

APPENDIX A

ACCESS TO FACILITIES AND SERVICES

NTEU 08/09/10

Section 1. Access to CBP facilities and services for communication among the Union, the bargaining unit and the Agency will facilitate labor-management relations, save time and energy, and produce more efficient and effective working relationships. Agreed

Section 2. A. Upon a Union request received by the Employer, normally no later than twenty-four (24) hours in advance, the Employer will provide meeting space, if available, in areas occupied by the Employer, for meetings during non duty hours. The Union will comply with all security, safety and housekeeping rules in effect at that time and place. Agreed

B. Any request for meeting space must contain the date, time, duration and purpose of the meeting and the estimated number of employees expected to attend. Agreed

C. An NTEU National Representative, upon an approved request received by the Employer normally no later than twenty-four (24) hours in advance, may visit non-work areas located on the Employer's premises to discuss appropriate Union business with bargaining unit employee during non-duty hours. Absent just cause, the Union's request will be approved. Agreed

D. Employees attending meetings under this Section will do so only during non duty hours or while in a leave status. Agreed

Section 3. Mutually agreed upon space will be provided for the placement of ballot boxes provided by the Union to be used in conjunction with Chapter Officer elections governed by local by laws. The Union will comply with security and housekeeping rules in effect at that time and place. No responsibility for the safety or security of the ballot boxes is assumed by the Employer. Agreed

Section 4. A. Upon reasonable advance request by the Union, the Employer will provide confidential meeting space during official hours of business, in areas occupied by the Employer. Agreed

B. In the event meeting space is not available, the Employer will make necessary arrangements to reserve meeting space as soon as it becomes available. Agreed

C. Nothing in this Section shall be construed as permitting meetings for the purpose of discussing internal Union business. Agreed

Section 5. A. For purposes of this Section, the term "official bulletin board" is defined as any physical bulletin board upon which the Employer posts notices to and for employees. Agreed

B. The Employer agrees to provide the Union with reasonable amount of dedicated space on each official bulletin board for its exclusive use. In addition, and subject to applicable restrictions, the Employer will provide space for the Union to install one bulletin board, of reasonable size, per floor occupied by employees. The Union will pay for the boards and the cost of installation. The boards will be for the exclusive use of the Union. Agreed

Section 6. A. The Union may distribute material on the Employer's premises during non duty hours (e.g., lunch hours) in non work areas during scheduled work hours provided that the employees distributing and receiving the material are on their own time and provided that there is compliance with the Employer's security policies and practices. Agreed

Non work areas are: cafeteria or any other commercial enterprises located on the Employer's premises (with approval of lessor or operating agency), space set aside as snack bar or break areas, and rest rooms, entrance ways, lobbies and parking lots. Agreed

B. Material distributed by the Union in accordance with Section 6.A that does not libel or slander any individual, other labor organizations, government agencies, or activities of the Federal Government may be distributed so long as it relates to working conditions or practices, or labor-relations communications. Agreed

C All costs incidental to the preparation, posting and/or distribution of Union materials under Section 6, will be borne by the Union. Agreed

Section 7. A. To promote the efficient distribution of this Agreement, CBP will post the Agreement on its intranet site. The posted Agreement will have hyperlink ability to assist in navigating through the articles. Once the Agreement is posted, the Employer will immediately inform all employees of its availability and how to view its contents. Agreed

B. CBP will also post on both intranet and internet, mid agreements entered into at the national level in addition to all Agency Directives, handbooks etc. that impact employee conditions of employment. Agreed

C. All employees and NTEU National will be provided a copy of the agreement by the employer on CD ROM with hyperlink ability.

D. If the employer prints paper versions of the agreement for non-unit employees, it will also print paper versions for all unit employees, unless the union offers and the employer agrees to print and distribute a non-precedential "employee guide" prepared by NTEU that explains the contract in less technical language. This document will be no more than 40, 4x8 pages and as guidance will in no way override the formal language of the agreement. Whether the employer prints a complete paper copy of the agreement or the guide, it will give each chapter one additional copy for every ten employees in that chapter's jurisdiction and national NTEU 200 copies.

Section 8. A. The Union's use of agency equipment, supplies, and/or media for communications concerning Employer Union business is permitted when available. Examples of such communication media include U.S. mail, fax machines, electronic mail, telephones, video or teleconferencing, two-way radio, photocopiers, inter-office mail, physical and electronic bulletin boards. Agreed

B. Communication by U.S. mail does not include the use of government paid postage. Agreed

C. The Union may establish National and Chapter electronic bulletin boards for one-way communication designed to reach large numbers of employees. CBP will provide access for designated CBP employees to mainframe bulletin boards where available, for viewing NTEU information. Agreed

D. The Union's use of agency equipment or supplies for internal Union matters or business is strictly prohibited. Agreed

E. Upon reasonable advance request, the Union will be allowed to use the Employer's audio visual equipment, if locally available, for use during new employee orientation presentations. Agreed

F. The Employer will provide all employees, as practicable, with access to a CBP electronic mail system. Employees may exchange messages related to official Agency business or Employer-Union matters across the systems. Agreed

G. All costs incidental to the use of such equipment will be borne by the Union. The Union shall return any equipment used to the Employer in good condition promptly after being used. Agreed

Section 9 A. The Employer agrees to furnish to the Union, for its internal use only, a list which contains the name, grade, position title, series, EOD, AC office, field office, port/equivalent location, and the employee identification numbers of all employees (or the Social security numbers of dues-withholding employees). Additionally, the list will include information describing whether each employee seasonal, intermittent, permanent part-time, permanent full-time, temporary, term, etc.). This list will be supplied within one month after this Agreement becomes effective and on February 1, May 1, August 1, and November 1 of each year thereafter.

B. Deleted.

Section 10. The Employer will provide upon request, two (2) four-drawer file cabinets, if available, to each NTEU Chapter listed in Appendix A which has not been provided with file cabinets by the Employer. Agreed

Section 11 A. Space availability and budget considerations permitting, as determined by the Employer, the Employer will make good faith efforts to provide lockable lockers for uniformed employees to be located near their work areas. In addition, the Employer agrees to request the General Services Administration to furnish adequate locker space in new or replaced CBP facilities being constructed under their supervision, and also a like request will be made to authorities providing space to the Employer without charge. Agreed

B. Space availability and budget considerations permitting, as determined by the Employer, the Employer shall, within its authority, make reasonable attempts to insure that adequate eating space, drinking fountains, sanitary facilities and vending machines are available at all permanent locations, which shall be properly heated and ventilated. Agreed

C. Space availability and budget considerations permitting, as determined by the Employer, the Employer shall, within its authority make reasonable attempts to insure that adequate lounges/break rooms are provided at all permanent locations. Agreed

Section 12. The Employer will list the name, office telephone number, home or Union office telephone number of each Chapter President and NTEU National Vice Presidents (2) in the CBP telephone directory. Agreed

Section 13. A. CBP will provide those NTEU Chapters with at least one full-time union representative reasonable lockable office space on site of no less than 250 square feet. Those other chapters with a past practice of a local lockable office will continue to retain that space. CBP will provide Union representatives with private office space on an ad hoc basis in order to perform representational functions in those areas that do not have a dedicated Union office.

B. Any space considered for availability must be in accordance with government wide regulations on space management. However, at a minimum, any office provided will be equipped with a desk, four chairs, and a telephone. Agreed

C. Based upon need, equipment and system availability and budget considerations, the Employer will make reasonable efforts to provide a Union office in Employer-controlled space, with a fax machine, computer and systems access. Alternatively, the Union may provide such equipment and access at their expense. Agreed

D. Any disputes regarding CBP provided space and/or equipment availability may be referred to the appropriate Field Level Labor-Management Relations Committee. Agreed

E. Nothing in this Subsection is intended to reduce the number of Chapter union offices in place as of the effective date of this Agreement. Agreed

Section 14. The Employer will make reasonable efforts to ensure that temperatures within CBP occupied office space are adjusted, where possible, to the allowable limits prescribed by applicable law, regulation or directive. Where temperatures in CBP occupied office space consistently fail to meet the allowable limits referred to above, the Employer shall make reasonable efforts to have the situation corrected. Agreed

Section 15. The Employer will provide the Union appropriate notice when a determination is made to acquire new or modify existing space and this decision may affect unit employee working conditions. The Employer will consider Union recommendations in making determinations related to space management. Agreed

Section 16. The Employer will promptly forward to the lessor substantiated complaints by employees alleging problems relating to space management outside the Employer's control. Agreed

Section 17. Employees will, in accordance with the provisions of the Public Transportation Incentive Program, be provided with the maximum allowable transportation subsidy they qualify for based on their commute. Agreed

Section 18. A. When the Employer possesses the authority to establish parking fees at duty locations, the Union will be provided notice and the parties will negotiate locally in accordance with Article ___: Bargaining. Agreed

B. The Employer will establish a pre-tax dollar parking benefit program to be implemented within three (3) months of the effective date of this agreement. Agreed

Section 19. A. Upon the request of the Chapter President, the Employer will provide one "blackberry" per NTEU Chapter, including any necessary government access codes, to enable the Chapter to communicate with managers and employees on employee conditions of employment.

B. Chapter officials using agency provided blackberries are responsible for operating the device in accordance with applicable CBP policy.

C. Communication with a blackberry in accordance with this section may not be used for any purpose other than labor-management relations. Chapter officials using a blackberry in accordance with the section are not entitled to increased forms of compensation, e.g., claims under FLSA

Section 20. In the administration of this Article, no local NTEU Chapter will forfeit any rights, privileges, benefits or access to CBP facilities or services contained in any collective bargaining agreement between NTEU and Customs/CBP unless specifically in conflict with this Article.
Agreed

Section 21. In the event that employees are prohibited from carrying a privately owned pager, cell phone or other wireless communication device to receive incoming calls or messages, the Employer will ensure that at least one manned telephone line is available at all Ports covered by such policy which is specifically and solely dedicated to receiving incoming emergency telephone calls to bargaining unit employees (in a manner consistent with 64 FLRA No. 70). For Ports with operational command centers that are staffed and answer calls during operational hours, the Employer may use existing multipurpose phone lines at such centers for this purpose. For Ports without such command centers, the Employer will add a dedicated phone line for this purpose. CBP will implement internal procedures to ensure that impacted bargaining unit employees are immediately informed of the emergency telephone call. Port employees will be informed of the emergency telephone numbers and emergency notification procedures. Agreed

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ADVERSE ACTION

NTEU 08/09/10

Section 1. This Article applies to bargaining unit employees who have completed their probationary or trial period. Agreed

Section 2. An adverse action for purposes of this Article is defined as a removal, suspension from duty and pay for more than fourteen (14) calendar days (including an indefinite suspension), reduction in grade, reduction in pay, or furlough of thirty (30) calendar days or less unless excluded by law or government-wide regulation. Agreed

Section 3. A. Adverse actions taken against an employee will be for such cause as will promote the efficiency of the service. Adverse actions will be taken in a manner that is fair and impartial. Agreed

B. Adverse actions also will be administered in a timely manner.

Section 4. Adverse action penalties will be imposed to correct behavior, teach the employee and others that certain actions are unacceptable for an employee of CBP, and to demonstrate and support the expected high standards of conduct for CBP. As such, adverse actions under this Article shall taken with a progressive or corrective (rather than punitive) approach, and will give appropriate consideration to the penalty mitigation criteria contained in Appendix XX. (Douglas Factors) Agreed

Section 5. Procedures for effecting adverse actions are as follows:

A. The employee will be given thirty (30) calendar days advance written notice stating the specific reason(s) for the proposed suspension, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. With the notice, the employee will be provided, to the extent such information exists and is related to the action, a copy of those portions of all written documents which contain information or evidence relied upon by the Employer as the basis for the action, those portions of written documents that are favorable to the employee, and the investigative report. In addition, in the event the Employer reviewed video or audio surveillance recordings in proposing the action, such recordings will be made available for review by the employee. Agreed

B. The employee will be given fourteen (14) calendar days from receipt of the notice of suspension and supporting material to present an oral and/or written reply to the proposed suspension. The employee will have the right to be represented by the Union, or by an attorney or other representative of his own choosing in connection with the oral and/or written reply. Extensions of the reply period may be made by mutual agreement of the parties. All extensions granted will be confirmed in writing or electronic mail. Agreed

(a) Oral Replies

1. Absent just cause, any request for an oral reply must be made within seven (7) calendar days of receipt of the notice of suspension.
2. Upon request by either party, oral replies will be presented in person. By mutual agreement, oral replies may be provided by telephone or other technological means (including video teleconferencing).
3. Oral replies will generally be heard at or near the employee's duty location, and CBP will provide time and reimburse the employee and his or her union representative to travel to and from the oral reply location.
4. In the event management elects to hold the oral reply at a location outside the employee's duty location, CBP will be responsible for all travel and per diem costs, as well as time for the employee and his or her union representative to travel to and from the oral reply location.
5. To the maximum extent possible, NTEU will make a reasonable effort to designate a representative at or near the employee's work location to participate in oral replies. In the event NTEU elects to designate a representative outside of the geographical jurisdiction of the employee's NTEU Chapter, NTEU will be responsible for the travel and per diem expenses for its representative to attend the oral reply.
6. In the event the employee chooses anyone other than an NTEU representative, NTEU will be invited to the oral reply merely to observe.
7. **Absent mutual agreement, CBP will provide a transcript of any oral reply to the affected employee and/or his/her designated representative prior to the time a final decision is made. Otherwise a summary will be done. The employee and representative will be given a reasonable period, based on the length of the summary or transcript, to identify and submit corrections they feel are appropriate before the final decision is made.**

(b) Written Replies: Written replies must be received by the designated official prior to the end of the fifteen (15) day notice period. AGREED

C. After receipt of the written and/or oral reply, and any corrections to the summary or transcript submitted by the employee or representative, the Employer will issue a final decision. In the event no written or oral reply is provided, the decision will be issued after the end of the fifteen (15) day calendar period. The final decision will advise the employee of the specific reason(s) for the decision and of the right to grieve the action under the negotiated grievance procedure or appeal the action to the Merit Systems Protection Board (MSPB), but not both. Agreed

(1) An employee who elects to appeal an action to the Merit Systems Protection Board may be represented by the Union or an attorney or other representative of his own choosing. Agreed

(2) An employee who elects to appeal an action through Article XX: Grievance Procedure may be represented only by the union. If the union appeals the action to arbitration, the employee may be represented only by the union. Agreed

D. In cases where an action is proposed for reasons of off-duty misconduct, the Agency's written notification provided for above will also contain a statement describing the nexus between the off-duty misconduct and the efficiency of the service. Agreed

Section 6. Suspensions taken under this article will be served on consecutive days following the commencement of the suspension. To the maximum extent possible, effective dates for suspension will be set so that the suspension is served across adjoining pay periods, and the suspension does not cover more than five (5) regular duty days in either pay period. Agreed

Section 7. Deleted

Section 8. Deleted

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ATTIRE AND APPEARANCE

NTEU 8/9/10

The purpose of this Article is to clarify and/or supplement the Employer's policies and procedures related to attire and appearance for uniformed and non-uniformed bargaining unit employees as reflected in the negotiated National Uniform Program Handbook (Handbook) as modified by this Article.

Section 1. Uniformed Employees.

- A.** The Employer will maintain and make information readily available to employees regarding its uniform program. At a minimum, such information will identify the types of employees required to wear a uniform, describe the procedures for ordering and purchasing uniform and related gear and explain the Employer's uniform wear policies and appearance standards. **Agreed**
- B.** The Employer's uniform program, including its wear policies and personal appearance standards will be established and maintained in a manner consistent with applicable law and regulation, as well as Federal Service Impasse Panel decisions not in conflict with this Article. **Agreed**
- C.** Uniformed employees are responsible for reporting to his/her first assignment in a neat, clean and complete uniform. Uniforms must be free from tears, visible repairs or other highly visible blemishes. Only uniform items and related gear officially authorized through the Employer's uniform program are authorized for wear (including authorized optional items). An employee reporting to his/her first assignment in a soiled, torn, unkempt or incomplete uniform may be relieved from duty. **Agreed**
- D.** In order to address the extreme heat and humidity in certain work environments, employees will be permitted to wear cargo shorts authorized under the Employer's uniform program in all Class 3 environments. Nothing in this subsection is intended to alleviate an employee's responsibility to adhere and follow safety standards and requirements. **Agreed**
- E.** The Employer will permit uniformed employees who serve as union officials to wear a NTEU pin or identification tag, to be designed and paid for by the Union and subject to Agency review and approval of the design, on the CBP uniform. When worn, such pin or identification tag will be centered on the right breast pocket flap of the uniform shirt. **Agreed**

F. The Employer will provide uniformed employees an annual allowance to be used toward the purchase of authorized uniform items and related gear.

- (1) For full-time CBP Officers, CBP Agriculture Specialists and Seized Property Officers, the allowance provided under this subsection will be in the amount of \$1,000 for the first fiscal year the employee is required to wear a uniform and \$800 each fiscal year thereafter.
- (2) For part-time CBP Officers and CBP Agriculture Specialists with regular schedules of twenty (20) hours or more per week, the allowance provided under this subsection will be in the amount of \$600 per fiscal year.
- (3) For part-time CBP Officers and CBP Agriculture Specialists with regular schedules of less than twenty (20) hours per week, the allowance provided under this subsection will be in the amount of \$360 per fiscal year.
- (4) For other authorized uniform positions, including CBP Technicians, the allowance provided under this subsection will be as follows:
 - (a) For full-time employees, \$800 the first fiscal year the employee is required to wear a uniform and \$640 each fiscal year thereafter.
 - (b) For part-time employees with regular work schedules of twenty (20) hours or more per week, \$600 per fiscal year.
 - (c) For part-time employees with regular work schedules of less than twenty (20) hours per week, seasonal employees and cooperative education/intern students, \$360 per fiscal year.

G. If an employee transfers into a uniformed position that is authorized a different class of uniform that was not authorized in the previous position, the employee will be provided an allowance adjustment of forty (40) percent of the ongoing allowance of the position to which they are transferred. **Agreed**

H. The Employer will maintain a mechanism by which employee requests for waivers from the Employer's uniform wear policy and personal appearance standards for medical or religious reasons will be reviewed and addressed. Such requests and resulting responses will be in writing. During the period an employee request submitted under this subsection is pending review and response by the Employer, the employee will not be required to conform to the specific policy or standard for which

the waiver was requested. The Employer will approve waivers in a fair and impartial manner. **Agreed**

H. (1) The parties will establish a six-person work group made up of equal numbers of Union and Agency representatives drawn from diverse work areas to conduct studies and make recommendations to the parties at the national level on cost effective methods of implementing uniform upgrades/conversion and other uniform issues as they arise. Either party may request to bargain modifications to the Handbook based on the deliberations of the work group.

(2) The workgroup will meet twice a year and will attempt to operate by consensus. At least one of the meetings will be face-to-face. NTEU representatives will participate in an official time status. CBP will pay the travel and per diem expenses of NTEU's representatives.

I. In the event the Employer exercises its right to change, modify, amend, or alter its uniform program in a manner that affects bargaining unit employees, it will provide notice and the opportunity to bargain over such changes in accordance with law and Article __: Bargaining. **Agreed**

J. When the Employer becomes aware that a uniformed employee, as a result of the performance of official duties, has been subjected to threats, harassment, or other conduct leading to a reasonable fear on the part of the employee for his/her safety (including the safety of his/her family), the Employer will: **Agreed**

(1) Promptly discuss the matter with the employee and authorize the use of a pseudonym for a period of not less than one hundred and twenty (120) days while the matter is being reviewed. At the end of this period, the Employer may extend the authorization for the use of the pseudonym in sixty (60) day increments pending the outcome of the review. **Agreed**

(2) Upon request and subject to applicable state law, rules and regulations, the Employer will provide the employee a letter supportive of an employee's request to his/her state Department of Motor Vehicles (DMV) for personal address confidentiality. **Agreed**

Section 2. National Uniform Program Handbook

The National Uniform Program Handbook will be modified to reflect the following:

- A. Employees will be neat, clean and professional in personal attire and appearance at all times while on duty as modified by the negotiated Personal Appearance Standards-Quick Reference Matrix. (Appendix X) Any other national or local grooming standards to the contrary are null and void.**
- B. Uniformed employees are authorized to wear outerwear indoors with all classes of uniforms, except with the Class 1 Ceremonial uniform. The only outerwear items not authorized for wear indoors (with exceptions to when employees are transitioning from indoors to outdoors and vice versa) are the raincoat and extreme cold weather parka.**
- C. Suspenders and a camel pack hydration system will be added to the uniform program as voluntary wear items.**
- D. Any other changes required by the parties' Agreement in this Article.**

Section 3. Non-uniformed Employees.

- A. Non-uniformed employees will maintain a professional appearance, consistent with norms prevailing in the local community. Employees will be attired in a manner appropriate for their position and the duties being performed, such as office duty, court duty, field duty, rough duty or other assignments. Agreed**
- B. Attire and/or personal appearances that create a real or potential health or safety hazard, interfere or are likely to interfere with the accomplishment of the Agency's mission by reducing an employee's ability to effectively deal or interact with either the public, fellow employees, governmental agencies or other organizational entities are prohibited. Agreed**
- C. A weekly business-casual dress day, consistent with subsections A. and B., will continue to be extended to all non-uniformed employees. Agreed**
- D. (1) When required to perform work in rough duty situations, the Employer will provide non-uniformed employees with the necessary protective clothing. In such cases, the Employer will make a sufficient number of garments available for this purpose, in a range of sizes. Maintenance costs for protective clothing owned by the Employer will be paid for by the Employer. Maintenance costs for protective clothing owned by the employee will be paid for by the employee. Agreed**
(2) Upon request, employees assigned duties on a regular or semi-regular basis that are traditionally performed by uniformed employees, e.g. import

specialists performing cargo examinations, will be provided individual uniform items to protect their clothing and persons on an as-needed basis.

- E.** The Employer will permit non-uniformed employees who serve as union officials to wear a NTEU pin or identification tag on their business attire, to be designed and paid for by the Union and subject to Agency review and approval of the design. **Agreed**

Appendix X: CBP PERSONAL APPEARANCE STANDARDS- QUICK REFERENCE MATRIX

CATEGORY	MALE	FEMALE
HAIR	<ul style="list-style-type: none"> • Will be neat, <u>trimmed and properly groomed.</u> • <u>Will not cover more than the top half of the ear, nor extend beyond the bottom of the shirt collar.</u> • <u>Will not be worn in extreme or faddish styles.</u> • Will not interfere with the proper wearing of CBP headgear • <u>Hair ornaments prohibited.</u> 	<ul style="list-style-type: none"> • <u>Shall be neat, natural in color and, conservatively styled.,</u> • <u>Shall be arranged so that it does not extend below the shoulder.</u> • Will not interfere with the proper wearing of CBP headgear • Conservative hair ornaments permitted.
SIDEBURNS		
FACIAL HAIR	<ul style="list-style-type: none"> • Facial hair will be no longer than ½ inch to 1 inch in length unless required for medical or religious reasons. 	
FINGERNAILS	<ul style="list-style-type: none"> • <u>Shall not extend beyond the fingertips.</u> • <u>False fingernails and polish prohibited.</u> 	<ul style="list-style-type: none"> • Shall extend no more than ¼ inch beyond the fingertips. • Must be well manicured and clean at all times.
COSMETICS		<ul style="list-style-type: none"> • <u>Only cosmetics which are conservative in color and amount shall be permitted.</u>
RINGS	<ul style="list-style-type: none"> • Officers shall wear no more than two (2) rings. • Must not be likely to catch on other objects. • Shall be no larger than standard university or college rings. • Engagement and wedding rings count as one ring. 	<ul style="list-style-type: none"> • Officers shall wear no more than two (2) rings. • Must not be likely to catch on other objects. • Shall be no larger than standard university or college rings. • Engagement and wedding rings count as one ring.
NECKLACES	<ul style="list-style-type: none"> • Must be concealed (not visible) while wearing uniform. 	<ul style="list-style-type: none"> • Must be concealed (not visible) while wearing uniform.

<p>EARINGS</p>	<ul style="list-style-type: none"> • <u>Prohibited</u> 	<ul style="list-style-type: none"> • May wear plain, stud-type earrings no more than ¼ inch in diameter • Wearing of more than two pairs is prohibited.
<p>BRACELETS</p>	<ul style="list-style-type: none"> • <u>Prohibited except for medical alert bracelets.</u> 	<ul style="list-style-type: none"> • <u>Prohibited except for medical alert bracelet.</u>

<p>CATEGORY</p>	<p>MALE</p>	<p>FEMALE</p>
<p>WATCHES</p>	<ul style="list-style-type: none"> • May wear one (1) conservatively styled watch. • <u>Band will be gold, silver, black, or dark blue in color.</u> • Bracelet style <u>prohibited</u> 	<ul style="list-style-type: none"> • May wear one (1) conservatively styled watch. • <u>Band will be gold, silver, black or dark blue in color.</u> • Bracelet style <u>prohibited.</u>
<p>EYEWEAR</p>	<ul style="list-style-type: none"> • Will be conservative in style and color • <u>Neon or brightly colored frames, mirrored or wraparound lenses are not authorized.</u> • <u>Straps may be worn if they are black in color.</u> 	<ul style="list-style-type: none"> • Will be conservative in style and color • <u>Neon or brightly colored frames, mirrored or wraparound lenses are not authorized</u> • <u>Straps may be worn if they are black in color.</u>
<p>BODY PIERCING</p>	<ul style="list-style-type: none"> • May not be visible 	<ul style="list-style-type: none"> • May not be visible
<p>TATOOS/BRANDS</p>	<ul style="list-style-type: none"> • Will be physically covered to the greatest extent possible. • Must be concealed if obscene, racially motivated, or gang-related. 	<ul style="list-style-type: none"> • Will be physically covered to the greatest extent possible. • Must be concealed if obscene, racially motivated, or gang-related.
<p>BODY ALTERATIONS</p>	<ul style="list-style-type: none"> • Intentional alterations prohibited. 	<ul style="list-style-type: none"> • Intentional alterations prohibited.

