

NEGOTIATED AGREEMENT

between

NATIONAL INSTITUTES OF HEALTH

and

**WASHINGTON AREA
METAL TRADES COUNCIL**

AFL-CIO

Units:

Ground Maintenance & Landscaping

Fabric Care

Custodial Laborers & Related Building Services

Transportation Workers

EXECUTIVE ORDER 11491

as amended

LABOR MANAGEMENT RELATIONS

IN THE FEDERAL SERVICE

The effective date of this Agreement is:

March 20, 1991

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PREAMBLE

Pursuant to Title VII of the Civil Service Reform Act (CSRA), 5 U.S.C. 71, and the implementing regulations issued by the Office of Personnel Management, the following Articles constitute an Agreement by and between the National Institutes of Health, DHHS, hereinafter referred to as the Employer, and the Washington Area Metal Trades Council, AFL-CIO, hereinafter referred to as the Council.

It is the intent and purpose of both Parties to this Agreement to (1) promote and improve the efficient administration of the National Institutes of Health and the major role it plays in the advancement of bio-medical research and the nation's health, and the well-being of employees within the meaning of Title VII of the CSRA; (2) further establish a basic understanding relative to personnel policies, procedures and practices and matters affecting other conditions of employment; and (3) provide means for amicable discussion and adjustment of matters of mutual interest at the National Institutes of Health.

ARTICLE I

Recognition and Coverage of Agreement

Section 1. The Employer hereby recognizes that the Union is the exclusive representative of all employees in the bargaining units defined in Section 2 below, and

the Union recognizes its total responsibility for representing the interests of all such employees, without discrimination or regard to employee organization membership or status, and subject to the express and implied limitations set forth in Articles II and III.

Section 2. The bargaining units to which this Agreement applies are defined as follows:

*GROUPS MAINTENANCE AND
LANDSCAPING UNIT:*

All non-supervisory Federal Wage System employees of the Grounds Maintenance and Landscaping Branch, Division of Engineering Services.

FABRIC CARE UNIT:

All non-supervisory Federal Wage System employees of the Fabric Care Section, Housekeeping and Fabric Care Department, Clinical Center.

*CUSTODIAL LABORERS AND RELATED
BUILDING SERVICES:*

All non-supervisory Federal Wage System employees of the Pest Control Unit and those engaged in the performance of custodial and related laboring duties in the Housekeeping and Fabric Care Department, Clinical Center; the Materials Management Department, Clinical Center; and Sanitation Services Branch, Division of Technical Services.

TRANSPORTATION WORKERS UNIT:

All non-supervisory Federal Wage System employees engaged in transportation work at the National Institutes of Health. As further identification of employees included in the bargaining unit, it is agreed between the Employer and the Union that the unit shall consist of all non-supervisory Federal Wage System employees performing work related to transportation having the following titles: Motor Vehicle Operator, Warehouse Tractor Operator, Mobile Equipment Serviceman, Automotive Mechanic, Warehouseman, Packer, Crater, Tool and Parts Attendant and Laborer employed in the Transportation Branch, Shipping and Receiving Branch, Supply Branch, Division of Logistics, the Materials Acquisitions and Supply Branch, Division of Engineering Services, and any other NIH organizational component with the exception of those organizational components for which exclusive recognition has been granted prior to the effective date of this Agreement.

ARTICLE II

Effect of Law and Regulation

Section 1. In the administration of conditions of employment *specifically* covered by this Agreement, the Parties are governed by this Agreement, existing and future Employer rules, regulations and policies not in conflict with this Agreement, Government-wide rules and regulations, and Federal law.

Section 2. In the administration of conditions of employment *not specifically* covered by this Agreement, the Employer agrees, when requested by the Council, to bargain in good faith on the subject of any future Employer rule, regulation, or policy to the extent they are negotiable.

Section 3. Before implementing any future rules, regulations and policies that are not specifically covered by this Agreement and that the Council alleges there is no compelling need and the Federal Labor Relation Authority determines no compelling need exists, the Employer agrees to bargain in good faith with the council to the extent the rules, regulations and policies are negotiable.

ARTICLE III

Rights and Obligations of the Employer

Section 1. In accordance with applicable laws and regulations, the Employer retains the right:

- a. to determine the mission, budget, organization, number of employees and internal security practices of the agency;
- b. 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;

c. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

d. with respect to filling positions, to make selections for appointments from—

(1) among properly ranked and certified candidates for promotion; or,

(2) any other appropriate source; and

e. to take whatever actions may be necessary to carry out the agency mission during emergencies.

Section 2. In accordance with Section 7106 (b) (1), NIH has elected not to negotiate: 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.

Section 3. The right to make rules and regulations shall be considered an acknowledged function of the Employer. In prescribing regulations relating to personnel policies, procedures and practices and matters of working conditions, the Employer shall give full regard and consideration to the obligations imposed by this Agreement. This does not preclude the Parties from negotiating Memoranda of Understanding that provide appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

ARTICLE IV

Rights of Employees

Section 1. Each employee 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 shall be protected in the exercise of such right. Such right includes the right to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities.

Section 2. The Employer will not interfere, restrain or coerce any employee in the exercise of Title VII rights and will not encourage or discourage membership in the Council by discrimination in connection with hiring, tenure, promotion or other conditions of employment.

Section 3. An employee who is being examined by one or more representatives of the Employer in connection with an investigation, may obtain a council representative upon request if the employee reasonably believes that the examination may result in disciplinary action against him/her. The Employer shall notify employees of the Units of this right annually by placing such notice on each official bulletin board in the work areas of Unit employees.

Section 4. Except as otherwise provided in this Agreement, the Employer will advise each unit employee as to the supervisor responsible for such functions as approving leave, making performance ratings, initiating disciplinary actions and directing the work of employees.

Section 5. Any employee in the Unit who contemplates retirement in the immediate future shall be afforded retirement counselling upon request to insure the interests of employees are protected. Alternative retirement plans for which the employee is eligible shall be explained.

ARTICLE V

Union Representation

Section 1. The Employer agrees to recognize the chief shop steward and shop stewards authorized by the Council. The Council will assure adequate representation, but not to exceed ten (10) stewards, and no more than three from any unit.

Section 2. The Council shall supply the Labor Relations Officer, or his/her designee, with a list of designated stewards within thirty (30) days of this agreement, and shall be responsible for keeping the list current.

ARTICLE VI

Labor Management Consultation Meetings

Section 1. The Parties recognize that the negotiation of a basic agreement is but one element of a successful and effective Labor Management Relations Program. Therefore, the Parties agree to meet in consultation at the request of either Party for the purpose of exchanging information and discussing appropriate matter of concern and interest relating to personnel policies, practices and working conditions.

Section 2. The requesting party shall submit a proposed agenda of items to be discussed. Other items may be added by mutual consent of both Parties. Each Party will identify no more than four (4) participants for any given meeting.

Section 3. Employees serving as Council representatives will be on official time if otherwise in a duty status. Employees will secure prior approval for the use of official time.

Section 4. It is understood that specific grievances, complaints or appeals will not be discussed in these Labor-Management Consultation Meetings. However, this does not preclude the discussion of general personnel policies, practices and working conditions that may have given rise to a grievance, complaint, or appeal so that problems might be identified for possible preventative action, where appropriate.

