

# **Collective Bargaining Agreement**

**between**

**Pentagon Force Protection Agency**

**and**

**Fraternal Order of Police**

**D.C. Lodge No. 1**



**Implementation Date: June 24, 2015**

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## **ARTICLE 1: PREAMBLE**

### **Section 01.01                      Parties**

Pursuant to Federal Labor Relations Authority (FLRA) case number WA-RP-80039 and WA-RP-06-0002, and any supplement agreements or amendments thereto, this Agreement is made by and between the Office of the Secretary of Defense, Pentagon Force Protection Agency, in the Washington, D.C. Metropolitan Area, hereinafter called the "Employer," and the Fraternal Order of Police, D.C. Lodge No. 1, Pentagon Police Labor Committee, Inc., hereinafter referred to as the "Union." The Employer and the Union are collectively referred to as the "Parties."

### **Section 01.02                      Intent of Agreement**

It is the intent and purpose of both Parties to this Agreement: (1) to promote the efficient administration of the Pentagon Force Protection Agency within the meaning of the Federal Service Labor-Management Relations Statute; (2) to establish and foster a basic understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment; and (3) to provide a means for amiable discussion and adjustment of matters of mutual interest to the Parties.

### **Section 01.03                      Management**

For purposes of this Agreement, the Agency is identified as any element of the Employer authorized to manage or supervise members of the bargaining unit.

### **Section 01.04                      Gender**

Where language in the Agreement is used to denote an employee, supervisor, or other individual and is expressed in terms of one gender, the language will be construed to include the other, as appropriate.

### **Section 01.05                      Employee**

Employee means bargaining unit employee.

### **Section 01.06                      Position**

Position means bargaining unit position.

### **Section 01.07                      Calendar Day**

Day means calendar day unless otherwise stated.

## **ARTICLE 2: RECOGNITION AND COVERAGE**

### **Section 02.01 Exclusive Representative**

Pursuant to FLRA case number WA-RP-80039 and WA-RP-06-0002, and any supplement agreements or amendments thereto, the Employer recognizes the Union as the exclusive representative of all Police Officers, Series AD 0083, employed by Pentagon Force Protection Agency in the Washington, D. C., metropolitan area, excluding officers performing emergency response or protective service duties and all professional employees, management officials, supervisors, and employees described in 5 U. S. C. § 7112 (b) (2), (3), (4), (6) and (7) as certified by the Federal Labor Relations Authority in case WA-RP-80039, as amended by case WA-RP-06-0002, dated December 16, 2009.

### **Section 02.02 Union's Responsibility**

The Union recognizes its responsibility for representing the interest of all such employees without discrimination or regard to labor organization membership or status.

**ARTICLE 3: PROVISIONS OF LAW AND REGULATION AND EFFECT OF THE  
AGREEMENT**

**Section 03.01                      Laws**

It is agreed and understood that in the administration of all matters covered by this Agreement, the Employer and its officials and the Union and the bargaining unit are governed by the provisions of the Federal Service Labor-Management Relations Statute and other existing and future laws.

**Section 03.02                      Valid Exception**

Any provision of this Agreement shall be determined a valid exception to and shall supersede any existing or future Employer rules, regulations, orders and practices that conflict with the Agreement, except to those regulations for which a compelling need exist.

**Section 03.03                      Established Rules**

All other matters addressed by this Agreement, except as noted in section 03.02, shall be governed by published Employer policies and regulations in existence at the time the Agreement was approved and by subsequently published Agency policies and regulations required by law.

**Section 03.04                      Future Bargaining**

The Parties agree that this Agreement will not foreclose future bargaining over specific actions by the Employer as required by the Labor Statute.

## **ARTICLE 4: RULES, REGULATIONS AND STATUTES**

### **Section 04.01 Access to Governing Laws, Rules, and Regulations**

The Employer will provide access to the Union to available governing laws, rules, and regulations to which the Union is entitled through the Labor Statute. This may include electronic access.

## **ARTICLE 5: LABOR-MANAGEMENT RELATIONS COMMITTEE**

### **Section 5.01**

#### **General**

- a. To encourage productive labor-management relations, a meeting between the Union and Employer shall be held at least monthly on an agreed upon schedule.
- b. This meeting will not be used for negotiating, rather the meeting shall provide the Employer and the Union an open forum to develop an understanding of and discuss overarching problems related to the labor-management relations program.
- c. The purpose of these meetings is to discuss conditions of employment. Individual employee grievances, arbitrations, and unfair labor practice charges will not normally be discussed.
- d. Pending meetings will not delay or stay management's right to act or implement change in accordance with provisions of this Agreement.

### **Section 05.02**

#### **Attendees**

The Union committee members will be the Union Chairman (or designee) and three (3) others. Subject matter experts may attend upon mutual agreement of the Parties.



**ARTICLE 6: CHANGES IN CONDITIONS OF EMPLOYMENT AND COLLECTIVE  
BARGAINING**

**Section 06.01                      Definitions**

"Collective bargaining" means the performance of the mutual obligation of the Employer and the Union to meet at a reasonable time, to consult and bargain in a good-faith effort to reach agreement with respect to conditions of employment, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached pursuant to the Labor Statute.

"Meet and confer in good faith" means the process whereby the Employer's designated representatives and the representatives of the Union have a mutual obligation to meet personally and confer in order to exchange information, opinions, and proposals on matters within the scope of discussion.

**Section 06.02                      Changes in Personnel Policies and Practices and Notice to Union**

Personnel policies, practices and matters affecting conditions of employment of bargaining unit employees that are not specifically covered by this Agreement, shall not be changed by the Employer until the Union has been provided prior notice of and an opportunity to bargain over the change in accordance with the procedures outlined in this Agreement and as required by the Labor Statute. However, where a compelling need exists to implement a change immediately, the Union will be notified and afforded the opportunity to bargain post implementation in accordance with the Labor Statute and this Agreement.

**Section 06.03                      Timelines for Notice to the Union**

- a. Normally, the Employer will notify the Union in writing (which may include email) at least fourteen (14) days prior to the planned date of implementation of a management decision that changes the conditions of employment of bargaining unit employees as explained in 06.02.
  
- b. If a change is based on the issuance by the Employer of a new, or a change in an existing, written policy and the policy includes references, the Union will be provided the referenced material.

**Section 06.04                      Requests to Bargain**

- a. Upon receipt of notice, the Union must inform the Employer within fourteen (14) days whether it intends to meet to discuss the change. If the Union declines, the agency will implement the change.
  
- b. If the Union intends to meet to discuss the change, the Parties will schedule a meeting within seven (7) days for a future date. The future date will be within fourteen (14) days. The Union shall provide proposals and concerns prior to the meeting.

**Section 06.05                      Impasse**

- a. If, after a good faith effort, the Parties are unable to reach an agreement on a negotiable proposal, the Parties agree to seek the services of the Federal Mediation and Conciliation Service (FMCS) to resolve their differences.
  
- b. If the Parties cannot resolve the dispute with the assistance of FMCS, they may agree to jointly submit the dispute for resolution in accordance with the regulations of the Federal Service Impasses Panel. The parties agree that the agency may implement all other provisions of the policy that are not in dispute.

**Section 06.06                      Claim of Non-Negotiability**

If the Employer believes that a proposal is non-negotiable, they will provide an informal declaration of such to the Union. The Union may then request from the Employer a formal declaration of non-negotiability from the Agency Head in accordance with Agency policy. After the Union receives a formal declaration of non-negotiability from the Agency Head, the Union will be free to pursue its statutory remedies under the Federal Service Labor-Management Relations Statute and regulations of the Federal Labor Relations Authority.

**Section 06.07                      Midterm Bargaining**

The parties may initiate bargaining concerning conditions of employment on each anniversary of the effective date of the agreement. Such notice will be tendered in writing at least thirty (30) days prior to the anniversary date. Each party may offer no more than four (4) articles for additions, deletions or changes at midterm negotiations.

**Section 06.08                      Surveys**

- a. No canvassing, attitude surveys, questionnaires or similar devices concerning

personnel policies, practices or procedures affecting working conditions of employees of the bargaining unit, will be utilized by the Employer without prior notification to the Union.

- b. The Employer agrees to provide the Union with a copy of any report generated by the Employer, which analyzes and/or provides recommendations resulting from canvassing, surveys or questionnaires that the Union is entitled to in accordance with the Labor Statute and any government-wide rules and regulations regarding security and the Privacy Act. The Union may request relevant portions of available raw data.

## **ARTICLE 7: EMPLOYER RIGHTS**

### **Section 07.01 Management's Rights**

Subject to section 07.02 of this Article, nothing in this chapter shall affect the authority of any management official of any Agency:

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

### **Section 07.02 Permissive Subjects**

Nothing in this section shall preclude any Agency and any labor organization from negotiating:

- a. At the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- b. Procedures which management officials of the Agency will observe in exercising

any authority under this section; or

- c. Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

## **ARTICLE 8: RIGHTS OF EMPLOYEES**

### **Section 08.01 Rights Protected**

The Parties agree that employees shall have the right to form, join, or assist any labor organization, or to refrain from any such activity freely and without fear of penalty or reprisal, and each employee will be protected in the exercise of such right. Except as otherwise expressly provided under the Federal Service Labor-Management Relations Statute, such rights include:

- a. To act for a labor organization or as a representative and, in that capacity, to present the views of that organization to heads of agencies and other officials of the Executive Branch, the Congress, or other appropriate authorities; and
- b. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under 5 U.S.C. Chapter 71.

### **Section 08.02 Annual Notification**

The Employer agrees to annually inform employees of their “Weingarten” rights pursuant to 5 U.S.C. 7114(a) (2) (B) by posting this information on a bulletin board in the roll call room.

### **Section 08.03 Compliance with Directives**

- a. Employees are expected to comply with all lawful orders of their supervisors. If an employee reasonably believes that an order violates a law, rule, or regulation, the employee may respectfully bring his belief to the attention of the supervisor on duty. If the supervisor confirms the order, the employee will follow it. The employee may subsequently raise the issue through the negotiated grievance procedure.
- b. Employees who receive conflicting instructions from supervisors should respectfully bring the conflict to the attention of the supervisor. Normally, the employee is expected to follow the last order issued. Employees who receive instructions from non-Employer employees should respectfully refer the request through their chain of command.

### **Section 08.04 Resignations**

- a. An employee is free to resign at any time and to set the effective date of his

resignation and to have his reasons for resigning entered into his official records.

- b. The Employer may permit an employee to withdraw his resignation if the employee so requests in writing before the resignation becomes effective. The Employer may decline a request to withdraw a resignation before it becomes effective only when the Employer has a valid reason and provides that reason in writing to the employee. A valid reason includes, but is not limited to, administrative disruption or the hiring or commitment to hire a replacement.

#### **Section 08.05                      Voluntary Written Authorization**

Nothing in this Agreement will require an employee to pay any money to a labor organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions.

#### **Section 08.06                      Employer/Employee Discussions**

The Employer will make every reasonable effort to conduct discussions between a supervisor and an employee, and other than regular work related conversations, in private. However, during a meeting between a supervisor and an employee where informal counseling or formal discipline may occur, the employee may request the presence of a Union representative. In those instances where more than one supervisor is involved in such a meeting with an employee, the employee may request a Union representative. Informal counseling does not include the mere issuance of a discreet personnel action. However, if the supervisor initiates a discussion of the discreet personnel action, the employee may request the presence of a Union representative.

#### **Section 08.07                      Meetings with Union Representatives**

If an employee wishes to discuss a problem or potential grievance with a Union representative, the employee will have the right to contact and meet with the Union representative on duty time; however, when the employee does so is subject to supervisory approval. Once approved, the employee will be released from duties to contact and meet with the Union representative when he/she requests to exercise this right unless there is a pressing operational exigency.

#### **Section 08.08                      Paychecks**

The Employer will make every reasonable effort to ensure that employees receive their paychecks/direct deposit salary payments on the established payday. Employees are

responsible for reviewing their earnings and leave statements and notifying their supervisors of any unexplained changes. When less than 80 percent of the bargaining unit employee's base salary payment is received on the established payday, an employee may request an emergency payment of earned leave pursuant to the Employer's rules and regulations.

**Section 08.09 Volunteer Activities**

The Parties agree that employee participation in the Combined Federal Campaign, blood donor drives, bond campaigns, and other worthy projects will be on a voluntary basis. This does not preclude giving general publicity and encouragement to employees to contribute. The Employer will not require or coerce employees to invest their money, donate to charity or participate in these voluntary activities. Participation or non-participation will not advantage or disadvantage employees.

**Section 08.10 Inquiry into Personal Life**

The Employer will not inquire into any employee's personal life unless there is a job-related nexus to the employee's performance as a police officer (or federal employee) or continued fitness as a police officer.

**Section 08.11 Service of Warrant/Subpoena**

If an employee is to be served with a warrant or subpoena, it will be done in private to the extent that the Employer has knowledge of and can control the situation.

**Section 08.12 Retirement Planning**

The Employer will provide retirement planning information to bargaining unit employees upon request. Such information may include but is not limited to individual counseling, retirement materials, and life and medical insurance counseling.

**Section 08.13 Fair Application**

The parties agree that all provisions of this agreement, and all other government-wide and Employer personnel policies, rules and regulations will be applied fairly and equitably to all employees in the bargaining unit.



## **ARTICLE 9: UNION REPRESENTATION AND OBLIGATIONS**

### **Section 09.01 Union Obligations**

The Union obligates itself and agrees to represent in good faith the interest of all employees in the bargaining unit covered by this Agreement without discrimination and without regard to membership in the Union.

### **Section 09.02 Union Roster**

The Union agrees to provide the Employer a current roster, in writing, of all designated Union representatives, every six (6) months commencing January 2 and at the time of any change in designation. The roster will include Union title, phone number, and email address where the Union representatives may be reached. Official time may not be granted to any representative whose designation, is not on file with the Employer. The Employer will recognize those representatives identified on the most recent Union roster in accordance with Section 09.02 of this Article.