AWARDS AND RECOGNITION

NTEU 8/09/10

Section 1. Recognition of employee accomplishments is an important element in effective workforce management. Awards are “something bestowed or an action taken to recognize and reward individual or team achievement that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the Government or is otherwise in the public interest.”) This Article contains the policy and procedures for distributing awards for the bargaining unit. AGREED

Section 2.A. If during the first full fiscal year of this contract the agency does not distribute awards at each Port of Entry (or equivalent level) of at least one and one-quarter (1.25) percent of the total annual bargaining unit salary (including base salary and locality pay), the union may reopen negotiations to supplement the monetary awards program with the grant of time-off awards. This percentage will be set by annualizing the total unit salary figure for the last pay period of the fiscal year. In the event the Agency is unable to pay awards amounting to at least one (1) percent during the year in which the contract is implemented, it will notify and provide NTEU the opportunity to bargain (at the national level) in accordance with law and the procedures contained in Article : Bargaining.

B. The Agency will ensure the percentage of funds (calculated in terms of percentage of employee salary) dedicated to awards for the bargaining unit at a Port of Entry (or equivalent level) will be no less than the percentage of funds (calculated in terms of percentage of employee salary) dedicated to the non-bargaining unit pool. For example, if non-unit employees receive 1.5% of their total annual salary in awards, the unit amount will be raised to the same figure. AGREED

C. The Agency will ensure that no less than eighty-five (85) percent of the annual bargaining unit award funding at a Port of Entry (or equivalent level) is made available for distribution as Superior Achievement Awards under Section 5 of this Article. The remainder shall be available for distribution as Other Awards under Section 6 of this Article. AGREED

D. Awards that provide monetary recognition will be in the form of a lump sum payment. AGREED

Section 3. No later than thirty (30) calendar days following the commencement of the first performance year in which this Article applies, the parties will publicize the procedures, appropriate forms, and time frames associated with this article to all employees. This includes the Agency conducting a formal discussion for unit employees to receive additional information and raise questions. Union representation will be allowed to attend and participate in these discussions in accordance with the official time procedures contained in Article __: Official Time. AGREED

Section 4. Superior Achievement Awards. A Superior Achievement Award is intended to recognize employees or groups/teams on the basis of --

- (1) 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;
- (2) A special act or service in the public interest in connection with or related to official employment; or
- (3) Performance as reflected in the employee's most recent rating of record (as defined in § 430.203).

Section 5. Superior Achievement Award Nominations & Publication.

A. Joint Awards Committees.

- (1) At the commencement of each performance year, the Port Director (or equivalent management official or designee) and the local NTEU Chapter President will establish a Joint Awards Committee (JAC). Such committees will be made up of three (3) representatives each from NTEU and CBP. Representatives are generally expected to serve on the JAC for the entire performance year. AGREED
- (2) Employees serving as union representatives on the JAC will do so while on official time in accordance with Article __: Official Time. AGREED
- (3) The JAC will be responsible for evaluating nominations for Superior Achievement Awards for bargaining unit employees and submitting recommendations for such awards to the designated management official for final approval. AGREED
- (4) The required quorum for any JAC meeting is two (2) representatives each from NTEU and CBP. AGREED
- (5) To ensure the JAC is prepared to execute its responsibilities under this Article, it should jointly review these procedures at the commencement of each meeting.
- (6) JAC deliberations concerning awards nominations and recommendations will be considered confidential by both parties and as such, will not be publicized to the bargaining unit except as specifically provided for in this Article. This provision is not intended to prohibit either party from presenting evidence or providing testimony regarding the conduct of a JAC in a third party proceeding (e.g., arbitration, EEO complaint or Unfair Labor Practice Complaint) where such evidence or testimony is relevant or necessary to the adjudication of the case. Once the final decisions have been made quarter-by-quarter, the members of the JAC are free to explain to nominated employees why they were not recommended, or, if recommended, why they were not given an award.
- (7) JAC members may not participate in or be present during the deliberation of an award for which they are nominated or initiated the nomination. AGREED

B. Award Nomination and Determination Procedures.

(1) **The Employer will establish a standardized form, consistent with the data requirements of this article, as well as law and regulation, on which award nominations will be submitted.**

(2) To be eligible for consideration for an award under this process, employees nominated for either individual or group/team awards must have been rated Successful during their most recent annual proficiency rating. Nominations for awards under this process will be submitted in the following ways: AGREED

(a) **Groups/Teams: may be nominated by any of the group/team's members; sponsor or supervisor of the group/team; and/or by a CBP employee who uses or benefits from the group's/team's services or products.**

(b) Individuals: may be nominated by a peer/co-worker; the employee him/her-self; a manager or supervisor; or by the other members of a group/team of which the individual is a member.
AGREED

(3) **At the conclusion of each of the fiscal quarters, the Port Director (or equivalent management official or designee) will formally solicit nominations from employees and/or supervisors identifying exceptional award-worthy performance of a specific covered employee, group or team during that quarter.**

(4) **Employees will be provided a minimum of fourteen (14) calendar days from the date of the solicitation announcement to submit award nominations to the nominated employee's supervisor.**

(5) Supervisors will review each nomination form received during the solicitation period, validate (and document on the form) the nominated employee's eligibility for an award, **and confirm, modify, oppose or assert a lack of knowledge about the employee's performance of the activity identified in the nomination.** The supervisor may also provide any additional information (s)he wishes the JAC to consider in the evaluation of the nomination. Completed nomination forms will be submitted to the designated Joint Awards Committee member(s) within fourteen (14) calendar days from the date of the end of the solicitation period. **Supervisors will send the nominating and nominated employee(s) an e-mail confirming that the supervisor passed it to the JAC timely.**

(6) **Within fourteen (14) calendar days from the date of receipt of the award nominations, the JAC will evaluate the nomination and make a written recommendation as to which nominees will receive awards under the criteria established in this Article and the number of shares. If there is not unanimous consent among the committee members to use Guide Chart A, the committee will use Guide Chart B. For the purpose of this submission,**

all nominees for which one-half of the committee in attendance agrees should receive an award will be forwarded as an award recommendation.

(7) When evaluating award nominations, the JAC will weigh the supervisor's assessment of the accuracy of the nomination with all other available evidence.

(8) In accordance with applicable law, rule and regulation, employees may not receive individual awards under this process for the performance of union representational functions.

(9) Within fourteen (14) calendar days of receiving the JAC recommendations, the official with award approval authority will consider the recommendations and accept, modify or reject them. If recommendations are rejected or modified, the approving official will provide the JAC with a reasonably detailed written explanation of the decision. If not acted upon in the required period of time, the nomination will be considered accepted and treated as the final agency decision.

Final decisions rejecting or modifying JAC recommendations may be grieved at the final step of the negotiated grievance procedure as described in Section __ of Article __: Grievance Procedure. Accepted recommendations (including no award) may not be grieved nor may nominations that fail to receive at least one-half of the committee's votes.

(10) By mutual agreement, Port Directors (or equivalent management officials or designees) and Chapter Presidents are authorized to modify the time deadlines described above as well as adopt a more explicit criteria than found in Section 4A above and the Guide Charts. "By mutual agreement" means that the parties do so voluntarily, and does not confer or infer any right or obligation to engage in bargaining, or to submit any disagreement over a proposed variation to grievance, arbitration or any other impasse dispute procedures. Such agreements must be placed in writing and signed by the parties prior to the commencement of the performance year. Such agreements are binding until such time as either party provides written notice to the other of its intent to withdraw. Withdrawals will be effective at the beginning of the performance year following receipt of the notice.

(11) An employee or team may only receive one award under this process for a particular accomplishment. AGREED

C. Calculation and Distribution of Awards. At the end of the performance year, the Employer will use the following procedure to determine the amount of and distribute Superior Achievement Awards:

(1) The value of a share at a Port of Entry (or equivalent level) will be determined by dividing the bargaining unit awards pool for that Port of Entry (or equivalent level) by the total number of shares issued through the JAC process at that Port (or equivalent level). **The calculations of Section 2A above will be made as of the end of the performance year and based on the data for the total performance year.**

(a) Employee awards at a Port of Entry (or equivalent level) will be calculated by multiplying the share value calculated in Section 5.D.(1) by the number of shares awarded to the employee through the JAC process. AGREED

1. **If an employee is to receive an award of more than \$2,500.00, the JAC has the authority to cap the award at \$2,500 and redistribute the money to others receiving awards under the 85% distribution. However, this decision must be made by mutual agreement as defined elsewhere in this article. This figure will be raised to \$3,000 in the second award cycle under this agreement and to \$3,500 thereafter.**

2. The minimum value of a share may not be less than \$100.00. Should this occur, the number of awarded shares will be adjusted by the factor necessary to bring the value of a share to \$100.00. For example, if 200 shares were issued for an awards pool of \$10,000.00 (resulting in a share value of \$50.00), the number of shares awarded each employee would be multiplied by an adjustment factor of 0.5. In this scenario, an employee who received 10 shares would receive \$500.00 (10 shares X 0.5 X \$100 (minimum share value). Following this adjustment, any employee who received a total of less than one (1) share will not receive an award. AGREED

(b) Absent circumstances beyond the control of the Employer that prevent payment of the awards within 90 days of the end of the performance cycle, all awards issued under this process will be distributed within ninety (90) days of end of the performance cycle. In the event payment cannot be made at that time, the Employer will notify the Union as soon as practicable.

(c) **Concurrent with their distribution, the Employer will locally post a list of all Superior Achievement Awards to include the name, amount, and description of performance prompting the award. It will e-mail the same data to the local chapter president.**

Section 6.A. AGREED

Other Awards. Awards under this section are designed to permit managers to quickly recognize one-time and short-term efforts of employees or groups/teams that result in service of an exceptionally high quality or quantity. Examples of such efforts include situations where employees or groups/teams:

- (1) Produce exceptionally high quality work under tight deadlines;
- (2) Produce added or emergency assignments in addition to their regular duties;
- (3) Demonstrate exceptional courtesy or responsiveness in dealing with customers or colleagues;
or
- (4) Exercise extraordinary initiative or creativity in addressing a critical need or difficult problem.

B. These awards may be recognized in one or a combination of the following:

- (1) Special Act Cash Award: Monetary award for satisfying the criteria in Section 6.A.
- (2) Time-Off Recognition: Time-Off recognition is time off work without charge to leave.
- (3) Non-Traditional Awards. Non-traditional awards include items with the CBP seal, logo or another specially designed inscription related to the CBP mission/work, ranging from those approved and conferred by the Commissioner to smaller recognition items such as paperweights. In addition, supervisors have the authority to give other non-traditional awards such as theater tickets or merchandise up to \$100.00 per award item, but no more than a total of \$400.00 per employee per calendar year.

C. Agency managers have the discretion to grant awards under this section without conducting a formal nomination process. However, when management grants an award under this section, the awardee(s) will be notified of the management official granting the award and a brief description of the basis for the award. Furthermore, when granting a Special Act Cash Award under subsection B.(1) above, employees may request and Agency managers will consider providing the award in the form of time off under subsection B.(2) in an amount with a cost equivalent to but not more than the dollar value of the award. Agency managers will exercise their discretion to approve such requests in a fair and equitable manner.

Section 7. Quality Step Increases (QSIs).

QSIs increase an employee's basic rate of pay from one step in the grade to the next higher step. Until notice it wishes to do otherwise, management will grant these increases fairly, equitably and uniformly among unit employees as well as in accordance with regulation. One measure of fairness, equity and uniformity will be the practices used among non-unit employees. In order to be eligible for a QSI all of the following criteria must be met:

- A. Employee receives a "successful" rating of record;**
- B. Employee demonstrates performance significantly above that expected for the position;**
- C. Employee must not have received a QSI in last fifty-two (52) weeks; and**
- D. Employee level of exceptional performance is expected to continue in the future.**

Section 8-- In addition to any data to which the union is entitled by law or regulation, the Employer will give the union annually an electronic spreadsheet showing the following for each agency employee, including non-unit employee:

- **Grade**
- **Step**
- **Annual salary (base and locality combined)**
- **Series**
- **Unit Status**

- **Award Amount (If multiple cash awards were given each will be listed separately and in total)**
- **Nature of the award, i.e., pursuant to Section 5 or 6 above.**
- **Whether a QSI was received**
- **Port or equivalent location (Only field office need be identified for non-unit employees)**
- **Race**
- **Gender**
- **National Origin**
- **Age or year of birth if the employee is 40 or more years old.**



This data will be provided to the union at least 48 hours before the distribution of the award payments.

Section 9. A. The Memorandum of Understanding addressing the Employer's Foreign Language Awards Program (FLAP), as ordered by the Federal Service Impasses Panel on April 11, 2008 is contained in Appendix XX. This program exists separate and apart from the award system(s) described in this Article.


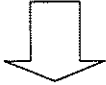
B. The Employer will incorporate the use of Voice Recognition System testing technology into its FLAP for additional languages (e.g., Dutch and Arabic) to the extent the testing technology becomes available, is validated as meeting the Employer's needs, and is cost effective. The Union may request that the Employer evaluate such technology at any time.
Agreed

DHS:llboawards

APPENDIX
Guide Chart A

EXTENT OF IMPACT 	Limited Affects functions, mission or personnel of one facility, installation, or field location, or an organization element of HQ	Extended Affects functions, mission or personnel of an entire field area or major office	Broad Affects functions, mission or personnel of several field areas, or the entire agency.
VALUE OF IMPACT 			
Moderate Value- A contribution, change or modification of an operating principle, activity, or procedure with limited impact or use	1 Share	2 Shares	3 Shares
Substantial Value- Substantial change or modifications of procedures, an important improvements or contribution to the value of the product, activity, program or service.	4 Shares	5 Shares	6 Shares
Exceptional Value- A superior improvements or contribution to the quality of a critical process, activity, program, or service; initiation of a new principle or major procedure.	8 shares	9 Shares	10 Shares

Guide Chart B

<p>ACCOMPLISHMENT VERSUS THE NORM</p> 	<p>A specific accomplishment that exceeds normal job expectations</p>	<p>A specific accomplishment that substantially exceeds normal job expectations</p>
<p>ACCOMPLISHMENT IMPACT</p> 		
<p>Accomplishment has a one time and localized impact</p>	<p>1 Share</p>	<p>2 Shares</p>
<p>Accomplishment has either more than a one-time impact or more than localized impact.</p>	<p>3 Shares</p>	<p>4 Shares</p>

BID AND ROTATION (NON-UNIFORMED EMPLOYEES)

NTEU 8/9/10

Note: These procedures will be added to the parties' existing contract article titled "Bid, Rotation and Placement" and the necessary formatting changes made to incorporate this Part. **Agreed**

PART B: BID & ROTATION AND WORK PREFERENCES FOR POSITIONS OTHER THAN CBP OFFICERS AND CBP AGRICULTURE SPECIALISTS.

To increase the variety in work assignments, this Part describes bid and rotation and work preference procedures for positions other than CBP Officers and Agriculture Specialists.

Section 1. Definitions.

A. *Covered employees* include those employees, unless otherwise indicated, who have worked in their respective occupation with CBP for at least **two (2)** years prior to the bid announcement date for the annual bid cycle and are not the subject of any pending performance or disciplinary action, or the subject of an allegation of misconduct, that may prevent the performance of the full scope of required duties. Employees on a temporary light duty assignment may participate in the bid process, provided the Agency possesses evidence that the employee will no longer be on light duty at the time of placement.

B. *Work unit* is the term used to refer to a specific commodity team, trade team, entry branch or similar organizational unit. **Agreed**

C. *Bid* is the term used to refer to an individual's request to be assigned to a specific work unit. Similarly, bidding refers to the process of submitting a request for assignment to a specific work unit. Such a bid constitutes an employee commitment to be assigned to that requested work unit or assignment in the event (s)he is selected in accordance with these policies and procedures. **Agreed**

C. *Rotation* refers to a change in an employee's assignment immediately following the bidding process. **Agreed**

D. *Mutual agreement* refers to the ability of the local parties (e.g., a NTEU Chapter President and Port Director, or designees) to vary from the procedures set forth in this policy only if both parties agree to do so voluntarily. A "by mutual agreement" provision does not confer or infer any right or obligation to engage in bargaining, or to submit any disagreement over a proposed variation to grievance, arbitration or any other impasse dispute procedures. Such agreements must be placed in writing and signed by the parties, and will be binding until such time as either party provides written notice to the other of its intent to withdraw.

Withdrawals will be effective at the beginning of the next bid cycle following receipt of the notice. **Agreed**

E. *Qualifications* refer to the knowledge, skills and abilities the Agency has determined necessary for particular assignments and for the composition of particular work units. Such qualifications will be uniformly applied, and limited to those established consistent with law and regulation. **Agreed**

F. *Seniority* will be determined by:

(1) The total time an employee has served in his or her series (e.g. 1889 or 1894) including time in an equivalent heritage position, if applicable. Time served on a less than full time basis will be credited for seniority purposes on a pro rated basis.

(2) In the event it is necessary to resolve ties after step (1), the total time assigned to the position at the current duty location.

(3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., Service Computation Date) will be used. **Agreed**

Section 2. Import Specialist & Entry Specialist Policies

A. Unless the parties mutually agree to another procedure(s) at the local level, this procedure will serve as the default bid and rotation process for covered Import Specialists and Entry Specialists. An election not to conduct any bid and rotation for covered employees may be made by mutual agreement. **Agreed**

~~**B.**~~ Management will solicit annual bids and rotate at least one associate per four (4) or five (5) person work unit, and at least two (2) associates per six (6), seven (7) or eight (8) person work unit. Locations that do not have more than one (1) work unit will not have a bid and rotation process. **Agreed**

C. Management may limit the number of rotations to less than that prescribed in Subsection B above when it determines such limits are needed based on operational and mission requirements. In such circumstances, management will inform the local NTEU Chapter prior to the solicitation for employee bids and take the necessary steps to permit the rotation of employees in accordance with this Article by the next bid cycle. **Agreed**

D. Management may, at its discretion increase the number of rotation opportunities to more than that prescribed in Subsection B above after informing and upon request, consulting with the local NTEU chapter. - **Agreed**

E. In processing bids under these procedures, management is responsible for ensuring employees are assigned to a particular work unit so as to ensure continuity of and to prevent unnecessary disruption to Agency operations. This responsibility includes determining the appropriate numbers, types and grades of employees with specific skill sets needing to be assigned or retained within a particular work unit or assignment. Nothing in this Article is intended to create a work unit based solely on grade. **Agreed**

F. Import Specialists and Entry Specialists rotating to a new team will be provided a reasonable amount of training determined necessary by the supervisor. Safety equipment and protective devices shall be provided to Import Specialists as required and prescribed by applicable regulations, directives and provisions of this Agreement. **Agreed**

G. Import Specialists and Entry Specialists selected for assignment pursuant to these procedures will perform the work assigned for a minimum of three (3) years after which they will be eligible to participate in the next bid cycle. **Agreed**

H. Import Specialists and Entry Specialists selected for assignment pursuant to these procedures will be expected to conform to the work schedule requirements and practices of the new work unit to which they are assigned. As tours of duty (including Alternative Work Schedules (AWS)) are established for and tied to specific work units, the placement of an employee may necessitate the change of the employee's schedule (including from an AWS to a regular schedule) if so required to be consistent with work unit's negotiated agreements, established scheduling procedures and practices. **Agreed**

I. Import Specialists and Entry Specialists may not receive reimbursement for any travel or relocation costs associated with assignments made under these procedures. **Agreed**

J. Import Specialists and Entry Specialists that are reassigned to another duty location during the bid cycle will be placed at management's discretion. Those employees will be eligible during the next bidding process if they meet the definition of covered employees. **Agreed**

Section 3. Import Specialist & Entry Specialist Procedures.

A. On or about September 1st of each year, duty locations will make available to Import Specialists and Entry Specialists the work units and number of positions available for bidding. Management's advertisement will also include a brief description of the work unit, necessary qualifications, as well as the tour(s) of duty available. **Agreed**

B. Within ten (10) work days of advertising available bids, covered employees will submit a number of bids equal to the number of work units at their location in priority order to their supervisor. Included with the bids, the employee will self-certify his/her seniority. By mutual agreement, the parties may extend or adopt a longer bidding period. **Agreed**

C. For the purpose of providing transparency of process, local bid and rotation committees, consisting of at least two (2) representatives each from NTEU and CBP management shall process employee submissions. By mutual agreement, the committee may be a different size. To ensure the committee is prepared to implement these procedures each year, it will review the procedures and the employee bids prior to processing submissions. **Agreed**

D. Upon request by the committee, an employee may be required to provide proof of his/her seniority. Requests will be made only when necessary, as determined by at least one (1) member of the committee. In the event proof is not provided, the employee's bid request will be removed from consideration. **Agreed**

E. Absent just cause, bids will be granted in qualified seniority order for the first bid cycle conducted after the effective date of this Agreement. When processing a bid, the employee will be placed in his/her highest priority bid where there is a vacancy. **Agreed**

F. During the second bid cycle after the effective date of this Agreement, employees who participate in the first cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. **Agreed**

G. During the third cycle after the effective date of this Agreement, employees who participate in the first and second cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. The next years bid cycle will restart with the employees whose bids were granted in Subsection E. **Agreed**

H. During any bid cycle when the most senior employee bids to remain assigned to their current work unit, the next most senior covered employee will have their bid processed by the Committee until a vacancy (if any) exists. **Agreed**

Section 4. Senior Import Specialist Policies.

A. Unless the parties mutually agree to another procedure(s) at the local level, this procedure will serve as the default bid and rotation process for covered Senior Import Specialists. An election not to conduct any bid and rotation for covered employees may be made by mutual agreement. **Agreed**

B. Management will solicit annual bids from Senior Import Specialists (GS-1889-12) who have worked on their respective work unit for at least three (3) years. Rotation and placement on to other available work units will be determined by seniority. Locations that do not have more than one (1) work unit will not have a bid and rotation process for Senior Import Specialists.

C. Management may limit the number of rotations to less than that prescribed in Subsection A above when it determines such limits are needed based on operational and mission requirements. In such circumstances, management will inform the local NTEU chapter prior to the solicitation for employee bids and take the necessary steps to permit the rotation of employees in accordance with this Article by the next bid cycle. **Agreed**

D. Management may, at its discretion, increase the number of rotation opportunities to more than that prescribed in Subsection A above, after informing and upon request, consulting with the local NTEU chapter. **Agreed**

E. In processing bids under these procedures, management is responsible for ensuring employees are assigned to a particular work unit so as to ensure continuity of and to prevent unnecessary disruption to Agency operations. This responsibility includes determining the appropriate numbers, types and grades of employees with specific skill sets needing to be assigned or retained within a particular work unit or assignment. **Agreed**

F. Senior Import Specialists rotating to a new team will be provided a reasonable amount of training determined necessary by the supervisor. Safety equipment and protective devices shall be provided to Import Specialists as required and prescribed by applicable regulations, directives and provisions of this Agreement. **Agreed**

G. Senior Import Specialists selected for assignments pursuant to these procedures will, absent just cause, perform the work assigned for a minimum of three (3) years after which they will be eligible to participate in the next bid cycle.

H. Senior Import Specialists selected for assignment pursuant to these procedures will be expected to conform to the work schedule requirements and practices of the new work unit to which they are assigned. As tours of duty (including Alternative Work Schedules (AWS)) are established for and tied to specific work units, the placement of an employee may necessitate the change of the employee's schedule (including from an AWS to a regular schedule) if so required to be consistent with work unit's negotiated agreements, established scheduling procedures and practices. **Agreed**

I. Senior Import Specialists may not receive reimbursement for any travel or relocation costs associated with assignments made under these procedures. **Agreed**

J. Senior Import Specialists that are reassigned to another duty location during the bid cycle will be placed at management's discretion. Those employees will be eligible during the next bidding process if they meet the definition of covered employees. **Agreed**

Section 5. Senior Import Specialist Procedures.

A. On or about October 1st of each year, duty locations will make available to Senior Import Specialists the work units (i.e., teams) and number of positions available for bidding. Management's advertisement will also include a brief description of the work unit, necessary qualifications, as well as the tour(s) of duty available. **Agreed**

B. Within ten (10) work days of advertising available bids, covered employees will submit a number of bids equal to the number of work units at their location in priority order to their supervisor. Included with the bids, the employee will self-certify his/her seniority. By mutual agreement, the parties may extend or adopt a longer bidding period. **Agreed**

C. For the purpose of providing transparency of process, local bid and rotation committees, consisting of at least two (2) representatives each from NTEU and CBP management shall process employee submissions. By mutual agreement, the committee may be a different size. To ensure the committee is prepared to implement these procedures each year, it will review the procedures and the employee bids prior to processing submissions. **Agreed**

D. Upon request by the committee, an employee may be required to provide proof of his/her seniority. Requests will be made only when necessary, as determined by at least one (1) member of the committee. In the event proof is not provided, the employee's bid request will be removed from consideration. **Agreed**

E. Absent just cause, bids will be granted in qualified seniority order for the first bid cycle conducted after the effective date of this Agreement. When processing a bid, the employee will be placed in his/her highest priority bid where there is a vacancy. **Agreed**

F. During the second bid cycle after the effective date of this Agreement, employees who participate in the first cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. **Agreed**

G. During the third cycle after the effective date of this Agreement, employees who participate in the first and second cycle will be ineligible. The remaining most senior employees will have their bids processed by the Committee. **Agreed**

H. The next years bid cycle will restart with the employees whose bids were granted in Subsection E. **Agreed**

I. During any bid cycle when the most senior employee bids to remain assigned to their current work unit, the next most senior covered employee will have their bid processed by the Committee until a vacancy (if any) exists. **Agreed**

Section 6. Absent unusual circumstances, CBP will announce and implement bid and rotation results within thirty (30) calendar days of the close of the employee bid submission period. **Agreed**

Section 7. By mutual agreement, the parties may establish a different method for determining which covered employee is affected by the placement of a more senior qualified covered employee bidding to the work unit (e.g., first in – first out). Any such agreement must be made prior to, and publicized concurrently with the bid announcement postings. **Agreed**

Section 8. All Other Positions.