ARTICLE VII

Mid-Term Negotiations

Section 1. Where the Employer proposes to change a personnel policy, practice, or working condition in which the change is a mandatory subject of negotiation, the following procedures shall apply:

- a. Notice will be provided by the Employer to the Council President as early as practicable, but normally not later than ten (10) calendar days before the Employer plans to implement the proposed change. The Council will have five (5) calendar days in which to request an opportunity to negotiate and submit its proposals to the Employer.
- b. The notice will include a description of the proposed change and implementation date. Copies of all available pertinent information upon which the proposal is based will be attached to the notice, or, if such information is voluminous, the Council will be advised as to where the information may be reviewed.
- c. When the Council timely requests negotiations, the Employer will normally delay the implementation. In extraordinary situations where a delay beyond the proposed implementation date would create circumstances involving an overriding exigency or unreasonable delay in the exercise of management rights in carrying out its mission, the change may be implemented on an

interim basis pending resolution through negotiations, or, if necessary, impasse procedures. The change will be superceded by this negotiated Agreement on the matter, including a return to the *status quo ante*, if directed or agreed. The Parties agree to cooperate in impasse resolution procedures through the Federal Mediation and Conciliation Service and the Federal Services Impasse Panel when timely invoked.

Section 2. The following procedures shall govern the conduct of all mid-term negotiations pursuant to this Article:

- a. Negotiations shall take place during regular administrative work days unless otherwise mutually agreed to by the Parties.
- b. The Employer will provide a site for the negotiations.
- c. The Council will be authorized the same number of negotiators as the Employer has designated for its team.
- d. Time spent during negotiations shall be on official time for employee Council representatives, if they would otherwise be in a pay and duty status.

Section 3. It is agreed that only the official designated in writing by the Collective Bargaining Official will have the authority to negotiate on behalf of the Employer and only the representative designated by the

Council President shall have the authority to negotiate on behalf of the Council. Any agreement by officials not designated in accordance with Section shall be considered non-binding on the Parties.

ARTICLE VIII

Hours of Work

Section 1. The basic workweek will consist of five eight (8) hour days, normally Monday through Friday except for employees who are assigned other workweeks deemed necessary by the Employer to carry out the mission of the activity. For all employees not normally assigned to rotating shifts each workday will consist of an eight and one half (8½) hour tour of duty, including a one-half hour unpaid lunch period.

Section 2. Tours of duty and shifts are established by the Employer. Neither the basic workweek nor regular hours of work will be changed without prior discussion with the Council, except in emergency situations, or in circumstances that would seriously handicap the Employer in accomplishing its functions or would substantially increase costs.

Section 3. In areas that need continuing services on Saturday and Sunday, a schedule will be worked out by the Employer on a rotating basis so that employees will have as many weekends off as possible.

Section 4. Where special conditions are encountered such as in scheduling work or gaining access to the work site, it is agreed that special work schedules for small groups of employees may be arranged following discussions with the employees concerned and the Council steward.

Section 5. Tours of duty may be rescheduled to provide employee participation in grievance and arbitration procedures as provided by Article Twenty-eight (Grievance Procedure) or NIH sponsored training.

Section 6. The Employer will make every effort to schedule basic work weeks so that all employees will have two (2) consecutive days off.

Section 7. Supervisors may authorize, consistent with the nature of the work performed, a reasonable amount of time prior to lunch and at the end of the shift, for personal clean up and for the storage and protection of personal and government property, equipment and tools.

Section 8. Official unpaid lunch periods for employees of the bargaining unit will be established for each shift and work location by the Employer. All employees will return promptly to their work at the end of the lunch period. Reasonable changes in the lunch period may be made by supervisors to cover emergencies, or to maintain continuity on a project.

Section 9. Break periods may be authorized by supervisors. A break not to exceed fifteen (15) minutes may be authorized; one period approximately two

(2) hours after the start of work and the other period approximately (2) hours before the end of the shift. Where there is an abuse of the break privilege by an individual employee the privilege may be denied the offending employee or disciplinary action may be taken. Employees may take refreshments to the job site where permitted. Where two (2) or more employees are working at a job site, one person may be designated to obtain refreshments at the break for the group and the employees of the group may start their break when refreshments are received.

Section 10. Employees are required to obtain approval from their supervisors before leaving their assigned place of work during duty hours. In emergency situations of short duration, i.e., rest room, etc., where no supervisor is immediately available, the employee will inform a co-worker at the job site of his/her need to leave the job site. Employees absenting themselves from the job site or their assigned duties without authorization may be charged absence without leave (AWOL).

Section 11. When excused leave is authorized for NIH employees because of inclement weather, breakdown of equipment or other emergency situations, employees of the bargaining unit who have been notified that they are considered essential for such situations must report for work unless they have been advised by their supervisor that their services are not needed. Employees on duty whose services cannot be utilized and who are not required to stand by or provide essential services shall be excused without charge to leave.

Section 12. A roster of names of employees wishing to be considered for change in shift (early to late or late to early shifts) will be maintained by the chief of the organizational segment of the bargaining unit where appropriate. Requests for change in shifts to similar positions will be considered in filling vacancies in the order in which they are received.

ARTICLE IX

Overtime

Section 1. Payment of overtime by the Employer is subject to applicable law, regulation and HHS Instruction.

Section 2. The Employer will make every reasonable effort to assign overtime fairly among eligible employees. Assignment of overtime will be made in the light of the following considerations—special skills of the employees, familiarity with the work assignment, particular work requirements, consideration of past performance in reporting for overtime, and the wishes of the employees, subject to paramount requirements and the mission of the National Institutes of Health. Whenever possible, overtime assignments will be handled on (1) a volunteer basis, and (2) based on an alphabetical listing in the work unit on a rotational basis, within the framework of the above considerations. If an employee fails to report for a scheduled overtime assignment without an acceptable excuse, that employee may be removed from the

overtime roster for 45 days. Overtime rosters will be posted in each work unit.

Section 3. The Council agrees that all employees of the bargaining unit must be willing to accept overtime work on short notice in emergencies. The Employer agrees to make every reasonable effort to give employees advance notice before requiring them to work overtime. Employees shall keep the Employer advised of a current address and telephone number where they can be reached in emergency situations.

Section 4. No employee shall be laid off during any regular hours in his/her basic workweek in order to compensate or offset overtime hours worked outside of his/her regular shift or basic workweek.

Section 5. An employee called back for unscheduled overtime duty, whether on a workday or a non-workday, will be paid for a minimum of two (2) full hours at his/her overtime rate.

Section 6. When work is planned in advance to be performed on an overtime basis on a day other than the basic workweek, the Employer agrees to make a reasonable effort to plan the size of the workforce so as to provide at least four (4) hours of work for each employee. Where the services of each employee are not required for this period of time, such overtime will be paid in accordance with applicable regulations.

Section 7. Employees either in training or on detail shall be considered for overtime assignments in the bargaining unit subject to the provisions of Section 2 above.

Section 8. An employee called in to work on shifts outside his/her basic workweek shall be promptly excused at such time as it is determined that his/her services are no longer needed.

Section 9. In the case of extended overtime in excess of three (3) continuous hours, unpaid meal periods may be scheduled by the supervisor.

ARTICLE X

Safety and Occupational Health

Section 1. The Employer shall make every reasonable effort to provide and maintain safe working conditions and industrial health protection for all employees, using recognized safety precautions as a guide. The Council shall cooperate by instructing and encouraging all members of the bargaining unit to observe safety precautions and to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his/her own safety and obligation to know and observe safety rules and practices as a measure of protection for himself and others. In the course of performing their normally assigned work, shop stewards will be alert to observe unsafe conditions in

their immediate areas which represent safety and health hazards. When unsanitary, unsafe, or unhealthful conditions are observed by the steward, it is his/her responsibility to report them at once to the immediate supervisor.

Section 3. In addition to the regular training given the employee concerning methods of performing the various tasks of his/her position and the materials and equipment to be used, special attention will be given to identifying hazards that may be involved and instructions in coping with such hazards. When an unanticipated hazard develops in the course of an assignment or when an employee is assigned duties which he/she believes involve special hazards, the employee should contact the appropriate supervisor concerning how to proceed. As appropriate, such factors as proper work methods, the operation of new equipment and the use of protective safety measures and/or safety equipment should be considered. When employees are required to work under conditions which may be potentially detrimental to health and safety, such conditions will be remedied, insofar as possible and practical, and precautions taken to protect the employee from industrial hazards.

