

Memorandums of Understanding



AFGE LOCAL 4200

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EMPLOYEE RIGHTS

SECTION 1. Union Participation: The Agency and the Union agree that each employee in the unit has the right, freely and without fear of penalty or reprisal, to form, join, or assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of such right. Except as otherwise expressly provided in the Civil Service Reform Act of 1978, this right includes the right to act for a labor organization in capacity of a Union representative, officer, or steward and to present the views of the labor organization to heads of the Agencies, and other appropriate authorities.

SECTION 2. Presentation of Views: In accordance with existing statutes and regulations, employees have the right to present their personal views to Congress, the Executive Branch or other authorities without fear of penalty or reprisal.

SECTION 3. Management Notification: The Agency will ensure that management officials are apprised of the rights described in Section 1, and that no action is taken by management to encourage or discourage membership in a labor organization. The Union will assure that employees in the unit are apprised of the rights described in Section 1.

SECTION 4. Whistleblower Protection: Employees are protected by the Whistleblower Protection Act, against reprisal for the lawful disclosure of information which the employee reasonably believes evidences a violation of law, rule or regulation, or evidences mismanagement, a waste of funds, an abuse of authority, or a danger to health and safety.

SECTION 5. Off Duty Activities: Employees have the right to conduct their private lives as they desire; however, should the employee's conduct reflect negatively on the efficiency of the Agency, that behavior may potentially be a concern of the Agency. In performing official duties employee conduct will be guided by the Code of Conduct for Government Employees, 5 CFR 2635.

SECTION 6. Acknowledgement: Employees will be given a detailed explanation of any document(s) they are required to sign. After an explanation, if the employee does not understand the document, he or she may request a Union representative. If an employee refuses to sign, including for a disciplinary action, no adverse action of any kind will be taken against an employee for their refusal to sign. An employee's refusal to sign will be annotated on the document(s).

SECTION 7. Weingarten Rights:

A. In accordance with 5 USC Section 7114 (a)(2)(B), the employee will be given notification and an opportunity to have a representative present at any examination in connection with an investigation that may result in disciplinary or adverse action, provided that:

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

(ii) the employee requests representation.

Therefore, when an employee is being questioned by a supervisor and the employee believes the questioning may lead to disciplinary action, the employee may ask for Union representation.

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Upon such request the meeting will cease, and be rescheduled within the next business day, in order to allow the employee the opportunity to request Union representation.

B. When an employee believes their Weingarten Rights have been violated, the employee should promptly bring that to the attention of the Union or the LMER Division. Allegations of a violation of an employee's rights under subparagraph (a) above shall be promptly investigated by the Agency. The Agency will report to the Union the findings of the investigation. The Union acknowledges that any decision by management concerning the discipline of a supervisor for a Weingarten violation is in the sole discretion of the Agency. If a violation is found, the Agency will notify the Union and consider any recommendations the Union may have to prevent future violations.

SECTION 8. Personal Rights:

A. All employees shall be treated fairly and equitably in all aspects of personnel management and without regard to political affiliation, race, color, religion, national origin, gender, gender identity, sexual orientation, marital status, age, or disabling condition, and with proper regard and protection of their privacy and constitutional rights.

B. Managers and employees will deal with each other in a professional manner and with courtesy, dignity, and respect.

C. The Agency will make every reasonable effort to conduct discussions concerning personal matters in private.

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

E. Management may not discipline an employee who refuses to obey an order that is found to be unlawful by an arbitrator or a court of competent jurisdiction.

F. An employee's decision to resign or retire, if eligible, shall be made freely without coercion and in accordance with prevailing regulations. At the employee's request, the Agency will provide retirement planning contact information to bargaining unit employees. The retirement information will be clearly accessible on the DHA SharePoint site under the Resources tab.

G. If an employee is facing termination, the employee may resign, freely and in accordance with prevailing regulations, any time prior to the effective date. Escorts off property in connection with termination will be handled with discretion. Escorts off property in connection with termination will be handled with discretion.

H. An employee may withdraw his or her resignation prior to the effective date, as long as the position is uncommitted or unencumbered.

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SECTION 9: Surveys and Questionnaires

A. The Agency will not communicate directly with bargaining unit employees through verbal or written surveys and questionnaires regarding conditions of employment without prior notification to the Union and bargaining where appropriate; this includes all questionnaires and surveys from all other agencies. Nothing in this section precludes the Union from the right to bargain over conditions of employment under the 5 USC Chapter 71.

B. Participation in surveys will be voluntary, unless the Parties mutually agree in writing to require participation. Employees will be assured that their responses will be confidential and their anonymity protected, unless the Parties agree otherwise.

C. In order to encourage employee participation in completion of surveys there shall be no reprisal based on the employee's responses or lack thereof.

D. The results of surveys conducted by either party regarding conditions of employment will be shared unless prohibited by current law and/or regulation. If a third party conducts a survey and the results are distributed to the Agency, the results will be shared with the Union.

SECTION 10. Voluntary Activities: An employee shall not be required to contribute money to the Combined Federal Campaign, purchase U.S. Bonds in any bond drive, or donate blood in any organized blood drive. Participation or non-participation will not advantage or disadvantage employees, and shall be solely on a voluntary basis.

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GRIEVANCE AND ARBITRATION

GRIEVANCE

SECTION 1. PURPOSE: The purpose of the following grievance and arbitration procedure is to provide a process to ensure timely consideration of the grievances of bargaining unit employees, the Union, or the Agency.

SECTION 2. DEFINITION: A grievance is any complaint:

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

SECTION 3. EXCLUSIONS: This negotiated grievance procedure shall not apply with respect to any grievance concerning:

- 1. Non-selection from a group of properly ranked and certified candidates;
- 2. A notice of proposed disciplinary, adverse, or performance-based action (however, the subsequent decision may be grieved);
- 3. The granting of, or failure to grant, the amount of an award or retention allowance;
- 4. A return of an employee from a non-bargaining unit position as a supervisor or manager to a bargaining unit position;
- 5. Any claimed violation of subchapter III of Chapter 71 of Title 5 U.S.C. as amended relating to prohibited political activities;
- 6. Retirement, life insurance, or health insurance;
- 7. Any examination, certification, or appointment under 5 U.S.C. 7121 (c)(4);
- 8. A suspension or removal for national security reasons;

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9. Termination of a probationary or trial period employee;
10. Supervisory determination of job elements and performance standards;
11. The classification of any position which does not result in the reduction in grade or pay of an employee;
12. Oral or written counseling, written warning: as such actions shall not be used in determining penalty for subsequent actions; and
13. A fitness for duty decision which does not result in an action against the employee.

SECTION 4. EXCLUSIVITY: This negotiated procedure shall be the only procedure available to the Union and bargaining unit employees for resolving grievances except as provided in Section 6 below. If a bargaining unit employee wishes to present a grievance on his/her own behalf a representative of the Union will have the right to be present at any meeting with the Agency concerning the grievance.

A. Invocation of Arbitration: This right of grievance presentation without Union representation does not extend to arbitration which may be invoked only by the Union on the employee's behalf.

B. Designation of Union Representative: Employees reserve the right to request Union representation at any time during the grievance procedure. The designation of a Union representative must be in writing.

SECTION 5. RESOLUTION: Employees and the parties shall endeavor to cooperate to resolve grievances informally at the earliest possible time and at the lowest possible supervisory level.

SECTION 6. ELECTION: In areas where employees have the option of utilizing a statutory appeals procedure, including but not limited to: (1) employment discrimination complaints; (2) removal or reduction in grade for unacceptable performance; and (3) adverse actions (removal, reduction in grade for other than unacceptable performance, suspension for more than 14 days, and furlough for 30 days or less) employees have the option to use either the negotiated procedure or a statutory appeals procedure, but shall not utilize both. Employees exercise their option when they file a timely notice of appeal under the appropriate appellate procedure or file a timely grievance in writing under this procedure. In employment discrimination complaint actions this election is made in accordance with procedures set forth in the Agency and Equal Employment Opportunity Commission (EEOC) regulations.

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SECTION 7. COMPUTATION AND APPLICATION OF TIME LIMITS: In computing time periods for Steps 1 and 2 of this Article, should the time to either file a grievance or respond to a grievance fall on a weekend, a holiday, or during a shutdown or furlough, the time limit will automatically be extended to the next business day.

SECTION 8. JURISDICTION: If either Party considers a grievance non-grievable or non-arbitrable, they must state any claim of non-grievability or non-arbitrability in the written response and no later than the Step 3 decision. The original grievance will be considered amended to include the issue of non-grievability or non-arbitrability.

SECTION 9. STEPS FOR FILING A GRIEVANCE:

STEP 1.

A. The grievance shall first be presented in writing by the employee and his/her Union representative, if any, to the grievance official, i.e., the lowest level Agency official with authority to grant the relief sought. Normally, this will be the employee's first-line supervisor. Grievances must be presented within fifteen (15) calendar days from the date of the event giving rise to the grievance or the date the grievant became aware of the occurrence. The written grievance shall contain the following information:

1. Name of grievant;
2. Specific article, section, law, rule, or policy allegedly violated, if known;
3. A specific statement of the grievance;
4. The personal relief desired;
5. The name of the representative, if any.