- A.** On at least an annual basis (normally an employee's annual proficiency review meeting) all other non-uniformed employees will be permitted to express a preference for routine work assignments, e.g., audits, accounts, or branches, for management's consideration. In the event a preference cannot be accommodated, management will meet with a requesting employee and explain the decision(s) not to accommodate the preference and discuss potential alternatives. Upon request from an employee, management will provide a written explanation as to why a work preference couldn't be accommodated. **Agreed**
- B.** Upon mutual agreement of the local parties, other bid and rotation procedures may be created for bargaining unit positions other than CBP Officer, CBP Agriculture Specialist, Import Specialist and Entry Specialist. **Agreed**
- C.** However, those locations operating under existing practices will continue on those practices to the extent that they comply with the provisions of this Article and changes are implemented in accordance with law and this Agreement. **Agreed**

DISCIPLINARY ACTIONS

NTEU 8/9/10

Section 1. This Article applies to bargaining unit employees who have completed their probationary or trial period. AGREED

Section 2. A disciplinary action for purposes of this Article is defined as a written reprimand or a suspension from duty and pay of fourteen (14) calendar days or less. AGREED

Section 3. A. Disciplinary actions taken against an employee will be for such cause as will promote the efficiency of the service. Discipline will be taken in a manner that is fair and impartial. AGREED

B. Discipline also will be administered in a timely manner.

Section 4. Disciplinary penalties will be imposed to correct behavior, teach the employee and others that certain actions are unacceptable for an employee of CBP, and to demonstrate and support the expected high standards of conduct for CBP. As such, discipline under this article will be taken with a progressive or corrective (rather than punitive) approach, and will give appropriate consideration to the penalty mitigation criteria contained in Appendix XX . (Douglas Factors) AGREED

Section 5. Procedures for effecting disciplinary actions are as follows:

A. Letters of Reprimand:

A letter of reprimand will state the reason(s) for its issuance and inform the employee of the right to grieve under the contractual grievance procedures. A letter of reprimand will remain in the employee's Official Personnel Folder (OPF) for a period of eighteen (18) months, unless management exercises its discretion to remove it earlier. In the event the Employer exercises this discretion (either independently or upon request by the employee or Union) it will inform the appropriate Union representative. AGREED

B. Suspensions of 14 Days or Less:

(1) The employee will be given fifteen (15) calendar days advance written notice stating the specific reason(s) for the proposed suspension. With the notice, the employee will be provided, to the extent such information exists and is related to the action, a copy of those portions of all written documents which contain information or evidence relied upon by the Employer as the basis for the action, those portions of written documents that are favorable to the employee, and the investigative report. In addition, in the event the Employer reviewed video or audio

surveillance recordings in proposing the action, such recordings will be made available for review by the employee. AGREED

(2) The employee will be given fourteen (14) calendar days from receipt of the notice of suspension and supporting material to present an oral and/or written reply to the proposed suspension. The employee will have the right to be represented by the Union, or by an attorney or other representative of his own choosing in connection with the oral and/or written reply. Extensions of the reply period may be made by mutual agreement of the parties. All extensions granted will be confirmed in writing or electronic mail. AGREED

(a) Oral Replies: (All AGREED Except 7)

1. Absent just cause, any request for an oral reply must be made within seven (7) calendar days of receipt of the notice of suspension.
2. Upon request by either party, oral replies will be presented in person. By mutual agreement, oral replies may be provided by telephone or other technological means (including video teleconferencing).
3. Oral replies will generally be heard at or near the employee's duty location, and CBP will provide time and reimburse the employee and his or her union representative to travel to and from the oral reply location.
4. In the event management elects to hold the oral reply at a location outside the employee's duty location, CBP will be responsible for all travel and per diem costs, as well as time for the employee and his or her Union representative to travel to and from the oral reply location.
5. To the maximum extent possible, NTEU will make a reasonable effort to designate a representative at or near the employee's work location to participate in oral replies. In the event NTEU elects to designate a representative outside of the geographical jurisdiction of the employee's NTEU Chapter, NTEU will be responsible for the travel and per diem expenses for its representative to attend the oral reply.
6. In the event the employee chooses anyone other than an NTEU representative, NTEU will be invited to the oral reply merely to observe.
7. **Absent mutual agreement, where CBP is proposing a suspension of more than five days (or there is a local practice to provide transcripts for all proposed suspensions) it will provide a transcript of any oral reply to the affected employee and/or his/her designated representative prior to the time a final decision is made. Otherwise, a summary will be done. The employee and representative will be given a reasonable period, based on the length of the summary or transcript, to identify and submit corrections they feel are appropriate before the final decision is made.**

(b) Written Replies: Written replies must be received by the designated official prior to the end of the fifteen (15) day notice period. AGREED

(3) After receipt of the written and/or oral reply, and any corrections to the summary or transcript submitted by the employee or representative, the Agency will issue a final decision. In the event no written or oral reply is provided, the decision will be issued after the end of the fifteen (15) day calendar period. The final decision will advise the employee of the specific reason(s) for the decision and of the right to grieve the action under the negotiated grievance procedure. AGREED

(4) In cases where a suspension is proposed for reasons of off-duty misconduct, the Agency's written notification provided for above will also contain a statement describing the nexus between the off-duty misconduct and the efficiency of the service. AGREED

Section 6. In cases where suspensions without pay for periods of fourteen (14) days or less are proposed (for purposes other than an emergency suspension related to an adverse action), the employee, the Union and the deciding official may agree that alternative remediation in lieu of suspension (or part of it) is appropriate. AGREED

A. The alternative remediations covered by the provisions of this article include, but are not necessarily limited to, referrals to the Employee Assistance Program, election for counseling/training, changes in assigned duties, disqualification for a particular assignment, community service, leave without pay, donation of annual leave to a leave transfer program, combination of leave without pay and community service, combination of reduced suspension and community service and divestment by the employee of any conflict of interest. AGREED

B. After receipt of a letter proposing a suspension of fourteen (14) days or less, either party may request a meeting to discuss alternative remediation. Any meeting will be attended by the employee, a union and management representative, and the deciding official (or designee). The deciding official (or designee) must attend in person if in the commuting area. Otherwise, the deciding official can participate by telephone. An equal number of additional Agency and Union representatives may also attend with the intent to limit the number of attendees to those necessary to make a decision. This discussion will occur prior to the presentation of the oral reply. AGREED

C. In the event a meeting is not requested in Subsection B., in order to promote awareness and use of alternative remediation, the employee (and his/her representative) and the management official receiving the oral reply in Section 5.B.(2)(a) above will discuss whether alternative remediation is appropriate. This discussion will occur prior to the presentation of the oral reply. AGREED

D. Employees shall not be required to admit misconduct until complete agreement is reached to utilize alternative remediation. If agreement is reached, alternative remediation will be implemented as described in Section E., below. If no agreement is reached, no inference of misconduct can be drawn from the request for an alternative remediation meeting. Further, no part of the discussions, deliberations, offers or recommendations generated at any step of the alternative remediation process will be used in any way by either party. AGREED

E. All such alternative remediations shall be set forth in a letter that contains the following:
AGREED

- (1) an accurate and full description of the employee's misconduct; AGREED
- (2) the employee's admission of having engaged in the misconduct; AGREED
- (3) the employee's promise to correct the inappropriate behavior; AGREED
- (4) descriptions of the specific suspension that would have been called for and the specific alternative remediation; AGREED
- (5) acknowledgment that the letter will be retained by the Employer for a period not to exceed two (2) years to support possible future remediation based on new acts of misconduct committed by the employee during that period; AGREED
- (6) the specific remedial action that will be imposed if the employee fails to comply with the terms of the alternative remediation letter (remedial action may be less than that originally proposed); AGREED
- (7) a waiver of the employee's appeal and/or dispute resolution rights; AGREED
- (8) a statement that the agreement was voluntarily entered into by the employee, the Union and the Employer; and AGREED
- (9) signatures of the employee, the deciding official, and the Union and management representatives. AGREED

F. Actions taken based on the Employer's allegation of non-compliance with an alternative remediation letter may be grieved under the negotiated grievance procedure. AGREED

Section 7. Suspensions taken under this article will be served on consecutive days following the commencement of the suspension. To the maximum extent possible, effective dates for suspension of ten (10) to fourteen (14) days will be set so that the suspension is served across two adjoining pay periods, and the suspension does not cover more than five (5) regular duty days in either pay period. AGREED

Section 8. Deleted.

DHS:llbodiscip

DURATION

NTEU 8/9/10

Section 1.

A. (1) This Agreement will be considered executed when no further action is necessary, i.e., the date the last chief negotiator signs the signature page or initials the last article in dispute, whichever is sooner. Should FSIP find it necessary to issue an order, that shall be considered the final action necessary and the contract will be considered executed upon issuance of that order given that no other disputes remain.

(2) The Agreement will be submitted for Agency Head approval the day after the union notifies management of ratification by the NTEU membership; however, there shall be no ratification if the FSIP imposes an order that the parties adopt.

B. (1) If the Union fails to ratify the Agreement or the Agency Head disapproves any provision of the Agreement, the parties will return to the bargaining table and use the same ground rules practices used to negotiate this Agreement.

(2) **However, if the agreement is disapproved and challenged through the FLRA negotiability process, the agreement will become effective on the date the FLRA decision is final and binding so long as the FLRA has upheld the validity of the negotiated language.**

(3) **Neither party may be obligated to sever a portion of this agreement to allow the remaining portions to become effective, absent a requirement of law.**

Section 2.A. Absent mutual agreement, this agreement will be implemented on the 30th day after agency head approval or a final and binding action by the FLRA or other third party authority, whichever comes first. This Agreement will remain in effect through October 30, 2012, but in no case no less than one year after implementation

B. Upon expiration, this Agreement will remain in effect for yearly periods thereafter unless either party serves the other party with a written notice of the desire to renegotiate the Agreement during a window period beginning four months (4) months prior to the annual expiration date and ending two (2) months prior thereto. AGREED

Section 3.A. Either party may reopen up to two (2) articles in the 30 days immediately after the half way mark of its initial term. However, this does not bar the union from reopening negotiations on an article or articles related to an employer-initiated mid-term change.

B. Unless the parties mutually agree otherwise, the procedures of Article __: Bargaining, will be used for re-opener negotiations in Section 3.A. AGREE

Section 4. Nothing prohibits the parties from modifying or extending this Agreement by written mutual agreement. AGREE

DHS:llboduration

EMPLOYEE RIGHTS

NTEU 8/9/10

Section 1. Employees covered by this Agreement 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. Except as otherwise provided in the Civil Service Reform Act of 1978, such rights include the right:

(A) 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; and

(B) to engage in collective bargaining with respect to conditions of employment through the Union as provided by law and this Agreement.

Agreed

Section 2. Nothing in this Agreement shall require an employee to become a member of the Union, or to pay money to the Union except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deduction. **Agreed**

Section 3. Each employee covered by this Agreement has the right to be represented by the Union without discrimination and without regard to labor organization membership subject to the Union's right to refuse to represent the employees described in Section 4 of Article: Union Rights. **Agreed**

Section 4. A. Employees and Agency managers shall conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day to day working relationships. **Agreed**

B. Any discussions with individual employees concerning counseling, evaluations, workload review, or disciplinary actions will be conducted so as to insure the privacy of the employee. **Agreed**

Section 5. A. When an employee is ordered by a supervisor to perform any action and the employee believes the order is a violation of law, the employee may do any or all of the following: **Agreed**

(1) give the supervisor a written statement expressing the employee's objection to the order; **Agreed**

(2) use the Internal Affairs hotline to report the alleged violation; **Agreed**

(3) verbally inform the supervisor of his concerns. **Agreed**

B. Any such action by the employee must not interfere with his carrying out any lawful order. Failure to carry out a lawful order may result in disciplinary action. The supervisor shall assume full responsibility for the decision, but not for the employee's execution of the order.

Agreed

Section 6. Except in the case of a grievance or other negotiated appeal provisions contained in this Agreement, nothing shall be construed to preclude an employee from: **Agreed**

A. Being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any dispute or appeal action; or **Agreed**

B. Exercising dispute or appellate rights established by law, rule, or regulation. **Agreed**

Section 7. An employee covered by this Agreement may, without fear of penalty or reprisal, engage in the disclosure of information which the employee reasonably believes evidences: **Agreed**

A. a violation of any law, rule, or regulation; or **Agreed**

B. mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs. **Agreed**

Section 8. Consistent with the procedures contained in Article ___: Investigation, an employee has the right to representation by the Union at any examination conducted by a representative of the Agency in connection with an investigation if: **Agreed**

(1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and **Agreed**

(2) the employee requests representation. **Agreed**

Section 9. A. An employee will be notified of a written complaint received by management. A complaint for the purpose of this section is defined as a written statement, including any oral complaints reduced to writing by the Agency, by an identified complainant indicating dissatisfaction with an employee by reason of conduct, appearance or carelessness or propriety of an action taken by the employee. **Agreed**

B. Notification shall be provided by management as soon as practicable, normally within three business days, following the receipt of the complaint. Upon request, the employee shall be furnished with a copy of the complaint; or if the complaint involves more than one employee, that portion of the complaint related to the requesting employee. A copy of a written response by management will be furnished to the employee upon written request by the employee. **Agreed**

C. The Agency will afford the employee a reasonable period of time in which to prepare and give to the Employer a response to the complaint, which will be considered before the Employer responds to the complainant. Upon request, the Employer will advise the employee of its response by providing a copy or summary. **Agreed.**

Section 10. A. The Agency has determined that the review of audio and video recordings is designed to reveal deviations from standards and unsafe conditions and practices so that appropriate corrective actions can be taken. Accordingly, audio and video recording devices will be used to augment the Agency's surveillance capabilities for port perimeters, secured areas and for interactions between employees and the public. **Agreed. Any Agency operated audio and video recording will be conducted in accordance with law, rule and/or regulations.**

B. Unless the Agency has an internal investigative interest, Agency operated audio and video recordings are not intended to capture employee actions while in non-work areas. A non-work area includes bathrooms, break rooms, parking lots or other areas where official duties are not performed. Although not the intended purpose of the Agency's audio and video surveillance systems, nothing in this Section is intended to prohibit the Agency from proposing action against an employee in the event a recording captures potential misconduct in a non work area. **Agreed.**

C. In the event an audio or video recording is relied upon by the Agency when proposing a discipline or adverse action, the employee will be provided such recording and the opportunity to respond in accordance with Articles & : Discipline & Adverse Actions. **The Employer recognizes that the timely release of such recordings prior to the initiation of proposed discipline is vital to the employee's ability to defend him or herself, e.g. it is difficult to recall events with the same specificity that a recording provides.**

D. At the completion of a sworn affidavit at the conclusion of an investigative interview, subjects are allowed to review their answers and to make any changes they deem are required. **The employee will be given a reasonable period of time, at least 48 hours, to review the draft affidavit with a union representative, before being asked to sign.** This opportunity to review includes the ability to listen to a portion of or the entire recording to verify answers before executing the affidavit.

Section 11. A. When the Employer exercises its legal right to search an employee's possessions at the work site (e.g., desk, locker, car, clothing, etc.) in a non-criminal matter, the employee and his representative will be allowed to be present during the search. If the employee and his representative are not present at the work site, the search will be delayed until such time as they are both available unless such delay impedes the purpose for which the search is conducted. **Agreed**

Section 12. A. Participation in the Combined Federal Campaign, United States Bond Drives, Blood Donor Drives and other worthy programs will be on a voluntary basis. **Agreed**

B. Contributions for gifts for supervisors, management officials or fellow employees will be strictly voluntary. **Agreed**

Section 13. A. In consideration of an employee's right to privacy, any requested medical information will be kept in confidential files separate from an individual's personnel file. **Agreed**

B. Employees will normally provide appropriately requested medical information to the requesting official who will ensure the information is protected in accordance with Subsection A. As an exception, in the event an employee has a reasonable privacy concern related to providing detailed medical information (e.g., information that includes a doctor's prognosis and diagnosis) directly to the requesting official, upon employee request, the Employer will make alternative arrangements for the employee to deliver the required information directly to a

medically certified Agency representative. The employee acknowledges the granting of such a request may result in a delay in the benefit sought by the employee. **Agreed**

C. In the event a medically certified Agency representative provides medical information to CBP management officials for the purpose of making an informed management decision, the non-medically certified CBP management officials will only review applicable summary medical information in which they have an appropriate need to know. **Agreed**

Section 1. A. The Employer will provide equal opportunity in employment for all qualified persons and will prohibit discrimination in employment because of race, color, religion, sex, national origin, age or disability, or reprisal for filing a claim on one of these bases, except where required by statute or pursuant to bona fide occupational qualifications. Agreed

B. The Union agrees that in carrying out its representational activities, the Union will not engage in any discrimination against any employee because of race, color, religion, sex, national origin, age, disability or reprisal, except where required by statute or pursuant to bona fide occupational qualifications. Agreed

C. The Employer in the employment context and the Union in carrying out its representational activities, as applicable, agree not to discriminate because of marital status, political affiliation, sexual orientation, parental status or protected genetic information. Agreed

Section 2. A. The Union recognizes that the development of diversity/inclusion, civil rights and civil liberties programs, including equal employment opportunity programs, are management functions for which management is fully responsible. Agreed

B. The Employer shall make available to the Union and employees a copy of the regulations, directives and policies it issues to carry out its programs regarding civil rights and civil liberties. Agreed

Section 3. Where the development and implementation of diversity/inclusion, civil rights and civil liberties plans and programs involve changes in personnel policies, practices, or working conditions, the Employer will fulfill its bargaining obligations with the Union under Chapter 71 and Article : Bargaining. Agreed

Section 4. Nothing in this Agreement shall preclude the Employer from dealing directly with civil rights organizations, special emphasis committees, affinity groups, or any other organization not qualified as a labor organization, on diversity/inclusion, civil rights and civil liberties matters or policies involving unit employees so long as such dealings do not detract from or violate the rights of the Union under applicable laws or this Agreement, or assume the character of formal consultation on matters of general employee-management

policy affecting the bargaining unit. Agreed

Section 5. A. Any employee who believes that he or she has been discriminated against on any of the grounds set forth in Section 1 A. above may file one of the following:

- (1) A grievance pursuant to the provisions of Section 6 of this Article (hereinafter “an EEO grievance”); Agreed
- (2) An appeal to the Merit Systems Protection Board (MSPB) where an action is otherwise appealable to the Board and the employee alleges that the basis for the action was discrimination prohibited by Section 1 A. of this Article;-Agreed
- (3) A statutory EEO complaint pursuant to Equal Employment Opportunity Commission (EEOC) regulation 29 C.F.R. § 1614 (statutory process); or Agreed
- (4) an appeal to the Equal Employment Opportunity Commission where there is an allegation of discrimination prohibited by Section 1.A. of this Article but no otherwise appealable action and the employee has already received a Final Agency Decision.
Agreed

B. An employee who believes (s)he has been discriminated against on any grounds set forth in subsection 1.C. of this Article may file a grievance under the procedures contained in Article __ : Grievance Procedure (AGREED), or if appropriate a Complaint of Possible Prohibited Personnel Practice with the office of Special Counsel, but not both.
Agreed

C. The selection of the grievance procedure contained in this Article to process an EEO grievance involving discrimination as described in Section 1.A. shall in no manner prejudice the right of an aggrieved employee to request the MSPB to review the final decision in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the EEOC to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Commission. Agreed

D. Irrespective of anything in this agreement, nothing excludes the employee or the union from using the Grievance Procedure of Article XX for EEO mixed cases, e.g., where the allegation of discrimination is accompanied by allegations that the contract or non-discrimination-related regulations and statutes are alleged to be violated.

E. Appeals to the Merit Systems Protection Board or the Equal Employment Opportunity Commission shall be filed pursuant to such regulations as the Board or the Commission may prescribe. Agreed

Section 6. A. EEO Complaint and Negotiated EEO Grievance Procedures

A. Pre-complaint/Pre-grievance Stage

(1) An employee who believes s/he has been illegally discriminated against by the Employer on the bases identified in Section 1.A. of this article must contact a Diversity and Civil Rights (DCR) Officer within forty-five (45) calendar days of the date of the alleged discriminatory act or, in the case of a personnel action, within forty-five (45) calendar days of the effective date of the personnel action. Agreed

(2) The DCR Counselor will counsel the employee in accordance with 29 C.F.R. § 1614 and applicable EEOC directives (e.g., MD-110). Agreed

B. Upon request by the employee, the Union, and/or the Employer, mediation will be used in an attempt to foster a voluntary resolution of the case. To increase the likelihood of success of the mediation process, the Employer and the Union will insure the representatives it designates to participate in the mediation possess a reasonable level of authority to resolve the case. Where mediation is used, the pre-complaint/pre-grievance counseling period will be extended for a period of not more than sixty (60) calendar days. Agreed

C. If the parties are unable to resolve the case during the thirty (30) calendar day counseling period, or ninety (90) day calendar period where mediation is used, the counselor will conduct a final interview at which time the employee may elect to withdraw the case, or request a Notice of Right to File a Formal Discrimination Complaint (NORTF). When a NORTF is requested, it will explain the employee's right to file under the Negotiated EEO Grievance Procedure (NEGP) or statutory complaint process, within fifteen (15) calendar days of receipt of the NORTF. The employee will be required to sign for receipt of the NORTF. Agreed

An employee shall be deemed to have exercised his/her option under this Section at such time as the employee first timely files a formal EEO complaint under the statutory procedure or timely files an EEO grievance in accordance with the provisions of this Article. Agreed

D. At the conclusion of the pre-complaint stage, an employee may initiate an EEO grievance by submitting a grievance in accordance with Section 15.B. (Formal Submission Step) of Article ____ : Grievance Procedure within fifteen (15) calendar days of receipt of the NORTF. In addition to the requirements of that Section, the employee's submission must contain a formal allegation of discrimination (including identification of the alleged discriminatory act or personnel action, the specific bases of discrimination alleged (i.e., race, color, religion, sex, national origin, age, or disability, or reprisal as described in Section 1.A), along with a copy of the NORTF. Agreed

A copy of the grievance, along with related information from the employee (or his/her representative) must be concurrently served on the Executive Director, Office of Diversity and Civil Rights (DCR) or his/her designee. Upon receipt of the grievance, the Executive Director, DCR (or his/her designee) will provide a copy of the counselor's report to the employee (or his/her representative) and the management official to which the grievance was filed under Section 6.B.(1). Agreed

Thereafter, in those cases where the parties have been unable to reach a resolution, Customs will produce a Report of Investigation (ROI) within 150 days of the end of the pre-complaint process. This ROI will meet all the standards of the reports that are done under the current statutory process. For example, it will include signed and sworn statements from relevant witnesses, copies of all relevant documents, and statistical analysis where appropriate. Copies of the report will be given to the employee and his or her representative, along with the responsible management official. In addition, if the ROI is not presented within 150 calendar days from the filing of the grievance, the union shall have the authority, but is not required, to proceed immediately to arbitration

E. Within forty-five (45) days of receiving the report, responsible management and union officials may attempt to mediate the dispute with the employee. If they are unable to produce a voluntary settlement during that time, the dispute may be moved to arbitration by either party to this agreement. The party invoking arbitration shall inform the other party in writing within fifteen (15) days after the expiration of the forty-five (45) days referenced above. No part of the discussions, deliberations, conclusions, offers or recommendations generated at any step of the alternative resolution procedure shall be binding in any way on either party once the matter in dispute has been advanced to arbitration, nor shall any of these elements be used by either party as evidence in an arbitration hearing.

Within fifteen (15) days after invoking arbitration, management will assign the dispute to a third party neutral who will use a mediation- arbitration process to settle the dispute. The ideal solution will be a mediated one, but the arbitrator will have the power to issue a final and binding written arbitration decision resolving all issues in dispute. The arbitrator shall be empowered to hold a hearing, swear witnesses, order the production of documents, and do whatever else is necessary that an arbitrator or EEOC administrative judge could normally do to develop a complete record, i.e., draw an adverse inference where warranted. The arbitrator shall also be empowered to order any remedy than an arbitrator, EEOC, or an EEOC administrative judge could in the same case. The arbitrator will schedule matters so that he or she can normally close the case no later than 120 days after it has been assigned.

If management fails to assign the dispute within the fifteen (15) days mentioned above or the ROI is more than fifteen (15) days overdue, the employee and his or her representative shall have the authority to assign the dispute to one of the arbitrators on the list of approved arbitrators rather than wait for the process to be followed. In this situation, the employee and his or her representative can choose any arbitrator that is available. Once the arbitrator is selected, he or she shall control the scheduling of the case.

Those arbitrators who are assigned cases from unit employees will be jointly chosen by the union and management. The parties will choose five arbitrators at the outset of this agreement and they will serve on assigned cases in a rotation established by alphabetical order of their last names. If the parties are unable to agree on the selection of arbitrators, the American Arbitration Association (AAA) shall have the authority within sixty (60) days after the effective date of this agreement to select the arbitrators. In order to exercise its authority, it will suffice if either party or both submit an arbitration panel in accordance with the criteria described herein. The arbitrators shall be chosen based upon demonstrated competence in EEO matters and arbitrations, i.e., they teach civil rights courses in law school, they are former EEOC administrative judges, they have a track record of dealing with EEO matters in arbitration, etc. Cases will normally be assigned on a rotating basis among them.

All issues related to the right, if any, to appeal the final and binding arbitration decision, shall be controlled by applicable federal rules and regulations, and not by this agreement.

F. For the first 20 cases that are presented to arbitration under this process, the union shall pay the sum of \$750.00 toward payment of arbitration expenses, per case; and management shall be obligated to pay and assume the remainder of the arbitration expenses, per case. The arbitration expenses shall include but not be limited to the arbitrator's fees and travel and per-diem expenses, charges for court reporter fees and transcripts of the proceeding, and the cost of any non-governmental hearing rooms or facilities that may be used. In the event the union prevails on any of the issues in dispute, management shall reimburse the union for the \$750.00 payment or assume the obligation of paying all the arbitration expenses in the case at hand.

Concurrently, during the 20-case period of time, the parties jointly or separately may conduct whatever cost-benefit analysis they may deem necessary. After the completion of the 20 cases, customs shall have the right to reopen this agreement to address costs. If management reopens this agreement at that time, the union shall be

free to reopen any matter in this agreement. If the union reopens on matters beyond costs, management may do so as well. Otherwise, this agreement shall stay in place for the term of the parties' term agreement, and may be reopened with the term agreement.