### **Section 09.03 Local and National Officers**

The Employer agrees that local and national officers and other duly authorized representatives of the Union who are not active employees of the Employer will be recognized as follows:

- a. To meet with management officials on appropriate labor-management business if prior notification is provided to the labor relations officers;
- b. To serve as the chief negotiator for the Union when negotiating an agreement with the Employer; and to serve as an authorized observer for the Union or a representative of a grieved employee at a hearing.

### **Section 09.04 Appointment as a Delegate - Leave**

The Employer agrees that when given at least fifteen (15) calendar days advance notice by an employee in the unit that he has been elected or appointed to serve as a delegate to any Union activity requiring absence from work, such employee will be granted annual leave and/or leave without pay (LWOP) subject to workload requirements.

### **Section 09.05 No Restraint**

The Employer agrees there will be no restraint, interference, coercion or discrimination against the representatives of the FOP because of the performance of their union duties.

## **ARTICLE 10: UNION DUES WITHHOLDING**

### **Section 10.01 Employee Eligibility**

Pursuant to 5 U.S.C. § 7115, payroll deductions for the payment of Union dues will be made from the pay of members in the unit who voluntarily request such dues deductions.

### **Section 10.02 Union Dues Deduction Forms**

For the collection of union dues, the Union will use Standard Form (SF) 1187, Request for Payroll Deduction for Labor Organization Dues.

### **Section 10.03 Employee Responsibility**

An employee who desires to have union dues deducted from his pay must complete the appropriate portion of the SF-1187 and have the appropriate section completed and signed by an authorized Union official. Additionally, employees are responsible for ensuring that their dues withholding status is accurately reflected each pay period on the Earnings and Leave Statements. Employees will, through appropriate channels, promptly notify the servicing payroll office of any errors. Failure or delay by an employee to promptly initiate and actively pursue any such errors may void any claim for waiver of overpayment and may release the Agency and the Union from any obligation to reimburse the employee for dues withheld.

### **Section 10.04 Union Responsibility**

The Union will be responsible for the proper completion of, and for transmitting the SF-1187 to the servicing payroll office. The form must be received by the servicing payroll office at least five (5) business days prior to the beginning of the pay period in which the deduction is to begin. The Union agrees to give prompt, written notification to the appropriate payroll office in the event an employee having dues deducted is suspended or expelled from membership in the Union so that the employee allotment can be terminated.

### **Section 10.05 Amount of Dues Deduction**

The amount of dues to be withheld under this Agreement will be the regular dues as specified on the employee's SF-1187, or as certified by the Union, if the amount of the regular dues has been changed as provided in section 10.06 of this Article. A deduction of regular dues will be made every pay period from the pay of an employee who has

requested such allotment of dues. It is agreed that no deduction for dues will be made in any pay period for which the employee's net earnings after other deductions are insufficient to cover the full amount of dues.

**Section 10.06                      Changes to Dues Withholding**

- a. A change in the amount of Union dues deducted will not be made more frequently than once in a twelve (12) month period. The Union Chairman (or designee) will request and certify, in writing, to the servicing payroll office the new amount of regular dues to be deducted each pay period. A new SF 1187 authorization form will not be required. Such a change will normally become effective no later than the first full pay period after receipt of the request by the servicing payroll office.
  
- b. The Employer will terminate the dues allotment at the end of the pay period during which any of the following action takes place:
  1. An employee leaves the unit as a result of any type of separation, transfer, or other personnel action.
  
  2. The certification of the Union as the exclusive representative for the unit is withdrawn.
  
  3. An employee is suspended or expelled from membership in the FOP Local DC 1. The Union agrees to promptly notify the servicing payroll office in writing when any member of the Union is suspended, expelled or for any reason ceases to be a member in good standing.
  
- c. An employee may request revocation of his dues deductions during the ten (10) day period prior to the anniversary date on which the employee authorized the dues deduction by completing and submitting an SF-1188, Cancellation of Payroll Deductions for Labor Organization Dues to the servicing payroll office. Upon receipt of a properly completed and signed SF-1188 during the appropriate revocation period, the servicing payroll office will discontinue the withholding of dues from the employee's pay effective the first full pay period after the revocation.

**Section 10.07                      Payment to Union**

- a. The servicing payroll office will authorize the issuance of a check for the total amount of dues deducted each pay period. Funds will be deposited via an electronic funds transfer payable to the Fraternal Order of Police/Pentagon Police Labor Committee, Inc., normally within ten (10) working days after the close of each pay period. With each transfer, the Employer will provide the Union with a list showing the names of each employee, the amount deducted for dues for each employee and the amount remitted by the accompanying electronic fund transfer.
  
- b. The Union will notify the servicing payroll office of any change in its bank or depositing information. Changes in banking or depositing information will normally be effective the first full pay period after the receipt by the servicing payroll office.

**Section 10.08                      Erroneous Payments**

- a. In the event dues are discontinued erroneously, the Agency will automatically reinstitute the previously submitted SF-1187 on the dropped employee's behalf.
  
- b. If the Agency makes an erroneous payment to the Union or employee, the Agency will correct the erroneous payment by billing the Union or employee directly normally within thirty (30) days from the payment date. After the Agency bills the Union or the employee to correct an erroneous payment, the Union or employee will verify that the billing is correct and repay the erroneous payment to the Agency normally within thirty (30) days of being notified of the error. Nothing in this section precludes the Union or employee from requesting a waiver of overpayment in accordance with any rule or regulation of DFAS. Upon such request, any repayment will be held in abeyance pending a final decision.

## **ARTICLE 11: NO STRIKE - NO LOCKOUT**

### **Section 11.01                      General**

- a. The Union recognizes the legal prohibition in 5 U.S.C. 7116(b)(7)(A), 18 U.S.C., 1918(3) and 5 U.S.C. 7311(3) concerning the participation in a strike or asserting the right to strike against the Government of the United States.
  
- b. Consistent with this prohibition, the Union will not call or participate in a strike, work stoppage, or slowdown of the Employer in a labor management dispute and will not condone any such activity by failing to take action to prevent or stop such activity. For purposes of the Agreement, the term "strike" is defined as any concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

## **ARTICLE 12: UNION USE OF SPACE AND EQUIPMENT**

### **Section 12.01 Office Space**

The Employer will provide the use of office space to the Union for the conduct of official business. The space will meet customary and reasonable standards for habitability.

### **Section 12.02 Office Equipment**

The Employer will provide the Union with a lockable filing cabinet, one (1) book case, two (2) desks, four (4) chairs, two (2) personal computers with Internet access subject to the Employer's regulations governing such access, one (1) printer and one (1) fax machine to be used for official representational functions. The Union will designate a property custodian who will be responsible for the equipment.

### **Section 12.03 Telephones**

The Employer will provide two (2) telephones, with local call capability and voicemail. The Employer will list the telephone number of the Union in the directory and with the Pentagon directory assistance operator.

### **Section 12.04 Conference Space**

The Union may request the use of conference/meeting space for the performance of official representational work through the same channels that management would request the use of such space. It is agreed and understood that functions relating to internal Union business will take place during non-work hours. Normally, the request will be made at least five (5) workdays prior to the date desired.

### **Section 12.05 Bulletin Board Space**

- a. The Employer will provide the use of secured bulletin boards for the posting of Union material. The bulletin boards will be located in the employee locker room and either the break room, report writing room or any similar location where officers routinely gather.
- b. The Union agrees that material posted on its bulletin board will not be libelous. Any dispute concerning the content of any posting, which is alleged to be libelous, will be brought to the attention of the Union Chairman by the Employer. The Union agrees to remove the material until the dispute is resolved. The Parties agree that where the dispute cannot be resolved, they will submit the matter to arbitration as provided for in this Agreement.

**Section 12.06                      Parking and Building Access**

- a. Bargaining unit employees will be provided assigned or designated parking in accordance with the Employer's regulations and this Agreement.
  
- b. Subject to the Agency's access control procedures, non-employee Union representatives will be authorized a visitor building pass and visitor parking permit. It is recommended that requests be provided at least five (5) days prior to required use. All Union representatives or guests using the pass or permit agree to comply with the regulations of the Employer.

## **ARTICLE 13: OFFICIAL TIME**

### **Section 13.01                      General**

Official time is duty time without loss of pay or charge to leave. Any employee representing the Union in connection with any matter covered by 5 U.S.C. Chapter 71, or any employee in the bargaining unit, will be granted official time in any amount the Agency and the Union agree to be reasonable, necessary, and in the public interest.

### **Section 13.02                      Collective Bargaining**

Any employee representing the Union in the negotiation of a collective bargaining agreement will be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized for negotiating sessions will not exceed the number of individuals designated as representing the Agency for such purposes.

### **Section 13.03                      Internal Union Business**

Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) will be performed during the time the employee is in a non-duty status.

### **Section 13.04                      Requests for Official Time**

- a. A Union representative will be allowed a reasonable amount of official time away from his job to transact authorized union functions after requesting and receiving permission from his Platoon Commander (or designee). When requesting official time to meet with a bargaining unit employee, Union representative will ensure that the employee obtained permission to be released on official time.
- b. Requests for official time will be submitted as far in advance as possible; when immediate official time is needed, to the extent practicable, requests for official time will be submitted at least 4 hours or more before it is needed.
- c. When requesting official time, the representative will inform his Platoon Commander (or designee) that he needs to conduct authorized Union business, the general nature of such business, and the approximate amount of time needed; such requests will usually be in the form of hours, not days. The



representative will provide the Platoon Commander the location and/or telephone number where the representative can be reached, while on official time.

- d. Platoon Commanders will normally grant such requests, unless work related requirements preclude the representative's absence at that time. When this occurs, the Platoon Commander will promptly advise the representative when the time can be granted.
- e. The representative (and employee, if applicable) will notify his Platoon Commander upon returning to work.
- f. In addition to the above requirements, the Union representative must also obtain permission from the supervisor of the employee with whom he/she wants to meet.

### **Section 13.05 Employee Requests**

Employees will request permission when they must meet with their Union representative. The employee will inform the supervisor that a work-related issue is to be discussed, the approximate duration of the meeting and the location and telephone number where the employee can be reached. Supervisors will grant a reasonable amount of official time, unless there are work related requirements, which would preclude the employee's absence at that time. When this occurs, the supervisor will promptly advise the employee when such authorization will be granted. The employee will notify his supervisor upon returning to duty.

### **Section 13.06 Disapproval of Official Time**

If a request for official time is disapproved in whole or in part, the Union may seek immediate review of the determination by a higher level official in the chain of command of the department and/or may designate another bargaining unit member to represent the Union in the matter involved.

### **Section 13.07 Disputes Over Official Time**

Disputes over official time must be presented to the WHS Labor Relations Officer (or designee) so that they may be resolved at the lowest level possible. If the matter is not resolved satisfactory through the WHS Labor Relations Officer, the dispute over the use of official time may be resolved through the negotiated grievance procedure or the unfair labor practice procedure, but not both.

**Section 13.08 Abuse of Official Time**

The Union recognizes its obligation to ensure that representatives do not abuse official time by unduly absenting themselves from their assigned work areas. The Union agrees to make every reasonable effort to perform their authorized representational duties in a proper and expeditious manner.

**Section 13.09 Union Sponsored Training**

The Employer agrees that official time but no travel or per diem, may be granted to union representatives for attendance at Union sponsored training designed to advise representatives on matters within the scope of labor-management relations which are of mutual concern to the Parties. An agenda or general description of the topics to be covered will be provided to the Employer. Normally, requests for official time to attend Union sponsored training will be submitted at least 14 days in advance.

**Section 13.10 Election as Delegate**

The Employer agrees that when given at least fifteen (15) calendar days advance notice by employee in the unit that he/she has been elected or appointed to serve as a delegate to any Union activity requiring absence from work, such employee will be granted annual leave and/or LWOP, whenever practicable.

**Section 13.11 Leave for Internal Business**

Union representatives will be granted annual leave or leave without pay, subject to the usual conditions for granting leave, to attend Union activities, which are classified as internal Union business. The request for such leave will be submitted as far in advance as possible.

## **ARTICLE 14: NAMES OF BARGAINING UNIT EMPLOYEES AND COMMUNICATIONS**

### **Section 14.01 Bargaining Unit Employee Roster**

Within thirty (30) days of the Union's written request, the Agency shall furnish to the Union the name, title and grade of each employee covered by this Agreement. The Agency shall comply with up to two (2) such requests within any twelve (12) month period.

### **Section 14.02 Right to Address New Unit Employees**

The Union shall have the right to address any new bargaining unit employee during new employee orientation and during a mutually agree up on time during the first two weeks of the pre-field training evaluation program. In the event that circumstances prevent this from occurring within the first two weeks, the Parties will agree upon an alternative date to meet with bargaining unit employees.

## **ARTICLE 15: LOCKER ROOMS/BREAK ROOM/SHOWERS**

### **Section 15.01 Lockers**

To the extent practicable, the Employer shall provide lockers for all bargaining unit employees, which are capable of being locked and large enough to hold appropriate issued equipment, uniforms and reasonable personal items.

### **Section 15.02 Search of Lockers**

Bargaining unit officers' locker(s) will not be searched except in accordance with law. Search of an officer's locker(s) will be conducted in the presence of the officer assigned the locker and/or a Union representative if the employee is not available; except where exigent or compelling circumstances dictate otherwise.

### **Section 15.03 Receipt for Property**

In any instance where a bargaining unit officer's property or contents of the locker is seized by the Employer, the officer will be given a written receipt of the property seized. When the officer is present at the time of the seizure, the receipt will be issued and provided to the officer immediately. When the seizure occurs and the officer is absent, the receipt will be issued and provided to the officer as soon as possible.