Section 4. The Employer agrees to notify the Council prior to implementing any regulations or policy concerning working conditions, safety and health, unless the regulation or policy is directed by or implemented by higher authority, or emergency conditions preclude notification to the Council.

Section 5. The Employer will welcome at any time, from an individual employee or from the Council, suggestions which offer practical and economically feasible ways of improving safety conditions. The appropriate Council steward may meet with the Employer's representative without loss of pay or leave upon request, or when an emergency is known to exist, to consider safety problems and to make recommendations.

Section 6. Injured employees will report injuries, no matter how slight, to the supervisor, preferably before leaving the work site or the shift during which the injury occurred but not later than 48 hours after injury or exposure to occupational disease while on duty. The employee shall also make a written report on OWCP form CA-1 within 30 days after the injury. When an employee on duty requires treatment away from the activity because of occupational accident or occupational sickness, the Employer will provide the employee transportation to a facility for treatment on the day that the accident or illness occurs. Further, the applicable provisions of the Workman's Compensation Act, as administered by the Department of Labor, will be made available to the employee. The Employer will assist the employee in filing all necessary forms.

Section 7. When the Council has been designated by an employee as his/her representative in the matter of a Workman's Compensation case, the

Employer will make available to the Council, upon request, all records and information which may be authorized to be released, pertaining to the case.

Section 8. When the Employer has made a determination that the need exists and requires the use of special equipment, the wearing of uniforms, protective clothing or special wearing apparel to protect the employee, the environment, or as a means of identification, these specified items will be provided by the Employer. All special equipment, uniforms, protective clothing or special wearing apparel must be used and/or worn as prescribed by the Employer.

Section 9. Employees are responsible for the cleanliness of their immediate work area.

Section 10. In those instances in which a single employee must work alone either because of an emergency or because the type of work does not require more than a single person, and the work location is isolated, then management will make appropriate arrangements to check with the employee periodically, either via telephone, radio or visual check.

Section 11. During cold weather, if work must be performed outside, the Employer will provide protective clothing which will include, but is not limited to, insulated uniforms, boots, coats and gloves.

Section 12. The Employer reserves the right to evaluate and determine the need for safety shoes.

ARTICLE XI

Environmental Differential

Section 1. It shall be the policy of the Employer to eliminate or 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 hazards, physical hardship, or working conditions, an environmental differential may be warranted. The differential is paid provided that the exposure to hazard, physical hardship or working condition meet OPM published criteria and the differential has been approved for payment at NIH by the Differential Committee. However, the existence of environmental differentials is not intended to condone work practices which circumvent Federal safety laws, rules and regulations.

Section 2. An environmental differential is paid to employees within the bargaining unit, when performing assigned duties, who are exposed to a hazard of an unusual nature which could result in significant injury, illness or death; who are exposed to a physical hardship of an unusual nature under circumstances which cause significant physical discomfort or distress not practically eliminated by protection devices; and who are exposed to a working condition of an unusual nature under circumstances involving exposure to fumes, dust or noise

which cause significant distress or discomfort in the form of nausea, or skin, eye, ear or nose irritation or conditions which cause abnormal soil of body and clothing, etc., and where such distress or discomfort is not practically eliminated. The application of approved environmental categories are matters appropriate for consultation and discussion between the Employer and the Council as the need for changes arises. When a new work situation develops which is not covered by the authorized categories of differential as outlined in Appendix J, FPM Supplement 532-1, but is considered by the Council to warrant an environmental differential, the Council may request that the Employer submit the matter to OPM for consideration.

Section 3. Employees will be notified when assigned work for which environmental pay is indicated. In the absence of such notification, the employee will assume that such pay is not applicable. However, if at any time during the job assignment the employee believes that such pay is warranted he shall bring the matter to the attention of his/her supervisor. If the supervisor is uncertain concerning the application of a differential he will submit a request through appropriate channels to the Environmental Differential Committee for a decision.

ARTICLE XII

Annual Leave

Section 1. The Parties agree that employees shall earn annual leave in accordance with applicable laws and

regulations. However, it is the prerogative of the Employer to make the final decision on when leave is to be used. For this reason, the use of annual leave is subject to the prior approval of the appropriate leave approving official. Retroactive approval may be given where circumstances warrant. It must not be assumed, however, that a mere report of absence will necessarily result in favorable action. Failure to secure the proper approval from the leave approving official may result in the period being charged to absence without leave. In those organizational areas where SF-71's will provide a more efficient and effective method of time-keeping, all employees of the bargaining unit will be required to submit requests for leave on the SF-71. Where this is required, all employees of the bargaining unit will be so notified.

Section 2. Subject to workload and manpower requirements of the agency, the Employer agrees to approve an employee's use of accumulated annual leave, provided the employee requests approval from the leave approving official with reasonable advance notice. If the request is denied the leave approving official will promptly notify the employee of his reason for disapproval. It is agreed that numerous requests by an employee for annual leave in small increments which upset work schedules or inconvenience other employees may be subject to disapproval.

Section 3. The Employer agrees to schedule annual leave for eligible employees for vacation purposes,

normally of two weeks' duration, after March 1 of each year on requests received prior to March 1 of each year. Schedules for use of such annual leave will be constructed on the basis of employee preference, and workload and skill needs of the bargaining unit. Conflicts in employee preference will be resolved on the basis of length of services in the bargaining unit, i.e., employees with greater length of service in the same organizational area of a bargaining unit will be given priority. An employee will not be permitted to change his selection if it disrupts the selection of another employee unless the latter is agreeable thereto.

Section 4. It is agreed that employees must apply in advance to the leave approving official for approval of anticipated annual leave. Employees are encouraged to submit requests for vacation leave, normally of two (2) weeks' duration, in accordance with the following schedule:

- a. No less than 75 percent of each employee's annual leave shall be requested not later than March 1, and,
- b. The remaining 25 percent shall be requested not later than September 1. This is to make certain that employees having leave to use or lose before the end of the leave year have ample opportunity to use such leave.
- c. By March 16 and September 16 the employee will be notified of approval or disapproval of his requested leave.

d. When an employee requests leave in advance on the SF-71, if the supervisor disapproves the requests, he/she will give the reason for disapproval on the SF-71.

Section 5. Once an employee has been afforded leave during prime vacation time, he will lose preference for this purpose until all employees in the organizational area of the bargaining unit have had an opportunity to schedule two weeks leave during prime vacation time. (Prime time is considered from Memorial Day through Labor Day and the week between Christmas and New Year's).

Section 6. Unscheduled leave reasons should be requested in person or by phone by the employee. The requests will be considered on their individual merits.

Section 7. An employee requesting unscheduled leave will be required to explain the reason for his request. The reason should be in sufficient detail to permit the designated leave approving official to make a judgment, without any invasion of employee's privacy. The leave approving official may withhold final approval of emergency leave pending the submission of the requested information. Any evidence submitted will be treated confidentially.

Section 8. If the employee fails to request leave in the proper manner or requests unscheduled leave but

does not give adequate justification of his absence, he/she will be carried as AWOL for payroll purposes until he returns to duty and the case is reviewed and decided.

Section 9. Requests for unscheduled leave must be made to the office of the designated leave approving official during the first hour of the scheduled tour of duty, or as soon as possible thereafter, with the following exceptions:

- a. Non-shift workers in the Housekeeping and Fabric Care Department, CC-during the hour prior to the scheduled tour of duty.
- b. Shift workers, or employees assigned to a function, i.e., as service that must start prior to the regular hours of duty, or a service that originates at a point other than the NIH Bethesda Reservation, unscheduled leave must be requested not later than two (2) hours before the scheduled tour of duty or as soon as possible, in order to allow time to arrange for a replacement; the calls to be made to the office or individual as designated in the specific instructions issued in the respective work areas.

