with verification from the employee's physician. While in such alternative assignments, the employee shall be paid at her regular rate of pay.

B. VDT operators shall not be required to perform continuous duties at the work screen for periods in excess of two (2) hours at a time. For each consecutive two (2) hour period worked at his/her station, the employee shall be entitled to be away from the screen for a continuous period of fifteen (15) minutes. Such period may consist of an alternative job assignment or any break or lunch period otherwise authorized by this Agreement.

C. Agencies will provide safety training on all equipment for all operators. Wherever, possible, VDT's will be fitted with proper equipment to prevent possible radiation hazards.

D. Agencies will make every effort to ensure safe equipment through regular monitoring and maintenance of equipment and will provide necessary materials for routine maintenance by operators.

Section 17A.6 Training

The Commonwealth and the Union recognize that the introduction of technological changes will require the need for employees to develop many different or new skills. To ensure that employees are adequately prepared to retain their current positions or to move into newly automated positions, the state is committed to providing training programs in the use of computer equipment as well as generic training for specific programs.

The Statewide Training and Career Ladder Committee will review agency training plans in relation to the introduction of Technological Change, in order to ensure the equitable allocation of training opportunities.

Section 17A.7

The parties specifically agree that all hardware, software, databases, communication networks, peripherals, and all other electronic technology, whether networked or free-standing, is the property of the Commonwealth and is expected to be used only as it has in the past for official Commonwealth business. Use by employees of the Commonwealth's technological resources constitutes express consent for the Commonwealth and its Department/Agencies to monitor and/or inspect any data, any electronic mail messages, and any web sites that they may access. The Commonwealth retains, and through its Departments/Agencies, may exercise the right to inspect any user's computer, any data contained in it, and any data sent or received by that computer.

Notwithstanding the above, under no circumstances will the following be considered valid business uses of the Commonwealth's technology:

- In furtherance of any illegal act, including violation of any criminal or civil laws or regulations, whether state or federal;
- For any political purpose;
- For any commercial purpose;
- To send threatening or harassing messages, whether sexual or otherwise;
- To access or share sexually explicit, obscene, or otherwise inappropriate materials;
- To infringe any intellectual property rights;
- To gain, or attempt to gain unauthorized access to any computer or network;
- For any use that causes interference with or disruption of network users and resources, including propagation of computer viruses or other harmful programs;
- To intercept communications intended for other persons;
- To distribute chain letters; or
- To access online gambling sites.

The parties agree that the foregoing list and policy is not all-inclusive and will meet as needed to make appropriate modifications thereto.

The Department/Agency will disseminate this Section to its employees on an annual basis as part of the employee's performance evaluation and afford said employees the opportunity to request clarification should it be necessary. The employee shall then sign an acknowledgment that he/she has received, read and understands this Section within ten (10) working days of receipt.

ARTICLE 18 LAYOFF - RECALL PROCEDURE

Section 18.1 Applicability

The provisions of this Article shall apply only to non-civil service employees and shall not apply to the separation from a position by reason of the certification of a civil service list by the Human Resources Division, provided, however, that the employee displaced by the use of the civil service list shall be the least senior person in the title in the work unit to which the civil service appointment or promotion is being made; and further provided that the person displaced shall have bumping rights if any as set forth in this Article.

Section 18.2 Definitions

As used in this Article seniority shall mean service rendered in the Department/Agency.

Section 18.3 Layoff/Notice to Union/Notice to Employee

In the event that Management becomes aware of an impending reduction in workforce it will make every effort to notify the Union at least ten (10) calendar days prior to the layoff. Management will notify the affected employees in writing not less than five (5) working days in advance of the layoff date. Whenever practicable affected employees will have four(4) working days to exercise their bumping rights.

Section 18.4 Displacement-Bumping Procedure

- A. In the event there is a reduction in work force within a department/agency which will result in bumping and layoff, the Human Resources Division will encourage the department/agency to develop a Voluntary Layoff Incentive program for affected employees.
- B. An employee whose position is being eliminated shall have the right to exercise his/her seniority by accepting a reassignment within the Department/Agency, to the position of the least senior employee in his/her job title for which the employee is qualified, provided that the affected employee is less senior than the employee whose position is eliminated.
- C. Alternatively, an employee whose position is being eliminated may elect to bump to a lower title in his/her job series, or to a title outside of the employee's job series in the next lower salary grade to the employee's current salary grade, for which the employee is qualified, within his/her region, provided that there are persons with less seniority in the lower title(s). This option is limited to the least senior employee in the affected title.
- D. An employee electing to reassign/bump as set forth above, must upon request provide to the Appointing Authority an updated resume at the time of his/her notification of his/her intention to reassign/bump.
- E. For the purpose of this Article the geographic regions shall be defined and agreed to by HRD, the Union President of the Local affected and the appropriate representative of the Department/Agency.
- F. Employees who physically work in a particular region will be included in that region for bumping, layoff and recall regardless of the office to which their position is posted.

G. If the position of the least senior employee is a part-time position, the full time employee whose position has to be eliminated may elect to:

1. Accept the part time hours;
2. Accept reassignment to the position of the least senior full time employee; or
3. Be laid off

H. The least senior full time employee who is displaced as a result of the operation of Section H.2 above may:

1. Accept reassignment to the position of the least senior part-time employee in the same title provided the part-time employee is less senior;
2. Be laid off; or
3. Exercise bumping rights.

I. A part-time employee whose position is eliminated may accept reassignment to the position of the least senior employee in the appropriate departmental unit, region, Appointing Authority or statewide. The part time employee unwilling or unable to accept the hours of the position of the least senior employee shall be laid off.

J. In all of the aforementioned personnel transactions in this Article, any employee who has been notified that he/she will actually be laid off shall file with his/her Appointing Authority, within four (4) working days of receipt of such notice, a written request to reassign in title, or bump down to displace other positions occupied by employees based upon their seniority and qualifications. As used in this Article, qualifications shall mean objectively demonstrable knowledge, skills, and/or abilities. Appeals of employees denied the opportunity to reassign/bump due to qualifications as defined herein shall be processed in accordance with provisions outlined in the parties' memorandum of understanding regarding Alternative Dispute Resolution dated March 15, 2005.

K. It is agreed that the provisions of this Article do not preclude an employee from requesting and the Appointing Authority from granting, a voluntary layoff regardless of the employee's seniority in the Department. It is understood that this option of voluntary layoff shall include, but is not limited to recall rights, and payment for all accrued vacation time.

Section 18.5 Transfers

A. Within the Department/Agency - the employee who is to be laid off shall have the opportunity to transfer laterally to a fillable, vacant bargaining unit title, within the jurisdiction of his/her present Appointing Authority, for which he/she is qualified.

B. Between Agencies - the employee who is to be laid off may file a request for transfer to any agency in state service. Upon approval of that agency, such employee may be appointed to any vacancy in the bargaining unit in the same grade and title or any similar title for which she/he might meet the necessary qualifications in the same or lower salary range as the position from which he/she was laid-off. Seniority shall be the determining factor in the event one or more such employees are seeking the same position in another state agency.

Section 18.6

A. The Department/Agency shall maintain a regional recall roster from which laid-off employees will be recalled, to positions to be filled, in accordance with their seniority and in accordance with their qualifications to perform the work. As soon as it is administratively feasible, the Commonwealth shall establish and maintain a statewide recall roster.

B. If the title of the employee is abolished as a result of the transfer of the functions to another department/agency, such employee may elect to have his/her name placed on the recall roster or to be transferred, subject to the approval of the Appointing Authority, to a similar position in such department/agency without loss of seniority, retirement, or other rights and in accordance with paragraph "A" above.

C. The Department/Agency shall appoint employees on the recall roster, prior to the appointment of any other applicant, to fillable vacant bargaining unit 3 positions for which the laid off employee is determined qualified by the Employer.

D. A laid off employee will remain on the recall roster for three (3) years except an employee who is offered recall to a position in the same job grade as the position from which he/she was laid off, and refuses such offer shall be removed from the recall list and his/her rights shall terminated at that time.

E. Notwithstanding the above, a laid off employee who fails to respond in writing to a notice of recall within seven (7) calendar days of the receipt of such offer or who upon acceptance of the recall offer fails to report to work on the appointed date, shall forfeit any further recall rights.

F. Notices of the recall sent by the Appointing Authority to a laid off employee and the employee's notice of acceptance, or rejection of said recall shall be sent by certified mail, return receipt requested.

G. Whereas the parties wish to ensure that the least senior employee is terminated first under the procedure for lay off and recall of non-civil service employees specified in Article 18, it is agreed as follows: the Employer shall appoint to a permanent non-civil service vacancy the temporary employee with the most seniority within the job title within the work unit.

Section 18.7

Employees who are separated from employment as the result of the implementation of the layoff/bumping procedures and who are subsequently recalled to employment shall for purposes of determining their salary upon recall under Article 12, be credited with their prior service and

shall not upon recall be considered to be "hired, reinstated or re-employed" notwithstanding the provisions of Article 12 to the contrary.

Section 18.8

In computing seniority as defined in this Article any break in service or any time off in excess of thirty (30) days shall be excluded from the total seniority except approved military, maternity, educational and industrial accident leave.

Section 18.9

The parties may, by agreement in writing, alter the implementation of this Article to meet the varying needs of the particular department/agencies.

ARTICLE 19 SAFETY AND HEALTH

Section 19.1

The Employer agrees to provide a safe, clean wholesome surrounding in all places of employment. At least once per week the Employer shall inspect the premises to maintain good housekeeping.

The employer shall inspect lighting, floors, ceilings, and walls, stairs, roofs, ladders, tables, filing cabinets, lifting devices, benches, chairs, heating equipment, electric fans, storage spaces, trunks, conveyor belts, containers, packing cases, machines, tools and any other physical property used in any place of employment.

Section 19.2

In locations such as manhole where valves or other control devices may be located, the person in charge shall ascertain that no noxious or poisonous gases are present therein before permitting any employee to enter the manhole for any reason. When such gases are present, no employee shall be permitted to enter the manhole until the situation is corrected. The use of harnesses or other protective devices must be used where any danger is present.

Section 19.3

Where it is necessary to make excavations for the purposes of repairing burst water mains, the Supervisor of the work locations shall provide proper shoring to prevent cave-ins.

Section 19.4

If a tool, machine, or piece of equipment is defective, worn-out or dangerous to operate because of its condition, a repair or replacement work order in duplicate shall be submitted to the Supervisor who will not permit its use until authorized by his her designee.

Section 19.5

Department Heads shall at all times be concerned with the safety and health of employees in their respective departments. No employee shall be required to use any tool, machinery or equipment unless said employee is adequately experienced or familiar with the use of such.

Section 19.6

Each Department Head shall issue instructions to all supervisory personnel to carry out the provisions of this Article.

Section 19.7

Accident reports, when and if filed, will be made available for inspection by the Union and for copying at Union expense.

Section 19.8

When a department head, with the approval of the Secretary of Administration and Finance, prescribes protective work clothing of standard pattern such clothes shall be furnished at the expense of the Commonwealth for use, while on duty, of such employee as may be designated by the Department.