### **Section 15.04 Break Room/Lunch Room**

The Employer agrees to provide the use of a break room, a microwave oven, a refrigerator, a sink, an eating area,, and a television for informational programming at the Pentagon. For locations other than the Pentagon, the Employer will make a reasonable effort to provide the employees with a break room with the same accommodations.

### **Section 15.05 Showering Facilities**

The Employer will strive to provide showers and showering facilities for use by bargaining unit officers wherever assigned. To the maximum extent possible, showers and showering facilities will be located near employee locker or the locker facility.

### **Section 15.06 Cleanliness of Facilities**

The Employer will make a reasonable effort to provide adequate locker rooms, break rooms/lunch areas and showering facilities, which are free from dirt, dust and debris. In those instances where construction or renovation in proximity to such facilities results in

an increase in dirt, dust, or debris, the Employer will, to the extent space is available, temporarily relocate the facility. In those instances where space is not available, the Employer will take reasonable steps to minimize the impact of construction or renovation activities.

## **ARTICLE 16: UNIFORMS AND EQUIPMENT**

### **Section 16.01 Agency Maintenance**

The Agency will provide and maintain (provide alterations and cleaning) for all issued uniform clothing. In the event the Agency elects to provide an allowance in lieu of initial or replacement items, the Agency will meet its bargaining obligation as provided by law.

### **Section 16.02 FOP Pin**

All bargaining unit members will have the right to wear a standard lapel-size pin showing their membership in the FOP on all uniforms in a location specified by the uniform policy.

### **Section 16.03 Soft Body Armor**

- a. All bulletproof vests and body armor shall be a minimum of Level III and will not be utilized by the Agency in excess of the manufacturer's recommended life. All bargaining unit members will be fitted individually for their body armor.
  
- b. The agency agrees that all bargaining unit employees will receive appropriate training to learn about the proper maintenance, inspection, storage, and cleaning of soft body armor in accordance with the manufacturer's instructions.

### **Section 16.04 Standard Issue**

The Employer will provide all uniforms (or a uniform allowance) for bargaining unit employees including but not limited to the following items:

1. All jackets and windbreakers;
2. All shirts and ties;
3. All leather equipment (except shoes);
4. All safety equipment as required;
5. Service weapon and handcuffs;
6. Badges;
7. Rain gear with reflective material;
8. Baton; and
9. A set of credentials in a leather case.

## **ARTICLE 17: BASIC WORKWEEK AND OVERTIME**

### **Section 17.01 Basic Workweek**

The tour of duty will be determined by the Employer in accordance with applicable law and regulations and security needs.

### **Section 17.02 Stable Work Schedules**

Stable work schedules will be maintained when practicable and employees will whenever possible be given sufficient advance notice of any changes in work schedules. Tours of duty will not be established or modified solely for the purpose of avoiding the payment of holiday premium or overtime pay, except where the Employer determines that the Agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased.

### **Section 17.03 Shift Reassignments**

- a. The Employer agrees to notify an employee prior to reassigning him to another shift in the bargaining unit. Fourteen (14) calendar days advance notice will be given prior to effecting such a shift reassignment except in emergencies or in circumstances, which would seriously handicap the Employer in accomplishing its functions. Bargaining unit employees in a light duty assignment may receive a lesser notification but the agency will attempt to lessen the impact of a change in shift.
- b. An employee or the Union can waive the fourteen (14) calendar days advance notice by signing a written waiver.

### **Section 17.04 Requests for Voluntary Shift Reassignment**

- a. Requests for voluntary shift reassignment will be time stamped and considered on a first come, first serve basis, taking into account the employees qualifications and mission requirements.
- b. Requests for voluntary shift reassignment should be submitted to the PFPA Human Capital Program Directorate (HCPD) or its equivalent within the directorate.
- c. The HCPD or its designee will maintain a volunteer transfer list of officers who

wish to transfer between operating locations within the bargaining unit. Vacancies will be offered to employees based on the name of the individual that is at the top of the list. Officers may elect to volunteer to a different location after a waiting period of one (1) year after initial signup. Officers that decline an assignment must resubmit a request to be added to the list.

**Section 17.05 Requesting Voluntary Overtime**

- a. At the beginning of the pay period, bargaining unit officers interested in overtime will indicate the days in the pay period they wish to work available overtime. Officers will sign the overtime request book to indicate a willingness to work overtime. Officers should print their name, the platoon they request overtime with; the number of overtime hours requested, and the entrance on duty (EOD) date that they began employment with the PFPA.
- b. When an officer refuses voluntary overtime after previously indicating a willingness to work overtime, the officer will not be eligible to work overtime until the roster follows its normal rotation and comes back to the officer who refused.

**Section 17.06 Voluntary Overtime (Non-special event)**

Voluntary overtime for non-special events will be offered to bargaining unit employees in the following manner:

- a. Operations Division overtime will be first offered to Operations Division personnel. (Likewise, all other PFPA directorate overtime will be first offered to personnel that regularly work within that directorate.)
- b. Voluntary overtime will be offered to the shift that immediately precedes the shift that requires overtime in PFPA EOD seniority order.
- c. If there are still not enough volunteers, then the voluntary overtime will be offered to the shift that immediately follows the shift that requires overtime in PFPA EOD seniority order.
- d. For purposes of this Article, ties in PFPA EOD seniority will be broken as follows:
  - 1. Federal Service Computation Date
  - 2. Alphabetically
  - 3. Toss of the coin



**Section 17.07**                      **Voluntary Overtime for Special Events or Unscheduled Events**

- a. Opportunities to work voluntary overtime for special events will be posted on the roll call door as soon as practicable.
- b. Voluntary overtime for special events will be offered on a first come, first serve basis.

**Section 17.08**                      **Mandatory Overtime**

Mandatory overtime will be assigned to bargaining unit employees in the following manner:

- a. Operations Division overtime will be assigned first to Operations Division personnel. (Likewise, all other PFPA directorate overtime will be first offered to personnel that regularly work within that directorate.)
- b. Mandatory overtime will be assigned in inverse PFPA EOD order.

**Section 17.09**                      **Advance Notice**

The Employer agrees to make every reasonable effort to give employees advance notice before requiring them to work mandatory overtime. It is agreed that all employees must accept all overtime assignments, including those assignments on short notice or in emergencies. To the extent feasible, management will attempt to provide advance notice of overtime assignments.

**Section 17.10**                      **Call Back**

An employee who is called back (i.e., required to return to his place of employment to perform unscheduled overtime work either on a regular workday after he has completed his regular schedule of work or on a day outside of his basic work week) will be paid in accordance with applicable law and regulation. As of the execution date of this Agreement, such an employee must be paid a minimum of two (2) hours of pay at the overtime rate even if his service cannot be utilized after he reports to work.

**Section 17.11**                      **Training/Details**

Employees in training may be considered for overtime assignments occurring before or after their training for which they are qualified. (Officers trainees participating in the field

training program may not qualify for overtime opportunities.)

**Section 17.12 Release from Overtime**

An employee called in to work on shifts outside his/her work week will be promptly excused at such time as it is determined that his/her service are no longer needed. However, an employee will not be called back to work overtime when there are qualified employees on that shift who desire to work overtime but have not been so assigned.

**Section 17.13 Excuse from Overtime**

Employees are required to work all overtime assigned unless specifically excused by the Agency. (The Agency may excuse for such reasons as medical reasons, justifiable emergencies or unavoidable personal situations.)

**Section 17.14 Current Records**

All employees will provide the Employer with a current telephone number and address for emergencies.

**Section 17.15 Compensatory Time**

In accordance with applicable law and regulation, employees will have the option of selecting overtime compensation in the form of pay or compensatory time when they are required to work beyond their basic work day or work week. As of the execution date of this Agreement, compensatory time may be accumulated for twenty-six (26) pay periods. Compensatory time not used within the twenty-six (26) pay periods will be converted to overtime pay.

**Section 17.16 Use of Accumulated Compensatory Time**

Prior to using annual leave, employees are encouraged to use accumulated compensatory time in lieu of annual leave during the twenty-six (26) pay periods.

**Section 17.17 Cap on Overtime**

The employer will consider employee requests to not work more than eighty (80) hours of overtime per pay period.

**Section 17.18 No Denial of Overtime**

No employee will be denied overtime based on the employee's assignment to a unit other than where the overtime is being offered.

## ARTICLE 18: HOLIDAYS

### **Section 18.01 Federal Holidays**

As of the date of this Agreement, these holidays are:

New Year's Day

Martin Luther King, Jr. Day

President's Day

Memorial Day

Independence Day

Labor Day

Columbus Day

Veterans Day

Thanksgiving Day

Christmas Day

***Inauguration Day** is a holiday for employees employed in the Washington, D.C., metropolitan area if it falls on a day within their basic workweek.*

### **Section 18.02 Holiday Pay**

Employees will be paid for working holidays in accordance with all applicable law, rule, and regulation. As of the date of this agreement, the law prescribes the following:

- a. Eligible employees shall receive pay at their regular hourly rate plus appropriate shift differential on all days defined as holidays that they are not required to work, except as provided otherwise in applicable law and regulation.
- b. Eligible employees working on a holiday within their basic workweek will receive holiday pay (two (2) times their basic hourly rate) including appropriate shift differential for all non-overtime hours worked on such holiday. Overtime hours worked on a holiday will be paid at the normal overtime rate (Insert Footnote: For example: Employees on an 8, 10, or 12-hour shift will earn double-time for the first 8, 10, or 12 hours worked respectively. Any overtime hours worked thereafter will be paid at time and half rate.)

## **ARTICLE 19: HAZARDOUS GEOLOGICAL/WEATHER CONDITIONS**

### **Section 19.01                      General**

- a. Given the nature of law enforcement responsibilities, all bargaining unit police officers are designated as emergency employee in accordance with PFPA Issuances.
  
- b. All employees who are unable to report for duty will notify the Employer as soon as possible, but not usually later than two (2) hours prior to the scheduled start of duty. Emergency employees are expected to report to or remain at their worksite in dismissal or emergency situations unless otherwise directed by their agencies. In rare circumstances, an agency may determine that circumstances justify excusing an emergency employee from duty. An agency may grant a reasonable amount of excused absence to an emergency employee who is unable to report for work when he or she has an individual hardship or circumstances unique to the employee.

### **Section 19.02                      Existence of Hazardous/Geological Conditions**

- a. When the Employer determines hazardous geological/weather conditions exist, or are imminent, on-duty bargaining unit employees will be released as soon as possible, if operational requirements permit.
  
- b. In those situations where an "adjusted work schedule" is authorized by the Office of Personnel Management and consistent with the security needs of the Employer, the Employer may authorize employees an early dismissal relative to the employee's normal departure time from work. When the Employer allows for early dismissal, no leave will be charged an employee. Volunteers for overtime already on duty will be utilized to the extent possible in accordance with Article 17.

### **Section 19.03                      Determination to Grant Excused Absence**

In making the determination to grant excused absence, the Employer should consider reports from the employee, distance, availability and mode of transportation, reports of civil authorities, current meteorological information, news media, official road reports, leave approvals, reduced staffing, closing at other area facilities, or any other factor the employer consider relevant.

**Section 19.04                      Rights Retained by Employer**

The Employer retains the right to determine the opening, closing, and use of its facilities during periods of hazardous geological/weather conditions.

**Section 19.05                      Continuance of PFPA Issuances**

To the extent not inconsistent with this Article, PFPA issuances will continue to be applied to the bargaining unit employees.

## **ARTICLE 20: SUNDAY PREMIUM PAY**

### **Section 20.01                      General**

Employees will be paid Sunday premium pay in accordance with applicable law, rule, and regulation. An employee whose regular work schedule includes an eight (8) hour period of service, which is not overtime work, a part of which is on Sunday, is entitled to additional pay at the rate of twenty-five (25) percent of his hourly rate of basic pay.

## **ARTICLE 21: HAZARDOUS DUTY**

### **Section 21.01 Policy of Employer**

It is the policy of the Employer to eliminate or to reduce to the lowest level possible all hazards, physical hardships, and working conditions of an unusual nature. When such action does not overcome the unusual nature of the hazard, physical hardship or working condition, an environmental differential may be warranted in accordance with applicable law, rule, and regulation. However, the existence of hazardous duty/environmental differentials is not intended to condone work practices, which circumvent Federal safety law, rule, and regulations.

### **Section 21.02 Payment of Differential**

When warranted, Hazardous Duty/Environmental Differentials are payable as listed in 5 C.F.R. part 550, subpart I, appendix A (Hazardous Duty Pay) and 5 CFR part 532, subpart E, appendix A (Environmental Differential Pay).

### **Section 21.03 Notification to Employees**

Employees will be notified when assigned work for which hazardous duty/environmental pay is available. In the absence of such notification, the employee will assume that such pay is not applicable.

### **Section 21.04 Employee Requests for Hazard/ Environmental Differential Pay**

- a. If at any time during a job assignment an employee believes that such pay is warranted, the employee or the union will call the matter to the attention of his supervisor as soon as possible. However, if the supervisor is uncertain concerning the exposure, he or the Union may contact the Agency Safety Officer or designee who will investigate and determine if conditions warranting a hazardous/environmental differential exist.
- b. If the Union is dissatisfied with the Agency Safety Officer's determination, it may call an OSHA inspector for a second opinion on the issue of exposure and/or degree of exposure; the effect of safety and protective devices, and whether the hazard has been abated to practically eliminate the potential for personal injury or illness.

- c. The Union may, at its own expense and in accordance with the Employer's internal security practices, consult its own industrial hygienist to examine the potential exposure. The Agency will consider the results of such a finding; however, the Agency retains the right to determine safety and security practices.



## **ARTICLE 22: SEVERANCE PAY**

### **Section 22.01                      Controlling Guidelines**

In accordance with 5 U.S.C. §5595 and 5 C.F.R. subpart G and governing regulations, an employee who has been employed currently for a continuous period of at least twelve (12) months; and is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency, is entitled to be paid severance pay in regular pay periods by the Agency.