Section 10. It is agreed that any employee who fails to request leave in the required manner will be carried AWOL pending a review and disposition of the case.

Section 11. It is understood that the number of approved requests for unscheduled annual leave must be held to a minimum because of the effect on essential operations and inconvenience to other employees who must be required to serve as substitutes.

Section 12. No leave approving official will place an employee who is on duty on any type of leave without notifying the employee.

Section 13. The Employer will make every attempt to grant 8 hours of annual leave to an employee on his/her birthday. Leave for this purpose must be requested the same way as any other annual leave request.

Section 14. The Employer will make every effort to grant employees' requests for annual leave for holidays associated with their religious faiths.

ARTICLE XIII

Sick Leave

Section 1 General

Employees shall earn sick leave in accordance with applicable laws and regulations. Organizations using the SF-71 (Application for Leave) for recordkeeping will notify all Employees of the bargaining unit that they are required to submit requests for leave on the SF-71.

The Council recognizes the importance of proper sick leave usage and the advantages it gives to all

bargaining unit Employees and the Employer. It is the duty of Employees to request sick leave only when incapacitated for the performance of duty due to illness, injury, or other valid and approvable reason. Because improper sick leave usage can adversely effect both the bargaining unit Employees and the Employer, the Council agrees to support the Employer's obligation to eliminate improper sick leave practices.

Sick leave can be approved for medical, dental or optical visits. Sick leave for these purposes will be requested as far in advance as possible, except where emergencies preclude prior notice and approval. Whenever possible and practical, prearranged treatment or examinations shall be received by an Employee outside normal working hours.

Section 2. Procedures

Employees shall request sick leave as soon as the requirement is known, but not later than the following:

- a. Shift Workers—2 hours before the beginning of the shift
- b. Housekeeping and Fabric Care Department—1 hour before the beginning of the scheduled tour of duty
- c. All Others—1 hour after the beginning of the scheduled tour of duty

All sick leave requests must provide the leave approving official with sufficient information about the Employee's condition so that a decision can be made. They must contain the Employee's best estimate of the expected date of return to work.

If an Employee cannot request sick leave in advance, he/she must speak to his/her Supervisor, either in person or by phone. If the Employee's Supervisor is unavailable, the Employee will contact the next level Supervisor in the chain of command. When it is not physically possible for the Employee to make the request, another individual should make the request. Extensions of leave are handled in the same manner.

When an Employee is confined to his/her home or a hospital for an extended period of time, special arrangements should be made with the immediate Supervisor for further reporting procedures.

Section 3. Approval/Disapproval

Sick leave is approved in increments of 1 hour. Employees who take leave without approval will be charged as Absent Without Leave (AWOL). If the Supervisor denies a request for sick leave, he will promptly inform the Employee of the reason for the disapproval, and, when an SF-71 has been submitted, the reason for denial shall be recorded in the space provided and a copy given to the

Employee. the Supervisor can deny requests for sick leave in situations such as when the Employee:

- a. Has failed to request leave as prescribed above; Or,
- b. The Supervisor feels the Employee is not incapacitated for work; or,
- c. Has a leave record suggesting leave abuse, and has received a Special Leave Procedures Notice; or,
- d. Has been disciplined within the past 12 months for leave abuse.

Upon presentation of acceptable medical documentation substantiating the Employee's incapacitation for work, the Supervisor may grant sick leave retroactively.

Section 4 Documentation

- a. Employees normally shall not be required to furnish a medical certificate to substantiate sick leave requests and usage if the absence is for 3 days or less, except as described in Section 3 or this Article. Employees who are released from duty for medical reasons by the NIH Office of Occupational Medical Service shall not be required to furnish a medical certificate in support of sick leave for the day released from duty.
- b. Employee's who request special employment accommodations due to medical reasons (e.g. light

duty, extended sick leave, frequent use of sick leave) may be asked to provide medical documentation to ascertain the Employee's abilities and disabilities. The request will be in accordance with Office of Personnel Management Guidelines.

Section 5 Leave For Special Circumstances

a. **Advanced Sick Leave**—Careful consideration will be made to requests for advanced sick leave. All applicable regulations will be followed in considering requests for advanced sick leave. Employees who have abused sick leave privileges should anticipate that requests for advanced sick leave will be disapproved. Requests will be considered regardless of the amount of annual leave the Employee may have.

b. **Visits to OMS**—When an Employee receives treatment from the NIH Occupational Medical Service for illness or injury that is not job related, and the absence exceeds 1 hour including transit time, the absence will be charged to appropriate leave if authenticated by the OMS.

ARTICLE XIV

Leave Without Pay

Section 1. Employees may be granted leave without pay in accordance with applicable laws and regulations. Leave without pay shall not exceed a period of one

(1) year for each application. Leave without pay can be granted for the following circumstances:

- a. Employees in the Unit who are elected or appointed as a delegate to a Union convention or other Union function.
- b. Employees in the Unit who are elected or appointed to a full-time Union office.
- c. For educational purposes.
- d. Employees who have filed for disability retirement or pending action of a claim to the Department of Labor, Office of Workers Compensation.

Section 2. Employees may be granted annual leave, when available, in lieu of leave without pay. Such requests for leave must be in writing and submitted in advance to allow for a timely decision. The amount of leave and the time at which it may be granted must be in the interest of the government and must be compatible with the overall manpower needs of the employer.

Section 3. In accordance with applicable laws and regulations, employees returning from leave without pay shall not lose any rights.

ARTICLE XV

Absence for Maternity Reasons

Section 1. Grant of Leave for Maternity Reasons

Childbirth or complications of pregnancy are temporary disabilities and will be treated for leave purposes in the same manner as any other physical condition which incapacitates the employee for the performance of duty. Leave used for these reasons may be a combination of sick leave, annual leave, and leave without pay. Available sick leave may be used to cover the time required for physical examinations and the period of incapacitation to include delivery and recuperation. If the employee desires a period of adjustment and/or time to make arrangements for the care of the child, such additional leave requirements will be charged to available annual leave or leave without pay.

Section 2. The Employee's Responsibility

- a. Employees are encouraged to report pregnancy as soon as it is an established fact, so that any necessary steps may be taken to protect the employee's health, and to make any necessary staffing adjustments that may be required during her absence. She must obtain a certificate from her physician, giving the estimated date of delivery, such certificate to be submitted to the supervisor at least four weeks in advance of the proposed starting date of the maternity absence.

b. An employee who is not planning to return to work should submit her resignation at the expiration of her period of incapacitation or she may be separated at such earlier date as may be required for other reasons (e.g., expiration of appointment or reduction in force, for cause, or for similar reasons unrelated to the maternity absence).

Section 3. The Employer's Responsibility

a. When the employee reports pregnancy, the Employer will determine whether her duties or surroundings involve exposure to hazards which can be reduced or eliminated. As a general rule, pregnant women should not be employed in work that involves heavy lifting, continuous standing, climbing, or exposure to toxic substances. If, after consulting her physician, the employee requests modification of her work duties or a temporary reassignment to other available work for which she is qualified, every reasonable effort should be made to accommodate her request. The Employer may request medical documentation as to the nature of the limitations which are recommended by the employee's physician.

b. In accordance with applicable laws and regulations, the Employer has an obligation to assure continued employment in her position or a position of like seniority. An employee who wishes to return to work following delivery and confinement shall not lose any rights.

Section 4 Advance of Sick Leave

Sick leave may be advanced in accordance with the Section covering that subject in Article Thirteen, Section 5, Paragraph a.