Section 19.9

Rules and Regulations issued by the Division of Industrial Safety pertaining to the use of power tools; for the prevention of accidents in window cleaning; for common drinking cups and

common towels in factories, workshops, manufacturing, mechanical and mercantile establishments; for safeguarding power press tools; for toilets in industrial establishments; for the prevention of anthrax; to govern compressed air work; to establish safety rules and regulations and machinery standards relating to safe and sanitary working conditions in foundries and the employment of women in core rooms; relative to benzol, carbon tetrachloride and other substances hazardous to health; for the prevention of accidents in construction operations; pertaining to structural paintings; for the care of employees injured or taken ill in industrial establishments; for safeguarding woodworking machinery; lighting codes for factories, workshops, manufacturing mechanical and mercantile establishments; and any other rule or regulation adopted by the Department of Labor and Occupational Safety intended to govern the prevention of accidents or industrial diseases and not inconsistent with the provisions of this Agreement are all incorporated herein.

Procedures with regard to asbestos shall be governed by the Memorandum to Cabinet Secretaries and Agency Heads from the Secretary of the Executive Office of Administration and the Department of Labor and Occupational Safety dated May 16, 1986 related to EPA "Worker Protection" regulations.

Section 19.10

Within each Department/Agency or work facility there shall be established a six (6) member labor/management committee, three (3) representing the Union and three (3) representing the Employer which shall meet on a monthly basis. The Committee shall identify sources of stress and hazard in the work place and work environment and shall recommend changes as needed.

Section 19.11

Grievances involving the interpretation or application of the provisions of this Article may be processed through Step III of the grievance procedure set forth in Article 22 but may not be the subject of arbitration.

Section 19.12

The parties agree to establish a program to monitor air quality at new and existing worksites. The parties agree to negotiate over the specific provisions of such a protocol within sixty (60) days.

ARTICLE 19A
TRAINING AND CAREER LADDERS

Section 19A.1 General

The Employer and the Union recognize the importance of training programs, the development of career ladders and of equitable employment opportunity structures and seek here to establish a process for generating such program recommendations and their implementation.

Section 19A.2 Committee

Toward these ends, the Employer and the Union agree to establish a Statewide Training and Career Ladders Committee consisting of four (4) persons appointed by the Union and four (4) persons appointed by the Chief Human Resources Officer. Such committee shall function continuously throughout the life of this Agreement.

ARTICLE 20 REASSIGNMENT

Section 20.1

Management may implement geographical reassignments in accordance with departmental needs and shall request volunteers for said reassignments prior to making mandatory reassignments. An employee who is adversely affected by the reassignment may request a discussion of said reassignment with the Appointing Authority or his/her designee. In the discussion the employer shall take into consideration the family lifestyle of the employee, the distance of the reassignment, the availability of car pools and/or public transportation and/or any other employee hardship.

Section 20.2

The Commonwealth and the Union recognize the efficiency of promoting energy saving endeavors by offering an alternative to employees who may commute lengthy distances to and from their homes to work. The parties therefore agree to initiate a pilot program to implement job swapping opportunities between employees that work in the same job title and functions and within the same agency, but at geographically disparate work locations. Employees requesting a swap may file their request with the Agency's human resource office. When two or more employees submit matching swap requests the Agency shall favorably consider the swap unless one or more of the following conditions apply:

1. The swap would unduly interrupt client services or operational efficiency at either or both of the swap locations
2. One or more of the applicants has had an unsatisfactory performance review in the preceding year or one or more of the applicants currently has a corrective action plan in place
3. One or more of the applicants would be unable to perform the duties of the position to which they wish to swap without substantial training

An employee who enters into a swap will not be able to do so again for two (2) years. Employees shall not be able to enter into a swap during their new employee or promotional probation period, nor within 12 months of entering a job title.

Swap requests by two or more employees to the same position shall be determined by seniority as measured by length of service within the Agency. If seniority is equal, then length of state service will be used to determine the more senior employee.

The Office of Employee Relations, the designated Pilot Agency and the Union shall establish a committee to review and monitor implementation of this program and recommend changes as necessary. This pilot program shall be in effect for two (2) years from date of signing and shall be implemented in the Department of Environmental Protection, Department of Revenue, and the Department of State Police.

The parties agree that there shall be a special Labor Management Committee established to discuss telecommuting, four (4) -day work weeks and additional energy saving endeavors.

ARTICLE 20A
EMPLOYEE LIABILITY

Employee liability will be determined in accordance with M.G.L. Chapter 258.

ARTICLE 21
CREDIT UNION AUTHORIZATION

The Commonwealth agrees to deduct from the regular salary payments (not a draw) of employees an amount of money, upon receipt of the employee's written authorization for the deduction for the purchase of shares in, making deposits to, or repaying a loan to a credit union organized under appropriate provisions of Massachusetts General Laws. Any written authorization may be withdrawn by the employee by submitting a written notice of withdrawal to the Commonwealth and the treasurer of the credit union thirty (30) days in advance of the desired cessation of payroll deduction.

ARTICLE 22
ARBITRATION OF DISCIPLINARY ACTION

Section 22.1

No employee who has been employed in the bargaining unit described in Article 1 of this Agreement for six consecutive months or more shall be discharged, suspended, or demoted for disciplinary reasons without just cause. An employee who severs his/her employment with the Commonwealth must serve an additional probationary period upon re-employment whether in the same or a different job title.

Section 22.2

In the event that an employee is not given a departmental hearing prior to the imposition of discipline or discharge, then a grievance alleging a violation of Section 1 of this Article shall be submitted in writing by the aggrieved employee to his/her agency head within ten (10) working days of the date such action was taken. The grievance shall be treated as a Step II grievance and ARTICLE 23 - GRIEVANCE PROCEDURE, shall apply.

Section 22.3

A. In the event that an employee is given a departmental hearing prior to the imposition of discipline or discharge, a grievance alleging a violation of Section 1 of this Article shall be submitted in writing by the aggrieved employee to his/her agency head within ten (10) working days of the date such action was taken. Upon receipt of the grievance at Step II, the Appointing Authority shall review the actions taken at the lower level and shall either:

1. Hold a full conference at Step II and the provisions of ARTICLE 23 - GRIEVANCE PROCEDURE shall apply, or,
2. Issue a written decision to waive the grievance to Step III and the provisions of ARTICLE 23 - GRIEVANCE PROCEDURE shall apply.

B. In those agencies where the Step I and Step II authorities are the same and where a grievance has initially been filed at either Step I or Step II, pursuant to this Article, grievances filed under this Section shall be submitted to Step III.

Section 22.4

As a condition precedent to submitting a grievance alleging a violation of Section 1, pursuant to ARTICLE 22 – ARBITRATION OF DISCIPLINARY ACTION and ARTICLE 23 - GRIEVANCE PROCEDURE the Union and the employee involved shall sign and give to the Employer, on a form prepared by the Employer (Appendix B), a waiver of any and all rights to appeal the disciplinary action to any other forum including the Civil Service Commission. The waiver shall include a declaration that no other disciplinary review has been commenced.

Section 22.5

A. Should the Union submit a grievance alleging a violation of Section 1 to arbitration pursuant to Article 22, the arbitration shall be conducted on an expedited basis.

B. An employee and/or the Union shall not have the right to grieve, pursuant to Article 22, disciplinary action taken as a result of the employee engaging in a strike, work stoppage, slowdown or withholding of services unless the Union alleges that the employee did not engage in such conduct.

ARTICLE 23 GRIEVANCE PROCEDURE

Section 23.1

The term "grievance" shall mean any dispute concerning the application or interpretation of the terms of this Collective Bargaining Agreement.

Section 23.2

The grievance procedure shall be as follows:

Step I An employee and/or the Union shall submit a grievance in writing, on the grievance form prepared by the Employer (Appendix C) to the person designated by the agency head for such purpose not later than twenty-one (21) calendar days after the date on which the alleged act or omission giving rise to the grievance occurred or after the date on which there was a reasonable basis for knowledge of the occurrence. Such grievance shall identify the Article(s) believed to have been violated, state how and when the Article(s) was violated and state the remedy sought. The person so designated by the agency head shall reply in writing by the end of seven (7) calendar days following the date of submission, or if a meeting is held to review the grievance by the end of twenty-one (21) calendar days following the date of the submission.

Step II In the event the employee or the Union wishes to appeal an unsatisfactory decision at Step I, the appeal shall be presented in writing, on the grievance form prepared by the Employer to the person designated by the agency head for such purpose within ten (10) calendar days following the receipt of the Step I decision. Such grievance shall identify the Article(s) believed to have been violated, state how and when the Article(s) was violated and state the remedy sought. The agency head or his/her designee shall meet with the employee and/or the Union for review of the grievance and shall issue a written decision to the employee and/or the Union within fourteen (14) calendar days following the day the grievance is filed.

Disciplinary grievances filed at Step II or Step III of the grievance procedure, must also contain the "Waiver of Right to Appeal Disciplinary Action" form (as outlined in Article 22). Grievances not containing the signed waiver by the date of the scheduled conference or the rendering of a decision shall be considered denied.

In disciplinary matters for which the agency head or his/her designee issues a decision to waive the grievance to Step III as described in Article 22, Section 3, such written decision shall be issued within ten (10) calendar days following the day on which the appeal is filed at Step II. In such instances, the agency head or his/her designee shall forward a copy of the decision to waive the grievance to Step III, along with a copy of the disciplinary notice and the documentation presented by both parties at the pre-disciplinary hearing, to the Human Resources Division (HRD).

Step III In the event the employee or the Union wishes to appeal an unsatisfactory decision at Step II, the appeal must be presented, on the grievance form included in Appendix E of this Agreement, to HRD within ten (10) calendar

days of the receipt of the unsatisfactory decision at Step II and notice shall be given to the agency involved. Such grievance shall identify the Article(s) believed to have been violated, state how and when the Article(s) was violated and state the remedy sought. HRD shall issue a written reply by the end of the thirty (30) calendar days following the day on which the appeal was filed or if a conference is held by the end of the twenty-one (21) calendar days following the close of the conference. HRD, at Step III, shall have the authority to sustain, vacate or modify a decision or action taken at the lower level.

Step IV Grievances unresolved at Step III may be brought to arbitration solely by the Union by filing a completed Request for Arbitration form with the Chief Human Resources Officer. Such form must be filed within thirty (30) calendar days of the receipt of an unsatisfactory Step III response. Simultaneous notice shall be given to the agency involved.

Section 23.3

The parties agree to explore Alternative Dispute Resolution options throughout the grievance procedure to the extent outlined in Section 15 of this article.

Section 23.4

Once arbitration has been requested by the Union a hearing shall be held no later than twelve (12) months from such request. If a hearing is not held within the twelve (12) month period due to inaction of the Union, the grievance is thereby withdrawn with prejudice but without precedence.

Section 23.5

The parties will attempt to agree on an Arbitrator on a case-by-case basis. Failing such agreement within thirty (30) days of HRD's receipt of the Request for Arbitration, if HRD has not proposed to the Union a list of arbitrators acceptable to HRD or if there has been no agreement on an arbitrator the Employer or the Union may file said Request for Arbitration with the American Arbitration Association under its Voluntary Labor Arbitration Rules.

Section 23.6

The arbitrator shall have no power to add to, subtract from or modify any provision of this Agreement or to issue any decision or award inconsistent with applicable law. The decision or award of the arbitrator shall be final and binding in accordance with Massachusetts General Laws, Chapter 150C.