## **ARTICLE 23: ANNUAL LEAVE**

### **Section 23.01                      General**

- a. Employees shall accrue annual leave at the rates established by Title 5 U.S.C. 6303. Annual leave is provided, and may be used for two (2) general purposes:
  - 1) To allow every employee an annual vacation period for extended leave for rest and recreation; and
  - 2) To provide for periods of time off for personal and emergency purposes.
- b. It is understood that the needs of the Employer (e.g. work and/or minimum staffing requirements) will be considered when approving or disapproving leave requests.

### **Section 23.02                      Procedures for Requesting Annual Leave**

- a. All requests for annual leave are submitted to the immediate supervisor for approval. Requests for advanced annual leave are submitted to the immediate supervisor for approval, and coordinated with PFPA Human Capital Program Management Directorate for processing. Depending on the nature of the leave, the request will be processed expeditiously.
- b. All other types of leave requests must go through immediate supervisor and coordinated with PFPA Human Capital Program Management Directorate for approval and processing.
- c. An employee must submit a Standard Form 71 (SF-71) to request annual leave. The Employer will indicate approval or denial of the request for annual leave on the SF-71.
- d. The Parties recognize that employees should request anticipated annual leave for vacation purposes in advance.
- e. Requests for projected annual leave shall be submitted to the Platoon Commander (or designee) between January 1<sup>st</sup> and March 31<sup>st</sup> for inclusion in the overall vacation schedule.

- f. Annual leave requests shall be considered on a first-come, first-serve basis.
- g. If, however, there is a dispute between employees desiring the same vacation period, who have submitted the requests on the same day, then the employee with the most seniority (based on EOD with PFPA) will be granted the annual leave.
- h. Annual leave for Christmas day (or days in conjunction with Christmas day) will be offered on a rotating schedule from year to year. The Christmas day schedule will begin with the employee with the most seniority (based on EOD with PFPA) and will continue to the next senior individual until each employee has had an opportunity to schedule a requested vacation period of leave. Once each employee has had an opportunity to request leave on Christmas day, the rotation will return to the most senior employee.

**Section 23.03                      Requesting Unscheduled Annual Leave**

- a. Every employee is responsible for maintaining regular attendance and for ensuring that the Employer is informed in advance of any absence. When an emergency (sudden or unforeseen situation that requires immediate action) necessitates an employee's absence, which cannot be approved in advance, the employee shall call and speak with the on-duty Platoon Commander (or designee) to request approved leave, no later than two (2) hours prior to the start of his scheduled work shift or as soon as practical, in exigent circumstances.
- b. Employees will describe the emergency; give an estimate as to how long they will be absent, and the type of leave desired.
- c. If the absence extends beyond the predetermined period of leave already approved, the employee shall call the on-duty Platoon Commander (or designee) to inform him/her of the situation and probable date of return to work no later than two (2) hours prior to the start of his scheduled work shift. In the event the employee can return to work prior to the end of the approved leave period, the employee will call and speak to the on-duty Platoon Commander (or designee) at least one day prior to their return. These absences shall be recorded and submitted to the Platoon Commander (or designee) on an SF-71 upon the employee's return to work. Employees may be required to substantiate the nature of the emergency. Management reserves the right to disapprove such

requests for leave based on workload requirements and the nature of the emergency.

**23.04 Approval of Non-Vacation Annual Leave**

Annual leave requested for any period during a scheduled tour of duty for the shift being worked shall normally be approved/disapproved by the supervisor (or designee) on the shift being worked as soon as possible. Leave requests for future shifts will normally be approved/disapproved prior to the end of the shift. The agency will not inquire as to the specific purpose for the use of annual leave. Leave requests will be approved in the order that they were requested. If the request was disapproved and annual leave for that time period later becomes available, the leave will be approved in the order that the Employer received the request.

**23.05 Cancellation of Leave**

An employee may cancel annual leave at any time. In the event the employee requests to return to work prior to the end of the approved leave period, the employee will call and speak to the on-duty Platoon Commander (or designee) preferably at least one day prior to their return, but no later than 8 hours prior to the start of his scheduled shift.

**23.06 Conversion of Annual Leave to Sick Leave**

Employees on annual leave who become sick may request to convert the annual leave to sick leave in accordance with 5 CFR §630.401.

## **ARTICLE 24: SICK LEAVE**

### **Section 24.01                      General**

- a. All requests for scheduled sick leave are submitted to the immediate supervisor for approval. Requests for advanced sick leave are submitted to the immediate supervisor for approval, and coordinated with PFPA Human Capital Program Management Directorate for processing. Depending on the nature of the leave, the request will be processed expeditiously.
- b. An employee shall earn sick leave in accordance with applicable laws and regulations.
- c. Sick leave must be memorialized on an SF-71. The Employer will indicate approval or denial of the request for sick leave on the SF-71 as soon as possible.

### **Section 24.02                      Sick Leave Granted**

In accordance with applicable law, rule, and regulation, the Employer may grant accrued sick leave to an employee when the employee:

- (a) Subject to paragraphs (b) through (e) of this section, an agency must grant sick leave to an employee when he or she—
  - (1) Receives medical, dental, or optical examination or treatment;
  - (2) Is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
  - (3) Provides care for a family member—
    - (i) Who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment;
    - (ii) With a serious health condition; or
    - (iii) Who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the

health of others by that family member's presence in the community because of exposure to a communicable disease;

- (4) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;
  - (5) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or
  - (6) Must be absent from duty for purposes relating to his or her adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
- (b) The amount of sick leave granted to an employee during any leave year for the purposes described in paragraphs (a)(3)(i), (a)(3)(iii), and (a)(4) of this section may not exceed a total of 104 hours (or, for a part-time employee or an employee with an uncommon tour of duty, the number of hours of sick leave he or she normally accrues during a leave year).
- (c) The amount of sick leave granted to an employee during any leave year for the purposes described in paragraph (a)(3)(ii) of this section may not exceed a total of 480 hours (or, for a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week), subject to the limitation found in paragraph (d) of this section.
- (d) If, at the time an employee uses sick leave to care for a family member with a serious health condition under paragraph (c) of this section, he or she has used any portion of the sick leave authorized under paragraph (b) of this section during that leave year, the agency must subtract that amount from the maximum number of hours authorized under paragraph (c) of this section to determine the total amount of sick leave the employee may use during the remainder of the leave year to care for a family member with a serious health condition. If an employee has previously used the maximum amount of sick leave permitted

under paragraph (c) of this section in a leave year, he or she is not entitled to use additional sick leave under paragraph (b) of this section.

- (e) If the number of hours in the employee's tour of duty is changed during the leave year, his or her entitlement to use sick leave for the purposes described in paragraphs (a)(3) and (4) of this section must be recalculated based on the new tour of duty.

### **Section 24.03 Sick Leave Requests**

- a. An employee must call personally to request the use of unscheduled sick leave unless physically unable to do so. Requests for sick leave must be called in to the on-duty Platoon Commander (or designee) within two (2) hours prior to the employee's reporting time or as soon afterward as practicable. Employees on a letter of leave requirement may have additional reporting requirements.
- b. In those cases where an employee is confined to his home or in a hospital for more than one day and cannot provide a tentative return date, the employee will call in everyday at least 2 hours before his scheduled start time to request leave for the day. If the employee was examined by a medical provider and the medical provider advises the employee to stay out a certain number of days, the employee will then contact the Employer and inform them as soon as practicable.
- c. If a medical doctor certifies that an employee must be confined to his home or a hospital for an extended period due to medical incapacitation and the employee provides this information to the Employer (with an anticipated return to duty date certified by the doctor), the employee does not need to call in daily. However, if the employee cannot return to duty on the anticipated return to duty date, he must call in daily or provide updated medical documentation showing the need for further absence and the anticipated return to duty date.

### **Section 24.04 Release From Duty**

An employee, who because of illness, is released from duty, by his supervisor on the recommendation of the DiLorenzo Clinic, will not be required to furnish a medical certificate in support of sick leave for the day on which he was released from duty. However, use of sick leave for succeeding days is subject to the notification and medical certificate requirements of this Article.

**Section 24.05                      Disapproval of Sick Leave**

Whenever an employee's request for sick leave is disapproved, he shall be given a written reason, if requested.

**Section 24.06                      No Distribution of Sick Leave Records**

Individual sick leave records shall not be available or distributed as general information or publicized.

**Section 24.07                      Advance Sick Leave**

The Employer may grant an employee up to thirty (30) days of advanced sick leave for serious disability or ailment except when:

- a. It is known that he does not intend to return to duty or when available information indicates that his return is only a remote possibility;
- b. He has filed or the Agency has filed an application for disability retirement; or
- c. He has signified his intention of resigning for disability.

**Section 24.08                      Transportation to Medical Facility**

When an employee becomes seriously injured at work, the Agency will provide transportation or contact emergency services for the employee's transportation to a physician, medical facility, or other designated location. If requested by the employee, or if the employee is unable to request it, the Agency will notify the employee's family or designated party of the occurrence and location of the employee.

**Section 24.09                      Suspected Sick Leave Abuse**

- a. An agency may grant sick leave only when the need for sick leave is supported by administratively acceptable evidence. An agency may consider an employee's self-certification as to the reason for his or her absence as administratively acceptable evidence, regardless of the duration of the absence. An agency may also require a medical certificate or other administratively acceptable evidence as to the reason for an absence for any of the purposes described in §630.401(a) for an absence in excess of 3 workdays, or for a lesser period when the agency determines it is necessary.
- b. An employee must provide administratively acceptable evidence or medical certification for a request for sick leave no later than 15 calendar days after the date the agency requests such medical certification. If it is not practicable under



the particular circumstances to provide the requested evidence or medical certification within 15 calendar days after the date requested by the agency despite the employee's diligent, good faith efforts, the employee must provide the evidence or medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the agency requests such documentation. An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave.

- c. There shall be no sick leave counseling based solely on the number of sick leave hours used. However, the possibility of sick leave abuse is generally raised when a bargaining unit employee uses an unusual amount of sick leave in an established pattern or under questionable circumstances.
- d. An officer may be denied unscheduled leave and/or required to furnish medical certification or other administratively acceptable evidence for all unscheduled absences from work if placed on a leave letter notice. Failure to comply with a letter of requirement may result in any absence being charged as absence without leave (AWOL) and may be grounds for further action by the Agency.

#### **Section 24.10                      Subsequent Leave Usage Review**

After a four (4) month period has passed on a leave letter notice, a review session may be conducted by the supervisor for a progress review of the employee's unscheduled leave usage. The necessity for a continuance of any letter of requirement issued will be evaluated and may be removed or extended by the supervisor at each subsequent review. If the letter of requirement is to stay in effect, the reason for such continuance will be documented in the review documentation.

## **ARTICLE 25: LEAVE WITHOUT PAY**

### **Section 25.01                      General**

An employee may be granted leave without pay (LWOP) in accordance with applicable laws and regulations. LWOP is a temporary nonpay status and absence from duty granted at the employee's request.

### **Section 25.02                      Request for LWOP**

- a. Where an employee knows in advance that LWOP must be requested because annual and/or sick leave is not available, requests for LWOP will be submitted in writing on an SF-71.
  
- b. All requests for LWOP are submitted to the immediate supervisor and coordinated with PFFPA Human Capital Program Management Directorate for processing and approval. Depending on the nature of the request, the request will be processed expeditiously.
  
- c. Where the particular circumstances or period of leave being requested are such that space on the SF-71 is not adequate for the justification or explanation, the employee may submit an accompanying memo or letter.

### **Section 25.03                      LWOP for Educational Purposes**

LWOP for educational purposes may be requested in accordance with Administrative Instruction Number 67, *Leave Administration*.

## **ARTICLE 26 : POSITION DESCRIPTIONS AND CLASSIFICATION**

### **Section 26.01                      General**

- a. It is agreed that position classification will be conducted within the guidelines issued and authority delegated by the Office of Personnel Management and the Department of Defense.
- b. The Agency will maintain an accurate position description for each position that accurately reflects the significant duties to be performed. Position descriptions containing “and other duties as assigned” or similar phrases will not be used as a basis for assigning duties to an employee on a recurring basis which are unrelated to their principal duties; however, this does not preclude management from assigning work.
- c. Changes to position descriptions for bargaining unit employees will be provided to the Union in accordance with Article 6 of this agreement.
- d. If an employee believes that his/her position description is not accurate, he/she may request a review by the appropriate supervisor and be assisted by a Union representative. A dispute regarding that accuracy of an employee’s position description may be handled by a desk audit or under the grievance procedures process if any, but not both.

### **Section 26.02                      Employee Copy**

Each employee covered by this Agreement, upon written request, will be provided a copy of his official position description and any amendment(s) thereto.

### **Section 26.03                      Classification Appeals**

If an employee believes that the classification (title, series, grade or pay system) of his position is in error, upon request through the Deputy Chief, Technical Services Division (or designee), the employee will be furnished information on classification appeal rights and the procedures for filing an appeal.

## **ARTICLE 27: AGENCY-SPONSORED TRAINING AND DEVELOPMENT**

### **Section 27.01                      General**

- a. It is mutually agreed that training and development of employees is important in accomplishing both the mission of the Employer and the Federal career goals of the employees. The Employer will develop, promote, and maintain adequate training programs that are consistent with the needs of the Agency in accordance with applicable regulations.
- b. Employees may be assigned to any operating post and, consequently, must maintain proficiency in the full range of techniques, processes and procedures. The Employer and the Union agree that each employee is responsible for applying a reasonable time and effort to keep abreast of the changing technology of his occupation.
- c. Travel funds shall be provided in accordance with applicable regulations for all training approved by the Employer.