Section 5 Absence for Paternity Reasons

A male employee may request only annual or leave without pay for purposes of assisting or caring for his minor children or his newborn child while the mother is incapacitated for maternity reasons. Approval of leave for this reason will be consistent with the Employer's policy for granting leave in similar situations, and each leave request will be considered on its own merits, subject to the provisions of Article Twelve (Annual Leave) or Article Fourteen (Leave Without Pay).

ARTICLE XVI

Miscellaneous Leave

Section 1 Court Leave

- a. Court Leave will be granted in accordance with the following Court Leave Guide from the FPM Supplement 990-2.
- b. Pay for work time lost shall be computed at the employee's regular rate of pay, including all applicable premium pay, at the time of such absence.

c. If a second or third shift employee serves on jury duty or as a witness as stated above, he/she shall not be required to work his/her shift on such calendar days, but shall be entitled to pay as provided above.

Section 2. Voting

a. Eligible employees will, where polls are not open at least three (3) hours either before or after their regular hours of work, be granted a sufficient amount of excused leave for the express purpose of voting, so as to allow them time to report for work three hours after the polls open or to leave work three hours prior to closing of the polls, whichever requires lesser time.

Section 3. Administrative Leave

a. The Office of Personnel Management is responsible for making decisions on temporary closings, late arrivals, early dismissals, and/or liberal leave based on emergency situation (usually hazardous weather) or other administrative situations. When the Federal Government is closed for the day, employees are excused from duty without charge to leave, except for "essential" employees.

b. Since the employer is responsible for the care of patients and support for patients, these functions must be continued regardless of the temporary closing of the work place. Certain employees are considered "essential" and are expected to report or remain at work

during the temporary closing. These employees will be notified annually in writing that they are designated "essential." This notice will outline the requirements for essential employees to report to or remain at work during an emergency situation unless they are instructed otherwise. Media announcements regarding closings do not apply to employees designated as "essential."

c. In some cases, certain non-essential employees may be required to report to, or remain at work during emergency situations (e.g., fires, floods, storm damages, water shortages, major power failures, etc.). The employer will establish a procedure for notifying an employee if they are required to report to or remain at work.

Section 4. Blood Donations

a. Consistent with NIH policy, absence from duty without charge to leave of any kind may be permitted for employees donating blood at the NIH Blood Bank.

b. An official with delegated authority (to grant leave) may approve excused absence for an employee who is donating blood without compensation for a reasonable amount of time for purposes of donation and recovery, normally two (2) hours. Additional time may be excused if appropriate because of the location of the donation site, the



type of donation program (e.g. donation of blood platelets) or other factors determined by leave-approving officials.

ARTICLE XVII

Special Leave Procedure

Section 1. Whenever an Employee's attendance record or leave pattern is considered unsatisfactory by the first line Supervisor, he/she may be required by the Employer to follow Special Leave Procedures, i.e., prescribed procedures for requesting and obtaining approval of leave. The Employee will be given a written notice upon the initiation of Special Leave Procedures. Such notices are intended as warnings that the general pattern of leave requests in the past has raised doubts as to their propriety within the spirit and letter of the rules, even though approval of previous individual requests may or may not have been withheld when considered by themselves at the time of submittal.

Section 2. At the Employee's request, the Steward may discuss the notice with the Supervisor. The Employer will review the leave record of each Employee no more than six (6) months following the date of the Special Leave Procedures Notice. Upon review of the case the Employee will be notified in writing of the decision for continuance or discontinuance of the Special Leave Procedures.

ARTICLE XVIII

Tardiness

Section 1. Employees who are not ready for work at the start of their scheduled tour of duty or after breaks or lunch periods will be treated as follows:

An employee who is tardy for less than one (1) hour, or an employee who needs to be absent from his/her assigned work for a period of less than one (1) hour, may be excused without charge to leave or loss of pay. An employee with a good attendance and punctuality record, i.e., has not been cautioned or disciplined for leave abuse, tardiness, etc., will be excused without charge to leave, when the excuse is acceptable to the leave approving official and the employee has good and sufficient reason and can be spared.

Section 2. When the leave approving official does not excuse an employee, the employee may apply for and may be granted annual leave or leave without pay. This section does not preclude charging any employee's tardiness (or departure from work) to absence without leave (AWOL) in increments of no less than one (1) hour and initiating disciplinary action.

ARTICLE XIX

Holidays

Section 1. Employees shall be entitled to all holidays prescribed by current or future law, in addition to any

special holidays designated by the President of the United States.

Section 2. When an employee's basic workweek is Monday through Friday, and a holiday falls on Saturday or Sunday; then Friday or Monday, as appropriate, shall be observed as the holiday.

Section 3. If the employee is required to work on the day observed as the holiday, he/she shall, if otherwise entitled, received holiday premium pay for those hours corresponding to his/her normal hours of work, and overtime compensation for those hours outside his/her normal hours of work. If the employee is required to work on the actual holiday which falls outside the basic workweek, he/she shall if otherwise entitled, receive one and one-half times his/her hourly rate of pay for work performed.

ARTICLE XX

Job Descriptions and Classification Appeals

Section 1. A copy of his/her position description will be made available to any employee in the bargaining unit upon request. Copies of subsequent changes to job descriptions will be made available to the employee by his supervisor.

Section 2. An employee may appeal the grade, title or series assigned to his job, but not the standards

established for the job, nor other matters such as the accuracy of the job description, rate of pay or the propriety of wage schedule rate. The employee has an absolute right to appeal to the Office of Personnel Management, however, he/she is encouraged to first utilize the agency appeals procedure. A copy of the NIH classification appeals procedure implementing Agency directives is available upon request to the personnel office.

Section 3. The Employer agrees that, consistent with job requirements and individual qualifications, assignments to menial or dirty tasks will be distributed equitably among all bargaining unit employees.

Section 4. Employer agrees to furnish the employee advance notice of proposed adverse personnel actions resulting from classification decisions. The Employer further agrees to discuss such actions with the employee, and his/her steward or other representative as appropriate, and to advise the employee in writing of his/her rights.

Section 5. Employees who appeal and their representatives are assured freedom from restraint, interference, coercion, discrimination, or reprisal and a reasonable amount of official time to present the appeal.

Section 6. The Council may make representations and present supporting evidence regarding its views on the adequacy and equity of classes of positions or grade levels.

Section 7. The Employer further agrees to grade jobs on the basis of the highest level of skills and knowledge required by the duties regularly assigned and performed by the employee.

ARTICLE XXI

Merit Promotion

Section 1. The objective of the merit promotion program is to assure that qualified and available candidates are provided fair and systematic consideration and opportunities for selection for promotion based on merit.

Section 2. The competitive promotion procedures of the PHS Merit Promotion Plan will be followed. Copies of the PHS Merit Promotion Plan are available upon request from the Personnel Office.

Section 3. Vacancy announcements will be posted on bulletin boards within the bargaining unit for a minimum of seven (7) calendar days. Employees are responsible for checking the bulletin boards for vacancy announcements covering jobs in which they have an interest. Candidates are responsible for keeping their Official Personnel Files up to date with the use of a SF-171, Application for Federal Employment, or SF-172, Amendment to Application for Federal Employment, to document in their personnel files, additional training, education, awards and experience that they have gained.

Section 4. Any employee who has applied for a specific position is entitled to know, upon request:

- a. Whether he/she was considered for promotion and, if so, whether he/she was found eligible on the basis of the minimum qualification requirements for the position;
- b. Whether he/she was in the category from which a selection was made;
- c. who was selected for promotion; and,
- d. in what areas, if any, he/she should improve to increase chances for future promotion.