Section 23.7

All fees and expenses of the arbitrator, if any, which may be involved in the arbitration proceeding shall be divided equally between the Union and HRD. Each party shall bear the cost of preparing and presenting its own case. except in the case of an untimely cancellation by either of the parties, then such expense shall be borne solely by the party at fault.

Section 23.8

If a decision satisfactory to the Union at any level of the grievance procedure other than Step IV is not implemented within a reasonable time, the Union may re-institute the original grievance at the next step of the grievance procedure. A resolution of a grievance at either Step I or II shall not constitute a precedent.

Section 23.9

If the Employer exceeds any time limit prescribed at any step in the grievance procedure, the grievant and/or the Union may assume that the grievance is denied and invoke the next step of the procedure, except, however, that only the Union may request impartial arbitration under Step IV. However, no deadline shall be binding on the grievant and/or the Union until a required response is given.

Section 23.10

In any disciplinary matter, once a conference has been held at either Steps II or III, or in any non-disciplinary matter, once a conference has been held at Steps I, II or III, neither party shall substantively change, modify or expand the charges, arguments, witness list or written documentation presented at that previous conference at the next step of the grievance procedure without endeavoring to give notification to the other party prior to the next scheduled conference or arbitration.

Section 23.11

Any step or steps in the grievance procedure, as well as time limits prescribed at each step of this grievance procedure, may be waived by mutual agreement of the parties in writing.

Section 23.12

Each Department/Agency head shall designate a person(s) to whom grievances may be submitted at Step I and/or Step II.

Section 23.13

The union steward at step I and the Union Representative at step II, whichever is appropriate, shall be notified of grievances filed by an employee on his/her own behalf and shall have the opportunity to be present at grievance meetings between the employee and the Employer held in accordance with the grievance procedure.

Section 23.14

It is agreed that grievances may be filed by the Union electronically, either by facsimile or by email as a scanned attachment.

Section 23.15

A. A sub-committee of the Commonwealth's Joint Labor-Management Committee, consisting of four (4) people designated by the NAGE and four (4) people designated by the Commonwealth, shall meet and develop mutually agreed upon policies and implementation

procedures for an Alternative Dispute Resolution Program which may include an option for mediation or a binding tri-partite panel at the Step III grievance level.

B. Furthermore, the committee shall meet bi-monthly to review the Commonwealth's grievance procedure, review training needs related to the grievance procedure and to review individual labor-management proposals jointly submitted by the agency and union representatives regarding alternative dispute resolution pilot programs, training needs and possible improvements to the efficiency of the grievance procedure.

C. At, or following, the Step III stage of the grievance procedure and in certain designated agencies, Alternative Dispute Resolution (ADR) pilot programs shall be developed with a goal for initial implementation within six (6) months from the signing of the agreement. ADR programs may include, but shall not be limited to, mediation, an oral Step I grievance and review conferences.

Section 23.16 Alternative Dispute Resolution (ADR) Funding

The Commonwealth shall pay for all costs incurred in compensating neutrals under the alternative dispute resolution obligation of this Article and the side-letter between the parties dated September 25, 2001. The parties agree that this obligation shall extend to an average of one day per month for the life of this agreement.

ARTICLE 24 PERSONNEL RECORDS

Section 24.1

Each employee shall have the right, upon request, to examine and copy any and all material, including any and all evaluations, contained in any personnel records concerning such employee. The Union shall have access to an employee's records upon written authorization by the employee involved.

Section 24.2

Whenever any material, including evaluations, is to be inserted into the official personnel file or record of an employee, the employee shall be given a copy of such material upon its insertion. Whenever any material, including evaluations, is inserted into the personnel file or record of an employee such material shall be date stamped before its insertion.

Section 24.3

A. The Union or any employee may challenge the accuracy or propriety of any material and/or evaluations in their personnel file or record by filing a written statement of the challenge in the official personnel file or record.

B. The Union or any employee may file a grievance based on a performance evaluation or on any material either of which results in a negative action. Upon a determination at any step of the grievance procedure that such performance evaluation, any other material or portion thereof, is either inaccurate or improperly placed in such employee's personnel record such inaccurate evaluation, material, or portion thereof, shall be removed from the file together with any of the employee's statement or statements thereto.

C. Notwithstanding the provisions of Paragraph B above, an employee may file a grievance challenging any written memorandum which reprimands the employee for prior conduct or omissions and which warns the employee that further transgressions may result in suspension, demotion or discharge. Said memorandum will be found to violate this Agreement only if it is arbitrary, discriminatory or if it contains allegations which are erroneous. Said grievances shall be grievable to Step II.

D. The parties agree that reprimands that have been placed into the personnel record of an employee which are more than two and one-half (2 ½) years from the date of the issuance of the reprimand, provided there has been no subsequent discipline imposed, shall be removed from the personnel record.

E. There shall be only one (1) official personnel file or record maintained by the Employer. Information not included in the official personnel file or record shall not be considered valid information and shall be purged.

ARTICLE 24A
PERFORMANCE EVALUATION

Section 24A.1

The Employee Performance Review System (EPRS) shall permit variations in format between various departments and agencies. There shall be no variation in format within the same Department/Agency for the same job titles. Any format must meet the following criteria (subject to formal promulgation under M.G.L. c. 31, sections 4 and 6A):

- A. All employee evaluations shall be in writing and shall be included in the employee's official personnel file. The Union shall be notified should the employee lack English proficiency to understand the evaluation and its process. All EPRS evaluations shall be based on a "Meets" expectations, "Exceeds" expectations, or "Below" expectations standard.
- B. Evaluations shall be completed by the employee's immediate state supervisor and be approved by a state supervisor of a higher grade designated by the Appointing Authority (except in cases of potential conflict of interest or other legitimate reasons).
- C. A Final Formal EPRS evaluation shall be completed once per year for each member of the Bargaining Unit. Probationary employees shall be evaluated by the mid-point of their probationary period. However, the standard EPRS program shall commence no later than the first July 1st of their employment.
- D. Prior to each evaluation period the supervisor shall meet with the employee and shall inform the employee of the general performance dimensions and procedures to be utilized in evaluating the employee's performance.
- E. The performance dimensions shall be objective and job-related.
- F. At least once during the evaluation period, at or near its mid-point, the supervisor shall meet with the employee to review the employee's progress. The employee shall have two (2) work days to review the evaluation prior to signing it. A remedial development plan shall be formulated jointly if the mid-term review results in a rating of "Below".
- G. At or near the end of the evaluation period, the supervisor shall meet with the employee and inform the employee of the results of the evaluation. Following the employee's review, the form shall be submitted to the higher level supervisor for final determination of ratings. The employee shall have two (2) work days to review the evaluation prior to signing and shall be given a copy of the completed form. The employee shall sign the evaluation and indicate whether he/she agrees or disagrees with the content thereof.

Section 24A.2

There shall be established within each agency a Labor/Management Committee, consisting of not more than four (4) representatives of each party, which shall meet at reasonable times to discuss any problems or issues surrounding the Performance Evaluation System.

Section 24A.3

A. Any employee who has received a rating of "Below" will have his/her evaluation reviewed monthly by the Appointing Authority or his/her designee, who shall review all the circumstances of the rating. The Appointing Authority or his/her designee may redetermine the rating after reviewing the circumstances of the initial evaluation. If the Appointing Authority or his/her designee redetermines the rating the employee will receive the increase retroactive to the date of original step increase due, or Article 12 increase, whichever is appropriate. If the Appointing Authority or his/her designee does not redetermine the rating the employee may file, through NAGE within fourteen (14) days with the Human Resources Division, a request for a review of the Appointing Authority's or his/her designee's determination by a tripartite panel consisting of one person designated by NAGE, one person designated by the Chief Human Resources Officer and one person designated by the Chairperson of the Board of Conciliation and Arbitration who shall be assigned on a rotating basis. The standard of review to be applied by the panel shall be solely limited to whether or not the final performance rating of "Below" was justified. The decision of the tripartite shall be final and binding and any employee having a "Below" rating overturned shall be made whole in as prompt a manner as possible. Any costs associated with this process will be borne equally by the parties.

B. The Department/Agency shall develop a remedial plan for an employee receiving any "Below" rating. Employees that may be nearing a "Below" rating shall be counseled by his/her supervisor as soon as possible, in advance of their final stage of the evaluation as to the specific areas that must be improved and what they must do to attain a "Meets" rating.

C. All performance merit ratings shall be based upon the EPRS system as found in this Article of the NAGE Agreement and all payment of salary and/or step increases shall be based upon current language found in Article 12 related to pay for performance.

D. All financial considerations (i.e. merit increases, step rate increases) shall be based on the employees' most recent, final annual evaluation.

Section 24A.4

Nothing in this Agreement shall be construed as limiting in any way any other appeal rights provided by law, except that the appeal procedures provided in this Agreement shall not be available to any employee who elects to appeal his/her evaluation rating under the provisions of M.G.L. c. 31, section 6C.

Section 24A.5

The parties agree to establish a Labor/Management Committee consisting of four (4) representatives selected by NAGE and four (4) representatives selected by HRD. The Committee shall meet bimonthly and shall review and make recommendations concerning the Commonwealth's policies and practices regarding the review and maintenance of Personnel Records. The Committee shall also discuss problems involving the Performance Evaluation System which are unrelated to the Department/Agency Labor Management Committees established above.

Section 24A.6

The parties agree to establish a Labor/Management Committee to review and make recommendations to revise the Performance Evaluation Guidelines/Form. Said Committee shall consist of three (3) representatives selected by the Union and three (3) representatives selected by HRD. The Committee shall convene and shall continue to meet upon request by either party.

ARTICLE 25
LABOR/MANAGEMENT COMMITTEE

Section 25.1

In order to provide a means for continuing communications between the parties and for promoting a climate of constructive employee relations, a Labor/Management Committee shall be established which shall consist of up to four (4) representatives designated by the Employer and up to four (4) representatives designated by the Union.

Section 25.2

The Committee shall meet at least twice each year. Such meeting shall not be for the purpose of discussing pending grievances or for the purpose of conducting negotiations on any subject. The topics discussed shall relate to the general application of the Agreement and to other matters of mutual concern including improvement of the Employer/ employee relations and improvement of productivity.

Section 25.3

There shall be a Labor/Management Sub-Committee established within each Department/Agency consisting of six (6) members, three (3) representing the Union and three (3) representing Management. It shall be the responsibility of these Sub-Committees to promote ways and means of improving the "Quality of Work Life" within the work place. Any procedures or changes in conditions promulgated by the Sub-Committee shall be approved by the State-wide Labor/Management Committee before they become operative.

It is agreed that a priority of the State-wide Labor/Management Committee shall be to discuss the means of implementing a statewide recall under Article 18, for the bargaining unit.

Section 25.4

The parties agree that an incentive for sick leave utilization reduction shall be studied by the State-wide Labor/Management Committee.

Section 25.5

It is agreed that a priority of the Statewide Labor/Management Committee shall be to discuss opportunities the parties may have to work cooperatively in efforts to minimize the impact of proposed or actual reductions in force. The Committee shall jointly develop procedures for an employment referral mechanism and further, shall develop job re-training initiatives to meet the purposes of this Article. The Commonwealth shall establish a Fund in the amount of eleven dollars (\$11.00) per full-time equivalent as of July 1, 2006 to carry out the objectives of this Section.