### **Section 27.02                      Training without Loss of Pay or Leave**

- a. The Parties agree to encourage employees to take advantage of training and educational opportunities. The Employer agrees to permit unit employees to attend training courses during their regularly scheduled tour of duty without loss of pay or leave, provided that (1) the Employer has determined that the course is job-related; (2) the request has been submitted and approved in advance by the Training Directorate (or designee); and (3) the employee can be spared from his regular duty assignment. The reason for non-selection for training will be given to the employee in writing if requested in writing.
- b. To the extent practicable, training provided by the Employer will be scheduled so that it can be accomplished while the employee is in a duty status. When an employee's work schedule is changed to attend training, he/she is entitled to premium pay in accordance with 5 C.F.R. 410.402.

### **Section 27.03                      Training on New Mission, Responsibilities, Equipment or Procedures**

- a. When bargaining unit employees are assigned to a position having different duties from those previously performed, and the new duties can reasonably be expected to require on-the-job or other training in order for the employees to

perform satisfactorily, the Employer will offer such training. This does not preclude the Agency from assigning work prior to training, as needed.

- b. An employee who is assigned to new responsibilities will be given a reasonable, as determined by the Employer, period of time to become familiar with these responsibilities.

#### **Section 27.04 Training Certificates**

Employees are responsible for providing certificates of any training course to the employer. If an employee provides a training certificate to the Employer, it will be placed in the employee's local Official Personnel Record. Employees are responsible for updating their résumé to reflect any additional training.

#### **Section 27.05 Posting of Opportunities**

The Employer will post all applicable training opportunities of which it may become aware on the PFPA intranet.

#### **Section 27.06 Employer's Reasonable Effort**

The Employer will make a reasonable effort to provide in-service training of up to forty (40) hours per fiscal year for each employee.

#### **Section 27.07 Employee's Reasonable Efforts**

The Employer and the Union recognize that each employee is responsible for applying reasonable efforts and initiative in increasing his/her potential through self-development and training. Employees are, therefore, encouraged to take advantage of training and educational opportunities that could enhance their efficiency on the job and provide skills needed for advancement. To those ends, the employer will give every consideration to approving requests for training.

#### **Section 27.08 Annual Discussion**

Upon request, the supervisor and employee will annually discuss the training needs of individual bargaining unit employees, consistent with the needs of the Agency and the developmental aspirations of individual employee.

#### **Section 27.09 Union's Training Representative**

The Union may designate a training representative who will meet with a representative of the Employer to discuss training programs for the bargaining unit employees. To the

extent practicable, the Union representative will be given access to all the training brochures, catalogs, schedules, and course descriptions maintained by the employer.

## **ARTICLE 28: SELECTIONS TO BARGAINING UNIT POSITIONS**

### **Section 28.01                      General**

The objective of the merit promotion program is to assure that the best qualified candidate is selected and that qualified and available candidates are provided fair and systematic consideration and opportunities for selection for promotions based on merit. The merit promotion program will conform to all merit system principles and will afford fair consideration for all employees that timely and appropriately apply. All qualification requirements will be posted on the vacancy announcements at the time the announcement is made. Normally, all promotion plan announcements for bargaining unit positions will be open for a minimum of fourteen (14) days before the closing date of the announcements. In exigent circumstances, the Employer may reduce the announcement time to a minimum of five (5) days. The Employer will make every reasonable effort to ensure that announcements are posted for the entire open period..

### **Section 28.02                      Applicable Rules and Regulations**

Selections to bargaining unit positions will be made in accordance with applicable laws, regulations, Agency directives, and this Agreement.

### **Section 28.03                      Priority Consideration**

- a. If as a result of a grievance being filed under this Article, either the Agency agrees or an arbitrator decides that an employee was improperly denied consideration for a position to which he properly and timely applied in accordance with the requirements of the vacancy announcement and he would have made the best qualified list, he will receive priority consideration for the next appropriate vacancy for which he is qualified.
  
- b. For the purposes of promotion actions only under this Article, priority consideration means that the employee alone must be given bona fide consideration by the selecting official before any other candidates are referred for the position to be filled. The employee is not to be considered in competition with other candidates and is not to be compared with other candidates. This is a one-time consideration. An appropriate vacancy is one at the same grade level and series, which would normally be filled by competitive promotion procedures, including outside recruitment, in the same area of consideration, and which has comparable promotion opportunities as the position for which the employee was improperly excluded.

- c. In the event two (2) or more employees receive priority consideration for the same promotion action, they may be referred together. However, priority consideration for separate actions will be referred separately and in the order received based on the date the determination of improper exclusion is made.

**Section 28.04 Information to the Employee**

Upon written request, the following information will be made available to the employee:

- a. Whether the employee was considered for the promotion and, if so, whether he was found eligible on the basis of the minimum qualification requirements for the position;
- b. Whether the employee was one of those in the group from which selection was made, i.e., one of the best qualified candidates available and appeared on the promotion list;
- c. Who was selected for promotion; and
- d. In what areas, if any, the employee should improve to increase his/her chances of future promotion.



## **ARTICLE 29: DETAILS, REASSIGNMENTS, AND TEMPORARY PROMOTIONS**

### **Section 29.01                      General**

- a. Details, reassignments, and temporary promotions to vacant positions within the bargaining unit shall be assigned consistent with applicable laws, rules, and regulations.
- b. A detail is a temporary assignment to a different position for a specified period when the employee is expected to return to his or her regular duties at the end of the assignment.
- c. A reassignment is the change of an employee from one position to another without promotion or change to lower grade, level or band. Bargaining unit employees, who voluntarily accept reassignment, agree to remain in that assignment for a minimum period of one year.
- d. A temporary promotion is a promotion made on a temporary basis. The Agency will meet its collective bargaining obligations in the event the Agency elects to implement temporary promotions of bargaining unit members.

## **ARTICLE 30: LIGHT DUTY AND LIMITED DUTY**

### **Section 30.01                      General**

The present policy referenced in PFPA Regulation No. 5007 is the present policy under this agreement. The parties agree that they will form a working group preferably within the LMRC to review and make suggestions on revising the current policy.

### **Section 30.02                      Continuation of Bargaining Unit Status**

Employees assigned duties under this provision will normally continue to be considered as bargaining employees and will be entitled to all the protections of this Agreement and those provided by law and regulation.

### **Section 30.03                      Consideration for Promotional Opportunities**

Employees assigned to light or limited duty will continue to be considered for promotional opportunities for which they are otherwise qualified.

## **ARTICLE 31: PERFORMANCE MANAGEMENT SYSTEM**

### **Section 31.01                      General**

The Parties agree that the most up-to-date version of the WHS Employee Performance Management System defined by Administrative Instruction No. 63 (AI 63), *Performance Appraisal Program for General Schedule, Federal Wage System, and Certain Other Employees*, and related instructions, manuals, and circulars will be applicable to employees.

### **Section 31.02                      Labor-Management Relations Committee**

The Parties further agree that the Labor-Management Relations Committee may be utilized to discuss and consider recommendations regarding the operation of the performance appraisal system.

### **Section 31.03                      Inadmissible Comments**

A number of factors must not be included in the report by any of the participants in the rating process. The following subjects are inadmissible in any part of a Performance Appraisal Report:

- a. Reference to race, color, religion, sex (except for titles of address, first names or personal pronouns), national origin, age, political affiliation, marital status, sexual orientation, or references to spouse or family.
- b. Mention of the specific nature of a disability or medical problem, such as physical handicap, alcoholism or drug abuse, except as it directly relates to performance or misconduct.
- c. Mention of initiation of, involvement in, or participation in grievance or EEO procedures except when an appropriate authority has determined that an employee has committed a discriminatory action.
- d. Comments on an employee's participation or non-participation in employee organizations or activities except when an appropriate authority has determined that an employee has committed a discriminatory action.
- e. Recommendations on reclassification of the rated employee's position to a higher or lower grade.

- f. Reference to previous performance ratings or events or performances outside of the rating period.

**Section 31.04: Supervisor Responsibilities**

- a. The immediate supervisor (or designee) will discuss performance elements with employees each year as prescribed by AI 63 (and amendments hereto).
- b. The immediate supervisor (or designee) will provide midyear performance feedback as prescribed by AI 63 (and amendments hereto).
- c. The immediate supervisor (or designee) will provide a annual performance rating/evaluation as prescribed by AI 63 (and amendments hereto).
- d. When an employee's supervisor changes during the rating cycle, the losing supervisor will complete a close out appraisal and the gaining supervisor will meet with the employee to discuss his/her performance elements as prescribed by AI 63 (and amendments hereto).

**Section 31.05 Rebuttals and Grievances**

- a. An employee who disagrees with his performance appraisal should first discuss it with the rating supervisor (or designee). If the rating or reviewing supervisor (or designee) agrees, a revision should be made in the appraisal.
- b. If the discussion with the rating and/or reviewing officials or higher level manager or supervisor does not resolve the employee's objections, the employee may include a rebuttal in the Rated Employee's Comments section of the performance appraisal form.

## **ARTICLE 32: RECOGNITION AND AWARDS PROGRAM**

### **Section 32.01 Program Guidelines**

The Employer may grant a cash, honorary or informal recognition award or may grant a time-off award without charge to leave or loss of pay to an employee for:

- a. A suggestion, invention, superior accomplishment, productivity gain, or other personal effort that contributes to the efficiency, economy or other improvement of government operations or achieves a significant reduction in paperwork;
- b. A special act or service in the public interest in connection with or related to official employment; or
- c. Performance as reflected in the employee's most recent rating of record.

### **Section 32.02 QSI/Monetary Awards**

The Employer agrees that quality step increases (QSI) and monetary awards associated with excellent ratings will be based solely on the comparison of job performance against written performance standards for duties and responsibilities in the employee's position description. Other awards may or may not be associated with job performance.

### **Section 32.03 Cash Award**

- a. A cash award under this Article is a lump sum payment and is not basic pay for any purpose.
- b. A cash award may be granted at any time.
- c. A cash award is subject to applicable tax laws and the provisions of FICA.

### **Section 32.04 Performance Award**

A performance award may be granted to a separated employee or the legal heir(s) or estate of a deceased employee provided that the employee was on the rolls for the rating period.

### **Section 32.05 Time-Off Awards**

Time-off awards (TOA) will be in accordance with Government-wide and Agency

regulations. It should be used principally to recognize contributions that are of a one-time, non-recurring nature.

## **ARTICLE 33: EQUAL EMPLOYMENT OPPORTUNITY**

### **Section 33.01                      General**

- a. The Employer agrees to provide equal employment opportunities for employees without regard to race, color, religion, national origin, sex, age, or disability.
- b. The Employer has the responsibility for administering an Equal Employment Opportunity Program in accordance with applicable laws, rules, and regulations.
- c. Upon written request, the Employer will provide employees with information describing the EEO complaint process. The Union will post and maintain a current listing of the names and telephone numbers of EEO counselors on its bulletin boards.
- d. The Employer agrees to furnish the FOP with a copy of the Federal Agency EEO Program Status Report in accordance with MD-715 on an annual basis and upon request.

## **ARTICLE 34: EMPLOYEE RECORDS/PRIVACY ACT**

### **Section 34.01                      General**

Employees will have the right and be granted a reasonable amount of time to examine any of their electronic personnel records on duty time.

### **Section 34.02                      Employee Access**

Access to employee records other than those maintained electronically will be granted within two (2) working days of the request if such records are maintained on the premises in which the employee is located and are immediately available. If the records are not so maintained as available, the Employer will initiate prompt action to obtain the records from their location.

### **Section 34.03                      Supervisory Notes**

- a. Supervisors may retain "supervisory" notes commonly called memory joggers. All of the following conditions must exist for the notes to be considered memory joggers. The notes must be:
  - (1) Retained as a memory aid by the supervisor;
  - (2) For the supervisor's personal use;
  - (3) Provided to no other person; and
  - (4) Retained or discarded at the supervisor's discretion.
- b. These notes are considered mere extensions of the supervisor's memory and are not subject to the Privacy Act. However, if any of the conditions are broken, these notes are no longer mere extensions of the supervisor's memory and become records subject to the Privacy Act.
- c. These personal personnel notes or memory joggers will not be used to circumvent proper disclosure to the employee nor may they be used to retain information that should properly be contained in a system of records.

### **Section 34.04                      Protected Health Information**

No supervisor or manager may order an employee to sign a waiver of release for the



employee's protected health information. When protected health information is voluntarily disclosed by the employee, the Employer agrees that it will only disseminate the employee's medical information to those within the Agency who need to know the information, and then, only with the understanding that the medical information is protected health information and will be protected accordingly.

## **ARTICLE 35: INJURY COMPENSATION**

### **Section 35.01                      General**

The Employer and the Union recognize that administration of the Federal Employees' Compensation Act is the responsibility of the Department of Labor, Office of Workers Compensation Programs (OWCP). To the extent such actions are within its control, the Employer will provide full assistance to employees injured on the job. The Union will aid in these efforts to the extent possible. The following procedures are provided as guidance to supervisors, employees, and representatives in the event of an employee injury. They are not intended to supersede any current or future OWCP regulations.

### **Section 35.02                      Employee/Supervisor Responsibilities**

Whenever an employee sustains a traumatic injury/occupational disease that he believes occurred while in the performance of duty, he will promptly notify his supervisor. Supervisors should call for emergency services to arrange prompt medical treatment for the employee if necessary. Employees may contact the WHS, Labor and Management Employee Relations (LMER) Office for forms and additional DOL OWCP Policy or visit <http://www.dol.gov/dol/topic/workcomp/index.htm>.

### **Section 35.03                      Authorization of Treatment**

When notified of an employee injury, supervisors will promptly authorize examination and treatment normally through the use of required OWCP Authorization for Examination and/or Treatment. The employee will be provided the proper OWCP form for notice of occupational injury (or notice of occupational illness), and a duty status report form, by his supervisor. Representatives of the Employer, a Union representative or other individual may assist the employee in the completion of required forms.