G. In the event the EEO grievance alleges discrimination and a non-EEO based claim, the Arbitrator will hear and rule on both issues. Agreed

H. During the hearing and in his/her decision, the Arbitrator will follow and be bound by applicable laws, rules, regulations and case law precedent. Agreed

I. In addition to the involved parties, a copy of the arbitrator's award will be served to the Executive Director, OEO (or his/her designee). Agreed

Section 7. Nothing in this article precludes the settlement or resolution of an EEO grievance or an EEO complaint at any time in the process. Agreed

Section 8. A. At any stage in the processing of an EEO grievance or complaint, the employee shall have the right to be accompanied, represented and advised by a Union representative. Agreed

B. The employee shall also have the right to present the EEO grievance or complaint without representation. Agreed

Section 9. If at any stage of the EEO grievance or statutory complaint process, the Employer determines to make changes to resolve the complaint with respect to personnel policies and practices or matters affecting the general working conditions of unit employees, the Union will be afforded reasonable notification and an opportunity to negotiate the matter prior to implementation of such changes in accordance with 5 U.S.C. Chapter 71 and Article : Bargaining. Agreed

Section 10. Following adjudication under the EEO grievance or statutory complaint procedure, the decision will generally affect the complainant alone. However, when a formal discussion is held by the Employer with the complainant and/or the complainant's representative for the purpose of implementing a decision which impacts on employees in the bargaining unit, the Union will be given an opportunity to be represented at the meeting. Agreed

Section 11. The names and contact information for DCR Officers, as well as an EEO staffing chart (chain of command) will continue to be maintained on CBPnet. Agreed

Section 12. A. In accordance with 29 CFR 1614.704, employees who have disabilities may be eligible for reasonable accommodation, as long as the accommodation does not constitute an undue hardship to the Employer. Employees who believe they may be eligible for reasonable accommodation should contact an DCR Officer and/or the Union.

B. Reasonable accommodation may include, but will not be limited to:

- (1) making facilities readily accessible to and usable by disabled persons, and
- (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, the provision of readers and interpreters, and other similar actions.

DHS:llboeeop

FIREARMS

NTEU 8/9/10

Section 1. A. Determinations as to when, where, under what circumstances, and which employees shall be authorized or required to carry firearms and/or other weapons are reserved solely to the Employer **subject to agreements negotiated with NTEU and applicable law.**

B. The CBP Use of Force Policy Handbook (Handbook) and the accompanying Agreement between U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) dated ____ sets forth the Agency's use of force policy in addition to the terms of this Article. The Handbook and the Agreement can be found at (insert web hyperlink address) **Agreed**

C. Any firearms policies or regulations issued by the Agency during the life of this Agreement that apply to bargaining unit employees, shall conform to applicable laws, regulations and the provisions of this Agreement and, in addition to any changes to the Handbook, shall be subject to the bargaining rights and procedures contained in Article XX Bargaining. Employees will be notified of, and have access to, all negotiated agreements resulting from future use of force policy changes. **Agreed**

Section 2. CBP will provide legal support, to the extent authorized by federal law, for CBP officers involved in civil or criminal actions as a result of performing duties under this policy, provided that the officer acted in good faith and with a reasonable belief in the lawfulness of his actions. **Agreed**

Section 3. No employee will be subject to conditions hazardous to his health in the course of training and qualification in the use of firearms and other weapons. **Agreed**

Section 4. Authorized officers, i.e. those authorized to carry a firearm, have the ability to forward questions regarding the Use of Force policy directly to the Use of Force Policy Division for a response. **Agreed**

Section 5 Authorized officers who have successfully qualified may carry their weapons to and from their residences and may make reasonable stops between their residence and work. In order to assist with their compliance, authorized officers will be provided sufficient training regarding off-duty carry of CBP issued weapons. **Agreed**

Section 6. The Agency will provide managers and supervisors with additional guidance that will assist them in making swift and appropriate determinations in the weapon removal process, e.g., not every violation under the table of offenses may prompt the removal of a firearm. **Agreed**

Section 7. A. The Agreement between U.S. Customs and Border Protection (CBP) and the National Treasury Employees Union (NTEU) dated August of 2006 addressing a due

process procedure for CBP Officers, to include Seized Property Specialists, will continue to apply. **Agreed**

- B. The authorized officer's nexus letter will be modified to include an area for the Agency to provide the nexus for the firearm removal in situations that were previously identified as "other." **Agreed**
- C. The authorized officer's investigation status letter will be expanded to include an estimated time frame for completion. **Agreed**
- D. An authorized officer's firearm removal nexus letter and subsequent investigation status letter(s) will also include the statement: "A COPY OF THIS LETTER MAY, AT YOUR OPTION, BE FURNISHED TO YOUR NTEU REPRESENTATIVE." **Agreed**

Section 8. In the event the Agency restricts an authorized officer's off-duty carriage authority for cause, the provisions of the "due process" Agreement referenced in Section 7 above will be followed. **Agreed**

Section 9. In the event an authorized officer has temporarily had their authority to carry a firearm rescinded, the officer will be assigned duties that do not require the carriage of a firearm until the officer's situation is resolved. During this time, the Agency will make a reasonable effort to assign these officers to duties that may provide for overtime compensation. **Agreed**

Section 10. In the event an officer can no longer demonstrate the proficiency necessary to maintain the authority to carry a firearm, the Agency will consider the employee for other positions for which the employee is qualified prior to taking any other administrative action. This provision is not intended to replace or conflict with established reasonable accommodation procedures. **Agreed**

Section 11. Absent other outstanding misconduct issues, an authorized officer who has had a domestic violence conviction (i.e. Lautenberg Amendment) expunged will be treated as if the conviction had never occurred, e.g. the authorized officer will be permitted to carry a firearm in accordance with the provisions of the Handbook. **Agreed**

Section 12. If a bargaining unit authorized officer is to be interviewed by any representative of the Agency concerning their involvement in a use of deadly force incident, the authorized officer shall be advised of their right to an NTEU representative pursuant to the terms of Article 22: Investigations. **The interview will not be held until the authorized officer has had a reasonable opportunity to regain their composure and to secure NTEU representation.**

Section 13. Authorized officers involved in a use of deadly force incident will be strongly encouraged to receive immediate medical attention. **Agreed**

Section 14. A. In accordance with Chapter 6 of the Use of Force Handbook, the Agency has determined that while performing official duties, authorized officers who carry firearms are required to be trained in both and carry at least one approved intermediate force device (i.e. OC spray or a CSB). **Agreed**

B. Those authorized officers in the field who have previously been certified to carry OC Spray by either CBP, the former United States Customs Services, the former Immigration and Naturalization Service or the former Border Patrol, regardless of whether or not such certification required an OC spray exposure, will be permitted to continue the carry of OC as an intermediate weapon. **Agreed**

C. Those authorized officers in the field who have never been previously certified to carry OC spray, and voluntarily choose to carry OC spray as an intermediate force option, must successfully complete the OC spray exposure exercise. **Agreed**

D. All authorized officers attending basic training must successfully complete the OC spray exposure exercise during their initial certification. **Agreed**

E. Re-certification in the use of OC spray will not require an OC spray exposure. **Agreed**

F. No pregnant authorized officer will be required to undergo an OC spray exposure. **Agreed**

Section 15 A. In accordance with the Handbook, the Agency has determined a minimum of eight (8) hours of use of force training will be conducted each qualification period. This will include four (4) hours for firearms training and recertification and four (4) hours for intermediate force training and recertification. **Agreed**

B. Eight (8) hours of remedial training will be provided to those failing to qualify with a firearm. **Agreed**

C. Eight (8) hours of remedial training will be provided to those failing to qualify with an intermediate device. **Agreed**

D. **Nothing in this provision prohibits CBP from providing additional remedial training on an as needed basis.**

E. CBP will provide NTEU on an annual basis in an electronic format, e.g. an excel spread sheet, data which reflects the number of instances and a description of the circumstances when officers were injured during firearms and intermediate force training. **For purposes of this Section, "injured" is defined as those circumstances where an employee filed a CA1 Workman's Compensation claim as a result of such training.**

F. CBP Officers and other armed personnel will be permitted to wear suspenders to support the weight of the duty belt and other required equipment e.g. gun, ammunition, baton, handcuffs, etc...

Section 16. A. In addition to quarterly qualifications, as well as unusual circumstances, authorized officers will be provided with sufficient materials to clean and maintain their Agency-issued or Agency-authorized firearms on duty time in accordance with established guidelines and legally implemented procedures. **Agreed**

B. Upon request by a local NTEU Chapter, CBP will consult with the Chapter concerning the cleaning and maintenance of authorized firearms. **Agreed**

Section 17. As a general rule, any required proficiency training, demonstration or qualification will be held during the authorized officer's normal tour of duty. If the authorized officer's normal tour of duty does not coincide with the scheduled training, demonstration or qualification, the Agency will modify the work schedule seven (7) days in advance of the administrative workweek, absent an authorized officer's voluntary agreement to do otherwise. **Agreed**

Section 18. The Agency will ensure medical personnel are available (either in person or by phone) when conducting use of force training exercises, including training concerning OC spray. **Agreed**

Section 19. Basic first aid training will be made available to Range Officers to enable them to provide emergency first aid until a more qualified medical technician is available. **Agreed**

Section 20. In accordance with the provisions of Chapter 9 Section E "CBP Authorized Competitive Shooting Teams", upon written approval from the Agency, duty time will be authorized for officers participating in authorized firearms competitions as Agency representatives. **Agreed**

Section 21. To assist authorized officers when applying for concealed weapon permits pursuant to Public Law 108-277, 18 USC 926B, the Agency will issue guidance to authorized officers once finalized. Once the guidance is finalized, NTEU will be provided a copy. **Agreed**

Section 22. A. Nothing in this Agreement or CBP policies and regulations shall be construed as interfering with the right of an employee as a private citizen to carry a privately-owned weapon in an off-duty status in accordance with applicable state or local law. **Agreed**

B. When a CBP employee authorized to carry firearm(s) initiates a written request to carry a personally owned firearm during non-duty hours, the agency, upon receipt of the request, will supply the employee with a generic letter set forth

at Appendix XX signed by the Port Director and addressed to the appropriate state and local authorities, stating:

(1) CBP firearms policy with respect to firearms carriage on and off duty;

(2) that nothing in the CBP firearms policy is intended to limit or interfere with the employee's right as a private citizen, in accordance with applicable state or local law, to carry a personally owned firearm (for personal use) in an off-duty status.

Section 23 Firearms instructors will be selected in accordance with the parties' Bid, Rotation and Placement Agreement. In locations that do not consider Firearms Instructors as included in a "work unit", existing selection procedures for the collateral duty will continue to apply. **Agreed**

Section 24. A. It is important the CBP appropriately determine whether an officer should have the authority to carry a firearm and that where CBP conducts investigations that involve the revocation of that authority, they will be flagged for priority over other investigations and conducted in an expeditious manner consistent with 24.D. **Agreed**

B. To increase oversight and attempt to expedite the investigations referenced in 24.A., the Office of Field Operations will inform (on a quarterly basis) the CBP office that is conducting the investigation, e.g., the Office of Internal Affairs, of those authorized officers who have had their weapon removed and are pending an administrative investigation. In return, the Office of Internal Affairs, or applicable office, will provide the Office of Field Operations a status of the individual investigations and an estimated time frame for completion. **Agreed**

The removal of firearm carriage authority pursuant to Section 2. of the Handbook does not prohibit the return of the firearm pursuant to the procedures set forth in Section 24.C. **Agreed**

C. 1. At least once a quarter, the Office of Field Operations will use the data assembled in 24.B. to review each revocation and re-evaluate if an officer's firearm can be returned. In the event management determines there is no longer a nexus between the alleged conduct and the threat to the safety of the officer or others, the firearm will be returned as soon as practicable. **Agreed**

2. **An impacted employee's investigation status letter will be amended to inform the employee that although the firearm will not be returned at that time, the revocation will be re-evaluated at the next quarterly review.**

D. Investigations involving the revocation of firearm carriage authority will not be confined to any time frame, will not require investigations to be concluded prematurely and will not take priority over all other CBP investigations. **Agreed**

E. In the event the firearm has not been returned pursuant to 24.C. above once an investigation has been completed and the Agency has not proposed terminating the employee, the firearm will normally be provided back to the employee within ten (10) calendar days of the decision not to terminate the employee's employment unless there is a reasonable belief that returning the firearm may jeopardize the safety of employee(s) CBP operations, or the traveling public. It is understood that CBP has determined that an employee will have their firearm and credentials removed while serving any suspension. **Agreed**

F. In the event either party requests to reopen the Use of Force Handbook mid-term agreement, or NTEU requests information in order to make a determination whether or not to reopen this Section, the following cumulative report will be provided to NTEU with an appropriate employee identifier, that will include: **Agreed**

- CBP investigating unit; **Agreed**
- The reason supporting the removal of the firearm; **Agreed**
- The date the investigation was opened; **Agreed**
- The status of the investigation e.g. on-going, completed; **Agreed**
- The expected time frame for the completion of the investigation. **Agreed**

Nothing in this provision waives NTEU's right to request additional information pursuant to applicable law. **Agreed**

G. In the event a decision to revoke firearm carriage authority is found to be improper, in whole or in part, any remedy may include reimbursing the employee for appropriate back pay, in accordance with the provisions of law e.g. the Back Pay Act. **Agreed**

Section 25.A. Off-duty storage for Agency-issued firearms at the discretion of armed employees, including overnight storage, shall be permitted only at facilities the CBP determines currently have storage available that is adequately secure. **Agreed**

- B. Where CBP determines that a facility has adequately secure storage, but the facility does not have the capacity to fully accommodate employee interest in off-duty storage, employee requests for off-duty storage of their weapons shall be granted in the following order: **Agreed**
- 1) Authorized officers experiencing significant hardships will be provided off-duty storage. **Agreed**
 - 2) Remaining off-duty storage at a duty location will be open to authorized officers for discretionary use with priority granted on the basis of seniority service at the post of duty. **Agreed**

- 3) This language is not intended to diminish the availability of secured storage provided under current practice at individual facilities. **Agreed**
- C. To ensure that new or retrofitted facilities will have adequate off-duty firearms storage (i.e., storage to accommodate at least 25 percent of armed employees), CBP will add on-site storage capability to the technical design standards. Once a new facility is scheduled for construction or an existing location is scheduled for retrofitting, CBP will inform NTEU in accordance with existing Agreements and practices. **Agreed**
- D. Either party may reopen the provisions concerning off-duty storage of firearms after the policy has been in effect for 1 year. In preparation for reopener bargaining, the parties shall jointly determine employee interest in off-duty firearm storage. Thereafter, the provisions, including any modifications thereto, shall remain in effect concurrently with the master collective-bargaining agreement. **Agreed**

Section 26.A. If a pregnant employee authorized to carry firearms in the course of her duties wishes to perform the full range of duties envisioned in the position to which she is assigned, the Employer may request a medical certificate stating that the employee is physically capable of performing the full range of duties. **Agreed**

- B. Employees who elect to perform the full range of duties must qualify in accordance with appropriate firearms policy. **Agreed**
- C. Light duty for a temporary period will be considered for a pregnant officer or for an officer returning to work after an injury, pregnancy or illness, provided that such work is available and the assignment will not unduly disrupt the work unit's operation. In such cases, the officer must provide a medical certificate indicating that the officer should work restrictively and that full recovery is expected. **Agreed**

Section 27. The parties nationally will establish a joint-working group to address firearms-related issues. **Agreed**

HOLIDAYS

NTEU 08/09/10

This Article describes the policies and procedures by which employees will be scheduled (or released) and compensated for Holidays and/or Religious Observances. AGREED

Section 1. Holiday means any day designed as a holiday by a Federal statute or declared by an Executive Order. For reference, Federal holidays (and the date on which they fall) are:

- (1) New Year's Day (January 1st);
- (2) Birthday of Martin Luther King, Jr. (third Monday in January);
- (3) Washington's Birthday (third Monday in February);
- (4) Memorial Day (last Monday in May);
- (5) Independence Day (July 4th);
- (6) Labor Day (first Monday in September);
- (7) Columbus Day (second Monday in October);
- (8) Veterans Day (November 11th);
- (9) Thanksgiving Day (fourth Thursday in November);
- (10) Christmas Day (December 25th);
- (11) Inauguration Day (January 20th of each fourth year after 1965 for employees whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland; or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls Church in Virginia); and
- (12) Any other day designated by Federal statute or declared by an Executive Order.

AGREED

Section 2. General Policies.

A. A full-time employee who is not required to work on a holiday will receive his/her basic rate of pay for all of the non-overtime hours (s)he would otherwise work on that day. AGREED

B. A part-time employee is entitled to a holiday when the holiday falls on a day (s)he is regularly scheduled to work. A part-time employee who is excused from work on a holiday will receive their basic rate of pay for the hours they are regularly scheduled to work on that day. AGREED

C. If a holiday falls on an employee's regular day off and the employee is called in to work overtime on that day, s/he is entitled to pay at the overtime rate for all hours worked on the holiday and not holiday premium pay. Employees performing non-overtime work on their "in lieu" of holiday will receive holiday premium pay. AGREED

D. For the purpose of this Article, seniority will be determined by: AGREED

(1) The total time an employee has served in his or her occupation (e.g., CBP Officer, CBP Agriculture Specialist, Import Specialist, etc.), including time in an equivalent position (e.g., Customs and Immigration Inspectors for CBP Officers and PPQ Officers for CBP Agriculture

Specialists) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officer, Immigration Inspector (Canine) or PPQ Officer (Canine) is considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively. AGREED

(2) In the event it is necessary to resolve times after step (1), the total time an employee has served in CBP and heritage agency, regardless of position, will be used. AGREED

(3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e. SCD) will be used. AGREED

(4) In the event it is necessary to resolve ties after step (3), they will be resolved by coin flip. AGREED

Less than full-time employment will be credited for seniority purposes in accordance with the above on a pro rated basis. AGREED

Section 3. Holiday Observances and Compensation.

A. COPRA Covered Employees. Employees covered by the Customs Officer Pay Reform Act (COPRA) will observe holidays and be provided holiday premium pay in accordance with 19 C.F.R. § 24.16 and this Section (provided for informational purposes). AGREED

(1) Premium pay differentials may only be paid for non-overtime work performed on holidays, Sundays, or, at night (work performed, in whole or in part, between the hours of 3:00 p.m. and 8:00 a.m.). An employee shall receive payment for only one of the differentials for any one given period of work. The order of precedence for the payment of premium pay differentials is holiday, Sunday, and night work. AGREED

(2) An employee who performs any regularly-scheduled work on a holiday will receive pay for that work at the officer's hourly rate of base pay, which includes authorized locality pay, plus premium pay amounting to one-hundred (100) percent of that base rate. Holiday differential premium pay will be paid only for time worked. Intermittent employees are not entitled to holiday differential. AGREED

(3) When a holiday is designated by a calendar date, the holiday will be observed on that date regardless of Saturdays and Sundays. Employees who perform regularly-scheduled, non-overtime, tours of duty on those days will be paid the holiday differential. Holidays not designated by a specific calendar date, shall be observed on that date, and employee who perform regularly-scheduled, non-overtime, work on those days will be paid the holiday differential. AGREED

(4) Inauguration Day is a legal public holiday for the purpose of COPRA. Employees whose duty locations are in the District of Columbia, or Montgomery and Prince George counties in Maryland, or Arlington and Fairfax counties in Virginia, or in the cities of Alexandria and Falls

Church in Virginia, who perform regularly scheduled, non-overtime, work on that day shall be paid the holiday differential. When Inauguration Day falls on a Sunday, the next succeeding day selected for the public observance of the inauguration of the President is the legal public holiday. AGREED

(5) If a legal holiday falls on an employee's regularly-scheduled day off, the employee shall receive a holiday "in lieu of" that day. Holidays "in lieu of" shall not be granted for Inauguration Day. An employee who works on an "in lieu of" holiday shall be paid the holiday differential. AGREED

(6) If an employee is assigned to a regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the twenty-four (24) hour calendar day of a holiday – for example, a tour of duty starting at 8 p.m. on a Monday holiday following a scheduled day off on Sunday and ending at 4 a.m. on Tuesday - the employee shall receive the holiday differential (up to eight (8) hours) for work performed during that shift. If the employee is assigned more than one regularly-scheduled, non-overtime, tour of duty which contains hours within and outside the twenty-four (24) hour calendar day of a holiday – for example, a tour of duty starting at 8 p.m. on the Wednesday before a Thursday holiday and ending at 4 a.m. on Friday - the management official in charge of assigning work shall designate one of the tours of duty as the employee's holiday shift and the employee will receive holiday differential (up to eight (8) hours) for work performed during the entire period of the designated holiday shift. The employee will not receive holiday differential for any of the work performed on the tour of duty which has not been designated as the holiday shift but will be eligible for Sunday or night differential as appropriate. AGREED

(7) Employees who are regularly scheduled, but not required, to work on a holiday shall receive their hourly rate of base pay for that eight (8) hour tour plus any Sunday or night differential they would have received had the day not been designated as a holiday. To receive holiday pay under this paragraph, the employee must be in a pay status (at work or on paid leave) either the last work day before the holiday or the first work day following the holiday. AGREED

(8) An employee who works only a portion of a regularly-scheduled, non-overtime, holiday shift will be paid the holiday differential for the actual hours worked and the appropriate differential (Sunday or night) for the remaining portion of the shift such employee was not required to work. The night differential premium pay shall be calculated based on the rate applicable to the entire shift. AGREED

B. Employees Not Covered by COPRA. Employees not covered by COPRA will observe holidays and provided holiday premium pay in accordance with 5 C.F.R. § 550, as appropriate. This includes: AGREED

(1) An employee who is required to work during non-overtime hours on a holiday will receive his/her rate of basic pay, plus holiday premium pay at a rate equal to his or her rate of basic pay, for each hour of holiday work. AGREED

(2) An employee who is required to perform any work during non-overtime holiday hours is entitled to a minimum of two (2) hours of holiday premium pay. AGREED

(3) In the event a holiday is observed on a full-time employee's regular day off, the employee will normally be provided an "in lieu of" holiday on the employee's regularly scheduled non-overtime work day immediately preceding the holiday. The exception is when the holiday falls on the first regular day off of the employee's administrative work week, in which case the employee will be provided an "in lieu of" holiday on the following work day. AGREED

(4) In accordance with 5 C.F.R. 610.405, part-time employees are not entitled to an "in lieu of" holiday when a holiday falls on a non-work day. AGREED

Section 4. Holiday Scheduling.

A. Absent the existence of a supplemental agreement specifically applicable to local practices addressing such issues as the selection of "in lieu of" holidays, current holiday procedures will apply. If there are multiple procedures in a port or like entity, those flowing from the Customs-NTEU agreement/relationship shall apply as of the beginning of the next Holiday solicitation period. However, once the employer declares its intention to replace multiple local practices with a single policy or practice regarding these issues and that has more than a de minimis impact, the impact and procedures of that decision shall be negotiated with NTEU.

B. Absent the existence of a locally negotiated agreement under Section 5.A. of this Article, the Employer will use the following procedure when excusing employees from work on a holiday: AGREED

(1) If the Employer determines that more than one (1) employee is excusable from within the work group from which the excusal is to be made, management will solicit volunteers from within that work group. AGREED

(2) In the event:

1. More excusable employees volunteer than are required, excusals will be granted in seniority order. AGREED

2. Too few excusable employees volunteer, employees will be excused in inverse seniority order. AGREED

C. Where employees are not regularly scheduled to work on a holiday and the employer determines more than one (1) employee is qualified and eligible from within the work group from which the holiday assignment is to be made, management will solicit volunteers from within the work group from which the selection is to be made. In the event: AGREED

(a) More qualified employees volunteer than are required, selections for assignments will be made in seniority order. AGREED

(b) Too few qualified employees volunteer, assignments will be made in inverse seniority order. AGREED

D. Employees will be assigned to work holidays in a manner that does not conflict with applicable compensation cap or annuity integrity requirements and procedures. AGREED

Section 5. Religious Observances. AGREED

A. An employee whose personal religious beliefs require the abstention from work during certain periods of time may request annual leave, Leave Without Pay (LWOP) or elect to engage in overtime work for time lost for meeting those religious requirements in accordance with applicable law and government-wide rules, regulations and the policies and procedures contained in this Section.

(1) Requests for annual leave or LWOP for such purpose will be considered and approved in accordance with the procedures contained in Article XX: Leave and Excusal.

(2) To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of its mission, the Employer shall in each instance afford the employee the opportunity to work compensatory overtime and shall in each instance grant compensatory time off to an employee requesting such time off for religious observances when the employee's personal religious beliefs require that the employer abstain from work during certain periods of the workday or workweek.

(3) For the purpose stated in subsection A.(2) of this section, the employee may work such compensatory overtime before or after the grant of compensatory time off. A grant of compensatory time off shall be repaid by the appropriate amount of compensatory overtime work within five (5) pay periods of its use. Time not repaid will be charged to the employee's annual leave account at the end of the fifth (5th) pay period by amending the time card(s) as appropriate. Compensatory time off under this Section may be earned and used in quarter-hour increments.

(4) If at the time requested, no productive work is available for the employee to perform on compensatory overtime, alternative times will be arranged by the Employer in accordance with law and government-wide rules and regulations.

(5) The premium pay provisions for overtime work do not apply to compensatory overtime work performed under this Section.

(6) The Employer will approve requests within each work unit in seniority order, absent mutual agreement.

LEAVE AND EXCUSAL

NTEU 8/09/10

The purpose of this Article is to establish the policy and procedures by which employees request and management reviews and considers leave and excusal. AGREED

Section 1. General Policies.

- A. Leave and excused absences may be requested, approved and used in quarter-hour increments. AGREED
- B. Leave and excused absences will be requested as far in advance as possible through the use of an Office of Personnel Management (OPM) Form SF-71, "Request for Leave or Approved Absence" (or equivalent). Requests submitted through the Customs Overtime Scheduling System (COSS) meet this requirement. Emergency requests for leave may be made telephonically to the designated management official, and will be followed up with a formal request upon the employee's return as appropriate. AGREED
- C. In the event an unforeseen emergency arises that prompts an employee to request unscheduled leave, such leave will be requested as follows: AGREED
- (1) If the emergency arises while the employee is at work, the employee will notify the Employer of the nature of the emergency, the anticipated extent of his/her absence, and seek the Employer's approval for the appropriate type of leave. AGREED
 - (2) If the emergency arises when the employee is not at work, and the need to take leave would prevent the employee from reporting to work as scheduled, the employee must notify his/her supervisor (or designated alternate) at the earliest available opportunity, but absent just cause, no later than one (1) hour after the time in which the employee is schedule to report for duty. At the time the emergency request for leave is made, the supervisor (or designated alternate) will advise the employee as to whether the request for leave is approved (including provisional approvals subject to follow-up documentation when appropriate). If the supervisor (or designated alternate) is not available, the employee must leave a message with a telephone number where (s)he can be reached. AGREED
 - (3) If the emergency extends beyond the period for which leave was originally requested, the employee must again notify the Employer and request additional leave. AGREED
- D. The Employer will review, consider and approve employee requests for leave and excused absence in a fair and impartial manner. AGREED
- E. If any request for leave or excused absence is denied, the Employer will provide the employee with an explanation for the denial upon request. AGREED

Section 2. Annual Leave.