Section 5. The chief steward may be provided the opportunity to recommend to the ICD personnel officer a name of an employee of their respective bargaining units to serve as a subject matter specialist when convening a qualifications review board. The recommendation must be submitted within two (2) days from date of notification by the ICD Personnel Officer. The Employer may request that an EEO representative be included on Qualifications Review Boards.

ARTICLE XXII

Temporary Promotions and Details

Section 1. It is agreed by the Employer and Council as a matter of principle that employees should be paid at rates of pay commensurate with the duties which

they are assigned. Therefore, the Employer agrees that the use of details to positions of higher level and pay will be held to a minimum.

Section 2. If an employee is absent for a period of time, his/her duties may be assigned to another employee of any grade level. When an employee is assigned to higher grade duties and the assignment is anticipated to last two (2) or more pay periods, the employee may be given consideration for a temporary promotion. Such assignments for less than two (2) pay periods may be covered by detail in accordance with applicable regulations.

Section 3. In a similar manner, employees may be detailed or temporarily promoted to a position of higher grade to fill a position which has become vacant until a permanent appointment is made, to assume increased responsibility for a limited period due to workload, or to participate in a special project which will last for a limited period.

Section 4. An employee may be temporarily promoted for the expected duration of the need for his services in the higher grade, but the initial period may not exceed one (1) year. If his/her services are still needed in the higher grade after the initial period ends, the Employer will review the situation and determine whether it actually is a temporary one and, if not, the position will be filled on a permanent basis. If the situation warrants, however, the temporary promotion may be extended for up to one (1) additional year.

Section 5. Employees selected for temporary promotions must meet the requirements for basic eligibility in accordance with applicable qualification standards of the Office of Personnel Management and appropriate placement factors. They need not, however, be selected under competitive procedures unless the temporary promotion is for 120 days or more.

Section 6. Employees may be detailed in accordance with applicable regulations between specialized position categories to take care of situations such as temporary workload imbalances or to prevent the need for reductions-in-force.

Section 7. Upon termination of a temporary promotion, the employee will be returned to the position from which he/she was promoted at the salary rate to which he/she would have been entitled had he/she not received the temporary promotion.

Section 8. A temporary promotion may not be made primarily for training or evaluating an employee in a higher grade position, to give an employee a trial period before permanent promotion, to decide among candidates for permanent promotion or to train an employee in higher-grade duties.

ARTICLE XXIII

Equal Employment Opportunity

Section 1. The Parties agree that they will continue to work cooperatively to assure that all employees have equal employment opportunities and that no one is discriminated against because of race, color, national origin, age, sex, marital status, religion, or membership in a labor organization.

Section 2. The Employer has responsibility for promoting a realization of equal employment opportunity through a positive, continuing program in accord with directives of appropriate higher authority.

Section 3. The Council agrees to become a positive force in this endeavor and to become a partner with the Employer in the explanation and implementation of ideas and programs whereby equal employment opportunities will be achieved.

Section 4. The responsibility for counselling employees who allege discrimination based on race, color, religion, age, sex, or national origin and the formal investigation and adjudication of EEO complaints rests with the office of the NIH EEO Officer.

Section 5. The Council may submit nominations for Equal Employment Opportunity counselors in accordance with the procedures established in the NIH policy.

ARTICLE XXIV

Contracting Out

Section 1. The Employer will notify and consult with the Council concerning contracting out of work that may adversely affect bargaining unit employees. Such notification will take place when a determination is made by the Employer. When considering the contracting out of bargaining unit functions, the Employer will rely upon the Government's general policy, as established by higher authority, which reflects the fundamental concept that the Government should generally perform only those functions which are governmental in nature and should utilize the competitive incentives of the private enterprise system to provide services which are necessary to support governmental functions.

Section 2. When employees of the bargaining unit are adversely affected by a decision to contract out or reassign work normally performed by bargaining unit employees, the Employer will minimize reduction-in-force actions to the extent possible through reassignment, retraining, restricting in-hires and other similar actions that may be taken to retain the employees.

ARTICLE XXV

Reduction-in-Force

Section 1. The Employer agrees to notify the Council in advance of reduction-in-force action in the bargaining unit and of the competitive levels to be affected.

The Council will have an opportunity to conduct impact and implementation bargaining.

Section 2. All reductions-in-force will be carried out in strict compliance with applicable laws and regulations and will be administered in a manner which will affect the necessary reduction in personnel strength with a minimum disruption to the mission of the Agency and employees.

Section 3. In the event of a reduction-in-force, affected bargaining unit employees will be considered for vacant continuing positions in accordance with OPM and DHHS policy.

Section 4. At no time will the Employer use the reduction-in-force procedure to circumvent adverse action procedures.

ARTICLE XXVI

Employee Performance Management

Section 1. The Parties agree that the DHHS Employee Performance Management System as defined by HHS Instruction 430-4 and related manual circulars will be applicable to bargaining unit employees. Employees will receive annual appraisals of job performance based on objective standards established by management for each employee's position. Performance standards

and critical elements will be communicated to each employee at the beginning of the appraisal period. There will be a documented progress review midway in the performance period. Documented progress reviews will involve a face-to-face meeting between supervisor and employee when the employee's performance is less than fully satisfactory and should involve a personal discussion in all other cases.

Section 2. An employee will be given a copy of the performance standards and critical elements that relate to his/her position at the beginning of the appraisal period. The employee will also be given a copy of the documented progress review and any changes in performance standards made during the appraisal period.

Section 3. The Employer agrees to use the performance appraisal as a basis for determinations on matters including but not limited to training, awards reassignments, promotions, reductions in grade, retention and removal of employees and the granting or denial of within-grade increases. When an employee's performance is determined to be unsatisfactory, the Employer will provide the employee a reasonable opportunity to demonstrate minimally satisfactory performance prior to any proposed removal or reduction in grade.

ARTICLE XXVII

Disciplinary and Adverse Actions

Section 1. The provisions of this Article are applicable to oral and written admonishments, reprimands, suspensions, removals, furloughs without pay for 30 days or less, and reductions in grade or pay, as delineated in Chapters 751 and 752 of the Federal Personnel Manual. Disciplinary actions are oral and written admonishments and reprimands, suspensions for fourteen calendar days or less. Adverse actions are suspensions for more than fourteen calendar days, removals, reductions in grade or pay, and furloughs without pay for 30 days or less.

Section 2. Letters of caution, warning or admonishment will not be made part of an employee's Official Personnel Folder.

Section 3. The Parties agree there must be a means of enforcing the rules and regulations; that maintaining efficient operations and administering discipline are management responsibilities, and that no employee should be disciplined or subject to adverse action except for such cause as will promote the efficiency of the service.

Section 4. The Parties endorse the principle that like penalties should be imposed for like offenses, and that the Employer should be as consistent as possible when deciding on disciplinary or adverse actions. It is agreed

further that the Employer should give consideration to all factors involved when deciding what penalty is appropriate, including not only the gravity of the offense but such other matters as the existence of mitigating circumstances, frequency of the offense, and whether the action accords with justice in the particular situation.

Section 5. The Employer will make reasonable efforts to explore with the employee the source of any difficulty and suggest constructive ways to overcome such difficulty. However, it is the responsibility of the employee to ensure that his/her conduct is in compliance with established rules and policies.

Section 6. When it has been determined by the Employer that a situation is developing or has developed, which indicates that disciplinary or adverse action might be in order, the supervisor may initiate an investigation by gathering all facts immediately available concerning the incident and will interview the employee and obtain his/her side of the story. An employee who is being examined by one or more representatives of the Employer in connection with an investigation, may obtain a council representative upon request if the employee reasonably believes that the examination may result in disciplinary action against him/her. Nothing in this Agreement is intended to abrogate at this point in procedure the traditional relationship between the employee and his/her supervisor and the right of either one to discuss privately with

the other such matters as may be necessary to develop the facts during the investigative stage.