### **Section 35.04                      Review of Forms**

When the employee returns the required OWCP forms to the supervisor, the supervisor should review the form for completeness and promptly forward it to the WHS LMER office. The supervisor need not have witnessed the injury to agree with the stated history. However, the supervisor is required to forward the completed form in accordance with OWCP timeframes whether or not the supervisor feels the claim should be approved. If the supervisor has specific information which casts doubt on the claim's validity, the supervisor may subsequently challenge the claim and supply such supporting information. The Parties recognize that there are penalties in accordance

with 18 USC 1922<sup>1</sup> and 20 CFR 10.23(c) for neglecting or refusing to file OWCP reports in a timely manner.

**Section 35.05                      Emergency Medical Treatment**

The Employer agrees that time spent undergoing emergency medical treatment will be "on the clock" to the extent the employee would otherwise be in a duty status, including the employee's return during non-duty hours on the next workday, if requested by the supervisor. If the employee is unable to return to work and requests the Employer to mail the forms, the Employer will promptly do so.

**Section 35.06                      Continuation of Pay**

If the employee is unable to return to work the day following the injury, the employee may elect continuation of pay (COP) or leave. Absent such an election, the employee will be placed on COP. Continuation of Pay only applies *after* the employee files his required forms.

**Section 35.07                      Briefings to Employees**

Upon request, the Employer will brief employees in the unit regarding their rights and responsibilities under the OWCP program on a yearly basis. The briefings will be sufficient in number to provide adequate notice to all employees in the bargaining unit.

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<sup>1</sup>            Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by section 8120 of title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under subchapter I of chapter 81 of title 5 or any extension or application thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under that subchapter or any extension or application thereof, or regulations prescribed thereunder, shall be fined under this title or imprisoned not more than one year, or both.

## **ARTICLE 36: SAFETY AND OCCUPATIONAL HEALTH**

### **Section 36.01 Primary Responsibility**

It is recognized that each employee has primary responsibility for his own safety and an obligation to observe safety rules and practices as a measure of protection for the employee and others. As a result, the Employer and the Union will establish a safety and health committee to meet as needed to discuss safety matters. The committee members will be comprised of two (2) representatives of the Union and up to an equal number of management members; unless the Parties mutually agree that more members should attend. The committee will operate by consensus whenever possible. When consensus cannot be reached each party may unilaterally submit its recommendations in writing.

### **Section 36.02 Protective Equipment**

Protective equipment and safety devices which the Employer requires employees to use or wear will be provided to the employees at no cost. The Union will actively encourage bargaining unit employees to utilize safety equipment provided.

### **Section 36.03 Employer Determinations**

The Employer will have the authority to determine whether any work area conforms to applicable safety standards. Whenever the Employer finds that such safety standards have not been met, the Employer will determine what protective equipment will be used to protect employees and permit them to work safely in the area.

### **Section 36.04 Applicable Regulations**

The Employer will make every effort to ensure that office space is in compliance with applicable regulations. When space allowing more square footage and/or more privacy exists, full consideration will be given to providing better space to employees. Each office employee will have the use of a desk, chair, telephone and appropriate desk supplies. The Employer will make every effort to provide prompt maintenance and repair to all essential equipment or replace equipment determined by the Employer to be in poor working condition.

### **Section 36.05 Employees Not Necessary For Abatement**

Whenever the Employer or its designee concludes on the basis of an inspection or report that a condition exists in a work area which could reasonably be expected to cause death or serious physical harm, all unit employees not necessary for the

abatement of the dangerous condition or security will be withdrawn from that work area.

**Section 36.06                      No Operation of Unsafe Equipment**

- a. No employee will be required to operate unsafe or faulty equipment. In the event that an employee reports to his immediate supervisor that an assignment will endanger the employee's health and/or is unsafe, the supervisor will investigate and determine the validity of the allegation. Should the supervisor determine that the assignment can be performed safely, the supervisor will so inform the employee(s) and the work will proceed recognizing that the supervisor has full responsibility for the safety aspects of the job.
- b. If the supervisor has any doubt as to the safety of the work situation, the supervisor will request the assistance of the Agency Safety Officer who will inspect the job site along with the supervisor to ensure that it is safe. This will be completed before requiring the employee(s) to perform the work.
- c. If the employee has a serious concern that an unsafe condition continues to exist subsequent to the determination made by the supervisor, the matter may be referred to the Platoon Commander (or designee) and a Union Official, who will confer with the Agency Safety Officer for resolution.
- d. It is understood, that employees are required to work first, grieve later, unless the employee reasonably believes that, under the circumstances the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures.

**Section 36.07                      Prevention of Accidents**

The Union and the Agency will make every effort to prevent accidents of any kind, and in particular those of a more serious nature involving personal injury and lost time. Should such accidents occur, however, a prime consideration will be the welfare and comfort of the injured employee.

**Section 36.08                      Infected Persons - Employee Exposure**

When an employee believes he may have been exposed while on duty to individuals infected with HIV/AIDS or Hepatitis, other than casual contact, the Agency agrees to

provide the employee with the appropriate forms and authorization for medical testing or treatment.

**Section 36.09 HIV/AIDS/Hepatitis Awareness**

The Agency agrees to make HIV/AIDS/Hepatitis awareness and prevention information available to all bargaining unit personnel, annually.

**Section 36.10 Motor Vehicles**

The Employer agrees all motor vehicles will comply with federal safety standards and guidance from the Employer's safety office. The Employer will make every reasonable effort to ensure that the operators of such vehicles will be trained and properly qualified drivers. Employees are responsible for reporting all safety related deficiencies in assigned vehicles to their supervisors.

**Section 36.11 Motor Vehicle Accidents**

Employees involved in a motor vehicle accident while on duty will promptly notify the Employer. The employee may speak with a union representative, at the employee's request, in accordance with 5 U.S.C. §§ 7114(a)(2)(B)(i) and (ii). When an on-duty motor vehicle accident occurs outside the Pentagon reservation and is investigated by a police agency other than the Employer, the employee, when able, will attempt to obtain the following information:

- a. Police accident report case number;
- b. Name, address, telephone number, driver's license number, class of license; vehicle insurance information, and whether any injuries have been sustained and the possible extent of those injuries of all parties involved;
- c. Whether any injured person was removed by ambulance/paramedics; the ambulance company or paramedic unit; and the hospital to which any occupant of the vehicle was taken to;
- d. Whether an arrest was made; whether any traffic citation was issued; the alleged violation and return date in court;
- e. Where the vehicle(s) was/were towed; and

f. Polaroid pictures of the damage to the vehicles, if possible.

**Section 36.12**                      **Copies of Documents**

The employee will promptly deliver a copy of all documents received by him to the Employer resulting from any legal action taken against him as a result of a vehicular accident while operating a Government or Government leased vehicle.

**Section 36.13**                      **Examinations for Toxic Agents**

When a reasonable basis exists, the Agency will as necessary examine individual employees for effects upon them of any poisonous or toxic agents.

## **ARTICLE 37: SAFETY AND OCCUPATIONAL HEALTH COMMITTEE**

### **Section 37.01                      Creation of Committee**

The Employer and the Union will establish a safety and health committee to meet as needed to discuss safety matters. The committee members will be comprised of up to two (2) representatives of the Union and up to two management members. The committee will operate by consensus whenever possible. When consensus cannot be reached each party may unilaterally submit its recommendations in writing.

### **Section 37.02                      Committee Functions**

- a. The committee may perform the following functions:
  - (1) Bring to the attention of the Employer's safety and health officer, and other representatives of the Employer, unsafe working conditions;
  - (2) Review and recommend safety training courses;
  - (3) Recommend appropriate safety equipment. Such recommendations will be given prompt consideration.
- b. Union representatives presenting occupational safety and health issues will be granted a reasonable amount of official time in accordance with the requirements of this Agreement. All union representatives will be in a duty status while performing their functions as safety committee members. This section neither authorizes nor precludes overtime.



## **ARTICLE 38: PROCEDURES FOR SUBSTANCE TESTING**

### **Section 38.01                      General**

The Parties recognize the DoD drug testing program as the current program. Drug tests will be given in accordance with the guidelines established by the Department of Health and Human Services, applicable court decisions, and WHS policies and procedures, and any updates thereafter.

### **Section 38.02                      Changes to Drug Testing Program**

Normally the Employer will notify the Union in writing of any changes to existing drug testing policies or procedures prior to implementation for the purpose of negotiating the impact and implementation of the proposed changes.

### **Section 38.03                      Random Drug Testing**

- a. The FOP Chairman shall be notified the same day random drug testing is scheduled for bargaining unit employees. Notice will include the maximum number of bargaining unit employees to be tested,
- b. An employee, who wishes to have a Union representative present during the urine specimen collection will be permitted to do so, provided a representative is readily available and the collection is not unreasonably delayed. The employee will notify the supervisor of the employee's wish to obtain representation as soon as the employee learns that he/she is to be tested. The representative will be permitted to observe the actions of the collector, but will not interrupt or interfere with the collection process in any manner. The employee will be allowed to confer for a reasonable period of time not to exceed ten (10) minutes prior to and ten (10) minutes immediately after the sample collection process has been completed.
- c. An employee selected for random drug testing may obtain a deferral of testing if the employee's first and second-line supervisors concur that a compelling need necessitates a deferral on the grounds that the employee is:
  1. In a leave status (sick, annual, administrative or leave without pay); or
  2. In official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.

An employee not available for random drug testing will be subject to an unannounced test within the following 60 days.

- d. Testing will be conducted in a secure, sanitary area, and the privacy and dignity of the employee will be respected. Should the collector reasonably believe an employee has tampered, adulterated or substituted his/her sample, the employee will be allowed to have a Union representative present, if one is not already at the collection site. The collector will advise the employee and his representative, if present, and detail his/her reasons for suspecting tampering. The collector may then request another sample in accordance with applicable regulations.
  
- e. Post-accident testing will be conducted on employees whose work/performance at or about the time of an accident may have been a contributing factor to the covered event, as provided for in department directives. In general, testing will be conducted following:
  - 1. A fatality;
  
  - 2. A serious injury requiring immediate hospitalization; and/or
  
  - 3. substantial damage to government property or private property estimated to be in excess of \$10,000.
  
- f. Employees may be excluded from testing only when specific and objective information collected in the course of the review of the known facts surrounding an accident shows that the employee's work performance at or about the time of the accident could not have been a contributing factor.

**Section 38.04 Reasonable Suspicion Testing**

- a. When reasonable suspicion exists that an employee is using illegal drugs, either on or off duty, the Agency may require that an employee submit to drug testing. Reasonable suspicion must be based on specific objective facts and reasonable inferences drawn from these facts in light of experience. Examples of things which reasonable suspicion may be based on include, but are not limited to:
  - 1. Observable phenomena, such as direct observation of drug use and/or the

physical symptoms of being under the influence of a drug;

2. A pattern of abnormal conduct or erratic behavior;
  3. Arrest or conviction for a drug-related offense; or the identification of an employee as the focus of a criminal investigation into illegal drug possession , use or trafficking;
  4. Information provided either by reliable and credible sources or independently corroborated; or
  5. Newly discovered evidence that the employee has tampered with a previous drug test.
- b. At the time an employee is ordered to submit to drug testing based on reasonable suspicion of illegal drug use, he/she will be given a written statement setting out the precise and detailed statement describing all relevant circumstances which formed the basis for the decision to conduct reasonable suspicion testing. Upon the employee's request, a copy of the written statement will be provided to the Union representative. In the event that a reasonable suspicion test produces a negative result, any references to reasonable suspicion, including, but not limited to the written statement, will be expunged from all formal and informal files.

### **Section 38.05                      Testing in General**

- a. An employee unable to provide a sample will be allowed a reasonable time to provide a sample. If the employee is still unable to provide a sample, the employee will be rescheduled at a subsequent date in the near future for collection of another urine sample. In post-accident and reasonable suspicion cases, the employee may be retained on duty until a urine sample is provided.
- b. An employee may request a voluntary drug test in accordance with program guidelines. However, a voluntary test will not excuse an employee from random testing.
- c. An employee may grieve a positive test result if and when the Agency takes formal action against the employee resulting from positive drug test results.

- d. An employee who wishes to obtain a drug test subsequent to the Employer's random drug test may do so on annual leave. The Employer agrees to attempt to accommodate an employee's request for annual leave to the maximum extent possible.

## **ARTICLE 39: CONTRACTING OUT AND CONTRACTORS**

### **Section 39.01 Contracting Out**

- a. The Employer agrees to notify the FOP Chairman (or designee) if a decision is made to contract out work performed by bargaining unit employees.
- b. The Employer will provide the Union with a detailed briefing regarding the decision to contract out so that they may make an informed decision to request to negotiate. If the Employer decides to have a study performed to resolve questions pertaining to contracting out such work, the Employer agrees to provide the relevant portions of the study to the Union, subject to security procedures.
- c. The Union may request negotiation in accordance with the Labor Statute after receiving the detail briefing.
- d. The Employer agrees to abide by applicable Federal laws, rules and regulations with respect to contracting activities. However, any dispute concerning the application or interpretation of OMB Circular A-76 shall not be subject to the negotiated grievance procedure and shall be processed under the appropriate challenge provisions of the circular or the FAIR Act, whichever is applicable.

### **Section 39.02 Contractors**

Instructions or directions from contractor personnel to bargaining unit employees will be referred by the employee to appropriate supervisors.

## **ARTICLE 40: OUTSIDE EMPLOYMENT**

### **Section 40.01                      General**

Employees may pursue lawful outside employment opportunities provided such employment does not present a conflict of interest with their federal employment and official duties as a law enforcement officer.

### **Section 40.02**

There shall be no restriction as to the number of hours an employee may work in outside employment so long as the hours do not adversely impact the Agency or the officer's safety. Where there is objective evidence that an employee's work performance is suffering or has declined because of engagement in outside employment activities, the Agency shall meet with the employee and his representative to discuss the Agency's concerns. If work performance continues to decline, the Agency may take such action as is warranted concerning the employee's employment with the department. No employee will be required to resign from any outside employment position.