B. The grievance official shall arrange a meeting to be held within fifteen (15) calendar days after receipt to discuss the grievance. Within fifteen (15) calendar days following the meeting, the grievance official shall reply to the grievant and his/her representative in writing.

C. The Step 1 decision shall include the appropriate Agency contact to receive a Step 2 grievance.

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STEP 2.

A. If the employee is not granted the requested relief with the reply received at Step 1, the grievance may be submitted to the next higher person in the chain of command over the person rendering the Step 1 decision within fifteen (15) calendar days from the receipt of the answer at Step 1. The Step 2 grievance shall be submitted in writing and shall contain the same information submitted in Step 1 (see Section 7, Step 1 A.), the Step 1 reply, and any additional information/evidence the employee wishes to submit.

B. The Step 2 official, or his/her designated representative, shall conduct such investigation as he/she deems necessary to determine the facts in the case. If requested by the employee or the Step 2 Official, he/she shall meet and discuss the grievance with the employee and/or the Union representative for the purpose of giving the employee the opportunity to make any argument he/she believes may impact the decision. The Union may decline the meeting in writing. The Step 2 official, after considering all the facts, shall render his/her decision in writing to the employee within fifteen (15) calendar days after the employee submits his/her Step 2 written grievance or within fifteen (15) calendar days after meeting with the employee and his/her representative, if such meeting is held.

C. The Step 2 Decision shall include the appropriate Agency contact to receive a Step 3 grievance.

STEP 3.

A third step grievance must be filed within fifteen (15) calendar days from receipt of the Step 2 written decision to be timely. It must be filed with the higher management official above the step two official or his/her designee, as designated in the Step 2 decision. If requested by the employee or the Step 3 Official, he/she shall meet and discuss the grievance with the employee and/or the Union representative for the purpose of giving the employee the opportunity to make any argument he/she believes may impact the decision. The Union may decline the meeting in writing. The third step management official shall render a written decision within fifteen (15) calendar days after the meeting, or fifteen (15) calendar days after receiving the grievance if a meeting is not held. If the grievance is denied, the decision will set forth the reasons for the denial in writing. The Step 3 written decision is final and not subject to further review unless the matter is submitted to arbitration as discussed below.

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SECTION 10. ALTERNATIVE DISPUTE RESOLUTION: At any point during the grievance process, the Parties, by mutual agreement, may elect to utilize the services of a mediator obtained for Alternative Dispute Resolution (ADR). Time periods shall be tolled during the ADR process. Enforcement of discipline, other than removal, may be held in abeyance during the ADR process by mutual agreement.

SECTION 11. HIGH LEVEL DECIDING OFFICIAL: Where an employee wishes to grieve a written decision to suspend or remove from a Designated Deciding Official at the Deputy Associate Director (DAD) level or above, the Grievance will be filed at Step 2 (See Section 8, Steps for Filing a Grievance above).

SECTION 12. UNION GRIEVANCE:

A. Procedures: In the case of any grievance which the Union may have against the Agency, such grievance shall be submitted, in writing, to the DHA Director or their designee with a copy to the LMER Chief. In the case of any grievance which the Agency may have against the Union, it shall be submitted to the Local President, or their designee, with a copy to the Local's shared mailbox. The mailbox email address will be provided to the Agency by the Local President. Union grievances will be submitted, in writing, within fifteen (15) calendar days after the date of occurrence of the event giving rise to the grievance or the date the Party became aware of the occurrence and shall contain the following:

1. A statement setting forth the facts upon which the grievance is based;
2. The bargaining unit employee(s) or bargaining unit employee group(s) impacted by the grievance, if applicable;
3. The specific Article and section of the agreement, law, rule, regulation or policy alleged to have been misapplied and/or misinterpreted; and
4. The relief sought.

B. Meeting: A meeting of the Parties will be held within fifteen (15) calendar days after receipt of the grievance with a written response by the appropriate Party within fifteen (15) calendar days after the meeting.

SECTION 13. ADVANCEMENT OF GRIEVANCE: Failure of the grievant or the Union to proceed with a grievance within any of the time limits specified in this agreement shall render the grievance void or settled on the basis of the last decision given by the Agency, unless an extension of time limits has been agreed upon. Failure of the Agency to answer a grievance within the time limits prescribed in each step shall allow the grievant or the Union to proceed to the next higher step of the procedure unless an extension of time limits has been agreed upon by the Parties.

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ARBITRATION

SECTION 14. SUBMISSION TO ARBITRATION: A request for arbitration may be invoked only by the Union or the Agency. If the Agency and the Union fail to settle any grievance under the negotiated grievance procedure, such grievance, upon written request by either the Agency or the Union within fifteen (15) calendar days after issuance of the final decision, may be submitted to arbitration. The Parties strongly agree that grievances or issues may be resolved informally and may attempt informal resolution before filing an arbitration. Meeting informally does not preclude either Party from invoking arbitration.

SECTION 15: SELECTION OF ARBITRATOR: On or after the date of the notice to invoke arbitration, the appropriate Party, as detailed in Section 15.1 below, will request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven impartial persons to act as an arbitrator:

- 1. Requesting the List of Arbitrators and Cost:** The Parties will bear the cost of such list equally. The Parties will alternate the request and payment of the list. The flip of a coin will determine who will request and pay first. The parties shall meet within 10 calendar days after receipt of such list to select an arbitrator (this may be done virtually). The Parties shall jointly maintain a document detailing in chronological order which Party paid for which Arbitrator's List.
- 2. Striking Arbitrators:** If the parties cannot mutually agree on one of the listed arbitrators, then the Agency and the Union will alternatively strike one potential arbitrator's name from the list of seven and will then repeat this procedure until one name remains. The remaining person shall be the duly selected arbitrator. The parties will choose lots to determine who strikes the first name.
- 3. Notification to FMCS:** Following the selection, the moving Party will, within 14 calendar days, notify the FMCS of the name of the arbitrator selected. A copy of the notification will be served on the other Party. The time limits may be extended by mutual consent.

SECTION 16. ISSUES: If the Parties fail to agree on a joint submission of the issue for arbitration, including any threshold issues, each will submit a separate submission and the arbitrator shall determine the issue(s) to be heard. The submission of the issue(s) for arbitration will be done once the arbitrator has been selected and will be submitted prior to the hearing, at a date to be determined by the arbitrator.

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SECTION 17. ARBITRATION DATE: Upon selection of the arbitrator, the respective representatives for the parties will jointly communicate with the arbitrator and each other in order to select a mutually agreeable date for the arbitration hearing.

SECTION 18. WITNESSES:

A. Testimony: The Parties shall exchange a list of their anticipated witnesses no later than fifteen (15) days prior to the hearing. Upon exchange of the witness lists, the Agency will notify supervisors of employees who may be called as witnesses. The Agency will normally adjust the work schedule of employees in order to allow them to testify during their duty hours. It shall be the sole discretion of the arbitrator to determine who may testify. All Agency employed witnesses requested by the Union shall be on official time during the proceeding. Overtime shall not be paid except by order of the arbitrator or mutual consent. This does not preclude either Party calling witnesses after the submitting of the initial list.

B. Travel Expenses: Each Party will bear the expenses of its own witnesses who are not employees of the Agency and will be responsible for arranging for the appearance of those witnesses at the hearing. The Agency will bear the travel and per diem expenses of participating Agency employees to the extent permitted under the Joint Federal Travel Regulations (JTR). Upon request, bargaining unit employees will receive training on the Defense Travel System and how to request a Government Travel Credit Card (GTCC). Vouchers must be submitted within five (5) calendar days after returning from travel, pursuant to the DHA Travel Guidebook. Observers will not be entitled to travel and per diem expenses.

C. Management Officials: If the agency objects to the Union's request to call a management official at the Chief of Staff and above level as a witness, either Party may ask the arbitrator to make a ruling prior to the hearing.

SECTION 19. LOCATION: The arbitration hearing will normally be held on the Agency's premises during the regular day shift hours of the basic workweek. All participants in the hearing who are bargaining unit employees will be in duty status. By mutual agreement or by decision of the Arbitrator for good cause, the Parties may select an alternative location for the hearing, including virtual hearings or hearings on the briefs/motions. Any costs incurred for a change in default location will be equally borne by the Parties.

SECTION 20. FEES: The arbitrator's fee and the expense of the arbitration, if any, will be equally borne by the Parties. If prior to the arbitration hearing or decision, the parties resolve the grievance the cancellation fee will also be shared equally.

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SECTION 21. TRANSCRIPTS: When a formal hearing is used, verbatim transcription will be utilized if agreed to by both parties. The cost of this transcription service will be equally divided between the Agency and the Union. If the Parties cannot agree to share costs equally, either the Agency or the Union may utilize verbatim transcriptions at its own expense. If either Party desires a transcript of the proceedings, that Party will bear the expense of the transcript. If both parties desire a transcript, the parties will share the cost. Either Party may request to file a post-hearing brief, subject to the Arbitrator's approval.