Section 7. Where the Employer has determined that an adverse action is to be taken, he/she will notify the employee in writing stating the specific charges and the penalty proposed. The notice of proposed action will designate the management official to whom the employee may reply to the charge, advise how he/she can reply personally and/or in writing, indicate the time limits for receipt of the reply and state that any reply he/she makes will be considered before a final determination is made on the proposed action, and advise him/her of his/her right to representation.

Section 8. The Employer agrees to furnish an extra copy of the advance notice of any adverse actions to the affected employee to give to his/her representative if the employee so desires.

Section 9. Employees may appeal or grieve disciplinary or adverse actions in accordance with Article Twenty-eight. The basic procedures and rights of employees as described in appropriate regulations shall apply in handling disciplinary and adverse actions and appeals.

Section 10. The fact that the Employer intends to take disciplinary or adverse action against an employee is considered to be privileged information between the Employer and the employee concerned. The affected employee may, if he/she wishes, notify the Council.

Section 11. If the Employer has reason to give an employee an oral admonishment, every effort should be made that it be done in a manner that will not embarrass the employee before his/her peers or the public. The oral admonishment will be done only in the presence of those having a right to know.

Section 12. When an employee appeals an adverse action to the Merit Systems Protection Board and does not elect to have the Council represent him/her, the Council will be permitted to have an observer present at the adverse action hearing.

ARTICLE XXVIII

Grievance Procedure

Section 1. The Employer and the Council recognize the importance of settling disagreements and misunderstandings orderly, promptly, fairly and in a manner that will maintain the self-respect of the employee and be consistent with the principles of good management. The purpose of this Article is to provide a method acceptable to both the Employer and the Council for prompt and equitable settlement of grievances.

Section 2. Scope

A grievance means any complaint—

- A. by any employee concerning any matter relating to the employment of the employee;

B. by the Council concerning any matter relating to the employment of any employee; or,

C. by any employee, the Council, or Employer concerning:

1. the effect or interpretation, or claim of breach, of collective bargaining agreement; or,

2. any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

D. except it shall not include a grievance concerning:

1. those matters mandatorily excluded by Section 7121(c) of the CSRA:

a. any claimed violation relating to prohibited political activities;

b. retirement, life insurance, or health insurance;

c. a suspension or removal under Section 7532 (for national security reasons);

d. any examination, certification, or appointment, or,

- e. the classification of any position which does not result in the reduction in grade or pay of an employee.
2. the granting or failure to grant an employee performance award or other type of honorary or discretionary award or the adoption or failure to adopt an employee suggestion or invention;
3. termination of a probationary employee or an employee serving under a temporary limited appointment;
4. matters covered by Article Three, Rights and Obligations of the Employer;
5. a preliminary warning notice of an action which if effected would be covered under the grievance procedure;
6. notice of proposed adverse action, or proposed removal or reduction in grade based on unacceptable performance;
7. content of policy and regulations published by DHHS, PHS and NIH;
8. non-selection from a group of properly ranked and certified candidates for promotion;

9. any Reduction-in-Force (RIF) action taken under Part 351;
10. performance appraisal ratings.
11. a prohibited personnel practice under Section 2302(b)(1) of Title V;
12. a complaint or allegation of discrimination;
13. the substance of critical elements and performance standards of an employee's position;
14. a written warning or admonishment regarding performance, attendance or conduct which would not be included within the employee's Official Personnel Folder;
15. an effected removal or reduction in grade based on unacceptable performance.

E. This negotiated procedure shall be the exclusive procedure available to the Council and the employees of the bargaining unit for resolving such grievances which fall within its coverage unless otherwise provided by 5 U.S.C. 7121.

Section 3. When two or more employees have a grievance which may be reasonably construed as identical, the grievance will be joined and processed as one, if the employees (and the Council, if the Council is serving as the designated representative) agree.

Section 4. All grievances initiated under the negotiated grievance procedure must be in writing and personally signed and dated by the grievant(s). If the grievant is to be represented in pursuing the grievance, the name of the Council representative must also be included. The grievance should state precisely the nature of the grievance and the personal relief sought. No grievance will be accepted for consideration unless the above information is provided.

Section 5. It is the intent of the Parties to this Agreement that any dispute, subject to this grievance procedure, may be discussed at any step of the procedure, with the view in mind of effecting an equitable settlement. In this regard, every effort will be made to arrange and conduct the discussions in an atmosphere free from hostility and personal attack.

Section 6. The following procedures shall be adhered to in resolving grievances:

Step 1. The grievance first shall be taken up by the aggrieved and submitted in writing within twenty (20) calendar days of the occurrence of the incident leading to the grievance to the supervisor who the employee believes has authority to adjust the grievance. Any grievance failing to comply with this time limit shall not be presented or considered at a later date.

In presenting the grievance, the grievant(s) shall state that the first step of the grievance procedure is being

evoked. The grievant(s) shall identify the facts giving rise to the grievance and the relief requested. The employee may represent himself, or if he chooses, may be represented by the Council. No other representative will be recognized for grievances filed under the negotiated grievance procedure.

Initially, the supervisor will meet with the employee and the shop steward and only if there is mutual consent will additional persons be present.

The supervisor will give his/her decision in writing within fifteen (15) calendar days. The decision letter will include the name of the management official designated to receive Step 2 complaints.

The Council shall be afforded the opportunity to be present at all formal discussions between the Employer and the employee concerning the grievance and at the appropriate time to make known the views of the Council regarding the grievance.

Step 2. If a satisfactory settlement has not been reached at Step 1, the grievance may be presented in writing by the grievant(s) to a higher level of supervision within seven (7) calendar days after receipt of the first step decision. The management official receiving Step 2 complaints shall give his/her written decision within fourteen (14) calendar days after receipt of the grievance and furnish copies to all parties concerned. If unfavorable, it will include

the name of the Collective Bargaining Official or his/her designated representative to receive Step 3 grievances.

Step 3. If a satisfactory settlement has not been reached at Step 2, the grievance may be presented in writing by the grievant(s) to the Collective Bargaining Official or his/her designated representative within seven (7) calendar days after receipt of the Step 2 decision. The Collective Bargaining Official, or the designated official receiving the grievance, shall give his/her written decision within fourteen (14) calendar days after receipt of the grievance and furnish copies to all parties involved.

Section 7. Failure of the Employer to meet the time limits prescribed above shall permit the Council to move the grievance to the next step of the procedure. Failure of the employee or the Council to meet the time limits prescribed above shall constitute withdrawal and termination of the grievance. Any time limits stipulated in the above procedure may be extended for stated periods of time by the appropriate parties by mutual agreement in writing.

Section 8. Grievances concerning effected adverse actions are to be filed in writing within seven (7) calendar days of the notice of decision to the official designated by the Employer in the notice of decision. That designated individual will respond to the employee within fourteen (14) calendar days. The employee

may then forward the grievance to the Collective Bargaining Official in accordance with Step 3 of the above procedure. If the Associate Director or Executives Officer was the Proposing Official or the Deciding Official on the adverse action being grieved, the employee's grievance must be initiated at Step 3.

ARTICLE XXIX

Arbitration

Section 1. If the Employer and the grievant fail to settle a grievance processed under the negotiated grievance procedure, such grievance, upon written request to the Federal Mediation and Conciliation Service (FMCS) by either the Employer or the Council, may be submitted for arbitration. The request must be made within twenty (20) calendar days after the issuance of the Employer's final decision on the grievance. The Federal Mediation and Conciliation Service will be requested by the moving party to submit a list of seven impartial persons qualified to act as arbitrator. The Parties shall meet within seven (7) calendar days after receipt of such list and if they cannot mutually agree upon one of the listed arbitrators, then the Employer and the Council each will strike one of the listed arbitrators' names from the list of seven and shall repeat this procedure and the remaining name shall be the duly selected arbitrator.