### **Section 40.03                      Prior Approval**

Employees must request and receive approval from the Principal Deputy Director, PFPA (or designee) prior to engaging in outside employment opportunities. The Agency may take such action as it deems appropriate for the employee's failure to obtain prior approval.

## **ARTICLE 41: RIGHTS OF OFFICERS UNDER INVESTIGATION**

### **Section 41.01                      General**

The target of a formal internal affairs investigation or an investigation conducted by an agency manager or supervisor will have all the rights and privileges consistent with this agreement and PFPA policy issuances. Any employee who is the subject of a criminal investigation inquiry will be accorded all rights under the Constitution and federal law (e.g. Fifth Amendment).

### **Section 41.02                      Agency Action**

The Agency may take one of the following actions in reference to the employment status of the employee under investigation:

- a. Continue the employee on duty in the employee's regular assignment;
- b. Place the employee on administrative leave with pay;
- c. Continue the employee on duty in another assignment; or
- d. Place the employee on indefinite suspension pending the results of an investigation or administrative action.

### **Section 41.03                      Indefinite Suspension**

In the event that the employee is issued a proposal for indefinite suspension, the employee will be afforded an opportunity to make a written and/or oral response consistent with applicable law, rule, and regulation.

### **Section 41.04                      Conduct of Investigation**

Whenever a police officer of the Employer is the subject of an internal affairs investigation which could lead to disciplinary action, reduction-in-grade, or removal from the Federal service, the investigation will be conducted under the following conditions:

- a. Normally, the employee will be notified in writing of the general nature of the matter (i.e. criminal or administrative misconduct) being investigated in advance. The notice will advise the employee whether he/she is a target of the investigation or whether he/she is sought as a witness. The notice will also inform the employee of his/her right to be accompanied by a representative if

he/she so desires, and the employee will be given a reasonable opportunity both to obtain such representation and confer confidentially with the representative before the beginning of the meeting. The notice will identify the investigator heading the interview. The notice will also provide a telephone number and email address of the investigator heading the interview. A copy of the notice will be sent to the FOP Chairman and Union's lawyer's office by email.

- b. Normally, the interview will be conducted at the offices of the Employer and at a time when the officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.
- c. At the time of the interview, the employee or representative will be allowed to review any written complaint received. The names of confidential informants and complaints may or may not be disclosed at the discretion of the Employer.
- d. If the U.S. Attorney has declined prosecution in a matter, the employee or representative will be provided with a copy of the delineation of prosecution letter prior to reading the employee the Kalkines warning.
- e. Interview sessions will be for reasonable periods and will allow for such personal necessities and rest periods as are reasonably necessary.
- f. The Employee under investigation will not be subjected to offensive language or be threatened. No promise or reward will be made as an inducement to answer questions.
- g. The Parties will be allowed to make a recording of the interview. Upon completion of the interview, the Agency will maintain the original recording until completion of the investigation or disciplinary action has been proposed. In the event that the Union is the originator of the recording, the Agency will return the original recording to the Union. If the Employer is the originator of the recording, the Union may request in writing a copy of the interview.

#### **Section 41.05                      No Disclosure**

A union representative, while performing his representational duties will not be required to disclose information obtained from a bargaining unit employee who is the subject of an administrative investigation unless the confidentiality of the conversation



with that employee is waived by the employee, an overriding need for the information exists, or is otherwise required by law.

**Section 41.06                      Arrest for Unrelated Offense**

The Employer may implement any of the procedures referred to in section 41.01 of this article.

**Section 41.07                      Signed Complaints**

Complaints by citizens against employees will be signed by the complainant and have a statement included on the complaint consistent with the provisions of 18 U.S.C. § 1001.

**Section 41.08                      Reasonable Time**

Any department complaint and/or investigation involving non-criminal administrative conduct will be completed by the agency within a reasonable period of time.

**Section 41.09                      Disposition**

Notice of the disposition of a complaint to the employee will be defined in one of the following classifications: 1) Sustained or 2) Not sustained.

## **ARTICLE 42: DISCIPLINE AND ADVERSE ACTIONS**

### **Section 42.01 Scope**

- a. This Article covers informal and formal disciplinary and adverse actions. The removal of a probationer is an exception to this Article and will be governed by Government-wide regulations.
- b. Covered informal disciplinary actions include letters of caution, and oral and written admonishments.
- c. Covered formal disciplinary actions are written reprimands and suspensions or forfeiture of time of fourteen (14) days or less.
- d. Covered adverse actions are suspensions or forfeiture of time of more than fourteen (14) days, reductions in grade or pay, furloughs and removals as defined in 5 U.S.C. Chapter 75 and 5 U.S.C. Chapter 43.

### **Section 42.02 Standards**

- a. Chapter 75 actions must be supported by a preponderance of evidence and must be consistent with applicable laws and regulations governing such actions.
- b. Disciplinary and adverse actions must be determined on the merits of each individual case.

### **Section 42.03 Representation in Replies or Appeals**

An employee may represent himself or designate the Union as his representative if he does so in writing.

### **Section 42.04 Development of Facts**

- a. All facts pertaining to a disciplinary/adverse action will be developed as promptly as possible. Actions under this Article will be promptly initiated after all facts have been made known to the official responsible for taking action.
- b. An employee's denial of the charges against him will not be grounds for an Agency charge of untruthfulness.

### **Section 42.05 Appeal**

An employee against whom an action is taken under this Article may appeal that action

to any statutory procedure or grievance procedure under this Agreement, but not both.

**Section 42.06                      Counseling**

Counseling discussions, letters of caution and/or requirements and Reports of Inquiry are methods designed to bring to the attention of the employee a violation or potential violation of rules of conduct, regulations, work practices or other matters; these actions are considered informal in nature. Such discussions will be conducted in private.

**Section 42.07                      Letters of Reprimand**

Letters of reprimand may be made a part of the employee's Official Personnel Folder and will be removed after twelve (12) months. However, at the request of either the Employer or the employee, the letter of reprimand may be removed from the Official Personnel Folder at an earlier date provided at least six months have passed since the issuance. When the letter is removed, the offense will not be used as prior discipline to support an enhanced penalty for future disciplinary or adverse action.

**Section 42.08                      Issuance Date**

The issuance date for a letter of reprimand will be the date the written reprimand was issued.

**Section 42.09                      Opportunity to Meet**

Prior to making a determination as to whether disciplinary action or adverse action is to be proposed, the proposing official may offer the employee the opportunity to discuss the matter with the proposing official. The employee will be permitted Union representation during this meeting.

**Section 42.10                      Review of Information**

An employee against whom action is proposed under this Article has the right to review all of the information relied upon to support the action and will be given a copy upon issuance of proposal notice. Upon request, the agency will provide relevant information relating to the action in accordance with § 7114(b)(4).

**Section 42.11                      Table of Penalties**

Appropriateness of penalties may be determined by applying the "Douglas factors".

## **Section 42.12                      Implementation**

Except when the Employer is removing the employee subject to the “crime provision” or emergency furlough as provided in 5 C.F.R. §§752.404(d)(1) and (2), the Parties agree that disciplinary actions following a final Agency decision on removals will be effected no earlier than thirty (30) days from receipt of the decision notice. Suspensions of fifteen (15) days or more may be split up depending on mission needs. This provision does not apply to actions under 5 U.S.C. 7513, indefinite suspensions, reprimands, furloughs, RIFs and changes to lower grades not involving disciplinary reasons.

## **ARTICLE 43: LAST CHANCE AGREEMENTS**

### **Section 43.01 Policy**

In cases involving removal, the Employer may offer an employee an opportunity to sign a last chance agreement. Implementation of a last chance agreement will be for such cause as will promote the efficiency of the service.

### **Section 43.02 Bargaining**

The Union may bargain the terms and conditions of the last chance agreement on behalf of the employee. This includes, but is not limited to, whether the agreement will only pertain to alleged conduct contained in the Notice of Proposed Removal.

### **Section 43.03 No Modification**

Last chance agreements will not in any way modify or otherwise change this Agreement.

### **Section 43.04 Challenges**

Challenges to a last chance agreement may be made only to adjudicate whether the employee violated the terms of the agreement.

## **ARTICLE 44: USE OF FORCE**

### **Section 44.01 Policy**

- a. The Parties recognize that when an employee uses force to affect an arrest or to protect his life or the life of others, the employee is a potential criminal target until prosecution has been declined or a grand jury refuses to indict the employee. As a result and to the extent not inconsistent with this Article, PFFA Policy Issuances will apply to use of force situations.
- b. The Employer will have the employee removed from the scene upon the arrival of additional officers and supervisors. If needed, the officer will be provided with medical treatment. Medical treatment may include the opportunity to speak with a mental health professional. A request to speak with a mental health professional by the employee will not be unreasonably denied. Costs associated with such medical treatment will normally be reimbursed to the employee via a workers compensation claim (See Article 35 for information on workers compensation).
- c. Where the employee is a criminal suspect or it is reasonably likely that the officer may be charged with a crime, he will be afforded all the rights under the law.

## **ARTICLE 45: CRITICAL INCIDENT STRESS DEBRIEFING**

### **Section 45.01                      Creation of CISD**

The Employer agrees to establish a Critical Incident Stress Debriefing (CISD) program which is designed to proactively manage the common disruptive physical, mental and emotional factors that an employee may experience after a critical incident (i.e., accidents/incidents; death of a co-worker; acts of terrorism; bomb threats; exposure to toxic materials; prolonged rescue or recovery operations and natural disasters).

### **Section 45.02                      CISD Committee**

The Parties will create a CISD committee to develop a CISD program consistent with the goals set forth in section 43.03 a.

### **Section 45.03                      Program Criteria**

A CISD program developed by the Parties will ensure the following:

- a. The CISD program is an education process designed to minimize the impact of a critical incident on an employee. It is not intended to evaluate an employee in terms of gathering factual information about employee performance or to be a mechanism for psychological assessment.
- b. The Union will be able to designate a bargaining unit employee to serve as a member of a CISD team. The Union may designate up to three (3) bargaining unit employees to receive formal CISD training required by management for this purpose. It is the intent of the Parties that bargaining unit employees selected by the FOP for formal CISD training will provide coverage for duty hours.
- c. The CISD will be administered in accordance with applicable Agency directives and this Agreement.
- d. No CISD member will be required to divulge or disclose any conversation or statement of the employee seeking assistance; however, where an employee makes a credible threat of injury to himself or others, the CISD member should contact appropriate officials immediately.

## **ARTICLE 46: FIREARMS RANGE**

### **Section 46.01 Recognition**

The Employer recognizes that proficiency in the use of a firearm and instruction in the use of deadly force is of the highest priority. The Employer therefore encourages officers to use police range facilities on a continuing basis so that proficiency may be maintained.

### **Section 46.02 Range Opening**

The usage of the range for firearms training is prioritized by initial qualification, requalification, remediation, and practice requirements. The Pentagon Police Directorate (PPD) provides a schedule to the Training Directorate (TD) for employees to use the range. Subject to supervisor approval, an officer may contact the PPD scheduling office to request firearms practice time which will be prioritized in accordance with employees requiring requalification and remediation training.



## **ARTICLE 47: NEGOTIATED GRIEVANCE PROCEDURE**

### **Section 47.01 Definition**

A grievance is any complaint by an employee concerning any matter relating to the employment of the employee; or by the Union concerning any matter relating to the employment of any unit employee; or by any employee, the Union or Employer concerning:

- a. The effect or interpretation, or claim of breach of this agreement; or
- b. Any claimed violation, misinterpretation or misapplication of any law, rule, or regulation affecting conditions of employment.

### **Section 47.02 Purpose**

- a. The Employer and the Union recognize that disagreements will arise in a work situation. As a result, employees and supervisors are encouraged to attempt to resolve grievances or other work related concerns informally and at the lowest level possible. However, any such discussions do not extend deadlines prescribed in the collective bargaining agreement.
- b. The Employer recognizes that employees, groups of employees, the Union or the Employer are entitled to file and seek resolution of grievances under the provisions of this negotiated grievance procedure.
- c. The Employer agrees not to interfere with, restrain, coerce or engage in any reprisal against an employee or Union representative for exercising the rights contained in this Agreement and this Article.

### **Section 47.03 Matters that May Be Grieved**

- a. A grievance is any complaint by:
  1. An employee concerning any matter relating to conditions of employment of the employee;
  2. The Union concerning any matter relating to conditions of the employment of any unit employee; or
  3. Any employee, the Union, or Employer concerning:
    - I. The effect or interpretation, or claim of breach of this Agreement; or

- II. Any claimed violation, misinterpretation or misapplication of any law, rule, or regulation affecting conditions of employment.
- b. This negotiated grievance procedure shall be the exclusive procedure for resolving such complaints except for the following matters, which are specifically excluded from the procedure:
    1. Any claimed violation of subchapter III of Chapter 73 of Title 5, U.S.C. (relating to prohibited political activities);
    2. Suspension or removal for national security reasons (Section 7532, Title 5, U.S.C.);
    3. Retirement, Life Insurance, or Health Insurance;
    4. Any examination, certification, appointment under 5 U.S.C. 7121(c)(4);
    5. An action terminating a temporary promotion;
    6. The classification of any position which does not result in the reduction in grade or pay of the employee; and
    7. The discharge of probationers.
  - c. In matters relating to Equal Employment Opportunity; Prohibited Personnel Practices; Whistleblowing; adverse actions; removal or reduction in grade for unacceptable performance; reduction in grade, reduction in pay; and a furlough of thirty (30) days or less, an aggrieved employee will have the option of utilizing this grievance procedure or any other procedure available in law or regulation, but not both. An employee exercises that option when a grievance or appeal within a statutory procedure has been filed within the applicable time limits.