SECTION 22. ARBITRATOR AUTHORITY: The arbitrator will be requested to render his/her decision as quickly as possible after the conclusion of the hearing or after submission of closing briefs, if applicable. The arbitrator shall confine himself/herself to the precise issue submitted for arbitration and shall have no authority to determine any other issues not so submitted to him/her. In matters covered under Title 5 U.S.C. 4303 and 7512 which have been raised under this procedure, an arbitrator shall be governed by the applicable laws, rules, and regulations.

SECTION 23. EXCEPTIONS: The decision and award of the arbitrator will be final and binding except that either Party may file an exception to the award as provided in 5 U.S.C. Section 7122. The parties retain their rights under 5 USC 7122, 5 USC 7123, and 5 USC 7702. The filing of an exception with the FLRA will serve to stay the implementation of any award until the FLRA accepts or denies the appeal.

SECTION 24. DISPUTES: Any dispute over the application of an arbitrator's award will be returned to the arbitrator for settlement, including remanded awards.

SECTION 25. RESTRICTIONS: The arbitrator will not in any manner or form whatsoever, directly or indirectly add to, detract from, or in any way alter the provisions of this agreement.

SECTION 26. ATTORNEY FEES: In accordance with applicable laws and regulations, and where attorney fees are allowed, the arbitrator may award reasonable attorney fees.

SECTION 27. EXTENSIONS: All time limits in this arbitration procedure may be extended by mutual written consent/agreement.

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The above provisions for Employee Rights and Grievance and Arbitration are hereby agreed to and effective this 31th day of October 2023.

For the Agency:

SHARP.FELICIA
CYRANA.10156
00841

Digitally signed by
SHARP.FELICIA.CYRANA.10
15600841
Date: 2023.10.31 16:39:01
-04'00'

For the Union:

Catherine McWhiston 10/31/23

The above provisions for Employee Rights and Grievance and Arbitration are hereby agreed to and effective this 31th day of October 2023.

For the Agency:

SHARP.FELICIA.C
YRANA.1015600
841

Digitally signed by
SHARP.FELICIA.CYRANA.101
5600841
Date: 2023.10.31 16:36:42
+04'00'

For the Union:

Cathie McHuston 10/31/23

OFFICIAL TIME

SECTION 1. USE OF OFFICIAL TIME: The Agency will provide official time in accordance with 5 USC §7131. Use of official time must be requested and approved in advance in a manner consistent with the terms of this agreement. Notwithstanding the provisions for a specific amount of official time for Union Representatives, listed below, the Agency will provide Union representatives a reasonable amount of official time under the provisions of 5 U.S.C. 7131(d) to prepare for and carry out statutory representational functions (e.g., attendance at formal discussions or negotiations, preparations of grievances, and preparation for arbitration).

SECTION 2: PROCEDURES:

A. Duty Hours: Official Time will only be granted to an Agency bargaining unit employee or Union representative during the employee's regularly scheduled working hours.

B. Factors for Consideration: An Agency bargaining unit employee or Union representative who wishes to use ad-hoc official time under this Article, will request permission from their immediate supervisor using the "Request for Official Time Form". The following are factors to be considered in the initiation of the request:

1. Such request should be made as early as possible (i.e., generally as soon as the need for the official time is known).
2. If the first-line supervisor is unavailable at the time of the request, the request may be elevated to the second-level supervisor, or as necessary to a higher official in the employee's chain of command.
3. When making such a request, the employee will provide the information required, including how much time away from the duty worksite, including anticipated travel time from their duty station to another duty station (locale).
4. The employee will be released unless their absence will cause a disruption in the workload or area at that time. If the request is denied, the supervisor will advise the employee as to the time when approval can be granted.

C. Union Representatives Entering Other Work Areas: Upon entering a work area other than their own, to meet with an employee, the representative will advise the immediate supervisor of their presence, the employee(s) to be contacted, and the estimated duration of the meeting. The supervisor will then make a determination if the employee(s) can be released. If the employee(s) cannot be released at that time, the supervisor will advise the Union on an appropriate time when the employee(s) can be released. The representative shall request from the supervisor of that work area official time for all unit employees with whom the representative wishes to meet.

D. Denial or Modification of Official Time Requests: If the request for official time is denied due to workload disruption:

1. The supervisor shall reschedule the use of official time at a mutually agreeable time.

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OFFICIAL TIME

2. If the supervisor and Union representative disagree on the amount of time which is reasonable, the supervisor shall grant the amount he or she believes to be reasonable.
3. The supervisor will document the reason for the denial or modification on the form and present it to the Union representative and forward a copy to LMER.
4. If a request for official time is delayed by management decision, LMER will grant the Union an equivalent extension of applicable deadline if necessary and requested.
5. Denials and/or Modifications are grievable by the Union.

E. Return to Duty: The Union representative or bargaining unit employee will report their return to work to their immediate supervisor upon conclusion of use of official time under this Article.

F. ATAAPS Codes: All Official Time will be recorded using the Official Time Request Form and entered into the Automated Time and Attendance Production System (ATAAPS) utilizing the codes as follows:

1. **BA (Term Negotiations):** Official time used by an employee to prepare for and negotiate a collective bargaining agreement or its successor.
2. **BB (Mid-Term Negotiations):** Official time used by an employee to bargain over issues raised during the life the interim agreement.
3. **BD (Labor/Management /Training):** Official time used by an employee for activities not included in the other three categories. Examples of such activities may include meetings between labor and management officials to discuss general conditions of employment and union participation in formal meetings and investigative interviews.
4. **BK (Grievances and Appeals):** Official time used by an employee to process grievances up to and including arbitrations and to process appeals before various third parties such as: Merit System Protection Board (MSPB), Federal Labor Relations Authority (FLRA), the Equal Employment Opportunity Commission (EEOC), and the courts.

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OFFICIAL TIME

SECTION 3. DEDICATED OFFICIAL TIME FOR UNION REPRESENTATIVES:

A. The Agency will provide Union representatives dedicated official time as follows:

1. Union President: Six (6) days per Pay Period
2. Executive Vice President: Five (5) days per Pay Period
3. VP San Antonio: Three (3) days per Pay Period
4. VP Falls Church: Three (3) days per Pay Period
5. Chief Steward: Two (2) days per Pay Period
6. Treasurer: One (1) day per pay period.

B. Schedule: The specific days (one day is eight hours) to be utilized shall be arranged between the representative and their immediate supervisor. On days when the Union officer is scheduled to be on official time, they shall not be required to report to their regular location. Unused official time will not be carried over from one pay period to another.

SECTION 3. OFFICIAL TIME FOR UNIT EMPLOYEES: It is recognized that an employee may need to meet with (in person, by telephone, or virtually) authorized union representatives regarding grievances or other representational matters and that they will require a reasonable amount of time to do so.

1. Without prior approval or charge to Official Time, employees may contact the Union to ask a general question, schedule an appointment, or have a preliminary discussion of a representational matter.
2. If the time required exceeds 15 minutes within the workday, or if the employee wishes to leave the work area to meet with the Union, the employee should request prior approval from their immediate supervisor, utilizing the "Request for Official Time Form". One of the following codes shall be used:
 - a. BD - Labor Management Training
 - b. BK - Grievances and Appeals

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OFFICIAL TIME

SECTION 4. INTERNAL UNION BUSINESS: As set forth in 5 U.S.C. 7131(b), any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed only during the time the employee is in a non-duty status.

Agency PO2 Date 10/27/23 Union CJM Date 10/27/23

AFGE Local 4200 - DHHQ Request for Official Time

This form is provided for bargaining unit employees and Union representatives to request the use of ad-hoc Official Time (OT)

ONE FORM PER USE

REQUESTER'S NAME: _____ DATE: _____

From Date: _____ To Date: _____ Total Hours: _____ :

Departure Time: _____ Return Time: _____ ATAAPS Code: _____

ATAAPS CODE (Choose One)	
BA	Term Negotiations: official time used by Union Representatives to prepare for and negotiate a basic collective bargaining agreement or its successor.
BB	Mid-Term Negotiations: Official time used to bargain over issues raised during the life of a term agreement.
BD	General Labor/Management Relations: Official time used for activities not included in the other three categories. Examples of such activities include meetings between labor and management officials to discuss general conditions of employment, labor-management committee meetings, labor relations training for union representatives, and union participation in formal meetings and investigative interviews.
BK	Dispute Resolution: Official time used to process grievances up to and including arbitrations and appeals of bargaining unit employees before various third parties, such as the MSPB, FLRA, EEOC and the courts.

NOTE Enter hours in ATAAPS as RG type hours, then add the appropriate NtDiff/Haz/Oth code BA, BB, BD or BK

Location of Union business: _____

Additional Information: _____

Employee Signature

Date

Approved Denied

If denied, state reason and provide a mutually agreeable alternative time: _____

Supervisor Signature

Date

10/27/23

020 *Cjm* 10/27/23

UNION RIGHTS

A. Recognition of Representatives: The Agency agrees to recognize the officers and duly designated representatives of the Union. The Union agrees to provide the Agency a written listing of its officers and stewards and maintain it on a current basis. There shall be no restraint, interference, coercion, discrimination, or reprisal against a Union representative because of the performance of their Union representational duties.