A. The entire leave year will be available for annual leave requests, and the Employer will allow each employee to schedule annual leave as (s)he desires, subject to approval by the appropriate official based on workload and staffing needs. This includes approving annual leave requests in a manner that permits each employee, if (s)he wishes, to request at least one (1) period of two (2) consecutive weeks of annual leave each leave year. AGREED

B. When making annual leave requests in advance, employees will not be required to provide details as to the specific reason, and may give a reason of "personal business" if asked by the Employer. AGREED

C. Local Annual Leave Procedures.

(1) Upon the effective date of this agreement, and at any time thereafter, the employer and union may, by mutual agreement, adopt a local annual leave procedures.

(a) The scope of such mutual agreements may include:

1. The time periods in which employees within appropriate work units or groups will compete for available leave periods; AGREED

2. The dates for submission of leave requests; AGREED

3. The posting of leave schedules; and/or AGREED

4. The criteria, priorities and/or the methods for resolving conflicts between leave requests among employees competing for available leave periods within an organizational segment. AGREED

D. **Absent the existence of a supplemental agreement specifically applicable to local practices addressing the four questions of Section 2.C. of this Article or other mutual agreement, the current local leave procedure will apply. If there are multiple procedures in a port or like entity, those flowing from the Customs-NTEU agreement/relationship shall apply as of the beginning of the next leave solicitation period. If that change is more than de minimis, the employer will serve notice on the union of the change and precisely what will likely be lost by employees and the union may negotiate before the change is made.**

E. Should the Employer find it necessary to cancel previously approved leave, it will inform the employee as soon as the reason is known to the Employer. The reasons for canceling leave will be provided in writing for all leave that was requested in writing. Employee requests for rescheduling approved leave which has been canceled, shall be processed in accordance with this Article. AGREED

F. To the extent it has not otherwise been requested and approved, an employee with use or lose annual leave (as reflected in the Leave and Earnings Statement provided by the Employer)

will submit annual leave requests for the balance of the leave year before September 1st of each year. AGREED

G. Annual leave requested and approved in writing before November 15th of each year and subsequently cancelled by management and forfeited by the employee may be restored when: AGREED

(1) Exigencies of public business existed that were of such importance and duration as to prevent the use of annual leave that was scheduled in advance before the end of the leave year; AGREED

(2) The employee experienced a period of sickness that interfered with the usage of scheduled annual leave, and occurred or continued so late in the leave year that annual leave could not have been rescheduled to avoid forfeiture; or AGREED

(3) The forfeiture was caused by an administrative error on the part of the Employer. AGREED

H. The Employer will inform employees of the procedure by which forfeited annual leave may be restored each leave year. AGREED

I. Advanced Annual Leave. Requests for advanced annual leave may be made by an employee and will be evaluated by the Employer in accordance with the terms of this Article when: AGREED

(1) The employee is eligible to earn annual leave; AGREED

(2) The employee has served more than ninety (90) days in his appointment; AGREED

(3) The employee is not under leave restriction; AGREED

(4) The employee makes the request in writing (i.e., memo) and provides a rationale for the request; AGREED

(5) The employee does not request more advanced annual leave than would be earned during the remainder of the year; and AGREED

(6) The liquidation of the advance may be anticipated by subsequent accruals of the leave or recovery of the value of the advanced leave (e.g., by withholding salary or other funds due to the employee, etc.) in the event of the employee's separation. AGREED

If an employee's request for advanced annual leave is denied, the employee will be provided written notification of the denial. AGREED

Section 3. Sick Leave.

A. Sick leave may be requested by employees for personal medical needs, to provide care for a family member, to make arrangements for and attend the funeral of a family member, to care for a family member with a serious health condition, and for adoption-related purposes. AGREED

B. The Employer will approve employee requests for sick leave for purposes and in amounts as required by applicable law, rule and regulation. AGREED

C. When an employee knows in advance that sick leave will be required, (s)he will request sick leave at the time the necessity for the leave is determined. AGREED

D. The employee is responsible for contacting his/her supervisor (or designated alternate) about the need for unscheduled sick leave as soon as possible, but, absent just cause, no later than one (1) hour after the time in which the employee is scheduled to report for duty. If the supervisor is not available, the employee must leave a message with a telephone number where (s)he can be reached. Upon return to duty, the employee will follow up on the request by making the necessary written submission(s). AGREED

E. Supporting Documentation.

(1) The Employer will consider an employee's personal certification as to the reason for an absence of three consecutive work days or less as administratively acceptable evidence of the need to use sick leave. However, the employer may, at the national or local level, serve specific notice on NTEU of the conditions under which it will not accept this evidence as sufficient, e.g., what will be considered specific evidence of an abuse of sick leave nationally and/or locally. Once notice is served, bargaining, if requested, must be completed before implementation. Thereafter, the Employer may also require a medical certificate, or other administratively acceptable evidence, as to the reason for any sick leave absence over the six month period following notice to the specific employee.

(2) If an employee is considered to be abusing sick leave, the employer will serve written notice on the employee detailing the grounds for that conclusion, the evidence that will be required, the period during which this additional evidence will be required up to six months, and any other specific conditions of the requirement. The employee will be given 10 work days to present an oral and/or written reply to the charges. If the employer's final decision is to impose restrictions, it will notify the employee in writing of which allegations and facts in the notice were sustained prior to beginning the restrictions.

(3) The employer also may request such medical certificate or other acceptable evidence for any sick leave absence of more than three consecutive days irrespective of whether there is evidence of abuse.

(4) "Medical certificate" means a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination or treatment, or to the period of incapacitation while the patient was receiving professional treatment. AGREED

(5) When requested, employees will provide such evidence within fifteen (15) calendar days from the date of the request, absent just cause. AGREED

(6) Nothing in this subsection restricts the employer's ability to take appropriate disciplinary or adverse action because of sick leave abuse, e.g., falsification of a request.

F. Upon request by the employee, an approved absence which would otherwise be chargeable to sick leave may be changed to annual leave.

G. Advance Sick Leave. Requests for advanced sick leave may be made by an employee and will be evaluated and approved by the Employer in accordance with the terms of this Article when: AGREED

(1) The employee is eligible to earn sick leave; AGREED

(2) Advanced sick leave is required by the exigencies of the situation for a serious disability or ailment of the employee or a family member, or for purposes related to the adoption of a child. AGREED

(3) The employee makes the request in writing (i.e., memo) and supports the request with a medical certificate; AGREED

(4) The Employer has a reasonable expectation that (s)he will return to duty and repayment can reasonably be expected; AGREED

(5) The employee is not currently under leave restriction; and AGREED

(6) The total amount advanced to the employee does not exceed two hundred and forty (240) hours. AGREED

H. The Employer will comply with the requirements of Section XX of Article XX: Employee Rights regarding the handling and protection of medical information provided by employees under this Section. AGREED

Section 4. Leave Without Pay.

A. Leave Without Pay (LWOP) is an employee requested and Employer approved temporary absence from duty in a non-pay status. Absent just cause, all LWOP must be requested and approved in advance. AGREED

B. As LWOP can impact various employee benefits and other personnel actions, the Employer will ensure information is readily available for employees on such impacts. In addition, a representative of the Employer will be available to discuss such impacts with an employee who is contemplating making an LWOP request. AGREED

C. In accordance with applicable law, rule and regulation, the Employer must approve LWOP in following specific circumstances: AGREED

(1) Family and Medical Leave Act of 1993 (FMLA) requests under Section 5 of this Article; AGREED

(2) Entitlements under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA); AGREED

(3) Requests from an employee who is a disabled veteran and presents an official statement from a medical authority that medical treatment is required in connection with the disability (provided prior notice of the period during which absence for treatment will occur is given to the Employer); and AGREED

(4) Employees who are in receipt of compensation from the Department of Labor for work-related injuries or occupational diseases may not be in a pay status, and therefore must be carried in a LWOP status. AGREED

D. The employer will approve requests for the following LWOP periods unless there is a legitimate management reason for it to deny the request and it provides a description of its fair and equitable reasons for not doing so:

(1) To serve as the elected National President or Executive Vice President of the NTEU, or to serve full-time in an appointive position of the Union; AGREED

(2) To attend school for one (1) year in full-time study when: the study is related to the employee's position; the employee has worked for CBP for at least five (5) years; the employee is performing at least at the acceptable level; and the employee agrees to return to CBP upon completion of the study period; AGREED

(3) For a period of up to six (6) months when an employee has an illness or injury that would otherwise be covered by sick leave and the employee agrees to return to CBP at the conclusion of the LWOP period.

(4) To attend the Union's biennial convention, in connection with a death in the immediate family, to observe a religious holiday, to attend NTEU training, or in an emergency.

E. In all other cases, the Employer will appropriately consider and approve employee requests for LWOP. In granting requests, the Employer will consider whether the value to the government, the public good, or the needs of the employee are sufficient to offset the administrative inconvenience and the cost of granting the request. Such factors as increased job ability, protection or improvement of an employee's health, job performance, and retention of a desired employee may be considered. In addition, the Employer should have a reasonable expectation that the employee will return to duty at the end of the LWOP (except in cases where an employee is relocating). AGREED

F. Approved LWOP may be retroactively changed to annual leave if: AGREED

(1) Due to an administrative error or misunderstanding, the employee was not aware that (s)he had an annual leave balance or that annual leave could have been used; or AGREED

(2) The employee is accepted into the Voluntary Leave Transfer Program and donated leave is available. AGREED

G. An employee who returns to duty after a period of LWOP of forty-five (45) calendar days or less will be returned to the same position, or if not available a similar position, held at the employee's post of duty prior to the period of LWOP. AGREED

H. An employee who returns to duty after a period of LWOP of more than forty-five (45) days will be returned to the same position, or if not available a similar position, held at the employee's post of duty prior to the period of LWOP; or, if not available, placed in a like position in the commuting area. AGREED

Section 5. Family and Medical Leave Act (FMLA).

A. The Family and Medical Leave Act (FMLA) entitles eligible employees (see 5 CFR § 630) to take leave without pay (LWOP), or to substitute appropriate accrued paid leave, for up to a total of twelve (12) administrative work weeks during a twelve (12) month period for the following reasons: AGREED

(1) Birth of a son or daughter of the employee and the care of such son or daughter; AGREED

(2) Placement of a son or daughter with the employee for adoption or foster care; AGREED

(3) Care of an employee's spouse, child under eighteen (18) years of age, or parent, who has a serious health condition; or AGREED

(4) Serious health condition of the employee that makes him/her unable to perform the essential functions of his/her position. AGREED

B. In accordance with Section 585(b) of Public Law 10-181, a Federal employee who is the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative) of a covered service member with a serious injury or illness (incurred in the line of duty while on active duty in the Armed Forces) and provides care for such service member is entitled to entitled to:
AGREED

(1) Up to twenty-six (26) weeks of unpaid military family leave during a twelve (12) month period to care for the service member. AGREED

(2) If eligible for military FMLA leave under this subsection and regular FMLA under subsection A. above, a combined total of no more than twenty-six (26) weeks of all FMLA leave during a single twelve (12) month period. For example, if on January 1st an employee (who also takes care of a covered service member) takes six (6) weeks of regular FMLA for the birth of a child, the six (6) weeks of regular FMLA is subtracted from the combined twenty-six (26) week entitlement, leaving the employee with twenty (20) weeks of military family leave available to be requested through December 31st of that year. AGREED

C. The twelve (12) month period begins on the date the employee first takes leave under FMLA. AGREED

D. A "serious health condition" means an illness, injury, impairment or physical or mental condition that involves: AGREED

(1) A period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or medical care facility; AGREED

(2) A condition that results in incapacity requiring an absence of more than three (3) consecutive calendar days involving continuing treatment by a health care provider; or AGREED

(3) Continuing treatment/supervision by a health care provider for a chronic or long-term condition that, if not treated, would likely result in incapacity of more than three (3) consecutive calendar days. AGREED

E. Requests for FMLA leave must be accompanied (or followed up by) administratively acceptable medical documentation from a qualified health care provider supporting the request. Department of Labor Form WH-380, "Certification of Health Care Provider" satisfies this requirement.

F. A "health care provider" is a licensed Doctor of Medicine or Doctor of Osteopathy; a health care provider recognized by the Federal Employees Health Benefits Program; a Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner. AGREED

G. The Employer will protect and handle any medical information provided by the employee in accordance with Section XX of Article XX: Employee Rights. AGREED

H. When possible, a requesting employee must provide notice of his/her intent to take FMLA leave not less than thirty (30) calendar days before the leave is to begin. When not possible, the employee will provide notice as soon as practicable. AGREED

I. Requesting employees must submit the necessary supporting medical documentation no later than fifteen (15) calendar days after the request for FMLA leave is submitted. If, due to circumstances beyond the employee's control, the medical certification is not available within the fifteen (15) calendar day period, the employee must submit it no later than thirty (30)

calendar days after the request for FMLA leave. The employee's supervisor may waive the requirement for an additional medical certificate in a subsequent twelve (12) month period if the FMLA leave is for the same chronic or continuing health condition. AGREED

J. FMLA leave under subsections A.(1) and (2) of this Section may be taken on an intermittent basis if the employee so requests, and the employee's supervisor reasonably determines that such a schedule will not adversely impact the accomplishment of the mission. FMLA leave under subsections A.(3) and (4) of this Section may be taken on an intermittent basis or on a reduced leave schedule (employee's usual number of hours of regularly scheduled work per day is reduced), only when medically necessary to care for a seriously ill family member or for the serious health condition of the employee. AGREED

K. An employee may elect to substitute annual leave and/or sick leave, consistent with applicable law and regulations for using annual or sick leave, for any FMLA LWOP. An employee who elects to substitute paid leave for FMLA leave must notify his/her supervisor of that election prior to the date the FMLA leave begins. AGREED

L. Upon returning from FMLA leave, an employee will be returned to the same position, or if not available, an equivalent position with equivalent benefits, pay, status and other terms and conditions of employment. An employee who takes FMLA leave is entitled to maintain health benefits coverage. An employee on unpaid FMLA leave may pay the employee share of the premiums on a current basis or pay upon return to work. AGREED

Section 6. Military Leave.

A. Military leave is absence from duty from the employee's civilian position without loss of pay (including pay for regularly scheduled overtime) to perform military duty. AGREED

B. In accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), an employee performing service with the uniformed services will be permitted, upon request, to use military leave or accrued annual leave during such service. AGREED

C. In order to be entitled to military leave, an employee must be:

(1) A member of a Reserve component of the Armed Forces or the National Guard;

(2) A full-time, part-time or indefinite employee who does not have an intermittent work schedule; and

(3) Serving in an appointment that is not limited to one (1) year or less. AGREED

D. Eligible employees accrue fifteen (15) calendar days (i.e., 120 hours) of military leave per fiscal year for active duty, active duty training, inactive duty training and funeral honors duty. An employee may carry over a maximum of fifteen (15) days into the next fiscal year. AGREED

E. Eligible employees may accrue an additional twenty-two (22) work days (i.e., 176 hours) of military leave per calendar year for emergency duty as ordered by the President or a State governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property, or when performing full-time military service as a result of a call or order to active duty in support of a contingency operation. AGREED

F. In accordance with 5 U.S.C. § 6323 (c), members of the National Guard of the district of Columbia are provided unlimited military leave for certain types of duty ordered or authorized under Title 39 of the District of Columbia Code. AGREED

G. In accordance with 5 U.S.C. § 6323 (d), Reserve and National Guard Technicians only are entitled to forty-four (44) work days (i.e., 352 hours) of military leave in a calendar year for duties overseas under certain conditions. This entitlement is in addition to the entitlement to fifteen (15) days of military leave under 5 U.S.C. § 6323 (a) and Section 6.D. of this Article. AGREED

H. Whenever possible, employees must submit requests for military leave in advance, which will be accompanied by a copy of the military orders (if available) or a copy of the weekend drill schedule. AGREED

I. The minimum charge for military leave is one (1) hour. An employee may be charged military leave only for hours that the employee otherwise would have worked and received pay. Time taken on a work day for traveling to the military training location cannot be charged to military leave unless the military orders encompass the required travel time. AGREED

J. Holidays and non-duty weekends are not charged against military leave. AGREED

K. Military leave does not have to be exhausted prior to using other appropriate types of leave (i.e., annual leave or LWOP) to perform military duty, and may be intermingled with other leave. In accordance with 5 C.F.R. § 353.208, an employee may request, and the Employer will approve, the use of accrued annual leave, previously earned compensatory time off, previously earned credit hours, or LWOP intermittently when (s)he is activated into military service. AGREED

L. An employee's civilian pay will remain the same for periods of military leave under 5 U.S.C. § 6323 (a) and Section 6.D. of this Article, including any premium pay (except Sunday premium pay) an employee would have received if not on military leave. For military leave under 5 U.S.C. § 6323 (b) and (c), and Sections 6.E. and F. of this Article, the employee's civilian pay is reduced by the amount of military pay for the days of military leave. However, an employee may choose not to take military leave and instead take annual leave in order to retain both civilian and military pay. AGREED

M. Federal civilian employees returning from a qualifying deployment for at least forty-two (42) consecutive days on active military duty in support of the Global War on Terrorism (GWOT), will receive five (5) days of uncharged leave (excused absence) only once in a 12-month period. A qualifying deployment is any military service in connection with Operation

Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or other military operations subsequently established under Executive Order 13223. AGREED

Section 7. Court Leave.

A. Court leave is an approved absence from duty without loss of pay or charge to an employee's accrued leave to perform jury duty in a Federal, state or municipal court or to serve as a witness for the United States, the District of Columbia, or a state or local government. AGREED

B. Court leave must be requested and approved in advance, and the request must be accompanied by the summons, court order, subpoena or other official request. AGREED

C. Court leave will be granted for absences during an employee's regularly scheduled tour of duty, including regularly scheduled overtime. It can be granted only for those days and hours the employee would otherwise be in a pay status. AGREED

D. Employees assigned to night shifts or standby tours of duty are granted court leave comparable with employees assigned to regular day shift work. Since jury or witness duty generally requires an employee's presence in court during daytime hours, an employee who is scheduled to work at night will be granted court leave during the day on which the night shift begins or ends. AGREED

E. If an employee's absence is properly chargeable to court leave, the employee may not elect to have the absence charged to annual leave. If an employee is on annual leave when called for jury duty or witness service, court leave will be substituted. AGREED

F. When an employee on court leave is excused or discharged by the court, the employee must return to duty unless doing so would be impractical. An employee excused or discharged by the court for a substantial portion of a work day is not entitled to court leave, but must report for duty (or request appropriate leave). As a general rule, an employee will contact his/her supervisor to determine if (s)he should report for duty. AGREED

G. Once the employee has completed his/her jury or witness service, (s)he must submit a certificate of attendance, signed by a clerk of the court or other appropriate official to his/her supervisor for retention with timekeeping records. Such certificates should identify fees and expenses allowances provided. AGREED

H. Since court leave permits an employee to fulfill his/her obligation to the court without any loss of pay, the employee is responsible for collecting lost wage compensation provided by the applicable jurisdiction and forwarding it to the National Finance Center (Payroll Branch, P.O. Box 68903, Indianapolis, Indiana 46268). Such compensation must be delivered by money order or personal check. In the event the employee fails to collect fees payable or waives payment of such fees, an equivalent amount will be withheld from his/her salary. Full-time employees may

retain fees for compensation paid for jury service on holidays and other non-workdays.
AGREED

I. Employees may keep any expense fees they receive while on court leave. AGREED

Section 8: Home Leave.

A. Home leave is a period of approved absence with pay authorized by 5 U.S.C. § 6305 for employees stationed abroad. AGREED

B. Employees serving outside the United States who meet the requirements of 5 U.S.C. § 6304 (b) for the accumulation of a maximum of forty-five (45) days (i.e., 360 hours) of annual leave are eligible for home leave. AGREED

C. Home leave will accrue and be granted in accordance with applicable law, rule, regulation and this Agreement. AGREED

D. Home leave for eligible employees at Preclearance stations accrues at the rate of five (5) days per twelve (12) months of service. Home leave accrues without limit. AGREED

E. The Employer will exercise its right to approve home leave in a fair and impartial manner when the employee has completed a basic service period of twenty-four (24) months of continuous service abroad and the employee has been selected to return for at least a twelve (12) month assignment. AGREED

F. Home leave may be used only in the United States, the Commonwealth of Puerto Rico, or a territory or possession of the United States. AGREED

G. Request for home leave will be made when the employee submits his/her request for an additional assignment outside the United States. AGREED

H. Subject to approval by the appropriate official, based on workload and staffing needs, home leave will be used within the ninety (90) days after the employee becomes eligible under Section 8.D. of this Article. AGREED Requests for exceptions to use home leave within 90 days will be considered on a case-by-case basis. However, the 90 day period will be extended when the home leave request is disapproved because of operational or mission requirements.

I. Home leave will generally be requested to be taken in blocks of ten (10) days. However, employees who have accrued additional home leave may request the extension of their home leave period to the extent such leave is available. AGREED

J. Nothing in this Section prohibits an employee from requesting annual leave in combination with home leave. AGREED

K. Once home leave has been approved, round-trip travel to the employee's official residence and per diem while in a travel status will be authorized at government expense for the employee and his or her immediate family.

L. One way travel and per diem will be authorized at government expense for the employee and his or her immediate family when the employee completes his or her tour of duty and returns to the official residence.

M. Employees may elect to take home leave to other than their official residence as long as such travel is within the United States, the Commonwealth of Puerto Rico or territory or possession of the United States. However, in such circumstances the employee will only be reimbursed up to the cost of the round-trip (or one way) travel and per diem for the employee and his or her immediate family to the employee's official residence.

Section 9: Excused Absences.

A. Excused absence, often referred to as "administrative leave," is an authorized absence from duty without loss of pay or charge against leave. AGREED

B. An employee may be excused from duty when the absence is not specifically prohibited by law, and is: AGREED

(1) Directly related to CBP's mission; AGREED

(2) Officially sponsored or sanctioned by CBP; AGREED

(3) Determined to enhance the professional development or skills of an employee in his/her current position; or AGREED

(4) Brief and is determined to be in the interest of CBP. AGREED

C. Absent just cause, the Employer will approve employee requests for excused absence in the following circumstances: AGREED

(1) Voting. In the event polls are not open at least three (3) hours before or after an employee's regularly scheduled hours of work, excused absence at either the beginning or end of the daily tour of duty, depending on which requires less excused absence. In those rare circumstances where an employee's voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the amount of excused absence may be increased to the amount necessary, but not more than one (1) day. Upon employee request, time needed in excess of one day may be charged to annual leave (or LWOP if annual leave is exhausted). AGREED

(2) Blood Donations. To give blood or platelet donations to an officially authorized blood bank, or in emergencies transfusions to individuals, for the period it takes to make the donation

or transfusion and recover, not to exceed four (4) hours. In addition, the employee will be granted excused absence for reasonable travel time to/from the donation/transfusion location. Should the employee desire or need additional time, (s)he may request accrued annual leave, sick leave, compensatory time, credit hours or LWOP. This subsection does not cover an employee who gives blood for his or her personal use or receives compensation for donations. AGREED

(3) Civil Defense Activities. Up to five (5) workdays per calendar year to participate as a volunteer in emergency rescue/protective work or to participate in a federally recognized civil defense program. Emergency situations include, but are not limited to, extreme weather conditions or disasters such as fire, flood or other natural phenomena, and search operations. At the conclusion of the employee's participation in the emergency work or civil defense program, (s)he must provide acceptable evidence certifying his/her attendance through the excused absence period. AGREED

(4) Internal Examinations. To take examinations related to employment with CBP, e.g., examinations to establish an employee's qualifications for promotion in CBP. AGREED

(5) External Examinations. To take examinations which are directly related to the employee's current or prospective duties within CBP (e.g., CPA exam for accountants, bar exam for attorneys), including travel to and attendance at an oral interview required as a prerequisite to the grant of a professional license. The time authorized under this provision is limited to a single examination for any one (1) employee. AGREED

(6) Employee Interviews. To attend interviews or testing when competing for positions within CBP. AGREED

(7) Hazardous Weather Conditions. When the Employer determines it is necessary to close a post of duty because of hazardous weather or emergency conditions, or when such conditions prevent an employee from reporting to work when the post of duty is not closed. In the latter circumstance, in order to be granted excused absence, the employee must provide the Employer with evidence that (s)he made a reasonable effort to report to work but that such conditions prevented him or her from doing so. Factors the Employer will consider in granting such requests may include: the distance between the employee's residence and place of work; the mode of transportation normally used by the employee; efforts by the employee to report to work; the success of other similarly situated employees to report to work; physical disability of the employee; and local travel restrictions. Excused absences granted under this provision will only be for the period in which the employee was reasonably prevented from reporting for work. AGREED

(8) Medical Examinations and Treatment. To undergo a medical examination requested by an authorized CBP official, or to obtain medical services required for official purposes or administered as part of the official Safety and Health program, including travel time. An employee undergoing initial examination and emergency treatment for a work-related injury on the day of the injury will also be granted excused absence. AGREED

(9) Bone Marrow and Organ Donation. Up to seven (7) work days per calendar year to serve as a bone marrow donor, and up to thirty (30) work days per calendar year to serve as an organ donor. AGREED

(10) Meetings and Conferences. To attend a convention, conference or meeting that is not directly related to official duties if management determines the employee's attendance will contribute to the goals of CBP. After evaluating the request, the Employer will grant or deny the excused absence. If denied, the employee may request annual leave or LWOP to attend. AGREED

(11) Relocation. To enable an employee who is relocated by the Employer outside his/her commuting area to make pre-moving and post-moving arrangements, in accordance with applicable law, regulations and this Agreement. In addition, nothing in this subsection prohibits the Employer from granting employee requests for annual leave or leave without pay in combination with excused absences for such pre- and post-moving arrangements. AGREED

(12) Funeral of Immediate Relative in the Armed Forces. Up to three (3) days of excused absence to make arrangements for and/or to attend the funeral or memorial service for an immediate relative who died in a combat zone (as determined by the President of the United States), as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces. AGREED

(13) Funeral of a Fellow Law Enforcement Officer. For a Federal law enforcement officer to attend the funeral of a fellow law enforcement officer or Federal firefighter who was killed in the line of duty. For the purposes of this provision, CBP has determined employees who receive the enhanced retirement are eligible for this benefit. AGREED

(14) Veterans to Attend Funeral Services. For a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, up to four (4) hours in any given day to participate as a pallbearer or as a member of a firing squad or guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States. AGREED

(15) **Delete**

D. Supervisors may excuse occasional brief absences from duty of less than one (1) hour when the employee provides the supervisor with an acceptable explanation for the absence. AGREED

Section 10. Maternity Leave--s

A. **Normally, the employer will grant 6 months of maternity and/or paternity leave for the birth or adoption of a child. This would be covered by combinations of annual, sick and leave without pay. Where the employer decides it cannot give that amount of time it will provide private facilities at the employee's location for any nursing mothers and the union**

may open negotiations to propose that the employer provide full-time child care at or as near as practical the employee's facility for the remainder of the six month period and at no cost to the employee. Where the employee cannot provide six months of maternity and/or paternity leave it will notify the employee within 15 calendar days after the employee's request of the specific detailed reasons and supporting facts underlying its decision. It will then give the employee and his or her representative up to ten days to deliver an oral or written reply that may include suggested alternative accommodations for the employee, e.g., requests to work part-time, to job share, to telework, etc. The employer will respond with its written detailed decision within ten days of the reply that explains the basis of its decision denying the time.