**ARTICLE 26
NO STRIKES**

Section 27.1

Neither the Union nor any employee shall engage in, induce, support, encourage or condone a strike, work stoppage, slowdown or withholding of services by employees.

Section 27.2

The Union shall exert its best efforts to prevent any violation of Section 1 of this Article, and if such action does occur, to exert its best efforts to terminate it.

ARTICLE 27
SAVING CLAUSE

In the event that any Article, Section or portion of this Agreement is found to be invalid or shall have the effect of loss to the Commonwealth of funds made available through federal law, rule or regulation, then such specific Article, Section or portion shall be amended to the extent necessary to conform with such law, rule or regulation, but the remainder of this Agreement shall continue in full force and effect. Disputes arising under this Article shall be discussed with the Human Resources Division (HRD) and may be submitted by the Union to expedited arbitration.

ARTICLE 28
RE-OPENER

In the event that during the term of this Agreement a collective Bargaining Agreement is submitted by either the governor, or the Secretary for Administration and Finance and said Agreement is funded by the Legislature and in the event such Agreement contains provisions for across the board salary increases in excess of those contained in this Agreement, the parties agree to re-open those provisions of this Agreement to further bargaining.

ARTICLE 29
APPROPRIATION BY THE GENERAL COURT

The cost items contained in this Agreement shall not become effective unless appropriations necessary to fully fund such cost items have been enacted by the General Court in accordance with M.G.L. c.150E, section 7, in which case, the cost items shall be effective on the date provided in the Agreement. The Employer shall make such request of the General Court. If the General Court rejects the request to fund the Agreement, the cost items shall be returned to the parties for further bargaining.

ARTICLE 30
DURATION

This Agreement shall be for the three-year period from July 1, 2009 to June 30, 2012 and terms contained herein shall become effective on July 1, 2009 execution unless otherwise specified. It is expressly understood and agreed that subject to ratification by the NAGE Membership, the predecessor collective bargaining agreement shall be voided and superseded by all aspects of this collective bargaining agreement. Should a successor Agreement not be executed by June 30, 2012 this Agreement shall remain in full force and effect until a successor Agreement is executed or an impasse in negotiations is reached. At the written request of either party, negotiations for a subsequent Agreement will be commenced on or after January 1, 2012.

Agreement signed this _____ day of _____.

For the National Association
Of Government Employees
Unit Three:

For the Commonwealth of Massachusetts:

David J. Holway, National President

Paul Dietl, Chief Human Resources Officer

Leo Munroe, President, Local R1-219

Mark E. D'Angelo, Director,
Office of Employee Relations

**Appendix A-1
Unit 3
Biweekly Salary Schedule
Effective 6/30/10**

Step		1	2	3	4	5	6	7	8	9	10	11	12	13	14
Gr	4	\$879.44	\$896.20	\$913.24	\$930.68	\$948.52	\$966.66	\$985.15	\$1,003.99	\$1,023.25	\$1,042.89	\$1,062.96	\$1,083.49	\$1,104.38	\$1,125.70
	5	\$894.45	\$912.56	\$931.11	\$949.98	\$969.32	\$989.02	\$1,009.19	\$1,029.74	\$1,050.72	\$1,072.18	\$1,092.83	\$1,113.92	\$1,135.41	\$1,157.35
	6	\$926.52	\$944.71	\$963.28	\$982.19	\$1,001.54	\$1,021.24	\$1,041.38	\$1,061.86	\$1,082.85	\$1,104.26	\$1,125.55	\$1,147.30	\$1,169.47	\$1,192.08
	7	\$950.22	\$970.01	\$990.32	\$1,010.99	\$1,032.08	\$1,053.73	\$1,075.80	\$1,098.40	\$1,121.40	\$1,144.97	\$1,167.07	\$1,189.66	\$1,212.68	\$1,236.15
	8	\$972.40	\$993.83	\$1,015.73	\$1,038.10	\$1,061.04	\$1,084.43	\$1,108.38	\$1,132.96	\$1,158.05	\$1,183.69	\$1,209.60	\$1,229.93	\$1,253.75	\$1,278.05
	9	\$1,009.32	\$1,032.66	\$1,056.58	\$1,081.12	\$1,106.18	\$1,131.93	\$1,158.22	\$1,185.17	\$1,212.78	\$1,241.07	\$1,269.12	\$1,289.62	\$1,314.64	\$1,340.34
	10	\$1,048.35	\$1,073.09	\$1,098.48	\$1,124.46	\$1,151.07	\$1,178.34	\$1,206.22	\$1,234.87	\$1,264.17	\$1,294.20	\$1,319.34	\$1,345.26	\$1,372.16	\$1,399.61
	11	\$1,084.87	\$1,111.67	\$1,139.23	\$1,167.42	\$1,196.40	\$1,226.13	\$1,256.53	\$1,287.78	\$1,319.84	\$1,353.23	\$1,380.33	\$1,407.92	\$1,436.09	\$1,464.80
	12	\$1,132.56	\$1,160.64	\$1,189.50	\$1,219.08	\$1,249.41	\$1,280.53	\$1,312.41	\$1,345.52	\$1,380.12	\$1,415.59	\$1,443.94	\$1,472.82	\$1,502.27	\$1,532.32
	13	\$1,195.84	\$1,225.45	\$1,255.76	\$1,286.99	\$1,318.93	\$1,352.27	\$1,386.85	\$1,422.32	\$1,458.78	\$1,496.07	\$1,526.01	\$1,556.53	\$1,587.68	\$1,619.42
	14	\$1,245.25	\$1,279.72	\$1,315.04	\$1,351.92	\$1,390.47	\$1,430.10	\$1,470.84	\$1,512.80	\$1,555.89	\$1,600.20	\$1,632.23	\$1,664.88	\$1,698.18	\$1,732.14
	15	\$1,306.25	\$1,343.84	\$1,383.40	\$1,424.11	\$1,466.04	\$1,509.15	\$1,553.55	\$1,599.30	\$1,646.36	\$1,694.83	\$1,728.74	\$1,763.29	\$1,798.55	\$1,834.50
	16	\$1,375.99	\$1,417.89	\$1,461.02	\$1,505.45	\$1,551.29	\$1,598.53	\$1,647.17	\$1,697.26	\$1,748.96	\$1,802.17	\$1,838.22	\$1,874.95	\$1,912.46	\$1,950.70
	17	\$1,458.91	\$1,502.48	\$1,547.41	\$1,593.65	\$1,641.23	\$1,690.29	\$1,740.82	\$1,792.84	\$1,846.43	\$1,901.64	\$1,939.62	\$1,978.47	\$2,018.05	\$2,058.40
	18	\$1,528.74	\$1,575.14	\$1,622.98	\$1,672.27	\$1,723.04	\$1,775.36	\$1,829.26	\$1,884.77	\$1,942.02	\$2,001.03	\$2,041.06	\$2,081.85	\$2,123.49	\$2,165.97
	19	\$1,607.85	\$1,657.20	\$1,708.11	\$1,760.54	\$1,814.60	\$1,870.27	\$1,927.70	\$1,986.93	\$2,047.86	\$2,110.75	\$2,152.96	\$2,196.04	\$2,239.98	\$2,284.78
	20	\$1,694.24	\$1,745.23	\$1,797.73	\$1,851.88	\$1,907.56	\$1,964.99	\$2,024.14	\$2,085.08	\$2,147.80	\$2,212.48	\$2,256.72	\$2,301.86	\$2,347.90	\$2,394.85
	21	\$1,772.98	\$1,827.19	\$1,883.04	\$1,940.59	\$1,999.92	\$2,061.06	\$2,124.09	\$2,188.99	\$2,255.92	\$2,324.86	\$2,371.32	\$2,418.78	\$2,467.16	\$2,516.50
	22	\$1,860.99	\$1,918.28	\$1,977.33	\$2,038.19	\$2,100.91	\$2,165.59	\$2,232.18	\$2,300.90	\$2,371.73	\$2,444.67	\$2,493.60	\$2,543.49	\$2,594.36	\$2,646.23
	23	\$1,956.34	\$2,015.26	\$2,075.95	\$2,138.53	\$2,202.98	\$2,269.38	\$2,337.83	\$2,408.28	\$2,480.77	\$2,555.55	\$2,606.69	\$2,658.83	\$2,712.01	\$2,766.25

**Appendix A-2
Unit 3
Biweekly Salary Schedule
Effective 6/30/11**

Step		1	2	3	4	5	6	7	8	9	10	11	12	13	14
Gr	4	\$905.82	\$923.09	\$940.64	\$958.61	\$976.98	\$995.66	\$1,014.71	\$1,034.11	\$1,053.95	\$1,074.17	\$1,094.85	\$1,115.99	\$1,137.52	\$1,159.47
	5	\$921.28	\$939.93	\$959.04	\$978.47	\$998.40	\$1,018.69	\$1,039.47	\$1,060.63	\$1,082.24	\$1,104.34	\$1,125.62	\$1,147.34	\$1,169.47	\$1,192.07
	6	\$954.32	\$973.06	\$992.18	\$1,011.66	\$1,031.58	\$1,051.88	\$1,072.62	\$1,093.72	\$1,115.34	\$1,137.39	\$1,159.32	\$1,181.72	\$1,204.55	\$1,227.85
	7	\$978.72	\$999.11	\$1,020.02	\$1,041.32	\$1,063.04	\$1,085.34	\$1,108.08	\$1,131.35	\$1,155.05	\$1,179.32	\$1,202.08	\$1,225.35	\$1,249.06	\$1,273.23
	8	\$1,001.57	\$1,023.64	\$1,046.20	\$1,069.24	\$1,092.87	\$1,116.96	\$1,141.64	\$1,166.95	\$1,192.79	\$1,219.20	\$1,242.79	\$1,266.83	\$1,291.37	\$1,316.40
	9	\$1,039.60	\$1,063.64	\$1,088.28	\$1,113.56	\$1,139.37	\$1,165.89	\$1,192.96	\$1,220.73	\$1,249.16	\$1,278.30	\$1,303.07	\$1,328.31	\$1,354.08	\$1,380.55
	10	\$1,079.80	\$1,105.29	\$1,131.43	\$1,158.20	\$1,185.60	\$1,213.69	\$1,242.41	\$1,271.91	\$1,302.09	\$1,333.03	\$1,358.92	\$1,385.62	\$1,413.32	\$1,441.60
	11	\$1,117.42	\$1,145.02	\$1,173.41	\$1,202.44	\$1,232.29	\$1,262.91	\$1,294.23	\$1,326.41	\$1,359.43	\$1,393.83	\$1,421.74	\$1,450.16	\$1,479.17	\$1,508.75
	12	\$1,166.54	\$1,195.46	\$1,225.18	\$1,255.65	\$1,286.89	\$1,318.94	\$1,351.79	\$1,385.89	\$1,421.53	\$1,458.05	\$1,487.25	\$1,517.01	\$1,547.34	\$1,578.29
	13	\$1,231.72	\$1,262.22	\$1,293.44	\$1,325.60	\$1,358.50	\$1,392.84	\$1,428.46	\$1,464.99	\$1,502.55	\$1,540.95	\$1,571.79	\$1,603.23	\$1,635.31	\$1,668.01
	14	\$1,282.61	\$1,318.11	\$1,354.49	\$1,392.47	\$1,432.18	\$1,473.00	\$1,514.97	\$1,558.18	\$1,602.57	\$1,648.21	\$1,681.20	\$1,714.83	\$1,749.13	\$1,784.10
	15	\$1,345.44	\$1,384.15	\$1,424.90	\$1,466.83	\$1,510.02	\$1,554.43	\$1,600.16	\$1,647.28	\$1,695.75	\$1,745.68	\$1,780.60	\$1,816.19	\$1,852.50	\$1,889.54
	16	\$1,417.27	\$1,460.43	\$1,504.85	\$1,550.61	\$1,597.83	\$1,646.48	\$1,696.58	\$1,748.18	\$1,801.43	\$1,856.24	\$1,893.37	\$1,931.20	\$1,969.83	\$2,009.23
	17	\$1,502.68	\$1,547.55	\$1,593.83	\$1,641.46	\$1,690.47	\$1,740.99	\$1,793.04	\$1,846.63	\$1,901.82	\$1,958.69	\$1,997.81	\$2,037.82	\$2,078.59	\$2,120.15
	18	\$1,574.60	\$1,622.39	\$1,671.67	\$1,722.44	\$1,774.73	\$1,828.62	\$1,884.14	\$1,941.31	\$2,000.28	\$2,061.06	\$2,102.29	\$2,144.31	\$2,187.20	\$2,230.94
	19	\$1,656.08	\$1,706.91	\$1,759.36	\$1,813.36	\$1,869.03	\$1,926.38	\$1,985.53	\$2,046.54	\$2,109.29	\$2,174.07	\$2,217.55	\$2,261.92	\$2,307.18	\$2,353.33
	20	\$1,745.07	\$1,797.59	\$1,851.66	\$1,907.43	\$1,964.78	\$2,023.93	\$2,084.87	\$2,147.64	\$2,212.23	\$2,278.85	\$2,324.43	\$2,370.92	\$2,418.33	\$2,466.70
	21	\$1,826.17	\$1,882.01	\$1,939.54	\$1,998.81	\$2,059.92	\$2,122.89	\$2,187.81	\$2,254.66	\$2,323.59	\$2,394.60	\$2,442.46	\$2,491.34	\$2,541.17	\$2,591.99
	22	\$1,916.82	\$1,975.83	\$2,036.65	\$2,099.34	\$2,163.94	\$2,230.56	\$2,299.15	\$2,369.93	\$2,442.88	\$2,518.01	\$2,568.41	\$2,619.80	\$2,672.19	\$2,725.62
	23	\$2,015.03	\$2,075.72	\$2,138.23	\$2,202.69	\$2,269.07	\$2,337.46	\$2,407.96	\$2,480.53	\$2,555.20	\$2,632.22	\$2,684.89	\$2,738.59	\$2,793.37	\$2,849.24