B. Negotiations: As the exclusive representative of the employees in the unit, the Union is entitled to meet and confer with representatives of the Agency with respect to personnel policies and practices and matters affecting working conditions\conditions of employment, and to act for and to negotiate in good faith agreements covering all employees in the unit.

C. Formal Discussions: The Union shall be given the opportunity to be represented at formal discussions between management officials and employees or employee representatives concerning grievances, personnel policies, or other matters affecting general working conditions\conditions of employment of employees of the unit.

D. Union Funded Training: The Agency agrees to grant Union officers and stewards excused absence without charge of leave or loss of pay to attend Union funded training under the following conditions:

1. The Union gives written notice of the request to attend such training as soon as possible but no later than fifteen (15) calendar days in advance of the start of the training or as soon as possible.
2. The request will include the agenda, the representatives that will be attending, the dates of attendance, and the amount of official time being requested and submitted to the supervisor, using the process outlined in the Official Time MOU. The supervisor will notify Chief, LMER DHA, or designee, of approval for release. Chief, LMER DHA, or designee, will verify that the proposed training is of mutual concern and benefit to the Agency and the Union. After such determination, the Agency will issue a response within fifteen (15) calendar days of receipt of the Union's submission. If any portion of requested training is not approved, the Union will be provided the reasons in writing.

E. Written Listing: The Agency agrees to provide the Union with a written listing of the LMER staff supporting DHHQ and their areas of responsibility.

F. Notice to New Employees: The Agency agrees to provide the following to new bargaining unit employees within two (2) weeks of their entrance on duty, or at their orientation:

1. The phone number, building number, and office hours of the Union.
2. Weingarten rights notice.

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UNION RIGHTS

G. Written Designation of Representative: Prior to representing employees in any proceeding, the Union shall provide to the appropriate management official or supervisor, a written designation of representative from the employee, which shall include authorization to release information to the Union.

H. Bargaining Unit Employee (BUE) Listing: The Agency shall provide an updated Bargaining Unit List to the Local on a every other month. The list should include the following fields:

1. Name of Employee
2. Position Title
3. Pay Plan, Series, Grade
4. Supervisory Status (Numerical Code)
5. Supervisory/Non-Supervisory
6. UIC
7. UIC Description
8. Organization Component Code
9. Organization
10. Directorate
11. Department\Division
12. Branches
13. Section
14. City and State
15. Bargaining Unit Status (BUS) Code

I. Entry On Duty (EOD) List: The Entry On Duty list will include the Bargaining Unit Status (BUS) Code and be provided for each pay period.

J. In-Processing & Out-Processing Checklists: The union will be included on the In-Processing & Out-Processing Checklists.

K. DHA Facilities List: Once per year the agency will provide a list of DHA Headquarter facilities where bargaining unit employees are located, including building number and address. In addition, the agency will provide an updated list upon addition or removal of facilities.

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Designation of Representative & Authorization to Release Information

Employee's Name: _____

Date: _____

I designate AFGE Local 4200 as my representative. By designating AFGE Local 4200 as my representative, I authorize Defense Health Agency (DHA) to provide AFGE Local 4200 information about this matter and communicate with them as necessary.

Case Number \ Issue

Employee Signature

Date

Union Representative's Name

Preferred Phone Number

Preferred Email Address

Privacy Statement: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above (requester) and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. section 1001 by a fine of not more than \$10,000.00 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C 552a(i)(3) by a fine of not more than \$5,000.00.

Version 1, October 27, 2023

fos 10/27/23

CJM 10/27/23

DETAILS, REASSIGNMENTS AND RELOCATIONS

SECTION 1. DETAILS: Details will be made in accordance with applicable laws, regulations, and will be consistent with the terms of this agreement. Details under this Article may be rotated among well-qualified bargaining unit employees in accordance with mission requirements.

A. Definition: A detail is the temporary assignment of an employee to another position or to a statement of described duties without a change in status grade or compensation for a specified time (to include relocation from one facility to another, even without a change of general work duties), with return to the employee's regular duties at the end of the detail period. During the period of a detail, the employee remains officially in their regular position.

B. Notice: The Agency agrees that any bargaining unit employee for whom a known detail is planned will be notified as soon as possible, and normally not later than two (2) pay periods prior to the beginning of the detail with copy to the Union.

C. Documentation: Details will be documented by memorandum and placed in the employee's permanent record with a copy of the detail memo placed in the electronic official personnel file (eOPF). The employee will be given a copy of the memorandum and the SF52 for their personal records.

D. Performance Plans: The performance plan will be updated within thirty (30) calendar days for employees on details of ninety (90) days or more. The supervisor of the detail must provide feedback to the employee's rating official, with a copy to the employee.

E. Volunteers: The Agency will normally canvass qualified employees for volunteers and, where there are volunteers, shall select from among them. If there are more volunteers than needed for the detail then the most senior qualified volunteers will be selected by Service Computation Date (SCD). If there are an insufficient number of volunteers, then the least senior qualified employee(s) will be selected.

SECTION 2. LOWER-GRADED DUTIES: A detail to a lower graded position will in no way adversely affect an employee's salary, classification, or position of record.

SECTION 3. HIGHER GRADED POSITION OR DUTIES: Supervisors are encouraged to use a competitive process for details to higher-graded positions or duties. A detail to higher graded positions requires a competitive process if it exceeds 120 days.

A. Non-Competitive Detail: Employees may be non-competitively detailed to higher-graded position(s) with known promotion potential or temporarily promoted for up to 120 days. The following procedures shall apply when the Agency offers temporary assignments, or noncompetitive details/rotations, of thirty (30) consecutive workdays or more to members of the bargaining unit:

1. **Volunteers:** The Agency will normally canvass the qualified employees for volunteers.
2. **Selection:** Selection will be made from qualified volunteers.

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DETAILS, REASSIGNMENTS AND RELOCATIONS

SECTION 4. TEMPORARY PROMOTIONS:

1. **Competitive Procedures:** When a bargaining unit employee is detailed to a higher graded position for 120 consecutive calendar days or more, competitive procedures must be used. (5 CFR 335.102)
2. **Volunteers:** The Agency will normally canvass qualified employees for volunteers and, where there are volunteers, shall select from among them. If there are more volunteers than needed for the detail then the most senior qualified volunteers will be selected by Service Computation Date (SCD). If there are an insufficient number of volunteers, then the least senior qualified employee(s) will be selected.

SECTION 5: REASSIGNMENTS

A. Definition: A reassignment is the permanent change of an employee from their current position to another without change to grade or level (to include relocation from one facility to another). Reassignments will be documented in the employee's electronic Official Personnel Folder (eOPF).

B. Notification: Employees will normally be provided at least two (2) pay periods advance notice of reassignments. If the reassignment includes relocation to another facility, the employee will be given at least thirty (30) calendar days for CONUS relocations and at least forty-five (45) calendar days for OCONUS relocations in advance.

SECTION 6. MANAGEMENT DIRECTED/INVOLUNTARY REASSIGNMENTS:

Administrative reassignments/involuntary reassignments are reassignments initiated by the Agency to meet objectively valid and necessary operational needs. Reassignments shall not be used as a form of punishment, harassment, or reprisal.

A. Notice to Union: The Agency will provide reasonable advance written notice, in accordance with law to the Union. Notice will include the reasons for the reassignment, the number and title(s) of positions affected, and the actions the Agency intends to take to reduce the impact on employees.

B. Volunteers: The Agency will canvass qualified employees for volunteers and, where there are volunteers, shall select from among them. If there are an insufficient number of volunteers, then the least senior qualified employee(s) will be selected.

C. Higher-Graded Reassignments: The employee must meet specialized experience to be qualified and promoted into a higher graded reassignment.

1. **Previously Held Grade:** The Agency will utilize competitive processes unless the employee has previously held the grade.

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DETAILS, REASSIGNMENTS AND RELOCATIONS

2. **Volunteers:** The Agency will normally canvass qualified employees for volunteers and, where there are volunteers, shall select from among them. If there are more volunteers than needed for the detail then the most senior qualified volunteers will be selected by Service Computation Date (SCD). If there are an insufficient number of volunteers, then the least senior qualified employee(s) will be selected.

D. Notice to Employee: Employees will be notified at least three (3) pay periods prior to the beginning of the reassignment.

1. When an employee is reassigned, a summary rating (closeout) must be prepared by the former supervisor within thirty (30) calendar days and forwarded to the gaining/new supervisor with a copy to the employee.
2. A new performance plan will be provided to the employee within thirty (30) calendar days from the effective date of the reassignment.

E. Other Reassignments: Any other forms of reassignments that are noted in other articles (e.g. RIF, Reasonable Accommodation, and Worker's Compensation) shall follow the procedural requirements found in those respective articles.