#### **Section 47.04 Representation**

Employees are entitled to be assisted by the Union in the presentation of grievances if the employee designates the Union as their representative in writing. Any employee or group of employees covered by this procedure may present grievances without the assistance of the exclusive representative, as long as the exclusive representative has been given the opportunity to be present during the grievance proceedings. No other individual(s) may serve as the employee's representative in the processing of a

grievance under this procedure, unless designated by the Union. The right of individual presentation does not include the right of taking the matter to arbitration unless the Union agrees to do so.

**Section 47.05                      Negotiated Grievance Procedure**

A grievance must be initiated within fifteen (15) calendar days of the incident or knowledge of the incident which gave rise to the grievance. Employee and Union initiated grievances will be identified as such. Any grievance failing to comply with this or any other time limit in this Article will not be presented or considered at a later time except by mutual consent of the Parties.

**Section 47.06                      Required Information**

- a. Employee, Union or Employer initiated grievances will contain, at a minimum, the following information:
  1. The issue or occurrence giving rise to the grievance;
  2. When the issue or occurrence giving rise to the grievance occurred;
  3. The provision(s) of this Agreement, law, rule or regulation alleged to have been violated;
  4. Relevant evidence and information;
  5. The relief requested; and
  6. Whether a meeting is requested.
- b. Grievances failing to include the information above will be dismissed with prejudice.

**Section 47.07                      Access to Information**

- a. In the processing and handling of grievances under this procedure, the Union will have access to such information that is relevant and necessary to the processing of a grievance in accordance with 5 U.S.C. § 7114(b)(4) and where disclosure is not prohibited by law. Should the Union make a written request for information it believes is necessary in connection with a pending arbitration, the Employer will respond to such a request in a reasonable amount of time either providing the requested information, setting forth a schedule for the production of the

requested information, or explaining why such information does not fall within the purview of Section 7114(b)(4) of the Statute. In connection with a question of relevance or necessity, the Parties will meet in an attempt to resolve the matter. Having met, should the Parties still not be able to reach agreement on the production of requested information, they will make a joint request of the Federal Labor Relations Authority for an expedited decision on the information request.

- b. The Employer will have access to such information that is relevant and necessary to the processing of a grievance. Should the Employer make a written request for information it believes is necessary in connection with a pending arbitration, the Union will respond to such a request in a reasonable amount of time either providing the requested information, and setting forth a schedule for the production of the requested information. In connection with a question of relevance or necessity, the Parties will meet in an attempt to resolve the matter. Having met, should the Parties still not be able to reach agreement on the production of requested information, they will make a joint request of the Federal Labor Relations Authority for an expedited decision on the information request.

#### **Section 47.08 Employee Grievance Procedures**

**STEP 1.** An employee/representative will first present the grievance in writing to the employee's immediate supervisor. The immediate supervisor will review the complaint. The immediate supervisor should consult with the Platoon Commander or equivalent (or designee) or the official with the authority to resolve the issue prior to providing a response to the grievance. The Platoon Commander or equivalent (or designee) will provide a written response within fifteen (15) calendar days of the receipt of the grievance.

**STEP 2.** If the employee/representative is not satisfied with the decision at Step 1, he may seek further consideration of the grievance by submitting the grievance to the Deputy Division Commander or equivalent (or designee) within fifteen (15) calendar days of the receipt of the answer at Step 1. The Deputy Division Commander or equivalent (or designee) will make an inquiry into the facts and provide a written decision within fifteen (15) calendar days of the receipt of the grievance.

**STEP 3.** If the employee/representative is not satisfied with the decision at Step 2, he may seek further consideration of the grievance by submitting the grievance to the Division Commander or equivalent (or designee) within fifteen (15) days of the final decision. The Division Commander or equivalent (or designee) will make an inquiry into the facts and provide a written decision within fifteen (15) calendar days of the receipt of

the grievance.

**Section 47.09                      Union Grievances**

The Union will present grievances to the Washington Headquarters Services, Labor-Management Employee Relations. The Employer will appoint an official to conduct an inquiry into the facts and to provide a written decision within fifteen (15) calendar days of the receipt of the grievance.

**Section 47.10                      Employer Grievances**

The Employer will present grievances to the Union Chair (or designee). The Union Chair (or designee) will make an inquiry into the facts and provide a written decision within fifteen (15) calendar days of the receipt of the grievance.

**Section 47.11                      Invoking Arbitration**

If the Employer's decision at Step 3 or the Union's decision is unsatisfactory, the Union or the Employer may invoke arbitration within twenty (20) days of receipt of the decision in accordance with this Agreement. However, if the Employer or the Union grants the requested remedy, the grieving party will not submit the matter to arbitration.

**Section 47.12                      Failure to Advance a Grievance**

At any step where the Employer, Union or employee does not timely advance the grievance to the next step, the grievance will be deemed withdrawn and may not advance to the next step or to arbitration.

**Section 47.13                      Extensions**

Either party may request in writing extensions of the time limits prescribed above.

## **ARTICLE 48: ARBITRATION PROCEDURE**

### **Section 48.01 Timeframes**

- a. Within twenty (20) days following receipt of a decision of a Step 3 grievance, the party who initiated the grievance will notify the other party if it intends to submit the matter to arbitration.
- b. Within five (5) business days after notification of the demand to arbitrate, the Parties will jointly contact the next arbitrator on the Permanent Panel to determine whether the arbitrator can schedule a hearing within the next forty-five (45) days.

### **Section 48.02 Procedures for Establishing a Permanent Panel**

- a. By a predetermined date agreed upon by the Parties, each party shall submit to the other three (3) arbitrators for inclusion in the permanent panel. All arbitrators offered by the parties for inclusion on the panel shall maintain a current status on the arbitrators' roster of the Federal Mediation and Conciliation Service (FMCS), the American Arbitration Association (AAA), or the National Academy of Arbitrators (NAA).
- b. The six (6) arbitrators will be numbered in accordance with the following process:
  1. A coin will be tossed. The party that wins the coin toss, may select the arbitrator that will fill the first slot of the permanent panel list arbitrator or allow the other party to select first;
  2. Whichever part did not select the arbitrator to fill the first slot will select the arbitrator that will fill the second slot of permanent panel list; and
  3. The Parties will continue to alternate assigning arbitrators to vacant numeric slots on the permanent panel list until all six arbitrators have been assigned.

### **Section 48.03 Procedures for Selecting an Arbitrator from the Permanent Panel**

Unless otherwise mutually agreed by the parties, the arbitrator shall be chosen according to the following procedure:

- a. The Arbitrators will be selected from the permanent panel of six (6) in the order determined above.



located at the duty location where the grievance arose.

**Section 48.06 Pre-Hearing Procedures**

Prior to the selection of a hearing date, the Parties will exchange issues, potential witnesses, and potential exhibits. This section will not preclude a party from introducing rebuttal witnesses and exhibits.

**Section 48.07 Summary Judgment**

Where no material issues of fact exist, the Parties may agree to forego a formal hearing and present the grievance directly to the arbitrator for a written decision based on stipulations and written submissions. In such circumstances the arbitrator will be authorized by the Parties to make findings and conclusions and issue an award based on those submissions.

**Section 48.08 Hearing Procedures**

- a. The arbitrator will confine himself to the precise issue submitted for arbitration and will have no authority to determine any other issues submitted to him. The arbitrator will have no authority to change, alter, modify, delete or add to the terms and/or provisions of this Agreement. The arbitrator must apply standards contained in section 42.02 of this agreement.
- b. The arbitrator's fees and expenses will be borne 55% by the Employer and 45% by the Union. If a verbatim transcript of the hearing is made and either party desires a copy of the transcript, the party will bear the expense of the copy or copies they obtain. The Parties will share equally the cost of the transcript, if any, supplied to the arbitrator. If, prior to the arbitration hearing or decision, the Parties resolve the grievance, any cancellation fee will be borne equally by the Parties, unless otherwise agreed to. If a party requests arbitration and later withdraws the request for any reason other than resolution, or requests a delay in a scheduled arbitration, that party will pay the full cost of any cancellation fee and other charges imposed by the arbitrator, unless otherwise agreed to.

**Section 48.09 Arbitrator Authority**

The arbitrator will have the following authority:

- a. Administer oaths and affirmations;
- b. Make determinations as to the calling, examining and cross-examining of witnesses and introduction into the record of documentary or other evidence;



- c. Rule upon offers of proof and receive relevant evidence and stipulation of facts with respect to any issue; approve/disapprove cumulative evidence;
- d. Limit lines of questioning or testimony which are immaterial, irrelevant, unduly repetitious or customarily privileged;
- e. Regulate the course of the hearing, including ruling on motions when appropriate;
- f. Draw any appropriate inference if a party fails to present facts or witnesses that the arbitrator deems necessary;
- g. Hold conferences for the simplification of the issues by consent of the Parties;
- h. Request the Parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;
- i. Continue the hearing from day to day, or adjourn it to a later date with appropriate notice;
- j. Take official notice of any material fact not appearing in evidence in the record which is among the traditional matters of judicial notice; and
- k. Sequester or exclude witnesses where appropriate.

**Section 48.10                      Rights of the Parties**

The Parties will have the right to:

- 1. Appear in person or by representative;
- 2. Examine and cross examine witnesses;
- 3. Introduce into the record relevant evidence;
- 4. Have a reasonable period prior to the close of the hearing for oral argument. Presentation of a closing argument does not preclude a party from filing a post hearing brief.

5. File a post hearing brief with the arbitrator. No reply brief may be filed unless requested and approved by the arbitrator; and
6. Have copies of all documents filed with the arbitrator at any stage of the preceding simultaneously served on the other party.

**Section 48.11                      Awards**

The arbitrator will submit his award to the Parties as soon as possible, but in no event later than thirty (30) days following the close of the record before him unless the Parties mutually agree to a specific extension. The arbitrator will make findings of fact and conclusions of law setting forth the basis of the decision. The decision of the Arbitrator is final and binding except that exceptions may be filed in accordance with Section 48.12. If post hearing briefs are to be filed and the Union's advocate is an employee of the Employer, official time in accordance with Article 13 will be granted to prepare the post hearing brief. The request to schedule such time will be made by an officer directly to his Platoon Commander (or designee).

**Section 48.12                      Exceptions to an Arbitrator's Award**

- a. The Parties retain their rights under 5 U.S.C. §§ 7122, 7123 and 7702.
- b. Any exceptions to an award must be filed in accordance with the rules and regulations of the FLRA.
- c. The filing of an exception with the FLRA will serve to stay any implementation of the award until the Authority renders a final decision on the matter.

**Section 48.13                      Attorney Fees**

In any event where a Party petitions the arbitrator for an award of attorney fees through the Back Pay Act, the Parties will apply MSPB precedent and procedures in seeking an award of fees.

## **ARTICLE 49: DURATION AND EFFECT**

### **Section 49.01 Execution and Implementation**

- a. This Agreement shall be considered executed on the date it is signed by the Chief Negotiators. This agreement shall be subject to Agency Head approval in accordance with 5 U.S.C. § 7114(c).
- b. In accordance with 5 U.S.C. § 7114(c)(3), if the Agency does not complete review of the Agreement within the thirty (30) day statutory period after it has been signed by the Chief Negotiators, the entire agreement will become effective subject to the provisions of applicable law, rule, and regulations.

### **Section 49.02 Duration and Changes**

- a. This Agreement shall remain in full force and effect for a period of three (3) years from the date of implementation.
- b. Thereafter, this Agreement shall be automatically renewed for additional one (1) year periods, subject to approval by the Department of Defense, unless either Party gives written notice to the other of its intent to renegotiate this Agreement. The written notice must be provided at least sixty (60) calendar days but not earlier than one-hundred and five (105) calendar days prior to the next anniversary date of implementation. Within thirty (30) days after notification, the Parties will enter into and conduct negotiations of ground rules for the purpose of renegotiating a new Agreement.
- c. When either Party requests to renegotiate the Agreement, the provisions of this Agreement shall remain in full force and effect until a new Agreement becomes effective, except for those provisions that are contrary to any law, rule or government-wide regulation.

### **Section 49.03 Changes to the Agreement**

- a. During the term of this agreement, no agreement, understanding, waiver, or modification of any terms or conditions contained herein shall be made by an employee or group of employees with the Employer, and in no case shall it be binding upon the Parties hereto unless such agreement is made and executed in writing by duly authorized representatives of the Parties and approved by Agency Head review in accordance with this Article.
- b. Any article in this Agreement may be reopened by mutual consent.

- c. If during the duration of this agreement, a law is issued or a decision of a court of competent jurisdiction invalidates or requires amendment to any portion of this agreement, the Parties agree to meet within a reasonable time to negotiate the substance and/or impact and implementation of the mandated change.

**Section 49.04                      Termination**

This Agreement shall terminate whenever it is determined by the Federal Labor Relations Authority that the Union is no longer entitled to exclusive recognition under the Statute.

**Section 49.05                      Distribution of Agreement**

A copy of this Agreement will be made available electronically to all bargaining unit employees and the Union. Upon request up to 100 printed copies will be made available.

In witness thereof, the Parties have concluded negotiations on this Agreement and recommend its execution this 27th day of May 2015.

For Management

For the Union

Woodrow Kusse (PFPA)  
Chief Negotiator

Steve G. DeNigris (FOP)  
Chief Negotiator

Renee Coates (PFPA)  
Negotiator


Arthur Penn (President/FOP)  
Negotiator

Gerald Plummer (PFPA)  
Negotiator

Michael Walsh (FOP)  
Negotiator

Bernadine McCormick (WHS LMER)  
Negotiator

Christina Marshall (FOP)  
Negotiator

  
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Woodrow Kusse (PFPA)  
Chief Negotiator

  
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Steve G. DeNigris (FOP)  
Chief Negotiator

This Agreement received Agency head Review on June 24, 2015