**Appendix A-3
Unit 3
Biweekly Salary Schedule
Effective 6/30/12**

Step	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Gr 4	\$933.00	\$950.78	\$968.86	\$987.36	\$1,006.29	\$1,025.53	\$1,045.15	\$1,065.13	\$1,085.57	\$1,106.40	\$1,127.70	\$1,149.47	\$1,171.64	\$1,194.25
5	\$948.92	\$968.13	\$987.81	\$1,007.83	\$1,028.35	\$1,049.25	\$1,070.65	\$1,092.45	\$1,114.71	\$1,137.47	\$1,159.38	\$1,181.76	\$1,204.56	\$1,227.83
6	\$982.95	\$1,002.25	\$1,021.94	\$1,042.01	\$1,062.53	\$1,083.43	\$1,104.80	\$1,126.53	\$1,148.80	\$1,171.51	\$1,194.10	\$1,217.17	\$1,240.69	\$1,264.68
7	\$1,008.09	\$1,029.09	\$1,050.63	\$1,072.56	\$1,094.93	\$1,117.91	\$1,141.32	\$1,165.29	\$1,189.70	\$1,214.69	\$1,238.14	\$1,262.11	\$1,286.53	\$1,311.43
8	\$1,031.62	\$1,054.35	\$1,077.58	\$1,101.32	\$1,125.65	\$1,150.47	\$1,175.88	\$1,201.95	\$1,228.57	\$1,255.78	\$1,280.08	\$1,304.83	\$1,330.11	\$1,355.89
9	\$1,070.79	\$1,095.55	\$1,120.93	\$1,146.96	\$1,173.55	\$1,200.86	\$1,228.75	\$1,257.35	\$1,286.64	\$1,316.65	\$1,342.16	\$1,368.16	\$1,394.70	\$1,421.97
10	\$1,112.19	\$1,138.45	\$1,165.37	\$1,192.94	\$1,221.17	\$1,250.10	\$1,279.68	\$1,310.07	\$1,341.15	\$1,373.02	\$1,399.69	\$1,427.19	\$1,455.72	\$1,484.84
11	\$1,150.94	\$1,179.37	\$1,208.61	\$1,238.51	\$1,269.26	\$1,300.80	\$1,333.05	\$1,366.21	\$1,400.22	\$1,435.64	\$1,464.39	\$1,493.66	\$1,523.55	\$1,554.01
12	\$1,201.54	\$1,231.32	\$1,261.94	\$1,293.32	\$1,325.50	\$1,358.51	\$1,392.34	\$1,427.46	\$1,464.17	\$1,501.79	\$1,531.87	\$1,562.52	\$1,593.76	\$1,625.64
13	\$1,268.67	\$1,300.08	\$1,332.24	\$1,365.37	\$1,399.25	\$1,434.62	\$1,471.31	\$1,508.94	\$1,547.62	\$1,587.18	\$1,618.94	\$1,651.32	\$1,684.37	\$1,718.05
14	\$1,321.08	\$1,357.66	\$1,395.13	\$1,434.25	\$1,475.15	\$1,517.19	\$1,560.42	\$1,604.93	\$1,650.65	\$1,697.66	\$1,731.63	\$1,766.28	\$1,801.60	\$1,837.63
15	\$1,385.80	\$1,425.67	\$1,467.65	\$1,510.84	\$1,555.32	\$1,601.06	\$1,648.16	\$1,696.70	\$1,746.62	\$1,798.05	\$1,834.02	\$1,870.67	\$1,908.08	\$1,946.22
16	\$1,459.79	\$1,504.24	\$1,549.99	\$1,597.13	\$1,645.76	\$1,695.88	\$1,747.48	\$1,800.63	\$1,855.47	\$1,911.93	\$1,950.17	\$1,989.14	\$2,028.92	\$2,069.50
17	\$1,547.76	\$1,593.98	\$1,641.65	\$1,690.70	\$1,741.18	\$1,793.22	\$1,846.83	\$1,902.02	\$1,958.88	\$2,017.45	\$2,057.75	\$2,098.96	\$2,140.95	\$2,183.76
18	\$1,621.84	\$1,671.06	\$1,721.82	\$1,774.11	\$1,827.97	\$1,883.48	\$1,940.66	\$1,999.55	\$2,060.29	\$2,122.90	\$2,165.36	\$2,208.64	\$2,252.82	\$2,297.87
19	\$1,705.77	\$1,758.12	\$1,812.14	\$1,867.76	\$1,925.11	\$1,984.17	\$2,045.09	\$2,107.94	\$2,172.57	\$2,239.29	\$2,284.07	\$2,329.78	\$2,376.39	\$2,423.92
20	\$1,797.42	\$1,851.51	\$1,907.21	\$1,964.65	\$2,023.73	\$2,084.65	\$2,147.41	\$2,212.07	\$2,278.60	\$2,347.22	\$2,394.16	\$2,442.04	\$2,490.88	\$2,540.70
21	\$1,880.96	\$1,938.47	\$1,997.72	\$2,058.78	\$2,121.72	\$2,186.57	\$2,253.45	\$2,322.30	\$2,393.30	\$2,466.44	\$2,515.73	\$2,566.08	\$2,617.41	\$2,669.75
22	\$1,974.32	\$2,035.11	\$2,097.75	\$2,162.32	\$2,228.86	\$2,297.48	\$2,368.12	\$2,441.03	\$2,516.17	\$2,593.56	\$2,645.46	\$2,698.39	\$2,752.35	\$2,807.39
23	\$2,075.48	\$2,137.99	\$2,202.38	\$2,268.77	\$2,337.14	\$2,407.58	\$2,480.20	\$2,554.95	\$2,631.85	\$2,711.19	\$2,765.44	\$2,820.75	\$2,877.17	\$2,934.71

APPENDIX B

Step # _____ Union & Local # _____ Bargaining Unit # _____

GRIEVANCE REPORT

Grievant(s): _____ Soc. Sec. #: _____

Job Title: _____ Agency: _____

Facility/Region: _____ Work Location: _____

Agency Start Date (if known): _____ Manager: _____

Telephone Number _____

Employer is in violation of Article(s) _____
and other relevant provisions of the Agreement.

STATEMENT BY GRIEVANT OR UNION

The "statement" should include: (1) nature of the contract violation; i.e., what action did the employer take, or fail to take, which violated the Contract; (2) the date(s) of the violation and, where appropriate as in promotions, demotions, transfers, reassignments, etc., the relevant title(s) and work location(s). (Use additional sheets of paper, if necessary.)

RELIEF OR REMEDY SOUGHT

Grievant's Signature Date Steward/Union Representative Signature Date

In accordance with Articles 22 and 23, all disciplinary grievances must also include the following completed form.

WAIVER OF RIGHT TO APPEAL DISCIPLINARY ACTION		
I wish to submit the attached grievance under Article 23, Grievance Procedure and Article 22, Arbitration of Disciplinary Action, appealing my demotion, suspension or discharge effective on _____ and pursuant to Article 22, Section 4 of the Agreement between the NAGE and the Commonwealth of Massachusetts dated _____. I hereby waive any and all rights to appeal this disciplinary action to any other forum including the Civil Service Commission. I have not initiated any other appeal of this disciplinary action.		
_____ DATE	_____ EMPLOYEE SIGNATURE	_____ UNION REPRESENTATIVE SIGNATURE

**APPENDIX C
NON-SELECTION FORM**

EMPLOYEE NAME _____ CURRENT POSITION J.G. _____
ADDRESS _____ TITLE _____

POSITION SOUGHT J.G. _____
TITLE _____
Employee Identification Number: _____

We regret to inform you that another applicant has been selected for the position you sought. That applicant has been selected (because he/she has been deemed to be more qualified than you by virtue of) for one or more of the following reasons:

- () 1. Better Able (Ability) to perform the job due to:
 - () More experience in the same or related work.
 - () Demonstrated competence in the same or related work.
 - () Job Performance (including evaluations and disciplinary record).
- () 2. Interview *An explanation must be provided below if this section is checked.*
- () 3. Education and training (directly related to the duties of the vacant position), including Licenses and/or Registration.
- () 4. More Seniority.
 - () (Applicant from within the work unit selected.)
- () 5. Other

Comments/Explanation:

This notice is for the purpose of meeting the notice requirements of Article 14, Section 1B. It does not preclude either party from raising other issues under the provisions of Article 23A of the Agreement.

By: _____ Date _____
Supervisor Date

**APPENDIX D-1
COMMONWEALTH OF MASSACHUSETTS
CERTIFICATION OF HEALTH CARE PROVIDER FOR EMPLOYEE’S SERIOUS
HEALTH CONDITION (FMLA)**

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee’s health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact:

Employee’s job title: _____

Regular work schedule: _____

Employee’s essential job functions:

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name:

First

Middle

Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage.

Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address:

Type of practice / Medical specialty:

Telephone: (_____) _____ Fax: (_____) _____

Part A: MEDICAL FACTS

1. Approximate date condition commenced:

Probable duration of condition:

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

_____ No _____ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition?

_____ No _____ Yes

Was medication, other than over-the-counter medication, prescribed? _____ No _____ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g. physical therapist)? _____ No _____ Yes If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes

If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition:

No Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? No Yes

If so, estimate the beginning and ending dates for the period of incapacity:

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? No Yes

If so, are the treatments or the reduced number of hours of work medically necessary?

No Yes

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? No Yes

Is it medically necessary for the employee to be absent from work during the flare-ups?
___ No ___ Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

**ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR
ADDITIONAL ANSWER:**

Signature of Health Care Provider

Date

**APPENDIX D-2
COMMONWEALTH OF MASSACHUSETTS
CERTIFICATION OF HEALTH CARE PROVIDER FOR FAMILY MEMBER'S
SERIOUS HEALTH CONDITION (FMLA)**

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact:

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name:

Name of family member for whom you will provide care:

First

Middle

Last

Relationship of family member to you:

If family member is your son or daughter, date of birth:

Describe care you will provide to your family member and estimate leave needed to provide care:

Employee Signature

Date

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider’s name and business
address: _____

Type of practice / Medical specialty:

Telephone: (_____) _____ Fax:(_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility? ___ No ___ Yes . If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition?

___ No ___ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)? ___ No ___ Yes.

If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care.

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? ___ No ___ Yes

Estimate the beginning and ending dates for the period of incapacity:

During this time, will the patient need care? ___ No ___ Yes

Explain the care needed by the patient and why such care is medically necessary:

4. Will the patient require follow-up treatments, including any time for recovery?
___ No ___ Yes

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? ___ No ___ Yes

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ day(s) per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? ___ No ___ Yes

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Does the patient need care during these flare-ups? ___ No ___ Yes

Explain the care needed by the patient, and why such care is medically necessary:

**ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR
ADDITIONAL ANSWER:**

Signature of Health Care Provider

Date

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

The parties agree that the employees covered by this Collective Bargaining Agreement will be permitted to participate in the Employer's Adoption Assistance Program.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

The Commonwealth of Massachusetts through the Human Resources Division (HRD) and the Union are parties to a Collective Bargaining Agreement which provides for employees covered by the terms and conditions of the Agreement to have their salaries directly transferred electronically. Whereas the Union has expressed concern that not all members would be able to avail themselves of the electronic transfer because of severe hardship, the parties agree as follows:

1. The Commonwealth and the Union agree that all employees will have their net salary checks electronically forwarded to an account or accounts selected by the employee.
2. In the extraordinary event that the Union alleges that an employee cannot comply with the collective bargaining agreement relative to the electronic transfer due to severe hardship such as inability to access a bank or financial institution during off hours or, there is no ATM available within a reasonable geographic distance from an employees worksite or home, the Union shall petition the Human Resources Division for a Direct Deposit Special Exemption.
3. The Human Resources Division, in concert with the Office of the State Comptroller shall review the request for the Direct Deposit Special Exemption filed by the Union and will notify the Union of its finding.
4. The parties agree that no other appeal may be commenced by the employee or the Union relative to the Direct Deposit Special Exemption and further, that this Memorandum is not grievable and is inarbitrable.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**


Regarding Article 7, Section 2

This Memorandum of understanding is entered into between the Commonwealth of Massachusetts, acting through the Human Resources Division and the National Association of Government Employees (NAGE). This Memorandum reflects a clarification of Article 7, Section 2 of the NAGE Agreement concerning a payment of overtime for part-time employees who are regularly scheduled to work fewer than thirty-seven and one-half (37.5) hours per week.

- A. An employee whose regular workweek is less than thirty-seven and one-half (37.5) hours shall be:
 - 1. Compensated at his/her regular rate for authorized overtime work performed up to forty (40) hours per week that is in excess of his/her regular workweek; and,
 - 2. compensated at the rate of time and one-half his/her regular hourly rate of pay for authorized overtime work performed in excess of forty (40) hours in a workweek.

- B. Except as outlined in Article 7.2 paragraph D of the Agreement, paid sick leave shall not be considered time worked for the purpose of calculating any overtime compensation.

- C. An employee whose regular workweek is less than thirty-seven and one-half (37.5) hours shall be compensated at the rate of time and one half his/her regular hourly rate of pay for authorized overtime work performed in excess of eight (8) hours in his/her regular workday except that:
 - 1. an employee whose regular workday is more than eight (8) hours shall be compensated at the rate of time and one half his/her regular hourly rate of pay for authorized overtime work performed in excess of his/her regular workday; and,
 - 2. as outlined in Article 7.2 paragraph D of the Agreement any paid sick leave used during that payroll period shall be excluded from any such overtime calculations.


John Mullen, President-Local R1-219
2/3/00
Date


James J. Hartnett, Jr., Personnel Administrator

**MEMORANDUM OF AGREEMENT
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

Whereas, the NAGE has reached an Agreement with the Commonwealth regarding the terms and conditions of employment for employees represented by NAGE and,

Whereas, the parties have reached Agreement for the purposes of granting paid and/or unpaid leave for Union Business Leave and,

Whereas, the parties wish to clarify the purposes of granting Union Business Leave for Union Stewards, the parties agree as follows:


The Employer, upon being provided sufficient advance notice by the Union, shall grant Union Stewards paid release time for the purposes of receiving training. This paid release time for training shall not exceed four (4) hours in duration. The parties further agree that the Union will make this request of the Employer no more than once in any six (6) month period during the fiscal year. No pyramiding of release time will be permitted.


**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

**Regarding a Skilled Trade Pool Pilot Program
for Unit 3 Employees at the
Department of Mental Health**

This Memorandum of Agreement is entered into between the Commonwealth of Massachusetts, acting through the Human Resources Division (HRD), and the National Association of Government Employees (NAGE), representing unit 3.

The parties agree to establish a Labor/Management Committee consisting of four (4) representatives designated by the Employer and four (4) representatives designated by NAGE. Such Committee shall meet to review and make recommendations concerning the development and implementation date of a Skilled Trade Pool Pilot Program for employees at the Department of Mental Health. The parties agree to make a good faith effort to develop and implement this Program no later than July 1, 2002.


John Mullen, President-Local R1-219
2/3/00
Date

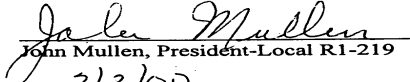

James J. Hartnett, Jr., Personnel Administrator


**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

Regarding Article 8, Section 1.C.4

This Memorandum of Understanding is entered into between the Commonwealth of Massachusetts, acting through the Human Resources Division and the National Association of Government Employees (NAGE). This Memorandum reflects a clarification of Article 8, Section 1.C.4 of the NAGE Agreement concerning sick leave use in conjunction with licensed medical or dental appointments.

Permissible sick leave use for these purposes shall include reasonable travel time to and from said licensed medical or dental appointments.

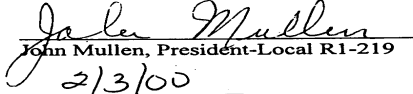

John Mullen, President-Local R1-219
2/3/00
Date

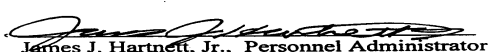

James J. Hartnett, Jr., Personnel Administrator

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

Regarding MBTA Passes

This Memorandum of Understanding is entered into between the Commonwealth of Massachusetts, acting through the Human Resources Division and the National Association of Government Employees (NAGE). Contingent on compliance with all federal and state regulations, and as soon as is administratively feasible for the Employer, the Commonwealth agrees to deduct the permissible cost of MBTA passes from an employee's salary on a pre-tax basis for all employees who wish to participate in such a program.


John Mullen, President-Local R1-219
2/3/00
Date


James J. Hartnett, Jr., Personnel Administrator


**MEMORANDUM OF AGREEMENT
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

**Regarding Out-of-Title Assignments at the
Massachusetts Department of Transportation**

This Memorandum of Understanding is entered into between the Commonwealth of Massachusetts, acting through the Human Resources Division and the National Association of Government Employees (NAGE).

1. When it has been determined by the Massachusetts Department of Transportation (MassDOT) or through the grievance process that an employee is working in a higher classification, that employee shall be compensated for said out-of-title assignment via the normal bi-weekly payroll cycle if the out-of-title assignment is reasonably expected to last longer than six (6) months. The determination as to whether the assignment will last longer than six (6) months shall not be subject to the grievance process. However, when a determination has been made by MassDOT that an out-of-title assignment will not last longer than six (6) months, and in fact said out of title assignment is subsequently paid via a six (6) month period, the parties agree to hold a Step III hearing to ensure compliance with the terms of this Memorandum. The results of this hearing shall not be subject to arbitration.
2. Employees working out-of-title who do not fall under the provisions of this Memorandum shall continue to be paid according to past practice.
3. Nothing in this Agreement shall preclude MassDOT or its designee from making the determination that an employee has been assigned responsibilities out of his/her classification.
4. Prior to the commencement of compensation for an out-of-title assignment as provided in paragraph #1 above, MassDOT shall, in writing, notify NAGE of said assignment.
5. Neither NAGE nor the employee waives any right to file a grievance regarding disputed dates or grade for the out-of-title assignment.

NAGE does not waive any right to file a grievance alleging that the work in a higher classification violates Article 14 or other provisions of the Collective Bargaining Agreement.


John Mullen, President-Local R1-219
2/3/00
Date


James J. Hartnett, Jr., Personnel Administrator

APPENDIX D

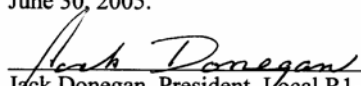
**MEMORANDUM of UNDERSTANDING
between the
COMMONWEALTH OF MASSACHUSETTS
and the
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES (NAGE)
UNITS 1, 3 AND 6**

Concerning Expedited Arbitration

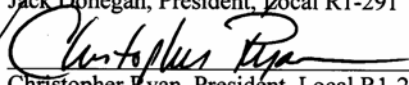
In the event of a dispute between the parties involving a decision by the employer that an employee does not meet the qualifications for a position to which he/she wishes to be reassigned, bump or be recalled, the union may submit such dispute directly to expedited arbitration in accordance with the following:

- 1) The request by the Union shall be submitted in writing directly to the Director of OER within 21 days of receipt the notification to the employee/union.
- 2) The case shall be assigned to a rotating list of arbitrators agreed to by the parties who have agreed to comply with this procedure.
- 3) All cases shall be heard and decided within 90 days of filing and both parties shall cooperate in the scheduling of dates in order to achieve this result.
- 4) Continuances shall only be granted by agreement of the parties or for good cause shown.
- 5) Post hearing briefs if any, must be submitted within two weeks of the close of the hearing.
- 6) Decisions of the arbitrator shall be no more than two pages in length and shall not serve as precedent in any other matter. Such decisions shall be final and binding.
- 7) Nothing in this procedure shall preclude the OER from convening a step III conference at its discretion however no such conference shall extend any deadlines in this procedure.
- 8) The parties shall share the costs of the arbitrator.
- 9) The arbitrator shall have no authority to decide any question other than whether the employee was qualified for the position(s) in question and the appropriate remedy if any.