F. Leave: All leave previously requested and approved in the Automated Time and Attendance Production System (ATAAPS) will be transferred with the employee. Employees must communicate all leave that was previously approved with new supervisor in advance and the supervisor will notify the employee if mission requirements preclude the leave.

SECTION 7. EMPLOYEE INITIATED REQUESTS FOR REASSIGNMENT: Employees may request a reassignment in writing. Requests for a reassignment are not an entitlement and any request of an employee seeking reassignment shall be given prompt and fair consideration.

1. Type of Requests:

- a. Location- to work in a particular geographical location;
- b. To work in a particular building or facility; (combined e and f and separated work unit to c below)
- c. To a particular work unit;
- d. Hardship- e.g., a child custody situation or serious medical condition of the employee or of an immediate family member that requires the employee to relocate to another geographical area;
- e. Other requests as negotiated between the supervisor and the employee.

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DETAILS, REASSIGNMENTS AND RELOCATIONS

2. Conditions for employee requests:

- a. An available vacancy (or vacancies) must exist within DHA Headquarters;
- b. The employee must meet the qualifications for the position (e.g. specialized experience, time in grade, and physical requirements);
- c. The employee must be performing at an acceptable level of performance (unless the receiving supervisor waives this requirement);
- d. If two or more bargaining unit employees request a reassignment to the same vacancy, the Agency will select the most senior qualified volunteer; and
- e. The selected employee shall normally be released and reassigned within two (2) full pay periods after written notification of approval.

SECTION 8: RELOCATION: When making a decision to relocate an employee to another duty location (to include relocation from one facility to another) management will be guided by objective considerations in support of the Agency's mission and/or to promote the efficiency of service.

A. Identifying Employees for Relocation: Relocation opportunities will be given to the most senior qualified volunteer or to the least senior qualified employee, if no one volunteers.

B. Notice to Union: In accordance with the mid-term bargaining obligations at law, rule, regulation and any agreement between the Parties, the Agency will provide notice to the Union, including the reasons for the relocation, the number and title(s) of positions affected, and the actions the Agency intends to take to reduce the impact on employees.

C. Relocation Expenses: Relocation expenses for an employee whose duty station changes, either voluntarily or involuntarily, shall be handled in accordance with the Joint Travel Regulation (JTR) and pursuant to all relevant law, rule, and regulation regarding relocation.

D. Notice to Employee: If the reassignment is outside of the local commuting area, as defined by the JTR, of the office or facility the employee is reassigned from, the employee shall be notified at least thirty (30) calendar days for CONUS relocations and at least forty-five (45) calendar days for OCONUS relocations in advance.

E. Other Procedures: All other procedures applicable to reassignments above shall also apply to relocations.

SECTION 9. UNION REPRESENTATIVES: The Agency will make every effort to avoid placing a Union representative on a detail, reassignment, or relocation that would prevent that representative from performing their representational functions, unless the employee requests or volunteers for the detail, reassignment or relocation.

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The above provisions for Official Time, Union Rights, and Details, Reassignments and Relocations are hereby agreed to and effective this 27th day of October 2023.

For the Agency:

Felicia A. Shoop

For the Union:

Catherine M. Huie

DUES DEDUCTIONS

SECTION 1. DEFINITION: Dues are the regular, periodic amounts required to maintain an employee as a member in good standing of the Union. Initiation fees, special assessments, back dues, fines, and similar items shall not be considered as dues.

SECTION 2. VOLUNTARY AUTHORIZATION: Upon written authorization of a unit employee, the Agency shall deduct from the employee's pay the dues of the exclusive representative of the unit. Such deduction shall be at no cost to the employee or the exclusive representative. The authorization may not be revoked for a period of one year. An employee may revoke a dues assignment at any time after the assignment's initial one-year period expires.

SECTION 3. ALLOTMENT (PAYROLL DEDUCTIONS):

A. SF-1187 (Request for Payroll Deductions for Labor Organization Dues): The Union will procure Standard Form (SF) 1187, "Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues," for the proper completion and certification of the forms and for transmitting them to the servicing payroll office. The Union will furnish the SF-1187 to eligible members desiring to authorize an allotment for withholding of dues from their pay. The employees must receive a sufficient net salary each pay period to satisfy the allotment after legal and required deductions have been compensated.

C. Routing: Completed allotment forms will be submitted to the appropriate LMER office for processing. The LMER office will certify the form and forward to the appropriate payroll office.

D. Effective Date: Allotments will be effective at the beginning of the first complete pay period following the receipt of a properly completed SF-1187 by the appropriate payroll office. The Union may contact the LMER office for assistance in resolving discrepancies.

SECTION 4. REVOCATION:

A. Revoking A Union Dues Allotment: Revocations will be processed in accordance with law, rule, or regulation by completing an SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues" and submitting the form to the LMER office. Information concerning revoking an allotment can be obtained from the Union office, the LMER office and/or the servicing payroll office.

B. Automatic Dues Revocation: The Agency will process a termination in dues allotment at the end of the pay period during which any of the following actions takes place:

- a. Loss of exclusive recognition by the Union;
- b. The employee leaves the Agency as a result of any type of separation, retirement, transfer, other personnel action, or death;
- c. The Union notifies the Agency that the employee has been suspended or expelled from membership in the Union;
- d. The employee ceases to be a member of the bargaining unit;
- e. When the agreement providing for dues withholding is suspended or terminated by an appropriate authority outside the Department of Defense; or

DUES DEDUCTIONS

- f. Activation of an employee into active-duty military status.

SECTION 6. REMITTANCE: The payment of dues will be remitted by the DFAS, to the banking facility of the Union after the completion of each biweekly pay period. Each remittance will be accompanied by a statement containing the following information:

- a. Identification of the installation, and bargaining unit;
- b. Pay period date;
- c. Identification of the Union;
- d. Names of members for whom deductions were made and amount of each deduction;
- e. Total amount withheld each pay period; and
- f. Net amount remitted.

SECTION 7. UNION RESPONSIBILITY: The Union accepts the responsibility of informing and educating its members concerning the program for the allotment of dues, its voluntary nature, and the uses and availability of the SF-1187 and SF-1188. The Union agrees to promptly notify the servicing LMER office, in writing, when any member of the Union is expelled or for any reason ceases to be a member in good standing.

HOURS OF WORK

SECTION 1. PURPOSE: In recognition of the need to balance employees' legal and contractual rights and interests with the effective and efficient accomplishment of the Agency's mission, and in recognition of the Agency's use of differing appointments and work schedules, the Parties agree to the following definitions and procedures.

SECTION 2. CORE HOURS: Core hours are the designated period of the day when all employees must be at work. The core hours for all DHA Headquarter facilities are 9:00 am (0900) to 2:00 pm (1400) local time, Monday through Friday. Supervisors may establish alternative core hours consistent with specific operational requirements.

SECTION 3. TOUR OF DUTY: For purposes of this Article, "tour of duty" means the hours of a day and the days of an administrative workweek that normally constitute an employee's regularly scheduled administrative workweek.

SECTION 4. BASIC WORK SCHEDULE: Employees may have a standard schedule, which consists of five (5) 8-hour days, 40-hours a week and 80-hours bi-weekly, Monday through Friday, excluding the prescribed lunch period and two fifteen (15) minute breaks each day. Employees working the basic schedule will be eligible for overtime or compensatory time pursuant to law, rule, and regulation.

Holidays: On holidays, an employee is normally excused from work and entitled to basic pay for Eight (8) hours on that day. In the event the President issues an Executive order, or the head of the agency issues an order granting a "half-day" holiday, full-time employees are normally excused from work during the last half of their "basic work requirement" (i.e., non-overtime hours) on that day.

SECTION 5. MEAL PERIOD AND BREAKS:

A. Meal Period: A lunch or other meal period is an approved period of time in a non-pay and non-work status that interrupts a basic workday or a period of overtime work for the purpose of permitting employees to eat or engage in permitted personal activities. Meal periods will be a minimum of thirty (30) minutes; however, supervisors may authorize up to one (1) hour for a meal period. Meal periods may not be taken at the beginning of or end of the workday.

B. Breaks: Employees are authorized one (1) 15-minute break during each half of their scheduled workday. Employees who elect to take equivalent intermittent breaks to smoke during the conduct of their work shall not have other scheduled breaks.

1. **Scheduling:** Scheduling of breaks will be based on operational needs. Where practical, all employees in a work area will be required to take breaks at a standard time. With prior approval, employees may use independent discretion and take their breaks at appropriate intervals of work.

2. **Nursing Mothers:** The Agency will provide a reasonable amount of break time to express milk as frequently as needed by the nursing mother for up to one year from her infant's birth, as long as the mother continues to express milk, in accordance with OPM Guidance and Department of Labor Regulations.