Section 2. The cost of the arbitration, any transcripts, and any non-government facilities used for the hearing shall be borne equally by the Employer and the Council. The per diem cost to the Employer shall not exceed that authorized by law or regulations. Arbitration hearings shall be held during the regularly scheduled workweek and all employee representatives, employee appellants and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings, except that under no circumstances shall the aggrieved employee, his representatives or witnesses, be paid overtime by reason of participating in arbitration.

Section 3. The arbitrator will be requested by the Parties to render a decision as quickly as possible, but in any event no later than thirty (30) calendar days after the conclusion of the hearings, unless the Parties otherwise agree. It is recognized and agreed that the arbitrator's decision is binding. An appeal of the arbitration award can only be made in accordance with the provisions of Title VII of the CSRA. It also is expressly understood that the only matters which are subject to arbitration are grievances which are processed and handled in accordance with the negotiated grievance procedure.

ARTICLE XXX

Dues Deduction

Section 1. Employees may make voluntary allotments for the payment of Council dues. To be eligible an employee must:

- a. be a member in good standing of the Council;
- b. be a member of a unit covered by this Agreement;
and,
- c. have a regular net salary after other legal and required deductions sufficient to cover the amount of the authorized allotment for dues.

Section 2. Allotments will be made for the regular periodic amount of dues required to maintain the employee as a member in good standing of the Council. Initiation fees, special assessments, back dues, fines and similar items are not dues.

Section 3. Dues will be withheld on a biweekly basis conforming to the regular pay period and will begin with the first full pay period following receipt of the allotment form in DHHS Central Payroll.

Section 4 The Council shall:

- a. make available to its members necessary authorization forms (SF-1187);
- b. certify on Form SF-1187 the amount of dues to be withheld;
- c. notify the Labor Relations Officer (LRO) when an employee with an allotment ceases to be a member in good standing;

d. notify the LRO when there is a change in the dues (changes may be made only once every twelve months); and,

e. provide the LRO with the name and address of the individual authorized to receive the check in payment of dues.

Section 5. Employees may revoke their allotment for dues, however, revocations will not be effective until the first full pay period following March 1 provided the revocation is received by DHHS Central Payroll sufficiently in advance of the revocation date.

Section 6. The Parties agree that there shall be a single level dues structure under this Agreement. The withholding account number for this Agreement is 086.

Section 7. A check in payment of dues shall be made payable to the individual identified in Section 4e. That individual will also receive from the LRO a listing in duplicate showing:

- a. the names of members from whom deductions are made and the amount deducted;
- b. total number of members for whom dues are withheld; and
- c. total amount withheld

Section 8. Allotments will be terminated (1) when a bargaining unit employee ceases to be a member in good standing of the Council, (2) if the Council loses exclusive recognition for the covered unit, (3) when the employee is separated from the Department and/or (4) when the employee is reassigned or transferred from the unit to part of the NIH or the Department where the Council does not have exclusive recognition or where he/she is excluded from the unit because of his/her position as a supervisor or management official, a confidential employee or a professional employee or for other reasons specified by Title VII. It is agreed that the employee has responsibility for notifying the Labor Relations Officer that his/her allotment should be terminated by completing and forwarding a Standard Form 1188. The Council is responsible for notifying the Labor Relations Officer whenever an employee's allotment should be terminated because the employee has ceased to be a member in good standing of the Council.

ARTICLE XXXI

Bulletin Boards

Section 1. The Employer agrees that bulletin board space shall be provided in designated areas within the bargaining unit for the display of Council literature and notices.

Section 2. The Council may post literature; however, it must not violate any laws, the security of the activity,

or contain scurrilous or libelous material. Material to be posted shall not contain the official NIH letterhead or seal, or contain personal attacks on or support of individuals, political parties, racial or religious groups, private companies, governments, etc.

Section 3. The Council will be responsible for posting their material on the bulletin boards. All bulletin board material must be kept current, up to date and present a neat, orderly appearance.

ARTICLE XXXII

Training and Career Development

Section 1. The parties recognize that the training and development of employees contribute toward efficient operations. Accordingly, the Employer will, within budgetary and staffing limitations, and to the extent practicable, encourage and provide employees with necessary training and development opportunities to enable them to perform their assigned work more effectively, as well as to enhance career opportunities within the activity to qualified employees.

Section 2. The Employer is responsible for applying reasonable effort, time, and initiative in increasing the employee's potential value through self-development and training. Both parties will encourage employees to take advantage of training and educational opportunities which will add to the skills and qualifications

needed to increase their efficiency in performance of their duties and for possible advancement.

Section 3. The determination of training needs, the choice of subject matter, areas of training, selection of employees and the assignment of training priorities is a function of the Employer.

Section 4. The Employer encourages the Council to submit its recommendations concerning any aspect of training relevant to the unit at any time to the official that is responsible for the unit's operation.

ARTICLE XXXIII

Duration and Changes

Section 1. This Agreement shall remain in full force and effect for a period of three (3) years after its approval. It shall be automatically renewed for equivalent periods unless (1) either party gives the other party notice of its intention to terminate or renegotiate this Agreement no less than sixty (60) nor more than one-hundred and five (105) calendar days prior to its terminal date, or (2) at any time it is determined the Council no longer is entitled to exclusive recognition for the units covered hereunder as provided by Title VII. Negotiations shall begin no later than ninety (90) calendar days after notification of intent to renegotiate the Agreement. If renegotiation of the Agreement is in progress but

not completed upon the terminal date of this Agreement this Agreement will remain in effect.

Section 2. Amendments to this Agreement may be required because of changes in applicable laws, rules, regulations or policies issued by higher authority after the effective date of this Agreement. In this event the Parties will meet for the purpose of negotiating new language that will meet the requirements of such higher authority.

Section 3. In the event it is found that sections of this Agreement are defective or unworkable, this Agreement may be reopened for amendment provided that any request for amendment for these reasons is submitted in writing and is accompanied by a summary of the basis for the request; and provided further that both Parties consent to the reopening of the Agreement for the purpose requested. A written notice of desire to renegotiate shall not have the effect of terminating this Agreement.

Section 4. This Agreement, entered into between the Employer and the Council, prior to becoming effective, is subject to the approval of the Public Health Service.

Nature of service	Type of Absence			Fees			Government travel expenses	
	Court leave	Official duty	Annual leave or LWOP	No	Yes		No	Yes*
					Retain	Turn in to agency		
I Jury Service								
(A) U.S. or D.C. court	X			X			X	
(B) State or local court	X					X	X	
II Witness Service								
(A) On behalf of U.S. or D.C. government		X		X				X
(B) On behalf of state or local government								
(1) in official capacity		X				X		X
(2) not in official capacity	X					X	X	
(C) On behalf of private party								
(1) in official capacity		X				X		X
(2) not in official capacity								
(a) when a party is U.S. D.C., or State or local government	X					X	X	
(b) when a party is not U.S., D.C., or State or local government			X		X		X	

* Offset to the extent paid by the court, authority, or party which caused the employee to be summoned.

The parties have entered into this Agreement on March 20, 1991

For the Union:

Christopher M. Hill

Christopher Hill
Chief Negotiator

Malden C. Clark

Member

James Simpson

Member

Thomas S. Benda

Member

Robert D. Gys

Member

For the Employer:

Charles Patterson

Charles Patterson
Chief Negotiator

Donna F. Kupper

Member

Walter Wilson

Member

Sara Fillion

Member

Anthony J. Kowalski

Member

Henry P. Carter

Member

Stephen C. Benowitz

Stephen C. Benowitz
Collective Bargaining Official

The effective date of this agreement is April 17, 1991