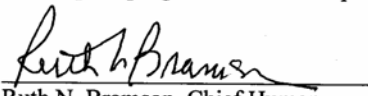
The parties agree that this program shall be established as a pilot program, and shall expire on June 30, 2005.



Jack Donegan, President, Local R1-291



Christopher Ryan, President, Local R1-292



Ruth N. Bramson, Chief Human
Resources Officer



Date

**CODE OF CONDUCT
FOR
COMMONWEALTH OF MASSACHUSETTS
NAGE UNIT THREE
EMPLOYEES**

**CODE OF CONDUCT FOR COMMONWEALTH OF MASSACHUSETTS
NAGE UNIT THREE EMPLOYEES**

TABLE OF CONTENTS

	PAGE
1. Introduction	1
2. Definitions	2
3. Regulatory Basis	2
4. General Rules	2
A. The Code Generally	2
(1) Applicability of Code	2
(2) Scope of Code	2
(3) Knowledge of Code	2
(4) Effect of Code	3
(5) Distribution of Code	3
(6) Effective Date of Code	3
B. Conformance to Laws	3
C. Conformance to Policies, Procedures and Directives	4
D. Conduct, Attitude and Demeanor	4
E. Administrative Inquiries	4
F. State Ethics Commission Financial Disclosure Requirements	4
5. Conflict of Interest	4
6. Gifts and Gratuities from Outside Sources	6
A. General Limitations	6
B. Exceptions	6
7. Outside Employment and Business Activity	7
A. Introduction: Principles	7
B. Activities Which Do Not Require Prior Notice	8
(1) Introduction	8
(2) General Examples	8
8. A. False Statements	8

B. Recommending Professional Assistance	8
C. Public Records	9
D. Drugs and Alcohol	9
E. Departmental Identification Cards, Badges, Etc.	9
F. Political Activities	9
G. Firearms and Deadly Weapons	10
H. Testimonial Dinners	10
I. News Media and Publicity	10
J. Legal and Other Professional or Scholarly Publications	10
K. Legislative Requests and Inquiries	11

FORMS APPENDIX

Receipt of Code of Conduct Form Commonwealth of Massachusetts/Unit Three	CC-3
---	------

**CODE OF CONDUCT
COMMONWEALTH OF MASSACHUSETTS
UNIT THREE**

"No responsibility of Government is more fundamental than the responsibility for maintaining the highest standards of ethical behavior by those who conduct the public business. There can be no dissent from the principle that all officials must act with unwavering integrity, absolute impartiality, and complete devotion to the public interest. This principle must be followed not only in reality but in appearance. For the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter."

President John F. Kennedy
April 27, 1961

1. INTRODUCTION

This document constitutes a Handbook and Code of Conduct for all NAGE Unit 3 employees of the Commonwealth of Massachusetts. This Code is designed to give all employees full and fair notice of their professional and ethical obligations.

We can maintain that confidence only to the extent that all of our official activities and all of our contacts with the public reflect the highest ethical and moral standards. We must perform our duties with integrity and propriety. We must also do all in our power to ensure that none of our words or actions can be interpreted otherwise.

This code is written for your own protection. It strives to impart three fundamental messages:

- a. Every employee must scrupulously avoid any actual conduct which constitutes a conflict of interest or conduct which gives the reasonable basis for the impression of a conflict of interest between his/her private interests, usually financial, and the public interest. The public interest must always take precedence;
- b. Every employee is prohibited from either taking some action, or failing to perform some duty, which would personally benefit himself/herself or give preferential treatment to any citizen.
- c. Every employee is prohibited from taking any action which would result in illegal receipt of public or private funds.

Guidance-both on what we are expected to do and on what we are prohibited from doing-should help all of us understand generally what is expected of us. It should also help resolve particular situations we are faced with in our daily work.

Please read these rules carefully and abide by their spirit as well as their letter. Each of us can take pride in belonging to an organization which contributes so much to the growth, strength and quality of life of the Commonwealth.

2. DEFINITIONS:

As used in this Code, unless the context requires otherwise:

- a. "administrative inquiries" - means those occasions when an employee is required to respond to questions of importance to the agency/department when directed to do so by his/her Appointing Authority or that Authority's designee.
- b. "disciplinary action" - means any action taken by the Appointing Authority to discipline an employee, and when applicable in accordance with the provisions of the collective bargaining agreement or civil service law.
- c. "employee" - means any person in the Alliance on the current personnel roster of the agency/department. This shall include all bargaining unit workers; those who are on any form of leave of absence; workers who are serving suspension.
- d. "immediate family" - means the employee and his/her spouse and their parents, children, brothers and sisters.
- e. "nominal value" - means monetary worth not exceeding twenty-five dollars (\$25.00).
- f. "official action" - means any activity performed or required to be performed by an employee in the course of his/her official duties.

3. REGULATORY BASIS

This handbook and Code of Conduct is issued pursuant to the powers of the Secretary of Administration and Finance, as set forth in Chapter 7, Section 4 of the General Laws, and in accordance with, but not limited to M.G.L. Ch. 268A. Opinions of the Attorney General, Ethics Commissions Rulings and applicable management rights provisions of any relevant collective bargaining agreements.

4. GENERAL RULES

A. The Code Generally

1. Applicability of Code

The code applies to all NAGE Unit 3 employees including those on any type of leaves (e.g., leave without pay, military leave, civic-duty leave, etc.)

2. Scope of Code

This Code is not to be considered all-inclusive. The absence of a specific published rule of conduct does not mean or imply that any act of misconduct tending to discredit an employee is condoned or permissible or would not result in disciplinary action, up to and including termination.

3. Knowledge of Code

Each employee is required to know the Code of Conduct and rules contained herein; to seek information from his/her Appointing authority, the Appointing Authority's designee or personnel office in case of doubt or misunderstanding as to their application.

Decisions in personnel matters involving disciplinary action will be based on the assumption that each employee has familiarized himself/herself with this Code and that he or she is aware of the obligation to abide by it.

4. Effect of Code

Employees whose conduct does not conform to the rules and guidelines contained in this Code may be subject to disciplinary action, up to and including termination. Any disciplinary action taken will conform to civil service law and/or the provisions of the collective bargaining agreement.

5. Distribution of Code

Each Appointing Authority or his/her designee will see that each employee receives a copy of this Code. Employees will acknowledge receipt of the Code by signing the attached Receipt of Code of Conduct Form (Form CC-3) in the space provided. In each instance, the signed Receipt Form will be returned to the employee's Appointing Authority or his/her designee within ten days of receipt, and filed in the employee's personnel folder. The employee's signature on the Receipt Form is notice of his/her obligation to familiarize himself/herself with the contents of the Code of Conduct and to abide by it. (An audio tape of the

Code shall be made available at no cost to any employee who reasonably requires it.)

Each Appointing authority or his/her designee will be responsible for providing accurate information and guidance to his/her employees with regard to the specifics of the Code and may from time to time offer training sessions on the Code to his/her employees as the need arises.

6. Effective Date of Code

The effective date of the Code shall be ten days after the Code of Conduct is distributed and the Code of Conduct Receipt Form is received by the employee.

B. Conformance to Laws

Employees shall obey the laws of the United States and the Commonwealth of Massachusetts. Any employee who is convicted of a crime relating to his/her employment shall be subject to discipline.

Any employee who has been indicted or arrested for a serious crime, supported by a judicial finding or probable cause in a preliminary hearing when the nature of the charge with its attendant publicity reasonably gives rise to legitimate fear for the safety of other employees, the property of the Commonwealth, or jeopardizes the public trust in the ethical standards of agency/departmental employees or undermines trust in the integrity of the Commonwealth's system of tax administration or the administration of other laws of the Commonwealth, may also be subject to suspension without pay or other employee benefits, pending resolution of the case.

If the employee is found guilty, pleads *nolo contendere*, has his/her case continued without a finding, is granted immunity from prosecution or has his/her case filed, further disciplinary action, including termination, may be taken. If the employee is found not guilty, or the case is *nolle prosequi* or dismissed, the employee shall be immediately reinstated to employment retroactive to the date of suspension without loss of wages or other employee benefits.

C. Conformance to Policies, Procedures and Directives

Employees shall comply with all of the policies and operating procedures of the agency/department in which they work. This requirement includes, but is not limited to, all agency/departmental policies and procedures. Employees shall respond forthrightly and promptly to the work-related directives of their supervisors.

D. Conduct, Attitude and Demeanor

Employees are expected to conduct themselves in their official relations with the public and with their fellow employees in a manner which will enhance public respect for, and confidence in, the employee and in the Commonwealth as a whole. They must not only perform their duties in a wholly impartial manner, but must avoid any conduct which gives the reasonable basis for the impression of acting otherwise.

Specifically, all employees shall avoid any action which may result in or create the reasonable basis for the impression of:

- a. using public office for private gain;
- b. giving preferential treatment to any citizen;
- c. making work-related decisions contrary to agency/departmental policy;
- d. using one's official position to harass or intimidate any person or entity outside the course of official duties.

E. Administrative Inquiries

Employees must respond promptly and fully to Administrative inquiries when directed to do so.

F. State Ethics Commission Financial Disclosure Requirements

Employees who are required to file a "Statement of Financial Disclosure" with the State Ethics Commission, under the provisions of M.G.L. Ch. 268B, shall do so in a timely manner as prescribed by the State Ethics Commission. The State Ethics Commission will notify each employee who is required to file such a statement.

5. CONFLICT OF INTEREST

The necessity for the fair and impartial administration of state government and the enforcement of its laws makes the avoidance of any conflict of interest of primary importance. A conflict of interest is a situation in which an employee's private interest, usually financial, conflicts or raises a reasonable question of conflict with his/her official duties and responsibilities.

Chapter 268A of the General Laws provides criminal and civil penalties for conflict of interest violations. The following three general categories of prohibitions are to be

used as guidelines for your information. (Chapter 268A of the General Laws offers specific details.)

1. No employee may request or receive, in any manner whatsoever, compensation or anything else of value, except from the Commonwealth: (a) for performance of his/her duties; or (b) for influencing or appearing to influence such performance.
2. No employee may participate in any official action relating to any entity in which the employee or a member of his/her immediate family has a financial interest.
3. No employee may participate in any official action relating to any individual with whom or entity in which the employee has a substantial personal interest.

Employees have an obligation to avoid scrupulously the potential conflicts of interest which exist in their employment. They have a duty to disclose and report promptly the existence or possible existence of a conflict of interest to their agency head or his/her designee. They should request from their supervisor the transfer from their caseload of any case which involves their immediate family, close friend or any person with whom or entity in which they have some personal or financial involvement.

In addition, they have a right under law to have any question relating to a possible conflict of interest confidentially reviewed and decided by the State Ethics Commission. Information regarding the filing of a conflict of interest request with the State Ethics Commission is available from the agency head or his/her designee or from the Ethics Commission directly.

In addition to the sanctions referred to above, M.G.L. Ch. 268A, Sec. 23 also prescribes and describes certain "Standards of Conduct." Violations of these standards are subject to appropriate disciplinary action. All employees are required to abide by the spirit as well as the letter of these standards, which provide as follows:

"No current or former officer or employee of a state, county or municipal agency shall:

- (1) accept other employment which will impair his/her independence of judgment in the exercise of his official duties;
- (2) use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others;
- (3) by his/her conduct give reasonable basis for the impression that any person can improperly influence or unduly enjoy his/her favor in the performance of

his/her official duties, or that s/he is unduly affected by the kinship, rank, position or influence of any party or person."