HOURS OF WORK

SECTION 6. WORK SCHEDULES CHANGES: The Agency retains the right to determine the work objectives of any given unit and to disapprove, in writing, any work schedule that does not allow those objectives to be met. Supervisors, with the involvement of their employees, shall develop tours of duty and work schedules that provide for adequate coverage during official duty hours and days of operation that are necessary to accomplish the Agency's mission. Supervisors may adjust work schedules to ensure adequate coverage, accommodate training, and to ensure accomplishment of the mission. All work schedules and changes must be approved in advance by the supervisor prior to the effective date of the work schedule change.

A. Notice of Changes: When operational needs require a change in the employee's permanent schedule, supervisors will provide the employee with written notice of the change at least two (2) pay periods in advance, except where it would be adversely impact the Agency's mission, that costs would be substantially increased, or in other unusual circumstances (e.g. natural disaster).

B. Requests for Work Schedule Changes: Employees who desire to change their work schedule should submit a written request, in advance, to their supervisor for consideration. Requests shall:

1. Be made on the DHA "Work Schedule Change Request Form"; and
2. Be submitted at least two (2) pay periods prior to the requested effective date.
3. Requests to change a work schedule will be made no more than two (2) times within each calendar year.

C. Approval and Denials:

1. **Approval:** The supervisor will review and respond to the request as soon as possible, but no later than two (2) full pay-periods after the request is made.
2. **Effective Date:** The date the employee's work schedule change request becomes effective will be consistent with the start of the pay period. Processing requires one (1) pay period's advance notice.
3. **Denials:** The reason for the denial will be annotated on the "Work Schedule Change Request" Form.

SECTION 7. TEMPORARY DUTY (TDY): When on Temporary Duty (TDY), employees will work the normal duty hours of the installation or organization to which they are TDY, or will work a tour of duty established by their supervisor.

SECTION 8. ALTERNATIVE WORK SCHEDULE (AWS) PROGRAM: The terms, provisions and definitions found in this Article and the accompanying Appendix are intended to be read in conjunction with the Federal Employees Hours of Work Flexible and Compressed

HOURS OF WORK

Work Schedules Act (the "Act"), 5 U.S.C. § 6120, et seq., and may not be interpreted to conflict with the requirements of the Act.

A. Purpose: The Agency and the Union recognize that the use of AWS and the staggered work schedule has the potential to improve productivity and morale and provide greater service to the public. The AWS program is designed to provide employees with more flexibility in their work lives, the ability to balance work and life responsibilities and to improve employee satisfaction and retention. At the same time, the AWS program is designed to ensure the delivery of a high level of customer service and the accomplishment of the mission.

B. Participation: Participation in the AWS program is voluntary. In addition, the Agency and the Union recognize that not all AWS and the staggered work schedule may be appropriate for certain positions or organizational segments because of the nature of the work performed.

SECTION 9. FLEXIBLE WORK SCHEDULES (FWS): Full-time employees with an eighty (80) hour, biweekly work requirement may determine their own schedule within the limits set by the Agency.

A. Flexible Hours (also referred to as "flexible time bands"): The times during the workday, workweek, or pay period within the tour of duty during which an employee covered by a flexible work schedule may choose to vary their times of arrival to and departure from the work site consistent with the duties and requirements of the position. Employee's may "flex-in/flex-out" their tour of duty for up to two (2) hours. For example, if an employee is scheduled to report to work at 7:00 am (0700), the employee may arrive as early as 5:00 am (0500) or as late as 9:00 am (0900) with no additional approval required.

B. Types of Flexible Work Schedules (FWS):

- 1. Flexitour (AWS 1 - ATAAPS template code):** A FWS that allows an employee to select starting and stopping times within flexible hours. The employee adheres to selected starting and stopping times until the Agency provides further opportunities to select different starting and stopping times.
- 2. Gliding Schedule (AWS 2 - ATAAPS template code):** A FWS in which an employee has a basic work requirement of eight (8) hours in each day and forty (40) hours in each week. Employees may select an arrival time each day and may change that arrival time daily as long as it is within the established flexible hours.
- 3. Maxiflex (AWS 5 - ATAAPS template code):** A FWS that contains core hours on fewer than ten (10) workdays in the biweekly pay period and in which an employee has a basic work requirement of 80 hours for the biweekly pay period. The employee may vary the number of hours worked on a given workday or the number of hours each week, within the limits established for the organization.

HOURS OF WORK

4. **Variable Day Schedule:** Variable day schedule is an FWS that contains core hours on each workday in the week. Under the variable day schedule, a full-time employee has a basic work requirement of forty (40) hours in each week of the biweekly pay period. The employee may vary the number of hours worked on a given workday within the week as long as the variation remains within the limits established for the organization.
5. **Variable Week Schedule:** Variable week schedule is an FWS that contains core hours on each workday in the biweekly pay period. Under the variable week schedule, a full-time employee has a basic work requirement of eighty (80) hours for the biweekly pay period. The employee may vary the number of hours worked on a given workday or the number of hours each week, as long as the variation remains within the limits established for the organization.

B. Credit Hours: Credit hours are hours that an employee elects to work, with supervisory approval, in excess of the employee's basic work requirement. Credit hours may be worked only by employees covered by FWS and must be approved in advance. Credit hours may be applied to another workday, workweek, or biweekly pay period. An employee's right to use earned credit hours is governed by policies established under law, rule, regulation, or policy.


1. **Election:** Credit hours are worked at the election of the employee consistent with Agency policies. Credit hours must be worked within an employee's non-overtime tour of duty.
2. **Basic Workweek Requirements:** When an employee uses credit hours, such hours are to be counted as a part of the basic work requirement to which they are applied. An employee is entitled to his or her rate of basic pay for credit hours, and credit hours may not be used by an employee to create or increase entitlement to overtime pay.

3. **Procedures:**

- a. **Credit Hours Earned:** Credit hours earned must be requested through the Automated Time Attendance and Production System (ATAAPS) under "Premium Request", Type Hour Code "CD".
- b. **Credit Hours Used:** Credit hours used must be requested through the Automated Time Attendance and Production System (ATAAPS) under "Premium Request", Type Hour Code "CN".

4. **Limitations:**

- a. **Credit Hours Earned:** An employee may not earn more than twenty-four (24) credit hours during any biweekly pay period.

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- b. **Credit Hours Carried Over:** The maximum number of credit hours that may be carried over from a biweekly pay period to a succeeding biweekly pay period is twenty-four (24) hours.
- c. **Separations or Transfers:** If an employee separates from Federal employment, transfers to another Agency, or is no longer subject to an FWS program, the employee must be paid for accumulated credit hours at their current rate of pay. Payment for accumulated credit hours is limited to a maximum of 24 hours for a full-time employee. An employee may not be compensated for credit hours for any other reason (e.g., excess, unused credit hours that cannot be carried forward into the next pay period). (See 5 U.S.C. 6123(b).)

- 5. **Closures and Early Dismissals:** In the event of an agency closure or early dismissal before the beginning of an employee's daily tour of duty, an employee may retain credit hours that have not been used, to the extent permitted by law and regulation (e.g., full-time employees may not carry over more than 24 credit hours to a new biweekly pay period). If an early dismissal occurs during or after the employee's daily tour of duty, the employee will be charged for credit hours that have already been used.

C. Premium Pay: An employee may not be paid overtime pay, Sunday premium pay, or holiday premium pay for credit hours. Credit hours must always be part of the employee's non-overtime basic work requirement. Sunday premium pay may be paid only when an employee works on Sunday, with the exception of paid leave and excused absence, and then only when permitted by law. Holiday premium pay may be paid only for work on a holiday. See 5 U.S.C. 6121(3) and 5 U.S.C. 5546(a) and (b).

D. Overtime: When used with respect to FWS programs, refers to all hours in excess of eight (8) hours in a day or forty (40) hours in a week that are officially ordered in advance, but does not include credit hours.

E. Holidays: On holidays, a full-time FWS employee is limited to eight (8) hours of basic pay. A part-time FWS employee is entitled to basic pay for the number of hours scheduled for the holiday, not to exceed eight (8) hours. (See 5 U.S.C. 6124.) In the event the President issues an Executive order, or the head of the agency issues an order granting a "half-day" holiday, full-time FWS employees are entitled to basic pay for the last half of their "basic work requirement" (i.e., non-overtime hours) on that day, not to exceed four (4) hours.

SECTION 10. COMPRESSED WORK SCHEDULES (CWS) (AWS 6 - ATAAPS template code): The tour of duty for employees under a CWS program is defined by a fixed schedule CWS that enable full-time employees to complete the basic eighty (80) hour biweekly work requirement in less than ten (10) workdays.

A. Types of Compressed Work Schedules:

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1. **4-10 Schedule:** On the 4-10 schedule, employees work ten (10) hours each day for four (4) days each workweek.
2. **5-4/9 Schedule:** On the 5-4/9 schedule, employees work nine (9) hours each day for eight (8) days, eight (8) hours for one (1) day, and record one (1) nonworking day each pay period.

C. Credit Hours: Credit hours are not permitted under a CWS.

D. Overtime Hours: Overtime hours refers to any hours in excess of those specified hours for full-time employees that constitute the CWS. For part-time employees, overtime hours are hours in excess of the CWS for a day (but must be more than 8 hours) or, for a week (but must be more than 40 hours).