B. 1. An employee may use sick leave to cover physical examinations, medical treatment, and the period during which the employee is physically incapacitated for the performance of duties by pregnancy and confinement. An employee has the right to retain up to 40 hours of sick and annual leave, combined, to deal with the need to be absent soon after she returns to work, e.g., to deal with a child's illness.

2. After delivery and recuperation, and if the employee desires a period of adjustment, needs time to make arrangements for care of the child, or to attend to medical problems of the newborn child, an employee may use annual leave for such purposes to cover the remainder of the 6 month period.

3. An employee may request leave without pay for the purposes set forth in this Subsection. Where leave without pay is requested for reasons due to a medical examination of childbirth or medical problems of the newborn child, the Employer will make every reasonable effort to accommodate the employee's request.

C. An employee shall request leave for maternity reasons as far in advance as possible to allow the Employer to prepare for any staffing adjustments which may be needed to compensate for the anticipated absence from duty. The request shall include the types of leave desired, approximate dates, and anticipated duration.

D. 1. When maternity leave should begin, end and its total duration, are not subject to arbitrary limitations. Such determinations will depend on the physical requirements of the employee's position, the individual employee's physical condition, and the physical capability of the employee to perform the job. An employee's preferences generally will be entitled to great weight in such matters.

2. Where the Employer and the employee do not agree upon a date for maternity leave to begin, the Employer will establish such date. Where the Employer determines the date for maternity leave to begin, it must document the reasons for its preference and the burden of reasonableness in this situation lies with the Employer.

3. If the employee desires to work up to less than forty five (45) days prior to the anticipated delivery, or wishes to return to work sooner than forty five (45) days after the

delivery, the Employer may request a medical certificate stating that the employee is physically capable of continuing or resuming work within such periods.

4. Upon appropriate request, the duration of the total maternity leave period may be extended by the Employer under the rules and procedures governing the type of leave requested.

E. Sick leave for maternity reasons will be advanced to an employee on the same basis and under the same conditions that sick leave is normally advanced.

F. Annual leave for maternity reasons will be advanced to an employee on the same basis and under the same conditions that annual leave is normally advanced.

G. Where working conditions are more strenuous or hazardous than normal office conditions, a pregnant employee, after consultation with her physician, may request temporary modification of her working conditions, or a temporary reassignment to other available work for which she is qualified, to protect her health and that of her unborn child. Where such light duty is requested, the Employer will make reasonable efforts to accommodate the employee's request. The Employer may request a medical certificate stating the nature of the limitations which are recommended by the employee's physician.

H. The Employer shall exercise its right to approve a period of maternity or paternity leave in a fair and impartial manner when an employee adopts an infant. Leave requests for additional time will be considered on an individual basis, and will be approved under the procedures and conditions set forth in this Article and the regulations applicable to it.

I. The Employer assures the continued employment of the employee in her position or, if not available, a position of like seniority, status and pay if she wishes to return to work following the period of maternity absence, unless termination of employment is otherwise required by expiration of appointment, by reduction in force, for cause, or for similar reasons unrelated to the maternity absence.

J. An employee who is not planning to return to work shall submit her resignation at the expiration of the period of incapacitation.

Section 11. Paternity Leave

A. The Employer shall exercise its right to approve in a fair and impartial manner, under the procedures and conditions set forth in this Article and the regulations applicable to it, a period of leave for up to six (6) months for a male employee for the purposes of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons.

B. Annual leave, sick leave, leave without pay or a combination thereof may be used for paternity absences.

C. Annual leave may be advanced for paternity absences on the same basis and under the same conditions that annual leave is normally advanced.

D. Leave for paternity reasons shall normally be requested at least ninety (90) days in advance of the requested period. Requests for leave submitted less than ninety (90) days prior to the requested period will be governed by procedures related to the type of requested leave.

DHS:llboleave

MERIT PROMOTION AND OTHER COMPETITIVE SELECTIONS

NTEU 8/09/10

Section 1. The purpose of this Article is to clarify and/or supplement the procedures by which the Employer will solicit and evaluate applications from employees for bargaining unit positions subject to competition. Agreed

Section 2. This agreement also binds the employer to follow all related Agency and departmental regulations that have been properly negotiated or subject to national consultation rights during the life of this agreement and which do not conflict with or diminish any negotiated provision. Agreed

Section 3. Action Coverage.

A. Actions Covered. Except for actions identified in subsection B., the Employer will utilize merit promotion procedures for all promotion actions to bargaining unit positions as well as the following:

- (1) **A temporary promotion, or detail to a higher grade position or a position with known promotion potential, of more than sixty (60) days calendar days;**
- (2) Selection for training which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for a promotion as specified in 5 C.F.R. § 410.302.
- (3) Reassignment or demotion to a position with more promotion potential than a position previously held on a permanent basis in the competitive service (except as permitted under reduction-in-force regulations);
- (4) **Reassignment or demotion of a non-unit employee to a unit position absent the agreement of the chapter president**
- (5) Transfer to a position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service;
- (6) Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service; and
- (7) Any other action for which management determines utilization of these procedures may be appropriate or beneficial.

B. Actions Not Covered. These procedures do not apply to:

(1) Conversion of a temporary promotion to a permanent promotion when the temporary promotion was originally made under the competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential candidates through its inclusion on the announcement.

(2) **A promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error so long as everyone similarly situated in that position is simultaneously upgraded;**

(3) A position change required by reduction-in-force procedures;

(4) A career ladder promotion;

(5) **A promotion resulting from an employee's position being classified at a higher grade because of additional duties and responsibilities so long as everyone similarly situated in that position is simultaneously upgraded;**

(6) A temporary promotion, or detail to a higher grade position or a position with known promotion potential, of sixty (60) consecutive calendar days or less;

(7) Promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system with which the Office of Personnel Management (OPM) has an interchange agreement) from which an employee was separated or demoted for other than performance or conduct reasons

(8) Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position the employee currently holds or previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement and did not lose because of performance or conduct reasons), and

(9) Consideration of a candidate not given proper consideration in a competitive promotion action.

These are the only placement actions that may be done without complying with this article.

Section 4. Area of Consideration.

A. Areas of consideration must be sufficiently broad to ensure the availability of high quality candidates, taking into account the nature and level of positions covered.

B. The minimum area of consideration for actions covered by this Article will be unit-wide within the commuting area of the position being filled. Commuting area will be include not only those already working within the radius from the location of the vacant position, but also those working outside that radius but whose official address is in that radius.

C. Employees on a temporary assignment outside of the commuting area for a period of on year or less will be considered within the area of consideration of their permanent position of record.

Section 5. Announcements.

A. At a minimum, vacancy announcements will include the following information, if applicable:

- (1) Vacancy (or job opportunities) identification;
- (2) Number of vacancies;
- (3) Position title, series and grade (or pay rate);
- (4) Full performance level of the job;
- (5) Duty location(s);
- (6) Opening and closing dates;
- (7) Qualification requirements;
- (8) Selective placement factor(s);
- (9) Salary range;
- (10) Duties of the job;
- (11) Basis of rating (evaluation method(s) to be used);
- (12) Area of consideration;
- (13) Whether moving and related expenses are authorized;
- (14) Position bargaining unit eligibility;
- (15) Instructions on what to file and how to apply;
- (16) Declination procedures (usually for large, nationwide announcements with multiple locations);
- (17) Equal opportunity nondiscrimination statement;
- (18) Reasonable accommodation statement; and
- (19) Veterans' eligibility information and any other special requirements such as CTAP language, including the definition of well qualified. Agreed

B. All qualification requirements and evaluation criteria must be based on a valid job analysis performed. To be valid, there must be a rational relationship between performance in the position being filled (or in the target position in the case of an entry position) and the requirements or criteria being used. Agreed

C. For those positions filled using occupational tests, specific instructions regarding testing times, locations and any other administrative information will be determined on a case-by-case

basis. Factors considered in determining test administration may be based on such factors as applicant location, response volume, hiring needs, etc. Agreed

D. To increase the efficiency of this procedure when a significant number of essentially identical positions are expected to be filled over an extended period, nothing will prohibit the Employer from establishing long-term announcements, e.g., open continuous announcement or announcements with a fixed closing date, permitting the establishment of a pool of applicants from which certificates may be issued up to one year from the issuance of the first certificate. In these circumstances, vacancy announcements must specify the intent to establish long-term use and indicate how long certificates may be used. Agreed

E. **Announcements subject to this procedure will be posted on the internet and open for a minimum of fourteen (14) calendar days.**

F. **The decision to pay or not to pay moving and related expenses must be made before the issuance of the vacancy announcement. The Employer will pay relocation expenses for employee transfers that are in the interest of the Government and are not primarily for the convenience or benefit of the employee. A decision not to pay moving and related expenses will be made if a sufficient supply of qualified candidates exists, i.e., at least four potential qualified candidates. A statement addressing whether payment of moving and related expenses has been authorized must be included in the vacancy announcement. When authorized, payment of moving and related expenses will be provided in accordance with the Federal Travel Regulations and applicable terms of this Agreement. The decision not to pay moving expenses need not be grieved until the selection is made and announced.**

G. The Employer will establish a method, accessible through the Employer's internet web site (e.g., www.cbp.gov), by which employees and the Union may obtain a complete listing of all open announcements, as well as complete copies of the announcements themselves. Nothing will prohibit the Union from establishing a link on its own web sites to this information.

Section 6. Application Procedures.

A. To be considered for announced positions, employees must apply in accordance with the application procedures contained and explained in the announcement. Agreed

B. Employees within the area of consideration who are absent for legitimate reasons, e.g., on detail, on leave, at training courses, in the military service, or serving in public international organizations or on Intergovernmental Personnel Act assignments, will receive appropriate consideration for those positions to which they apply. Agreed

C. All employee application materials within the control of the employee must be received by the closing date of the announcement. The Employer will grant exceptions to this requirement to employees who are unable to apply to an announcement by the closing date due to circumstances that establish just cause, such as extended military service. In such situations,

the Employer will allow an employee to apply and receive consideration after the closing date of an announcement, provided no selection has been made. Agreed

D. Upon request, and subject to workload requirements, employees will be permitted a reasonable amount of duty time, and to use the Employer's equipment (i.e., computers), to perform all requirements (including developing resumes) associated with applying for positions announced under this Article. To reduce the amount of time required, employees will store electronic resumes in the automated application system so that they may be used in applying to subsequent announcements. Agreed

E. **The Employer will establish a method for potential applicants within the stated area of consideration who need additional assistance in following the on-line application procedures (e.g., those without reasonable access to the internet) to obtain such assistance. In such cases, the employee must still comply with all other requirements of the announcement, including but not limited to the submission of all required application material by the announcement closing date.**

F. **Within one year of the effective date of this agreement, the employer will begin notifying all non-qualified candidates who applied timely and prior to ranking them, of why they were not qualified, and give them 48 hours to correct any entry error they made. Once corrected, they will be ranked appropriately.**

Section 7. Evaluation Procedures for Minimally Qualified and Eligible Applicants.

A. Applicants meeting basic qualification and eligibility requirements will be evaluated for positions and receive a rating based on how well they meet the job related knowledge, skills and abilities (KSAs) contained in the announcement. Agreed

B. For applicants who are evaluated based on narrative responses to the required KSAs and/or information provided in the employment application or resume, the following procedures will be used:

(1) The evaluation will be performed by one or more individuals considered to qualify of the position being filled. Agreed

(2) The information provided by the applicant will be reviewed and compared to the required KSAs contained in the announcement using an evaluation instrument consisting of four levels for each KSA - Excellent, Good, Moderate and Barely Acceptable, and will be scored four (4), three (3), two (2) and one (1) respectively. If the information provided by the applicant shows no evidence of possessing a particular KSA or if there is insufficient information on which to base a rating, a zero (0) score will be assigned. **The Employer will develop a definition of the four (4) levels so as to reasonably distinguish between levels and share it with NTEU prior to implementation. There will be no negotiations over the definitions.**

C. For applicants who are evaluated based on answers to job-related questions, scores will be assigned to each answer. Agreed

D. Applicant ratings will be transmuted based on a total possible score of one hundred (100) points. The minimum qualifying score will be seventy (70) points. Agreed

E. Only tests approved by OPM and/or the Employer, as part of a comprehensive set of assessment procedures, may be used. Without OPM approval, the Employer cannot implement a written test to determine basic eligibility (i.e., on a pass-fail basis), or as the single evaluation instrument in assessing in-service applicants. Agreed

F. Applicants may be evaluated based on responses to standard questions under a structured interview method. This assessment will be used in conjunction with other assessments. The results of the interview will be scored and applied to an applicant's overall rating. When structured interviews are used, if one applicant within an evaluation category (e.g., best qualified) is provided the opportunity to participate in a structured interview, all employees within that evaluation category will be provided the opportunity to participate in a structured interview. Agreed

G. Applicants will be considered for selection based on the rating received from the evaluation process. The applicant's final will determine further selection consideration. Those applicants who meet the basic eligibility requirements and are determined best qualified may be referred for selection consideration. Agreed

H. **The top four ranking candidates will be referred for each vacancy being filled and listed in rank order from highest to lowest. Those candidates tied at the tenth of a point may also be referred, e.g. candidates with score of 87.53 and 87.59 or 87.45 would be considered tied.** An additional candidate may be referred in score order for each additional position to be filled. The referred candidates will comprise the best qualified list.

I. **Unit applicants for whom competitive procedures do not apply, a.k.a., alternative staffing candidates, will be considered and referred to the selecting official, on a separate referral certificate for selection consideration at the same time as the competitive referral certificate. Applicants subject to this referral procedure who meet the basic qualification and eligibility requirements of the position will be placed on the referral certificate in alphabetical order.**

Section 8. Selection Procedures.

A. **When reviewing the applicants on the competitive certificate, the selecting official will consider current bargaining unit employees before considering other or outside applicants. The selecting official will not be given any information about outside applicants until he or she has made final decisions based on the internal best qualified candidates. Once that is final the selections will be announced and the selecting official may then begin**

selection consideration of non-unit applicants. Nothing herein precludes the employer from soliciting, rating or ranking non-unit applicants simultaneously.

B. Selecting officials may interview candidates on the BQ list, but all candidates must be treated uniformly all, e.g., if one is interviewed all must be. Interviews may be conducted in person or by telephone or videoconference (or equivalent method). If there is a scoring system used to distinguish candidates, this system must be recorded and comply with all requirements, e.g., be valid. Agreed

C. Selecting officials may choose any applicant referred on the best-qualified list. However, in cases where fewer vacancies are filled than initially identified, selections must be made within the allowable number of referrals for each vacancy in accordance with Section 7.G. **Nothing will prevent the employer from making a greater number of selections from a certificate than the number of vacancies initially identified in the announcement, provided doing so is consistent with government-wide rules and regulations and it has notified the chapter president in advance of doing so.**

D. Selecting officials will make selections in a timely manner. For other than long-term vacancy announcements, the Employer will establish a goal of completing the selection process within forty-five (45) days of the certificate issuance date. **Absent agreement by the chapter president having jurisdiction over the vacant position, a certificate will not be valid for more than one hundred and twenty (120) days after its issuance date.**

E. Once a candidate has been selected and accepted the position, the candidate will not receive further consideration under that vacancy announcement. Similarly, if an applicant's employment status has changed since applying for a position under a vacancy announcement which results in the applicant meeting the criteria for being a noncompetitive eligible, he/she will be considered as an alternative staffing candidate under that announcement. Agreed

F. **If multiple positions are filled from the same promotion certificate, the highest ranked applicants will have their first choice of placement into the vacant positions. For example, if management selects applicants from the same certificate who will be placed at land, sea, and airport facilities within the same port, the candidates with the highest score will have their choice of which of the available locations they are assigned to, absent undue hardship on management.**

G. **The selecting official will provide any non-selected candidate on the best qualified list who was ranked higher than the applicant selected a reason why he or she was passed over. It must be more than a vague and conclusion feeling by the selecting official, such as the candidate was not "sufficiently suited for the position" or "would not fit in." It is not sufficient to provide a content-less and non-specific reason. Upon request, this explanation will be put in writing and given to the employee.**

Section 9. Information and Documentation.

A. The employer will make all reasonable attempts to give NTEU representatives "routine user" status to review promotion package information once a grievance has been filed.

B. A temporary record of each action taken under the Employer's merit promotion plan will be maintained for a period of at least two (2) years from the date of selection or until the action has been formally evaluated by OPM (whichever comes first). Merit promotion files that are related to EEO complaints or grievances will be maintained in accordance with the National Archives and Records Administration, General Records Schedule for Civilian Personnel Records, provided the Employer was timely notified office of such actions prior to the end of the normal retention period. The documentation should be sufficient to allow reconstruction of the entire promotion action, including documentation on how candidates were rated and ranked.
Agreed

C. Upon request, the following information may be released to an applicant or his/her designee (with written authorization):

- (1) Whether the applicant was qualified and/or referred for selection;
- (2) If not qualified, the reasons;
- (3) Whether the applicant was referred for selection;
- (4) Name of the selectee;
- (5) Cutoff score (lowest score referred); and
- (6) Rating/scores of best-qualified candidates. Agreed

D. Upon request, the union will be given the following information for each position filled or attempted to be filled under these procedures:

The name of the selectee, if any

The selection date, if any

The date the promotion or placement is effective, if any

The names of those who were on the BQ list in rank order

The cut-off score for the BQ list

The names of those who were not rated best qualified

The names of those rated not eligible.

If the ultimate selectee is from subsequent procedures used once the best qualified list was considered, the union will receive similar information from that file.

Information not listed above will be provided upon request and demonstration of a particularized need.

E. Information that may not be released includes to an employee, but is not limited to confidential examining material (e.g., answer keys, rating schedules and crediting plans, rating sheets and test booklets); information that may intrude upon the privacy of other individuals; and materials that would compromise the objectivity or fairness of the examination and evaluation process. Agreed

F. When information is not timely provided, that potential unfair labor practice issue will be automatically joined to the grievance and proceed with it to arbitration where the arbitrator may remedy any violation of law.

Section 10. Grievances. Employees and/or the Union have the right to file a complaint relating to a promotion action taken under this Article. Such complaints will be submitted and addressed under Article __: Grievance Procedure. While the procedures used by the Employer to identify and rank qualified candidates may be proper subjects for formal complaints and grievances, non-selection from among a group of properly ranked and certified candidates is not an appropriate basis for a formal complaint or grievance. Agreed

Section 11. Post-Selection Actions.

A. Upon request by an employee referred but not selected under this procedure, the selecting official will meet with the employee for the purpose of discussing how the employee may improve his/her standing in the event another position is filled using this procedure in the future. Agreed

B. An employee occupying a position with established career ladder promotion potential will be promoted on the first pay period after a period of fifty-two (52) weeks, or whatever lesser period may be applicable, provided the supervisor has determined the employee has demonstrated the ability to perform at the higher grade level, all qualification and administrative requirements have been met, the employee's current rating of record is at least fully successful (or equivalent) and there is sufficient higher level work to be performed. Agreed

Section 12. Remedies and Corrective Actions

A. **The typical remedy for a violation of this agreement, regulations or law will be priority consideration where it is shown that that the employee should have had a higher rank placement on the BQ list or even have been added to the BQ list. However, if it is proven that the employee would have been selected "but for" the violation the employee will get retroactive selection. Other remedies in law and contract also apply.**

B. **Employees entitled to and eligible for priority consideration or placement will be referred to the selecting official prior to other candidates even being solicited for what would be an "appropriate vacancy" for the employee, e.g., he or she is willing to work at that location and in that position. If they are not selected, the employer will provide the employee a written statement outlining the reasons and evidence upon which the decision was made. This will be done before the position is announced.**

Section 13. EEO

The employer will collect all EEO statistics required or suggested by the Uniform Guidelines on Employee Selection Procedures as well as those needed to make adverse impact determinations and provide them in a spreadsheet to the union once every six months.

Section 14. Superior Qualification Appointments

The employer will not use this authority or similar flexibilities such as recruiting allowances, student loan repayments, etc. to appoint employees to unit positions unless it serves notice on NTEU and negotiates over that decision.

Section 15. Career ladder Promotions

Promotions for employees in career ladder positions will be processed as follows:

- A. All employees in career ladder positions will be promoted on the first pay period after a period of one year, or whatever lesser period may be applicable provided the employee has demonstrated the ability to perform at the higher grade level, all qualification requirements have been met, the employee's current rating of record is Successful (or an equivalent rating), and there is sufficient higher level work to be performed.**

- B. Employer decisions concerning career ladder promotions pursuant to (1) above, shall be subject to restraints imposed upon the Employer by higher authority such as budget limits, freezes on available positions, etc. if such restraints have been proposed to NTEU and all appropriate bargaining has been completed.**

DHS:llbopromotions

PERMANENT REASSIGNMENTS TO OTHER DUTY STATIONS

NTEU 08/09/10

CBP and NTEU recognize the value of retaining highly experienced and productive employees in the accomplishment of the Agency's mission. With this in mind, CBP and NTEU have agreed to establish the following mechanisms by which employees may express an interest in and/or be reassigned to other CBP duty stations. Agreed

Section 1. Definitions.

- A. Reassignment: For the purposes of this Article, refers to the permanent change of an employee from one duty station (i.e., Port of Entry, city or county) to another, within the same occupational series, without promotion or demotion. Agreed
- B. Covered employees: Except as supplemented below, the provisions of this Article apply to all CBP employees covered by this Agreement who are not the subject of any pending performance action, disciplinary action, or investigation of alleged misconduct. Actions and investigations on which a decision has been made (and if applicable, issued to the employee) are not pending. Agreed
- C. Seniority: will be determined by:
- (1) The total time an employee has served in his or her occupation (e.g., CBP Officer or CBP Agriculture Specialist), including time in an equivalent position (e.g., Customs Inspector, Immigration Inspector or PPQ Officer) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officer, Immigration Inspector (Canine) or PPQ Officer (Canine) is considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively. Agreed
 - (2) In the event it is necessary to resolve ties after step (1), the total time an employee has served in CBP and heritage agency, regardless of the position, will be used. Agreed
 - (3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., SCD) will be used. Agreed
 - (4) In the event it is necessary to resolve ties after step (3), they will be resolved by coin flip. Agreed
 - (5) Less than full-time employment will be credited for seniority purposes in accordance with the above on a pro rated basis. Agreed

Section 2. Employee Requested Reassignments

A. When filling a position in a location, the Employer will reassign into that position the most senior qualified employee from the following sources and following the order in which the sources are listed:

- (a) Placements made as a result of third-party decisions (or related settlements);
- (b) Career Transition Assistance Program (CTAP) eligibles;
- (c) Re-employment Priority List (RPL) eligibles;
- (d) Grade or pay retention eligibles;
- (e) Priority consideration eligibles;
- (f) Special consideration for re-promotion eligibles;
- (g) Medical and educational hardships (granted in the order in which they are received);
- (h) Spousal hardships
- (i) **Preclearance and overseas returnees consistent with the Preclearance article.**
- (j) **Applicants for relocation reassignments described in Section 2B.**

Relocation Reassignment

B. **Where there are no qualified applicants from any of the sources listed above, the Employer will fill at least one out of every two vacancies with the most senior, qualified employee who is volunteering for reassignment to that position in that location. (For those locations in the commuting areas of San Diego-San Ysidro and Miami, two out of every three vacancies will be filled from this list and those employees on the list who already work within the commuting area will be moved to the top of the seniority list before all other applicants.) If the employer wishes, it may make the reassignment selection decision immediately prior to announcing vacancies for competitive appointment or promotion so that it has the opportunity to relocate the vacancy to be announced or not. The employee need not be reassigned until the date the employer had planned to fill the vacancy.**

1. **The employer will solicit applications for a relocation reassignment at least once a year and allow a 14 days open period during which employees can apply. The employer will have 90 days from the date the solicitation announcement opens to establish the roster. An employee may apply for up to three locations each year. The employer, or at the employer's option NTEU, will maintain a list of those applying for voluntary reassignment by location, position title, series and grade. If the employer maintains the data, it will share it with the union at the time the data is collected and via an electronic file.**

2. **Employees applying for voluntary reassignment must have been in their current series and position title for two years during which time they performed successfully. They need not have been at the same grade for two years.**

3. As such reassignments are primarily for the benefit of the employee, all relocation costs associated with reassignments granted under this Section are the responsibility of the employee. **Employees selected for reassignment outside their current commuting area will be given a reasonable amount of administrative time or leave to prepare for and accomplish the move. Where the employer grants five days or more neither the union or employee may file a grievance alleging this section was violated.**

4. If there are no pending volunteers for a relocation reassignment as described in this subsection, the employer is free to fill the position from any appropriate source, including re-announcing an opportunity for a specific voluntary reassignment.