"No current or former officer or employee of a state, county or municipal agency shall:

- (1) accept employment or engage in any business or professional activity which will require him/her to disclose confidential information which s/he has gained by reason of his/her official position or authority;
- (2) improperly disclose materials or data within the exemptions to the definition of public records as defined by Section Seven of Chapter Four of the General Laws, and were acquired by him/her in the course of his/her official duties nor use such information to further his/her personal interests." (See Massachusetts General Laws, Chapter 268A, Section 23.)

These rules with respect to conflicts of interest are in addition to, and supplement, state policies and agency/departmental rules, regulations and operating procedures that may otherwise apply to the official actions of employees.

(In the event that the Appointing Authority, or his/her designee, approves a particular activity and the Ethics Commission subsequently determines that such activity is a conflict of interest, the appointing authority will not discipline the employee for such activity. However, only the Ethics Commission, and formerly the Attorney General, have the authority to issue an opinion interpreting M.G.L. Ch. 268A, which is binding.)

6. GIFTS AND GRATUITIES FROM OUTSIDE SOURCES

A. General Limitations

Employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from a person who or entity which, the employee knows or has reason to know:

- (1) Has, or is seeking to obtain, contractual or other business or financial relations with his/her agency/department;
- (2) Conducts business or other activities which are regulated or monitored by the agency/department, except as permitted by this section or by agency/departmental directives; or

- (3) Has interests that may be or give the reasonable impression of being substantially affected by the performance or nonperformance of the employee's official duties.

B. Exceptions

The restrictions set forth in paragraph A of this section do not apply to:

- (1) Obvious family or personal relationships when the circumstances make it clear that those relationships, rather than the business or the persons concerned, are the motivating factors behind any gift or gratuity.
- (2) The acceptance of food or refreshments of nominal value on infrequent occasions in the ordinary course of a breakfast, luncheon, dinner or other meeting attended for educational, informational or other similar purpose. However, agency/departmental employees are specifically prohibited from accepting free food or other gratuity except non-alcoholic beverages (coffee, tea, etc.), while on official business, from persons with whom they have contact in the performance of their official duties.
- (3) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans, automobile loans, personal loans, etc., provided that the employee does not deal with that institution in the course of his/her official duties. However, if dealing with such banks or financial institutions is unavoidable, the employee must disclose such dealings to the Appointing Authority in writing prior to engaging in such dealings.
- (4) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal value.
- (5) The acceptance of an award or gift of nominal value for a speech, participation in a conference, or some public contribution or achievement given by a charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, if such organization falls within paragraph A above.
- (6) Acceptance of reimbursement, in cash or in kind, for travel, subsistence and other expenses incident to attendance at meetings, provided such attendance and reimbursement is approved by the Appointing Authority or his designee. Such reimbursement can be made directly to the employee. An employee on official business may not be reimbursed, and payment may not be made on his or her behalf, for excessive (e.g., reimbursement which exceeds actual costs) personal living expenses, gifts, entertainment, travel or other benefits. At no time shall an employee accept

reimbursement from both the Commonwealth and another source for the same expenses.

7. OUTSIDE EMPLOYMENT AND BUSINESS ACTIVITY

A. Introduction: Principles

The Commonwealth seeks to give employees the maximum freedom possible to engage in outside employment or business activities consistent with the Commonwealth's responsibilities. However, the extremely sensitive mission of the Commonwealth and its employees necessitates certain restrictions. Employees may engage in outside employment or business activity provided such activity is not prohibited by this Code or by any statute, regulation or departmental order.

An activity that is permissible for the occupant of one position may very well not be permissible for the occupant of another position. Therefore, in considering each case on its individual merits, the employee must satisfy the following principles:

- (1) The outside activity would not place the employee in a situation where there is a conflict, or in a situation which gives the reasonable basis for the impression of a conflict, between his or her private interests and his or her official duties and responsibilities (see Section 5, above, "Conflict of Interest," for additional guidance).
- (2) The outside activity would not result in use, dissemination or disclosure to others of confidential information obtained in connection with the employee's departmental duties or position.
- (3) The nature of the employment or business activity or the hours to be devoted to such activity would not impair the employee's availability, capacity or efficiency for the performance of his/her official duties as an employee of the Commonwealth.
- (4) Employees shall not engage directly or indirectly in financial transactions as a result of, or primarily relying on, information obtained through their employment. In particular, they shall not use confidential information obtained in the course of their employment with the Commonwealth to obtain benefits, financial or otherwise, for themselves, their families or others.

B. Activities Which Do Not Require Prior Notice

- (1) Introduction

Employees are generally not required to submit written notice before engaging in outside activities which are not considered to be employment or business.

Although it is not feasible to cover every specific activity of this nature, the general categories discussed below are furnished as basic guidelines.

(2) General Examples

- (a) Membership and uncompensated services (including holding of office) in civic, scout, religious, educational, fraternal, social, community, veterans, or charitable organizations.
- (b) Services as a notary public or justice of the peace (except notarization of tax returns).
- (c) Rental of employee-owned property, real or personal, to the extent such property is not rented to the Commonwealth of Massachusetts or any agency or subdivision thereof, or the lessee is not a subject of the employee's official duties.
- (d) Minor services and odd jobs for friends, relatives, or neighbors. These include a wide variety of activities, including: repair or maintenance work such as painting, yard work, carpentry, or services such as babysitting and carpools involving payment for transportation.
- (e) Temporary (thirty days or less) assistance in a family enterprise, in the event of an emergency, such as the death or serious illness/accident to a member of the family engaged in that business.
- (f) However, no employee shall without appropriate disclaimer stating that the employee does not speak for the agency/department, take an active part or become an advocate on behalf of a professional society in any conflict between such society and the agency/department.

8. A. False Statements

Proper functioning of the government requires that the agency/department, the courts, other state agencies and the public be able to rely fully on the truthfulness of government employees in matters of official interest. An employee will be subject to disciplinary action up to and including termination for intentionally making false or misleading verbal or written statements in matters of official interest.

B. Recommending Professional Assistance

Employees may not recommend or suggest, specifically or by implication, to anyone that he/she obtain the services of any particular accountant, attorney or firm of accountants or attorneys, or any other professional or business organization in

connection with official business which involves or may involve the agency/department.

C. Public Records

All requests for public records should be directed to the Appointing Authority or his/her designee who shall determine whether the requested documents are public records in accordance with M.G.L. Ch. 4, Sec. 7, cl. 26.

D. Drugs and Alcohol

While on duty no employee shall consume or use alcohol, intoxicants, narcotics, or controlled substances in any form. Similarly, no employee shall report for work under the influence of intoxicants, narcotics or controlled substances in any form. The only exception to this rule is the use of medication when prescribed for the treatment of the employee by a registered physician or dentist.

E. Departmental Identification Cards, Badges, Etc.

Agency/departmental identification cards, badges and other identification or access cards or documents are for use only in establishing identity, authority or access in connection with official duties.

Employees are responsible for the safeguarding and proper use of agency/departmental identification cards, badges and access cards, for promptly reporting their loss and for surrendering them on termination of employment or demand by proper agency/departmental authorities.

Cards, badges or documents, or an employee's official position or status, are not to be used to exert influence or obtain, either directly or indirectly, personal privileges, favors or rewards for themselves or others. Photo identification badges must be worn while at work in an agency which requires them to be worn.

F. Political Activities

Employees are prohibited from using their office or official duties to interfere with, affect or influence the results of a nomination or election for public office. No employee shall use his/her official authority directly or indirectly to coerce, attempt to coerce, command, advise or prevent any person or body to pay, lend or contribute anything of value to any party candidate or political committee.

No employee shall solicit or accept funds or anything of value for any party, political committee, agency, person or organization for political purposes.

Employees are not prohibited from contributing to the campaign committee or organization for nomination or election of any individual running for public office or to any committee, agency, or organization for political purposes.

Employees are prohibited from campaigning for political office for themselves or others during normal working hours. Employees are prohibited from being a candidate for federal, state or full-time municipal office while on active duty. Such employees must obtain a leave of absence to run for such offices.

Employees are prohibited from wearing a political or campaign button while on official agency/departmental business.

Employees shall abide by the provisions of the following paragraph from M.G.L. Ch. 268A, Section 11 which provides:

"This section shall not prohibit a state or county employee from holding an elective or appointive office in a city, town or district nor in any way prohibit such an employee from performing the duties of or receiving the compensation provided for such office. No such elected or appointed official may vote or act on any matter which is within the purview of the agency by which he/she is employed or over which such employee has official responsibility."

G. Firearms and Deadly Weapons

An employee shall not carry firearms or other dangerous weapons on his/her person during the performance of official duties or on work premises except as specifically authorized by the agency/departmental head or his/her designee. An employee authorized to carry a firearm is forbidden to display it unnecessarily in public.

H. Testimonial Dinners

Employees are prohibited from selling or accepting payment for tickets, admissions or contributions, for a testimonial dinner or function or any affair having a purpose similar to a testimonial dinner or function held on behalf of any employee of his/her agency/department. No employee shall participate in or accept contributions for or from any testimonial dinner or function or any affair having a similar purpose, held on his or her behalf while he or she is an employee if such dinner, function or affair is sponsored by a person or organization which is regulated by or has official business with the employee's department or agency.

This section shall not prohibit the collection sums of nominal value to cover the cost of small celebrations or other small events (such as birthday or holiday

parties) held within agency/departmental offices, with permission of the Appointing Authority.

I. News Media and Publicity

To ensure that the Agency/Department speaks with one informed voice on the many sensitive matters that come before it, no news media release concerning official business is to be issued by an employee unless first approved by the Appointing Authority.

All contacts concerning official departmental business with the media must be approved in advance by the Appointing Authority or his/her designee. All requests for information or documents from the news media should be referred to, and all correspondence to the news media must be mailed from the Appointing Authority or follow specific guidelines for the handling of such material established by that Office.

J. Professional or Scholarly Publications

All employees are encouraged to publish articles in professional and scholarly journals. However, to protect the integrity of departmental letter rulings and other official documents of the Department/Agency and to ensure a clear and consistent policy within the Agency/Department, all publications authored by employees must bear the following caveat:

This article represents the opinions and conclusions of its author(s) and not necessarily those of the Department/Agency where the author(s) are employed.

Also, copies of all such articles published should be made available to the Appointing Authority.

K. Legislative Requests and Inquiries

All requests or inquiries from public officials or their staffs must be referred to the Appointing Authority agency/departmental head or his or her designee before any action is taken, unless employees are directed to handle such requests otherwise by the agency/department head or his or her designee.

**CODE OF CONDUCT
FOR
COMMONWEALTH OF MASSACHUSETTS
NAGE UNIT THREE**

*** * * RECEIPT * * ***

I hereby acknowledge that I have received a copy of the Employee Code of Conduct for the Commonwealth of Massachusetts NAGE UNIT 3 Employees. I also acknowledge that it is my responsibility as an employee of the Commonwealth to read this CODE OF CONDUCT and to comply with its terms and conditions.

Signature

Date

Name in print