E. Compensatory Time: An employee on a CWS may request compensatory time off only for the performance of irregular or occasional overtime work.


F. Holidays: On holidays, an employee is normally excused from work and entitled to basic pay for the number of hours of their CWS on that day. In the event the President issues an Executive order, or the head of the agency issues an order granting a "half-day" holiday, full-time CWS employees are normally excused from work during the last half of their "basic work requirement" (i.e., non-overtime hours) on that day.

SECTION 11: REGULAR DAYS OFF (RDO): Employees may submit a preference for their RDO. Supervisors will consider each employee's preference. An employee on a CWS may occasionally elect to take another RDO within the same period with advance supervisory approval. Where two (2) or more employees request the same RDO and all cannot be spared, the conflict will be resolved on the following basis:

1. **Informal Conflict Resolution:** When scheduling conflicts occur, an effort should be made to resolve the conflict between the employees involved.
2. **Seniority:** If informal conflict resolution fails to resolve the scheduling conflict, approval will be settled on the basis of seniority, as measured by Service Computation Date (SCD) for Leave.

SECTION 12: "IN-LIEU OF" HOLIDAYS: All full-time employees, including those on flexible or compressed work schedules, are entitled to an "in lieu of" holiday when a holiday falls on a non-workday. The "in lieu of" holiday is the workday immediately preceding the non-workday on which the holiday fell.

1. When the holiday falls on a Sunday non-workday (or, for an employee whose basic workweek includes Sunday, a non-workday (if any) designated as the employee's in-lieu-of-Sunday non-workday), the "in lieu of" holiday is the workday immediately following the non-workday.

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2. Employees are not entitled to another day off as an "in lieu of" holiday if a Federal office or facility is closed on a holiday because of a weather emergency or when employees are furloughed on a holiday.
3. By mutual agreement between the supervisor and employee, the "in-lieu of" holiday may be either the workday preceding or following the federal holiday as long as its within the same pay-period.

SECTION 13. AWS & TELEWORK: An employee may only participate in one type of AWS work schedule. Employees are eligible to simultaneously participate in AWS and be on a telework/remote work agreement.

SECTION 14. MODIFICATIONS, TEMPORARY SUSPENSIONS, AND REVOCATIONS:

A. Modifications: Supervisors may adjust an employee's work schedule/tour of duty to meet mission needs, or for performance or conduct problems. The employee will receive notice of the change and the reason for it, at least one (1) pay period in advance of the effective date of the change. In the event of a mission need, notification may be shorter. When possible, management directed changes will indicate the duration of the required change.

B. Temporary Suspensions of Work Section Schedules: Occasions may arise when certain work schedules must be temporarily suspended as a result of unusual workload or operational demands. The Agency shall make a reasonable effort to avoid suspension of an employee's participation in these work schedules. Notices of any temporary suspensions will be provided to the Union before implementation.

1. Individual exceptions to, or personal needs resulting from, a temporarily suspended work schedule will be considered on a case-by-case basis.
2. If the circumstances requiring the suspension of schedule permit, the Agency will provide the employee with advance notice of at least one (1) pay period.
3. If an employee's flexible work arrangement is suspended, it will automatically be restored the next pay period after the reason for the suspension needs has been met.
4. The Agency will limit the suspension to as short a time frame as necessary to meet the workload or operational demands. Such instances shall be infrequent, isolated, and short term.
5. Decisions on temporary suspensions of any work schedule for any employee will not be arbitrary or capricious, and will be based on work requirements.
6. If the Agency believes that the temporary suspension will extend beyond two (2) pay periods, the Agency will notify the Union.

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C. Revocations: If the head of the Agency finds that a particular alternative work schedule has had an "adverse agency impact" as defined in 5 U.S.C. 6131 (b), the Agency will promptly provide notice to the Union of its desire to reopen the Agreement to seek its termination.

1. Upon demand by the Union, the Parties will then negotiate over the Agency's proposal.
2. If an impasse results, the dispute will go to the Federal Service Impasses Panel (FSIP), which will determine within sixty (60) days whether the Agency's determination is supported by evidence.
3. The alternative work schedule may not be terminated until agreement is reached or the (FSIP) acts.

SECTION 15. REASONABLE ACCOMMODATIONS: The flexibilities of this Article may be used to address an employee or family member's permanent or temporary disabilities in accordance with the Agency's Reasonable Accommodation policy.

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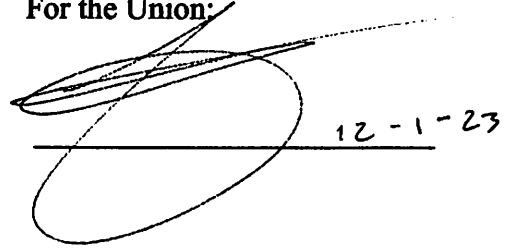
This Memorandum of Understanding (MOU) is entered into pursuant to the provisions of 5 U.S.C. Chapter 71 and is between the Defense Health Agency Headquarters (DHHQ) (hereinafter referred to as the "Agency") and American Federation of Government Employees (AFGE), AFL-CIO, Local 4200 (hereinafter referred to as the "Union"), collectively referred to as the "Parties". This MOU covers the implementation of Dues Deductions and Hours of Work, as certified in Case No. WA-RP-21-0037 and are hereby agreed to and effective this 1st day of December 2023.

For the Agency:



Felicia Gray

For the Union:



[Signature] 12-1-23

MANAGEMENT RIGHTS

SECTION 1. GENERAL: Consistent with the direction by the President to agencies in, there may be any number of topics unions may raise in the collective bargaining process that fall under 5 U.S.C. § 7106(b)(1) and that agencies must collectively bargain. Pursuant to Executive Order 14003, Protecting the Federal Workforce, the Agency will elect to bargain on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

SECTION 2. PROHIBITED SUBJECTS: The Agency and the Union agree that nothing in this Agreement shall affect the authority of any management official of the Agency:

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

SECTION 3. EXCEPTIONS: Nothing in this section shall preclude any agency and any labor organization from negotiating:

- A. Procedures which management officials of the agency will observe in exercising any authority under this section; or
- B. Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

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SECTION 1. GENERAL:

- A. Employees will not be denied leave based solely on their leave balance.
- B. No arbitrary or capricious restraints will be established to restrict when leave may be requested.
- C. Employees should request, in advance, approval of anticipated leave.
- D. Leave will only be denied for appropriate reasons and not as a form of discipline. No approved leave or approved absence will be a basis for disciplinary action except when it is clearly established that the employee submitted fraudulent documentation or misrepresented the reasons for the absence.

SECTION 2. ANNUAL LEAVE:

A. Right to Annual Leave: Employees accrue and have a right to use annual leave in accordance with applicable laws and regulations. The use of annual leave is a right of the employee, subject to the right of the agency to approve when leave may be taken.

B. Planned Leave Procedures:

1. **Application:** Employees will apply in advance for approval of anticipated leave. Leave requests, approval or denial will be made electronically using ATAAPS, when available, or the written OPM-71 or the successor to either the electronic system or written form if either has been replaced. The leave approving official, normally the supervisor, will respond to all requests for leave in a timely manner. Employees may, upon request and with the approval of their supervisor, change previously authorized annual leave to sick leave in accordance with 5 CFR 630.405.
2. **Time Increments:** Employees may utilize annual leave in 15-minute increments. Annual leave may not be charged in increments of less than 15 minutes.
3. **Consecutive Weeks:** Annual leave will be granted, subject to mission requirements, a manner which permits each employee who wishes to take at least two (2) consecutive weeks of annual leave each year. If workload permits, employees may request, and supervisors may approve periods of annual leave that exceed two (2) consecutive weeks. If the request is denied, the reasons must be annotated on the ATAAPS/OPM-71. Upon denial, at the employee's request, the employee and supervisor will meet to discuss alternate dates when leave may be rescheduled. The times at which such rescheduled leave is used must be with concurrence of the employee and the supervisor.

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4. **Timeliness of Approval:** Employees will be informed of whether their requests for leave have been approved in a timely manner:
 - a. For leave requests made to begin the following duty day, the response will be made as soon as possible, but no later than the end of the employee's tour of duty.
 - b. For leave requests made to begin less than seven (7) days in the future, the response will be normally provided within 48 hours (or two working days) after submission of the request, but in any event, no later than before the start date.
 - c. For leave requests that begin more than seven (7) days in the future, the response will be made no later than seven (7) calendar days after the request.
5. **Cancellations:** The Agency retains the right to cancel previously approved leave requests when it is determined that that an employee's presence on duty is required to support mission requirements. Such cancellation will be accompanied with written explanation to the employee detailing the specific mission requirements used in making the decision to cancel the employee's leave.
6. **Detailed Employees:** All leave previously requested and approved in the Automated Time and Attendance Production System (ATAAPS) will be transferred with the employee. Employees must communicate all leave that was previously approved with new supervisor in advance and the supervisor will notify the employee if mission requirements preclude the leave.
7. **Preservation of Work Schedule:** When an employee requests annual leave in conjunction with scheduled days off at the beginning and/or end of the leave period, the supervisor will not change the employee's days off except where necessary to meet valid operational needs.