5. In the event the Employer believes it has a legitimate reason why an employee cannot be released, it will first consult with the employee's current NTEU Chapter before making a final determination. Absent agreement, the Employer will put its reasons for not releasing an employee(s) in writing and provide all documentation that justifies to decision not to release.

Relocation Reassignment- Hardship

C. Only hardships impacting the employee or the employee's immediate family will be considered under this Subsection. Immediate family includes the employee's spouse, parent (or legal guardians), sibling and/or children. "Step" relationships are included in the definition of immediate family. Agreed

D. Employees covered by this Subsection include all full-time permanent employees covered by this Agreement (notwithstanding Section 2.A.), provided the circumstances leading to the hardship occurred after the employee accepted employment at the current duty station. Agreed

E. Qualified hardships include when an employee (or immediate family) experiences:

- (a) a medical condition
 - 1- that is serious in nature and
 - 2- the condition is not treatable in the employee's current duty station (e.g., a severe condition which might be alleviated by relocation to another geographic area would not be considered a significant hardship unless the condition cannot be alleviated or controlled by recognized medical treatment in the employee's current duty station).
- (b) a condition requiring special educational facilities where there are no equivalent facilities in the employee's current duty station;
- (c) **the separation of an employee from his or her spouse when the spouse is employed by the military or federal government or employed elsewhere, but needs to move to avoid termination or to take advantage of an advancement opportunity.**

F. To be considered, an employee hardship reassignment request must contain verifiable documentation concerning the circumstances (including medical documentation if applicable) that give rise to the hardship. The Employer may request additional documentation if necessary. Agreed

G. Prior to requesting a hardship reassignment, employees should seek to develop alternatives to relocation if applicable (e.g., securing assistance from the Employee Assistance Program, local and state social services, other counseling services, etc.). Alternatives to reassignment for accommodating hardships include Voluntary Reassignments (Subsection C), and Position Exchanges (Subsection D), and applying to vacancy announcements for positions of equivalent grade. Agreed

H. All hardship requests will be filed with the requested Field or Division Office (or equivalent) with a copy provided to the current Field or Division Office. Employees will notify current and requested duty stations in the event they wish to withdraw their requests. Agreed

I. Requests for a hardship reassignment within the geographic area of the same Field or Division Office will be processed by that Office. Agreed

J. Requests for a hardship reassignment between two Field or Division Offices will be evaluated and decided by the requested (potential gaining) Office. Agreed

K. The deciding official shall review and provide the employee a written response to the request within forty-five (45) calendar days of receiving the request or supplemental information requested from the employee, whichever occurs later. The written response will indicate whether the request has been granted, and if denied, the reasons for the denial. Agreed

L. **For purposes of this article, employees in the same occupation as defined by series and position title will be considered qualified for the same position at another duty station, e.g. a CBP Officer is qualified to fill a CBP Officer vacancy at a different duty station just as an Import Specialist is qualified to fill an Import Specialist vacancy at a different duty station. However, should the employer wish to deviate from that practice, it will notify NTEU in advance, give NTEU a copy of any documentation related to the validity of the qualification requirement, and negotiate, as appropriate.**

Section 3. Position Exchanges.

A. The Employer will consider a request from two eligible employees in the same occupational classification and grade level who wish to voluntarily exchange their duty stations at any time. **The Employer may but is not required to consider such a request from employees in the same occupational classification but at different grade levels. Grade levels will be determined at the time the exchange is implemented.**

B. To be considered, a copy of the request must be submitted to each employee's Port Director or Division Director (or designee) [or equivalent management official], and include a copy of each employees' current resume (or Optional Form 612). Agreed

C. Management will normally respond to such requests within forty-five (45) calendar days. Agreed

D. **Absent undue hardship, requests from eligible employees in the same occupational classification and grade level will be granted. If denied, the employees will be informed of the reasons for the denial in writing. (Where the expression "absent undue hardship" is used anywhere in this agreement it shall be interpreted consistent with the understanding of that expression under the Americans with Disabilities Act.)**

F. Exchanges granted under this Subsection are not grievable either by the employees involved or not involved in the exchange, or the Union. Agreed

Section 4. Management Directed Reassignments Within a Duty Station

A. The Bid and Rotation procedures elsewhere in this contract normally control the reassignment of employees within a duty station. However, where they do not and the Employer retains the right to identify and direct the reassignment of an employee(s) to a bargaining unit position within a duty station, it will use the following procedures.

1. If the Employer determines that more than one (1) employee is qualified from within the work group from which a reassignment within the duty station is to be made, management will solicit volunteers from within the work group from which the selection is to be made. Agreed

2. In the event: Agreed

(a) More qualified and releasable employees volunteer than are required, selections will be made in seniority order. Agreed

(b) Too few qualified and releasable employees within the workgroup volunteer employees will be assigned in inverse seniority order. Agreed

3. In the event the Employer believes it has a legitimate reason why an employee cannot be released, it will first consult with the local NTEU Chapter before making a final determination. Absent agreement, the Employer will put its reasons for not releasing an employee(s) in writing.

Section 5. Management Directed Reassignments Outside of the Duty Station

A. The Employer retains the right to identify and direct the reassignment of an employee(s) outside a Duty Station to a bargaining unit position for cause by following the following procedures.

(1) If the Employer determines that more than one (1) employee is qualified from within the work group from which a reassignment outside the duty station is to be made, management will solicit volunteers from within the work group from which the selection is to be made. Agreed

(2) In the event more qualified and releasable employees volunteer than are required, selections will be made in seniority order. Agreed

(3) In the event too few qualified and releasable employees volunteer, management may proceed with reassigning the volunteers in accordance with the provisions of this Section. In the event the Employer determines it is necessary to involuntarily reassign employees outside the duty station, the Employer will provide the Union notice and the opportunity to bargain in accordance with Article ___ : Bargaining. Agreed

(4) In the event the Employer believes it has a legitimate reason why an employee cannot be released, it will first consult with the local NTEU Chapter before making a final determination. Absent agreement, the Employer will put its reasons for not releasing an employee(s) in writing.

B. Costs associated with reassignments initiated under this Section shall be the responsibility of the Employer, and will be provided in accordance with established policy procedures for a permanent change of station. Agreed

Section 6— Nothing in this Article shall preclude the Employer from reassigning an employee to a position within his/her duty station or within the commuting area of his or her home for the purpose of correcting or minimizing deficiencies in the employee's performance or conduct. However, the reassignment may be for no more than 120 days, and it must be preceded by a written description of the employee's failings and why the reassignment will help the employee. The employee and/or union representative will have one week to make an oral or written reply before the reassignment may be implemented. The employer may make the reassignment permanent where it has issued the employee a Performance Improvement Plan as noted in 5 USC 4302(b)(6) and related regulations and the employee has failed to demonstrate acceptable performance.

Section 7. The Employer will provide the Union notice and the opportunity to bargain in accordance with Article XX: Bargaining in the event it intends to involuntarily reassign an employee(s) to a non-bargaining unit position.

Section 8. Where CBP Officer (Canine) is reassigned to a CBP Officer position because the canine has died, retired, become unneeded, or otherwise become unavailable, the reassigned Canine Officer will have the one-time right to reassign into a Canine Officer vacancy that becomes available anywhere during the 12 months after losing the canine.

DHS:llboreassign

PRECLEARANCE

NTEU 8/09/10

Section 1. This Article covers the policy and procedures by which employees will be selected for, assigned to and returned from Office of Field Operations (OFO) Preclearance locations. AGREED

Section 2. When filling positions at Preclearance locations, the Employer will utilize the same announcement and application solicitation procedures as those used for positions filled through merit promotion. Such announcements will have an agency-wide area of consideration, and contain relevant information concerning the expected tour length and return policies. AGREED

Section 3. Assignment Duration and Return Service Requirements.

A. Once selected and assigned, the Employer's current policy is that the employee will serve a two (2) year initial tour, with an opportunity for the Employee to apply for a two (2) year extension, followed by the opportunity to apply for a one (1) year extension. **Nothing in this subsection is intended to prohibit the Employer from exercising whatever authority it has in law and government-wide regulation to release the employer from his/her established tour. Requests for extensions may be filed as soon as 180 days prior to the planned end of a tour and they will be acted upon no later than ten calendar days so that the employee has as much notice as possible of his or her pending return or extension. If there are more extension requests than slots available, the more senior employee(s) will be selected to extend.**

B. When filling positions under Section 2 of this Article, the Employer will only consider employees who have completed a return service period of not less than five (5) years from the end date of the Employee's previous Preclearance tour. In the event the Employer determines it is necessary to consider employees who have not completed the return service period (e.g., when the Employer anticipates an announcement will not generate a sufficient pool of well-qualified candidates), it will so indicate on the posted vacancy announcement and inform NTEU. AGREED

C. In the event the Employer elects to alter its policies regarding the general assignment duration and return U.S. service requirements contained in this Section, it will provide the Union notice and the opportunity to bargain in accordance with Article __: Bargaining. AGREED

Section 4. Preparation and Reporting Procedures.

A. Selected employees will be informed of and normally expected to complete the requirements for foreign assignments within one hundred and twenty (120) calendar days following selection notification. AGREED

B. Selected employees will be informed of and normally expected to complete the requirements for foreign assignments within 120 calendar days following selection notification.
Agreed

Employees will be reimbursed for any legally reimbursable expenses reasonably incurred as a result of their departure for the preclearance port with less than 60 days notice. They will also be placed on TDY at the pre-clearance location and the agency will reimburse him or her travel expenses to travel between the pre-clearance port and previous port every two weeks.

C. **Selected employees will be provided a reasonable amount of administrative leave or excused absence without charge to leave in order to make relocation arrangements. Neither the employee nor union may grieve a violation of this obligation if the employee is given at least 40 hours of time or leave.**

Section 5. While assigned to a Preclearance facility, employees will be considered within the area of consideration for CBP vacancy announcements with a nationwide area of consideration, as well as those with an area of consideration that includes the duty location from which the employee was selected for the Preclearance assignment, to which they apply. If selected, an employee's travel and relocation cost reimbursement will be determined by the conditions stated on the vacancy announcement to which the employee applied. AGREED

Section 6. Extension Request and Return Procedures.

A. Not less than one-hundred and twenty (120) calendar days prior to the end of the initial tour, as well as the conclusion of any extensions, employees are expected to formally request an extension or express intent to return to the United States. AGREED

B. Absent just cause, requests for extensions consistent with the assignment durations described in Section 3 will be approved. AGREED

C. **If a pre-clearance employee does not wish to return to his or her home port at the end of the current tour, the employee should apply for relocation using the voluntary relocation reassignment procedures of the Reassignment article. Pre-clearance applicants may apply for and will be added to the reassignment list during the agency-wide solicitation(s) or at any time he or she has less than five months left in the pre-clearance tour. This placement of a returning pre-clearance employee will not count as one of the voluntary reassignments that are used to fill every other vacancy. The employee may not be assigned to a location in the areas of San Diego-San Ysidro or Miami unless that was his or her previous port location or there are no local volunteers seeking a different placement therein. Absent placement via the voluntary reassignment program, the employee will be returned to his or her home port or to a mutually agreeable location.**

D. Returning employees will be informed of the date to which they are expected to report to the location to which they are placed as far in advance as practicable, but not less than sixty (60) calendar days in advance of the date they are expected to report. **Reporting dates will be established no later than sixty (60) calendar days from the end of the scheduled tour. Employees will be reimbursed for any expenses reasonably incurred as a result of their delayed departure from preclearance. They will also be placed on TDY at the preclearance location and the agency will reimburse his or her travel expenses to travel to his or her home port (or equivalent) every month.**

E. **When making placements under this Section for positions within a Port's core functions (e.g. passenger processing and cargo), the Employer has elected to provide the employee the necessary training (as determined by management) for the employee to perform the core function prior to or following the employee's placement.**

F. During the above process, the Employer will provide returning employees a point of contact that may be contacted regarding the status of their return request and assignment.
AGREED

DHS:llbopreclearance

SAFETY AND HEALTH

NTEU 08/09/10

Section 1. The Employer will make every reasonable effort, consistent with the mission of the Service and the inherent hazards of the work to be performed, to provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so. The Employer has determined that whenever it becomes necessary to move an employee from a work area because of conditions or practices in that work area that pose a threat to that employee's health or physical safety, a reasonable effort will be made to find work for that employee elsewhere in the employee's post of duty. **Agreed**

Section 2. The parties recognize that not all safety standards and regulations formulated for industrial or business concerns are applicable to, or readily transferable to, the operations of a law enforcement agency. However, in fulfilling its obligations under Section 1 above, the Employer shall adopt, develop, issue and maintain safety standards and regulations that are appropriate to the Employer's operations. In issuing such standards and regulations, Section 19 of the Occupational Safety and Health Act of 1970, Executive Order 12196, 29 CFR 1960, and appropriate orders and issuances promulgated thereunder shall be used as a guide. **Agreed**

Section 3. A. Employees have a responsibility to promptly correct, if possible, and/or report unsafe conditions to appropriate supervisors. The supervisor will promptly take steps to correct conditions which he finds to be unsafe and/or to refer the matter to appropriate management authority. Employees will report all accidents, no matter how minor, to their supervisors at the time of the accident. **Agreed**

B. The Employer will initiate prompt and appropriate action to correct unsafe conditions whenever they are found to exist. **Agreed**

Section 4. A. Annual inspection of all CBP facilities will be conducted by a designated safety representative of the Employer. Facilities where there is a higher than average incidence of accidents and/or illness will be inspected more frequently as determined by the Employer. At the conclusion of each inspection, the official in charge of the facility and the appropriate chapter president shall be advised of any apparent unsafe or unhealthful conditions. Employee reports of unsafe or unhealthful working conditions shall be addressed in accordance with 29 CFR 1960.28. Nothing in this section is in derogation of any rights the Union may have pursuant to law, rule or regulation. **Agreed**

B. A representative or designee of the Union shall be provided with reasonable advance notice and an opportunity to accompany the safety inspector(s) on official time during any inspection conducted by the Employer or by the safety representative described in Section 4.A. The Employer will pay mileage costs for Union representatives who are bargaining unit employees for travel to and from inspections under this Section. **Agreed**

Section 5. Safety and Health Committees.

A. The Employer and the Union will cooperate in the continuing effort to eliminate accidents and health hazards. To this end, a Joint Safety and Health Committee will be established at the National level. Committees will also be established at Headquarters, the National Finance/Logistics Center (NFC/NLC), Laboratories, Training Centers and at the DFO and Port levels, unless the local parties agree that the work of such committees can be handled through other methods. Field headquarters employees will be covered by the Committee in place at their work location. **Agreed**

B. The National Safety and Health Committee shall be composed of eight (8) members to be selected as follows:

(1) Three (3) representatives of the Employer, one of whom shall be the senior safety officer or representative within the jurisdiction of the Committee. The safety officer or representative shall serve as Chairman of the National Committee. **Agreed**

(2) Three (3) employee representatives to be selected by the Union. **Agreed**

(3) One (1) employee representative to be selected from among the non-unit, non-represented employee groups. **Agreed**

(4) One (1) member from the NTEU National Office. **Agreed**

C. The Employer and the Union will establish the size of the Safety and Health Committees at other levels. **Agreed**

D. Safety Officers will be selected from among volunteers. The parties agree that Safety Officers should be given sufficient time, training, resources and encouragement to perform their duties as outlined in the CBP Occupational Safety and Health Handbook. Safety Officers will be monitored by local Safety and Health Committees and will be invited to local Safety and Health Committee meetings. **Agreed**

E. Proposed enhancements to the CBP safety program will be referred to the National Safety and Health Committee for discussion. **Agreed**

F. Each Committee shall meet at least once each six (6) months, or at such other times as are agreed to by the parties. The Committee Chairman shall provide a written report of each meeting to the Commissioner, Port/Area Director, and designated Union representatives as appropriate. **Agreed**

G. Committees shall have access to CBP training materials, and will be provided training in accordance with applicable laws, regulations and the CBP Occupational Safety and Health Handbook. **Agreed**

H. Committees established pursuant to this Section shall be advisory in nature, and will advise, and will be consulted by the Commissioner, Headquarters, the National Finance/Logistics Center (NFC/NLC), Laboratories, Training Centers,, DFO's and Port Directors on all aspects of the CBP occupational safety and health programs. **Agreed**

I. Committees shall monitor the performance of the CBP Occupational Safety and Health Programs. Committees are encouraged to review accident trends, recommend specific training needs, review adequacy of emergency evacuation procedures, and recommend promotional campaigns. **Agreed**

J. Committees shall have full access to all existing information relevant to their advisory and monitoring functions. **Agreed**

K. In the event that safety and health hazards requiring corrective action involve property leased by GSA on behalf of the Employer, or property owned by a private corporation and made available for the employer's use, Committee members may, as deemed appropriate by the employer, be utilized when dealing with GSA or the property owner when efforts are undertaken to resolve the problem. **Agreed**

L. Since the Committees are established as management advisory committees, committee members shall receive a reasonable amount of official time, and necessary travel and per diem expenses, to take part in the deliberations of the committees. **Agreed**

M. Port Safety and Health Committees will be responsible for acquiring information about hearing conservation programs, and for recommending whether such programs are needed in their jurisdictions. The National Safety and Health Committee will provide the Port Committees with information, encouragement and technical assistance to support their hearing conservation program development activities. **Agreed**

Section 6. A. The Employer will, to the extent practical and available locally from government sources, continue to offer whatever health services are obtainable for employees. At a minimum, this will include maintenance of the existing practice of making annual influenza vaccinations and other voluntary health improvements and screening activities available for employees at those locations where practicable.
AGREED

B. In any work location where health facilities are not available on the premises, the Employer agrees to provide and maintain standard GSA first aid kits. **Agreed**

Section 7. If an ill or injured employee is sent to a medical facility for treatment, and a competent medical authority at the facility determines that the employee is unable to return to work, the employee may be granted sick leave in accordance with applicable law, regulations and the provisions of the Leave Article contained in this Agreement. If the medical authority determines that the affected employee is able to return to work, the Employer will consider that recommendation in determining whether to return the employee to work. **Agreed**

Section 8. If it becomes necessary for an employee to leave work because of an incapacitating illness or injury, and normal transportation is not available or within the employee's capacity, the Employer agrees to assist in arranging transportation to a medical facility or to the employee's home, at the request of or on behalf of the employee. The Employer's monetary, pecuniary or tort liability is governed by law, regulations, Federal court decisions, and/or decisions of the Comptroller General and the Employer assumes only such responsibility or liability allowable by law, regulation or such decisions. **Agreed**

Section 9. When an employee is injured in the performance of his duties, he should report the injury to his supervisor in accordance with the provisions of 20 CFR 10.207. The Employer will provide the injured employee with forms and information provided for under the Agency's Workers' Compensation Program and will be assisted in obtaining appropriate benefits by a servicing Worker's Compensation advisor. **Agreed**

Section 10. A. An employee who sustains a disabling job-related traumatic injury, unless electing to utilize leave, is entitled to the continuation of his regular pay for a period not to exceed forty-five (45) calendar days in accordance with applicable law and regulation. **Agreed**

B. Should an employee suffer a recurrence of disability and again stop work, the employee may elect to continue regular pay, providing the forty-five (45) calendar days were not all exhausted during the initial period of disability. This is applicable, however, only during a forty-five (45) day period beginning from the date the employee first returned to work following the initial disability. **Agreed**

C. Subsequent absences necessary for examination, treatment, and therapy may be charged against the forty-five (45) days in accordance with applicable laws and regulations. **Agreed**

D. If an employee stops work under the provisions of this Section for only a portion of a day or shift (other than the day or shift when disability began), such day or shift will be considered as one (1) calendar day. **Agreed**

Section 11. A. A pregnant employee or an employee returning to work after an injury, illness or pregnancy, with a medical certificate indicating that the employee should work restrictively and that full recovery is expected, will be considered for light duty by her supervisor on a case-by-case basis. An assignment to light duty appropriate to the specific medical condition will normally be granted for a temporary period, if such work is available and the assignment will not unduly disrupt work operations. **Agreed**

B. An employee on light duty will be eligible for assignment to overtime work associated with the light duty assignment, consistent with the organization's need for such work to be performed on an overtime basis and the medical restrictions placed on the employee. **Agreed**

C. The assignment of an employee to light duty or the assignment of a light duty employee to overtime under this Section will not be grounds for disputes by other employees in the work unit on the basis that they have had to assume added or burdensome duties. **Agreed**

Section 12. Safety equipment and protective devices shall be provided to employees as required and prescribed by applicable directives and regulations. **Agreed**

Section 13. A. The Employer may require an individual who has applied for, or occupies a position which has physical/medical requirements for selection or retention, or which is a part of an established program of medical surveillance related to occupational or environmental exposure or demands, to report for a medical evaluation under the following circumstances: **Agreed**

(1) Prior to appointment or selection (including re-employment on the basis of full or partial recovery from a medical condition); **Agreed**

(2) On a regularly recurring periodic basis; and **Agreed**

(3) Whenever there is a direct question about an employee's continued capacity to meet the physical or medical requirements of the position.
Agreed

B. The Employer may require an employee who is receiving worker's compensation benefits, or is assigned to limited duties as a result of an on-the-job injury, to report for a medical evaluation when the Employer has identified an assignment or position (including the employee's regular position) which the Employer reasonably believes the employee can perform consistent with the medical limitation of his condition. **Agreed**

C. The Employer may require an employee who has been released from his competitive level in a reduction-in-force to report for a medical evaluation when the position(s) to which the employee has reassignment rights requires specific physical capacities to perform the duties of the job, and those physical capacities are different from those required in the employee's present position. The Employer shall be aware of the affirmative obligations which require reasonable accommodation of a qualified employee with a disability. **Agreed**

D. When the Employer orders an employee to undergo a medical examination, it shall inform the employee in writing of its reasons for ordering the examination and the consequences of failure to cooperate. **Agreed**

E. The Employer shall designate the examining physician, or other appropriate practitioner, for all examinations ordered or offered by the Employer. In addition, at his expense, the employee has the opportunity to submit medical documentation from his or

her personal physician which the Employer shall review and consider before making a final determination on medical suitability or fitness for duty. **Agreed**

F. The Employer may order a psychiatric examination or psychological assessment only when:

(1) the results of a general medical examination which the agency has ordered show no conclusive physical basis to explain actions or behavior which may affect the safe and efficient performance of the individual or others, or **Agreed**

(2) a psychiatric examination is specifically required by medical requirements or a medical evaluation program.

Agreed

(3) The Employer will make a good faith effort to secure such evaluative services with the employee's local commuting area. However, in cases where the Employer's medical personnel/consultants indicate that the appropriate services are not readily available within that area, the employee may be required to travel to an alternate location. In such cases, the Employer will be fully responsible for all costs associated with such travel.

Agreed

G. The Employer will pay all expenses incurred for agency ordered or offered medical examinations. Employees must pay for a medical examination conducted by a private physician or practitioner where the purpose of the examination is to secure a benefit sought by the employee (e.g., reassignment based on personal need, extended sick leave).

Agreed

H. Employees required to undergo a medical examination will be provided copies of all medical documentation generated in conjunction with the examination upon written request from the employee. The documentation will be released by the Employer unless the information contained in the documentation concerns medical conditions of such a nature that a prudent physician would hesitate to inform a person suffering from those conditions of their exact nature or probable outcome. In the latter case, the information will be released to a licensed physician or mental health professional designated in writing by the employee. **Agreed**

I. In the event an employee no longer satisfies the established physical/medical standards of their current position, the Agency will consider the employee for other positions, for which the employee is qualified, within the duty location, prior to taking an administrative action. This provision is not intended to replace or conflict with established reasonable accommodation procedures, nor does this effort to place an

employee establish that the Agency perceives in any way that the employee is an individual with a disability. **Agreed**

J. Nothing in this section shall be construed or applied in a manner that would expand or diminish the parties' rights and obligations under applicable law and regulation. **Agreed**

Section 14 The Employer shall, through coordination with the General Services Administration (GSA), perform periodic monitoring of asbestos levels in the Employer's buildings that have been identified by the GSA as having potential asbestos problems. The results of the monitoring shall be provided to the Union. In the event such monitoring reveals a level of exposure in excess of the standard established by the Office of Safety and Health Administration (OSHA), through coordination with GSA, the Employer agrees to move exposed employees to work sites that do not have excessive exposure as soon as practicable. To the maximum extent permitted by law and regulations, affected employees will be paid hazardous duty pay or environmental differential pay during the period of exposure. For purposes of this agreement, "period of exposure" means the time between the receipt of a conclusive report indicating a level of exposure above the GSA standard and the time affected employees are removed from such exposure. **Agreed**

Section 15. The Employer shall establish procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or others of any right afforded by Section 19 of the Occupational Safety and Health Act, Executive Order 12196, or 29 CFR 1960. These rights include, among others, the right of an employee to decline to perform his assigned task because of a reasonable belief 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 established by the Employer. **Agreed**

Section 16. The Union will be allowed to distribute brochures to employees describing the Union's optional insurance and benefit plans. **Agreed**

Section 17. Once a year, employees will be granted official time (not to exceed one (1) hour) to consult with Union-sponsored benefits counselors. This consultation may be done in conjunction with other health information initiatives (e.g., Health Fair, Open Season, etc.). **Agreed**

Section 18- Facial Hair and Respirators

A. CBP will comply with all legal requirements associated with the implementation of a respirator program.

B. Beards and other facial hair shall be permitted except where there is a reasonable likelihood that an officer, agriculture specialist or any other employee covered by the Agency's grooming standards, will need to use a respirator or other device in the performance of his or her job duties and the device requires a cleanly shaven face. The parties agree that for the overwhelming majority of CBP officers and agriculture specialists, there is not a reasonable likelihood that such employees will need to use such a device except as discussed in Subsection 18 C.

C. 1. During the administration of any required fit test, employees will be permitted to shave to the extent necessary to ensure that facial hair does not come between the sealing surface of the face piece and the face.

2. At the conclusion of the fit test and the selection of the appropriate face piece, the employee shall have the option to maintain the facial hair to the extent necessary to ensure a proper seal or to grow facial hair as long as the employee has appropriate shaving equipment at the worksite in the event the face piece needs to be worn in an emergency.

DHS:llbohs

SCHEDULING

NTEU 08/09/10

Section 1. This Article contains the procedures by which the Employer will schedule work.

Section 2. The requirements of this Article do not apply to alternative work schedules established under Article ____: Alternative Work Schedules, with the exception of Sections 16 (Voluntary Daily or Weekly Tour of Duty Changes) and XX (Rest Periods). **Agreed**

Section 3. Definitions.

A. Administrative Workweek is a period of seven (7) consecutive calendar days designated in advance by the Employer. **Agreed**

B. Regularly Scheduled Administrative Workweek for a full-time employee, means the period within an administrative workweek when the employee is regularly scheduled to work. For a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work. **Agreed**

C. Basic Workweek for a full-time employee, means the forty (40) hour work week established for the employee. **Agreed**

D. Tour of Duty means the hours of a day and the days of an administrative workweek that constitute an employee's regular schedule. **Agreed.**

E. Regular Day Off (RDO) is a day during the administrative workweek on which an employee is not scheduled to work. **Agreed**

F. Seniority will be determined by:

- (1) The total time an employee has served in his or her occupation (e.g., CBP Officer, CBP Agriculture Specialist, Import Specialist, etc.), including time in an equivalent position (e.g., Customs and Immigration Inspectors for CBP Officers and PPQ Officers for CBP Agriculture Specialists) at the employee's heritage agency. For seniority purposes, Customs Canine Enforcement Officers, Immigration Inspector (Canine) or PPQ Officer (Canine) is considered creditable equivalent heritage agency time to the CBP Officer and CBP Agriculture Specialist positions, respectively. **Agreed**

- (2) In the event it is necessary to resolve times after step (1), the total time an employee has served in CBP and heritage agency, regardless of position, will be used. **Agreed**
- (3) In the event it is necessary to resolve ties after step (2), the total time in Federal government service (i.e., SCD) will be used. **Agreed**
- (4) Less than full time employment will be credited for seniority purposes in accordance with the above on a pro rated basis. **Agreed**

Section 4. The scheduling of employees shall be accomplished in a fair and impartial manner. **Agreed**

Section 5. Except when the Employer determines that it would be seriously handicapped in carrying out its functions or that costs would be substantially increased, it shall provide that: **Agreed**

- (1) assignments to tours of duty are scheduled in advance of the administrative workweek over periods of not less than one (1) week; **Agreed**
- (2) the basic forty (40) hour workweek is scheduled on five (5) days, Monday through Friday, when possible, and the two (2) days outside the basic workweek are consecutive; **Agreed**
- (3) the working hours in each day in the basic workweek are the same; **Agreed**
- (4) the basic non-overtime workday may not exceed eight (8) hours; **Agreed**
- (5) the occurrence of holidays may not affect the designation of the basic workweek; and **Agreed**
- (6) breaks in working hours of more than one (1) hour may not be scheduled in a basic workday. **Agreed.**

Section 6. In the event the Agency Head (or designee) determines an employee, or group of employees, are excepted from any or all of the requirements contained in Section 5 of this Article, or applicable law, the Employer will inform the Union (at the national level) of the basis of the Agency's Head determination, and make such employees aware of their coverage by the exception. Nothing in this provision waives the Union's right

to challenge the Agency Head (or designee) determination nor bargain over the matter if it is the Agency Head's position on the first day of this contract that it believes it has a proper determination in effect.

Section 7. The Employer will establish employee work schedules (including basic workweeks, tours of duty, and RDOs) to accomplish the mission of the Agency and to correspond with the employee's actual work requirements. **Agreed**

Section 8. When the Employer knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in the administrative workweek will differ from those required in the current administrative workweek, the Employer shall reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours. The Employer shall inform the employee of the change and will record the change on the employee's time and attendance records. **Agreed,**

Section 9. The Employer will make available projected employee non-overtime work schedules as far in advance as practicable but not less than four (4) weeks in advance of the start of the pay period. Employees will be assigned and informed of overtime assignments in accordance with Article ___ : Overtime. This provision is intended to establish a consistent national minimum standard and is not intended to change established practices at locations where projected employee schedules are normally made available more than four (4) weeks in advance of the start of the pay period. **Agreed**

Section 10. When changes to posted schedules are required, the Employer will notify affected employees as soon as practicable. Nothing in this section relieves the Employer of its obligation under Section 5 above and applicable law.
Agreed

Section 11. The Employer may authorize a special tour of duty of not less than forty (40) hours to permit an employee to take one or more courses in a college, university, or other educational institution when it is determined that: **Agreed**

(1) The courses being taken are not training under Chapter 41 of Title 5, United States Code; **Agreed**

(2) The rearrangement of the employee's tour of duty will not appreciably interfere with the accomplishment of the work required to be performed; **Agreed**

(3) Additional costs for personnel services will not be incurred; and **Agreed**

(4) Completion of the course will equip the employee for more effective work in the Agency. **Agreed.**

B. The Employer shall not pay to an employee any premium pay solely because the special tour of duty authorized under this Section causes the employee to work on a day, or at a time during the day, for which premium pay would otherwise be payable. **Agreed.**

Section 12. The Employer will make individual employee schedules, as well as any changes thereto, available to those employees. Work schedules for all bargaining unit employees, as well as any changes thereto, will be made available to the appropriate NTEU Chapter President. **Agreed.**

Section 13. Employees shall be compensated for hours of work in accordance with applicable laws and regulations. **Agreed**

Section 14. The employer is obligated to notify NTEU in advance and bargain a change in shifts if any of the following conditions apply:

- 1. The change is something other than a locally existing cyclical and recurring change to accommodate the external demands for CPBO services, e.g., an increase every July and August to accommodate international vacation travelers. In order to be recurring it must have been the same shift used at that same time of the year last year.**
- 2. The change involves a shift already operating as an exception to the 5 USC 6101 mandate or that is proposed to operate as an exception to that provision of law,**
- 3. The change involves employees working more than five consecutive regularly scheduled days, or**
- 4. The change involves other than CBPO employees.**
- 5. The change would require employees to move from a fixed to rotating schedule or from an unpaid to paid lunch period.**
- 6. The change would require modifications to already approved annual leave requests.**

Management will notify NTEU's national president or to conduct these negotiations. If management wishes to engage in expedited bargaining by taking the matter to a third party, med-arb neutral for a written recommendation once 14 calendar days have passed since the first bargaining session, the union will agree so long as the employer agrees to pay 50% of

those arbitration expenses. These disputes will be handled by the next arbitrator on the national panel unless mutually agreed otherwise. These negotiations may include:

- 1. whether such shifts or tours of duty will be staffed on a fixed or rotating basis;**
- 2. the composition of the work units for purposes of bid and rotation;**
- 3. whether or not there will be a paid or unpaid lunch period**
- 4. whether the parties' agreement should apply to other shifts or tours of duty**

B. The Employer will also notify affected employees of any modification or alteration of an existing shift or tour of duty not less than seven (7) calendar days prior to its implementation.

C. When implementing any of the changes set forth in Subsection 14.A. above, the Employer will solicit volunteers from qualified employees. If the Employer determines that more than one (1) employee volunteer is qualified, the most senior qualified employee will be selected. If too few qualified employees volunteer, the least senior employee will be selected.

Section 15. Delete .

Section 16. Once scheduled for a tour of duty in accordance with this Article, an employee may voluntarily agree to changes that would result in a work schedule that may be inconsistent with the requirements of Section 5. For example, an employee subject to a swap or an employee assigned to the midnight shift may voluntarily agree to change his/her tour of duty the following day to a day shift schedule to take advantage of a last minute firearms qualifications opening at the gun range (e.g., caused by an employee previously scheduled requested sick or emergency annual leave), which would result in a schedule inconsistent with Section 5. **The Employer will document such voluntary changes in daily or weekly tours of duty and employees will initial or sign such documentation at the time solely to demonstrate that it is voluntary.**

Section 17. Qualified employees shall be allowed to swap daily or weekly tours of duty (to include rotational work locations) consistent with the following:

- A. If the employee informs management of his or her intent to swap at least five calendar days in advance, the swap will be approved so long as the employees are qualified to do one another's work and the swap does not involve paying a commute that would not otherwise be needed. Should the employer ever impose qualifications requirements other than those officially made known to the union in writing and properly bargained, it will notify NTEU national and bargain before imposing the new qualification requirement.**

- B. If the employee informs management less than five days in advance, the employer will approve it so long as the employees are qualified to do one another's work, the swap does not involve paying a commute that would not otherwise be needed, or the swap create an undue hardship on management of operations.**

Section 18

- A. The Employer will ensure that employees are provided rest periods during the work day for the purpose of attending to employee personal needs. Agreed**

- B. Such rest periods will be of reasonable duration and will be permitted at reasonable times during the work day, to include work performed on an overtime basis, consistent with the Employer's right to assign work and workload demands.**

DHS:llboschedule

TRAINING AND EMPLOYEE DEVELOPMENT NTEU 8/09/10

Section 1. The Employer and the Union agree that the training and development of employees within the unit is a matter of significant importance. In conjunction with this concept, the Employer, within budgetary limitations, will make available to an employee the training the Employer determines will improve individual and organizational performance and assist in achieving the Employer's mission and performance goals, including training for different positions within CBP or in other Federal agencies. The Employer and the Union agree to continue their encouragement of self initiated development efforts of individual employees consistent with the terms of this Article. Agreed

Section 2. A. The Employer will maintain information about CBP provided training as well as other job-related educational resources. This information will be made available to all CBP employees. Employees seeking counseling and guidance regarding the in service training program should discuss the matter with their immediate supervisor and/or the DFO Mission Support Staff. Agreed

B. CBP will inform employees at least annually of the availability of training and other job-related educational resources. Agreed

Section 3. In-Service Training

A. Where the Employer offers in service training to enhance job proficiency, excluding required and remedial training, the following procedures will apply:

1. The Employer will advertise in-service training programs to all CBP employees through an electronic web-posting or other appropriate method. Agreed

2. The in-service training advertisement will provide employees information about the offered training, any prerequisite qualifications, and application procedures. Agreed

3. Employees will be selected for such training in a fair and equitable manner as described in Article XX: Fairness and Equitability. **However, management will notify the union, nationally or locally as appropriate, of the details of this selection process before it implements it.**

4. In the event of a posting failure which affects a group of employees, the remedy available under this Agreement shall be limited to priority consideration when such training is offered again. Agreed

B. Upon request, the local NTEU chapter will be informed of those employees selected for in-service training. Agreed

Section 4. Non-CBP Training

A. When an employee requests non government training, the Employer will pay authorized expenses for such training at a facility approved by the Employer when the following conditions have been met: Agreed

1. the training has been applied for on an SF 182 or the appropriate form and approved in advance; Agreed
2. the training will improve individual and organizational performance and assist in achieving the Employer's mission and performance goals, including training for different positions within CBP or in other Federal agencies; Agreed
3. existing training programs within CBP will not adequately meet the training need; Agreed
4. it is not feasible to establish a new training program to meet the need effectively; Agreed
5. reasonable inquiry has failed to disclose the availability of a suitable and adequate program elsewhere in Government; Agreed
6. funds are available to pay for the training; Agreed
7. the course is not being taken solely for the purpose of obtaining a degree; and, Agreed
8. the approval of such training will not create an undue interference with operational requirements or an imbalance in staffing patterns. Agreed

B. An employee who fails to satisfactorily complete the training provided for in Section 4. shall reimburse the Employer for all tuition and related expenses incurred by the Employer for that portion of the training not satisfactorily completed. Agreed

C. In accordance with applicable law and regulation, the Employer may waive in whole or in part a right to recover tuition and related expenses if it shown that the recovery would be against equity and good conscience or against the public interest. For example, waiver would normally be appropriate if the employee encountered unforeseen personal or health problems, medical emergency or change in official duties. Agreed

D. § 4.(D). Upon request, the local NTEU chapter will be informed of those employees selected for Non-CBP training. Agreed

Section 5. Tuition Assistance Program (TAP)

A. In addition to the mechanism for employees to request non-CBP training in Section 4, the Employer will establish a supplemental Tuition Assistance Program (TAP) as an additional method of obtaining training not offered by CBP that will either provide employees improved skills for doing their current job or help them pursue career advancement in a field of work performed by CBP. Agreed

B. Participating employees who are approved may receive up to \$2,500 per open season. Agreed

C. NTEU will be notified and provided the opportunity to bargain prior to the implementation of any changes in the TAP such as its termination, suspension, or changes in the maximum amount of funding.

D. There will be three open seasons for employees to apply for TAP funding corresponding to the fall, spring and summer terms. Agreed

E. Courses must be taken at an accredited college or university, including through the use of "non-traditional" methods such as distance learning courses at accredited universities or colleges. Agreed

F. TAP applications will be evaluated with the following criteria:

- (1) The requested course's applicability to the applicant's current position and career progression;
- (2) An applicant's narrative response justifying the request; and
- (3) The operational requirements and priorities of CBP. Agreed

G. Employees submitting incomplete application packages will be so informed as soon as possible upon discovery by CBP. Agreed

H. CBP will inform employees in writing in the event they are denied TAP assistance and the reasons for such denials. Agreed

I. CBP will make reasonable adjustments to the schedules of those receiving TAP assistance, if necessary, workload permitting. Agreed

J. Employees will be informed at least on an annual basis of the existence of the TAP, and will be provided access to all application and descriptive TAP materials. Agreed

K. Participants must complete the course with a passing grade (C or better or pass for a pass/fail course) in order to receive monetary assistance. Agreed

L. an employee who fails to obtain a passing grade shall reimburse the Employer for all assistance provided by CBP. CBP will consider a waiver of reimbursement in accordance with Section 4.C. Agreed

N. An employee may receive assistance for one course per CBP-TAP term and no more than three courses per calendar year. Agreed

Section 6. A. When an employee is reassigned due to the position previously held having been eliminated, sufficient training as determined by the Employer will be given to the employee to enable him to perform the duties of the new position. Agreed

B. The lack of adequate training will be a defense to any action adverse to the employee.

C. Deleted.

Section 7 A. Employees who are selected to assume the duties of a new position, but who subsequently do not satisfy the training requirements of the new position will be given the option of returning to their prior position. Agreed

B. The employer will consider the existence of any learning disabilities or handicaps and whether they were reasonably accommodated or not before taking action adverse to the employee based on his performance in training. Agreed

Section 8 Employees required to attend training will be given notification as far in advance as possible and, absent unusual circumstances, no later than two (2) weeks prior to the commencement of such training. This requirement may be waived by the employee. Agreed

Section 9. If the Employer determines that successful completion of a training course is required for placement or continued retention in a position, employees who fail to successfully complete the course may be subject to removal from the position, or not placed/retained in the position. Any such action will be taken in accordance with law and the terms of this Agreement. Agreed

Section 10. The Employer will reimburse employees for all training costs and expenses incurred as a result of training in accordance with applicable laws and regulations. For example, if law or regulation permits the Employer to reimburse professional employees such as attorneys accountants and chemists for required professional education, it will do so. Agreed

Section 11. A. In order to determine the quality of training, an evaluation through questionnaires may be conducted by the Employer after any national training conducted outside of the Federal Law Enforcement Training Center. Response to the questionnaire may be made anonymously. Agreed

B. Employees at FLETC, CETC or similar training sessions will be surveyed every two years concerning the living conditions at the particular training center. Un-sanitized copies of such surveys will be provided to NTEU although the name of the student may be sanitized. Agreed

C. After consulting with NTEU regarding the survey results pursuant to Subsection B, CBP will take necessary action to seek improvements, if needed. Agreed

Section 12. Training courses and testing procedures will be validated pursuant to government-wide rules and regulations and applicable law.

Section 13. By the end of the first year of this contract, the employer will create a reasonable upward mobility program for those unit employees who have not yet been selected for positions with career ladder potential to GS-11. Agreed

Section 14. Deleted

Section 15. Deleted

DHS:llbotraining

UNION REPRESENTATIVES AND OFFICIAL TIME

NTEU 8/09/10

Section 1. The term "official time" as used in this Article, means an approved absence from duty by a bargaining unit employee during regular hours of duty without loss of pay and without charge to leave. AGREED

Section 2. A. Representatives shall be granted a reasonable amount of official time for all matters relating to the administration of this Agreement, and joint labor-management relations matters arising under Chapter 71, Labor-Management Relations, Title 5 and any other activity for which the Civil Service Reform Act (CSRA) allows employees to use official time such as: AGREED

- (1) to prepare for and participate in Labor-Management Relations Committees (LMRCs) activities as provided for in this Agreement; AGREED
- (2) meetings with the Employer concerning personnel policies, practices or other general conditions of employment or any other matter covered by 5 USC 7114(a)(2)(A); AGREED
- (3) to prepare for and present unfair labor practice charges or unit clarification petitions including preparation for and participation in any Federal Labor Relations Authority investigation or hearing as a representative of the Union; AGREED
- (4) to prepare and deliver written and/or oral replies to notices of proposed disciplinary, adverse or unacceptable performance actions; AGREED
- (5) to prepare for and present appeals in connection with statutory or regulatory appeal procedures in which the Union is designated as the representative; AGREED
- (6) to prepare for and present reconsideration replies in connection with the denial of within grade increases; AGREED
- (7) examinations of bargaining unit employees by a representative of the Employer in connection with an investigation; AGREED
- (8) to prepare for and participate in grievance meetings and arbitration hearings; AGREED
- (9) meetings of committees on which Union representatives are authorized membership pursuant to this Agreement; AGREED
- (10) to prepare for and/or participate in local or national negotiations; AGREED
- (11); to meet with national staff representatives of the Union in connection with a grievance, arbitration, or unfair labor practice charge; AGREED

(12) to travel to and from any activity for which official time is authorized under this Article; AGREED

(13) to attend or conduct Union sponsored training and other joint labor-management relations training matters. In no case will a Chapter receive less than forty (40) hours for each national Vice President, Chapter President, or Chief Steward and no less than twenty-four (24) hours for each Steward position authorized by this Agreement. All of this time may be pooled for use by any or all Chapter Union Representatives; AGREED

(14) to engage in lobbying activities (e.g., visiting, phoning and writing to elected representatives) on matters concerning Union employees' conditions of employment. This official time will be available to union representatives in addition to Chapter Presidents, Chief Stewards and Stewards (e.g., Legislative Coordinators or Chapter Vice Presidents). AGREED

(15) to prepare and maintain records and reports required of the Union by 5 U.S.C. § 7120 (c). AGREED

B. When serving as a designated employee representative in an established appeals procedure, a steward, chief steward, or Chapter President shall receive such official time as may be provided or allowed in the law or regulations governing the appeal procedure. AGREED

C. Reasonable time shall also be granted as necessary to stewards, chief stewards, Chapter Presidents, and affected employees to prepare for meetings referenced in Subsection A above. AGREED

Section 3. As necessary or required, employees shall be excused from duty without charge to leave to participate in the activities covered in Section 2 of this Article. AGREED.

Section 4. With regard to representational duties, the Union may officially designate Union stewards and chief stewards as follows: AGREED

A. The Union may designate at least one (1) official steward at each post of duty. A post of duty, for the purpose of this Article, is a common physical location, such as a station, port-of-entry, airport etc. The post of duty shall be the representational area of the steward(s) for the purposes of this Article. AGREED

B. The Union agrees to appoint no more than the following number of stewards at any post of duty where more than twenty-five (25) employees are stationed: AGREED

Post of Duty Size	Number of Stewards
26 – 50 unit employees	2
51 – 100 unit employees	4
101 – 175 unit employees	5

176 – 250 unit employees	6
251 – 325 unit employees	7
326 – 400 unit employees	8
401 – 475 unit employees	9
476 – 550 unit employees	10
551 – 625 unit employees	11
626 – 700 unit employees	12
701 – 775 unit employees	13
776 – 850 unit employees	14
851 – 925 unit employees	15
926 – 1000 unit employees	16
1001 – 1075 unit employees	17
1076+ unit employees	18 AGREED

C. In addition to the stewards designated pursuant to Subsections A and B above, the Union may also designate one (1) chief steward for each CBP Port, Area or Headquarters Office. Each Chapter shall have at least one chief steward. A chief steward may represent any employee concerning matters related to the employment of the employee within his Chapter's jurisdiction. The preceding will not result in any additional cost, e.g. travel and per diem, to the Employer. AGREED

D. The Employer shall recognize the President of each existing NTEU Chapter representing CBP employees as having the authority to represent the Union in the administration of this Agreement and to represent bargaining unit employees concerning any matter relating to the employment of an employee within their respective jurisdiction. Where more than one (1) Chapter President exists within a DFO area, the DFO area shall be geographically apportioned by the Union to provide non-overlapping representational areas for each Chapter President. The Union shall notify the Employer of such apportionment. The Chapter President may represent any employee concerning matters relating to the employment of the employee within his chapter's jurisdiction. The preceding will not result in any additional cost, e.g. travel and per diem, to the Employer. AGREED

E. In recognition of the complexity of CBP operations, e.g., 24/7 working schedules, multiple ports within one NTEU Chapter's jurisdiction, varying miles between ports, seasonal ports, the presence of uniform and non-uniformed employees, frequent changes in shift times, and the diverse preferences of Chapter representatives to perform CBP duties some or none of the time, the parties agree that the number of chapter representatives designated below will receive a block of time as noted each week so that both parties can plan and employees have known access to the union. The entitlement to block time is as follows:

- 1. Chapter representing more than 75, but less than 275 bargaining unit employees will be allowed at least one representative on 50% official time.**
- 2. Chapters representing 275 or more employees shall be allowed at least one full-time representative on official time.**

3. Chapters representing 550 or more employees shall be allowed at least two full-time representatives on official time.
4. Chapters representing 1,000 or more employees shall be allowed at least three full-time representatives on official time.
5. For every full increment of 400 employees above 1,000 the chapter will be allowed to appoint another full-time representative.
6. If a chapter also has between 10 and 20 ports, it will be entitled to another full-time representative. If it has more than 20, it will be entitled to two more.
7. However, no chapter will be entitled to more than five full-time representatives under 1-6 above.

Chapters may share a block of time among its representatives in half-block increments, e.g., if a chapter is entitled to one full-time representative, it could split that block in half between two representatives.

F. Union representatives who elect full-time status will notify the appropriate management official(s) of their status and its anticipated duration in accordance with local scheduling practices. AGREED

G. Chapters may elect to divide full-time Union representation responsibilities among more than one person. AGREED

H. Upon conclusion of their labor-management duties, full-time Union representatives will return to positions in the same series and grade they occupied before assuming full-time union duties. AGREED

I. The Employer will designate a manager to whom a full-time Union representative will report for administrative purposes (e.g., leave, travel, etc.). Normally, this manager will be the Port director or his designee. Employees who are serving as full-time representatives will be rated in accordance with the provisions of the applicable Article of this Agreement while fulfilling their labor-management duties. AGREED

J. Performing full-time duties as a Union representative will have no effect on an employee's ability to participate in overtime. An employee covered by COPRA will remain in his participating group and his participation will conform with inspectional assignment policy and local excusal procedures. AGREED

K. Union representatives in full time status will not be required to perform the normal duties of their position unless by mutual agreement or the statute otherwise gives the employer the right to order the full-time union official to perform work assigned him or her.

L. In the event of operational demand employees on official time must be able to immediately report to work prepared to carry out the full scope of their respective duties. AGREED

M. Nothing in this subsection is intended to reduce the number of full-time Chapter representatives in place as of the effective date of this Agreement. AGREED

Section 5. For each representative allowed under the provisions of this Article, the Union may appoint an alternate representative. The alternate representative may serve as a representative only when the official representative is absent from duty or on an assignment outside his representational area. AGREED

Section 6. A. Local NTEU Chapters will provide the Employer a list of its Vice Presidents and other officers/stewards within thirty (30) calendar days of the effective date of this Agreement, and annually thereafter. In addition, the Chapters will provide the Employer a list of additions, deletions or changes to the list each month. Only those stewards and alternates on the steward's list will be recognized by the Employer as having authority to represent the Union. The Union at the National level will provide to the Employer a list of its Chapter Presidents within thirty (30) calendar days of the effective date of this Agreement and changes to this list each month. AGREED

B. The Union may change stewards at any time by providing written notice to the appropriate management official. At least one (1) management official will be designated to receive such information within each port, Area, field headquarters office, and National Headquarters. Nothing in this Section shall prohibit a Chapter President or an NTEU National representative from representing the Union. AGREED

Section 7. Official time may be used in any reasonable location agreed to by the parties locally. In the event the local parties are unable to reach agreement, the Agency will provide the representative with a reasonable location to perform representational duties while on official time. AGREED

Section 8. A. The Employer has determined that, unless there are insufficient other qualified candidates, union officers or stewards will be considered for details or temporary promotions to supervisory positions only if they volunteer. When the Employer determines to detail or temporarily promote a union officer or steward to a supervisory position, the union officer or steward must relinquish all union responsibilities for the duration of the detail or temporary promotion. AGREED

B. This Section shall not prohibit a Union officer or steward from serving as an acting supervisor for brief periods of time so long as no conflict of interest is created. AGREED

Section 9. In accordance with the special job order accounting code established for that purpose, all approved time spent by representatives on representational functions will be charged to labor-relations time and so recorded by the Employer on the time and attendance report. AGREED

Section 10. Union representatives other than full-time representatives who wish to use official time authorized under this Article must obtain consent from their immediate supervisor before undertaking such activity. An SF-71 or other form mutually agreed to by the parties at the local level may be used for such requests. The representative shall inform the supervisor where he is going, the general purpose of his visit, i.e., the category of representational activity, and when he expects to return. Immediately upon return to the work site and prior to returning to duty, the representative shall inform his supervisor of his return. AGREED

Section 11. When a representative enters a work area or performs representational activities he must receive the consent of the immediate supervisor in charge of the work area. The representative shall inform the supervisor whom he wishes to confer with, the general purpose of the visit and how long he expects the conferee to be away from his duties. The conferee shall receive the agreement of his immediate supervisor prior to ceasing his duties. Whenever practicable, the conference shall take place in a meeting room as provided for in Article ___: Employer Provided Facilities and Services. AGREED

Section 12. Workload requirements permitting, requests pursuant to Sections 10 and 11 above will normally be granted. If a request is denied due to work requirements, the supervisor will explain the reason and will indicate to the representative and/or employee when he expects it will be possible to grant the request. AGREED

Section 13. Where feasible, the employer shall make shift adjustments for representatives to attend labor-management meetings during their duty hours. AGREED

Section 14. Employees are permitted but not required to wear a uniform while on official time. AGREED

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