SECTION 3. PROJECTED LEAVE

A. Leave Planning: Employees are required to submit leave requests using ATAAPS/OPM Form 71, Request for Leave or Approved Absence. Supervisors will expeditiously inform employees of their approval/disapproval of annual leave requests. Supervisors will make reasonable efforts to schedule and to approve requested annual leave in such a manner throughout the leave year so that no employee forfeits leave at the end of the calendar year. However, it is agreed that it is the employee's responsibility to request use or lose leave in a timely manner in order to preclude end of the year forfeiture.

B. Approval: Supervisors will review the requests and inform each employee of their tentative decision regarding the projected annual leave plans. Supervisors will make reasonable efforts to accommodate employees' vacation desires consistent with workload and staffing needs. All approvals will be provided in writing either through electronic approval or a copy of a written approval.

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C. Conflicts: Where two or more qualified employees request the same period of annual leave and all cannot be spared, the conflict will be resolved on the following basis:

1. **Informal Conflict Resolution:** When scheduling conflicts occur, an effort should be made to resolve the conflict between the employees involved.
2. **Seniority:** Any conflict will be resolved on a first-come, first-served basis. Otherwise, such as where requests are received the same day, approval will be settled on the basis of seniority, as measured by Service Computation Date (SCD).

SECTION 4. UNPLANNED LEAVE:

A. No Presumption of Approval: Unplanned leave is subject to approval of the supervisor. When emergencies or unforeseen circumstances arise requiring the use of annual leave that has not been approved in advance, the approval of annual leave cannot be presumed by the employee.

B. Notification Process: The supervisor will provide a method of notification to subordinate employees that clearly sets forth the procedures for requesting unscheduled leave (i.e. phone call, voice mail, text message, email, etc.); designating in writing an alternate official who can receive and approve employees unscheduled leave requests in the absence of the immediate supervisor; and the procedure to follow if neither the supervisor or alternate is available. The following procedures shall apply:

1. Employees must leave their return contact preference (i.e. phone call, voice mail, text message, email, etc.) for the approving official; and
2. Employees will request as soon as possible, but not later than one (1) hour before the beginning of the employee's scheduled tour of duty, unscheduled or emergency leave, unless the emergency occurs during the employee's duty hours.

C. Employee Responsibility: It is understood that merely calling in and requesting leave does not automatically mean an employee's request for unscheduled or emergency leave is approved. It is further understood that it is the employee's responsibility to ensure that they speak with a responsible management official in their supervisory chain to ensure that leave approval has been obtained.

D. Denial: If the leave cannot be granted, the supervisor will notify the employee as soon as possible, but no later than within two (2) hours of the employee's request, that it cannot be granted or upon the employees return to duty.

1. Approval of unscheduled or emergency leave is at the discretion of the supervisor; therefore, the employee will explain the general nature of the emergency and requested duration of the absence. The supervisor will make a determination on whether or not leave should be granted, and also approve the duration of the leave. If the absence exceeds the original approved duration, the employee will call their supervisor to obtain

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approval for any continued absence.

2. If the supervisor determines the reason for the unscheduled leave request is not bona fide or compelling enough to warrant absence from work and the employee's services are required, the request for leave can be denied. If the request is denied, or the employee does not receive a response within two (2) hours, the employee will be given a reasonable amount of time to report to work, depending on the distance to the work site and any other appropriate circumstances. The time missed from the employee's duty day will normally be charged to leave; however, the parties agree that management has the right to grant or deny leave based on the circumstances of a given situation.

SECTION 5. ADVANCED ANNUAL LEAVE: Advanced annual leave shall be granted only in accordance with applicable regulations.

SECTION 6. LEAVE FOR UNION REPRESENTATIVES: Subject to mission requirements, a Union representative will be granted annual leave or Leave without Pay ("LWOP") to attend internal Union functions which are not covered by the Official Time. Normally, the representative will provide written notice of the request to attend such function as soon as possible but no later than fifteen (15) calendar days in advance of the start of the function.

SECTION 7. ACCRUAL AND USE OF SICK LEAVE

A. Accrual: Employees will earn and accrue sick leave in accordance with applicable law and regulations.

B. Request for Sick Leave: Employees may utilize sick leave in 15-minute increments. Sick leave is an employee's earned benefit and will be granted to the employee for appropriate absences. Employees will apply in advance for approval of anticipated leave. Leave requests, approvals or denials will be made electronically using ATAAPS, when available, or the written OPM-71. The leave approving official, normally the supervisor, will respond to all requests for leave in a timely manner. If the employee complies with the Agency's notification and medical evidence/certification requirements, the Agency must grant sick leave.

C. Use of Sick Leave: An employee is entitled to use sick leave when they:

1. Receive medical, dental, or optical examination or treatment; or
2. Is incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth; or
3. Provide care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, optical examination or treatment; or
4. Provide care for a family member with a serious health condition; or
5. Make arrangements necessitated by the death of a family member or attends the funeral

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of a family member; or

6. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by their presence on the job because of exposure to a communicable disease; or
7. Must be absent from duty for purposes relating to their adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed; or
8. When the employee is disabled and depends on an aid or device, e.g., wheelchair, seeing eye dog or prosthetic device, to perform his/her duties, and the employee is without that aid or device; or
9. Leave is needed for occupational rehabilitation training or therapy; or
10. Any other reason set forth in 5 CFR Part 630 and any applicable Executive Order, law or regulation establishing that reason as a basis for use of sick leave.

D. Exposure to Communicable Disease: The Merit Systems Protection Board (MSPB) and the courts have determined that placing an employee on sick leave against their will is tantamount to a suspension. Therefore, an employee who reports for duty and is ordered to return home may (1) be continued into duty status for the remainder of that day. (2) if required to take leave may choose the type of leave to be used. The Agency will not place an employee on enforced sick leave without following the procedures contained in the Disciplinary and Adverse Action agreement.

E. Scheduling:

1. **Planned Sick Leave:** Employees should schedule non-emergency medical, dental, optical, psychological, or alcohol/drug counseling appointments as soon in advance as practicable and should request sick leave in advance for such appointments. Employees have the responsibility to notify their supervisor of their need for unplanned or unscheduled sick leave.
2. **Unplanned Sick Leave:** Employees will request unscheduled sick leave as soon as possible, before the beginning of the employee's scheduled tour of duty, unless the need for sick leave occurs during the employee's normal duty hours. In those rare situations in which an employee is medically unable to notify the Agency of the unanticipated absence and/or request for sick leave, a responsible adult may notify the Agency and/or make the request for sick leave on the employee's behalf.
3. **Notification Process:** The supervisor will provide a method of notification to employees that clearly sets forth the procedures for requesting unscheduled sick leave (i.e. phone call, voice mail, text message, email, etc.); designating in writing an alternate official who can receive and approve employees unscheduled sick leave requests in the absence of the

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immediate supervisor; and the procedure to follow if neither the supervisor or alternate is available. Employees must leave their return contact preference (i.e. phone call, voice mail, text message, email, etc.) for the approving official.

F. Medical evidence

1. **Self-Certification:** For periods of up to three (3) consecutive days, the Agency shall normally consider an employee's self-certification as to the reason for their absence as administratively acceptable evidence. A supervisor may consider an employee's self-certification as to the reason for their absence as administratively acceptable evidence, regardless of the duration of the absence.
2. **Requirement for Documentation:** For an absence in excess of three (3) workdays, or for a lesser period when determined necessary, the agency may require a medical certificate or other acceptable evidence as to the reason for an absence for any of the purposes as described in 5 CFR 630.403(a). The supervisor must notify the employee if there is to be a requirement to provide medical documentation at the time of the sick leave request. The requirements for employees to provide administratively acceptable evidence to support sick leave absences to the Agency will be governed by applicable law and regulation. The Agency may require a medical certificate or other administratively acceptable evidence as to the reason for an absence for any absence in excess of three (3) days or for a lesser period when the Agency determines it is necessary, including but not limited to when an employee is under a leave restriction or if a supervisor has reason to believe the employee is abusing/misusing sick leave privileges. Employees will not be required to reveal the nature of the illness as a condition of sick leave approval.
3. **Acceptable Documentation:** At a minimum, medically acceptable documentation to support a sick leave absence must:
 - a. Be on letterhead or other official documentation signed (either electronically or in hard copy) by an appropriate medical practitioner;
 - b. State when the employee was seen and whether or not the employee is incapacitated for duty;
 - c. Provide the date the employee is expected to return to duty;
 - d. The handling of all medical documentation will be subject to all laws, rules, and regulations.
4. **Timelines:** When medical documentation is requested, an employee should normally provide the administratively acceptable evidence or medical certification within 15 calendar days after the date the supervisor requests such certification, but no later than 30 calendar days after the date the supervisor requests such documentation. If it is not practicable under the particular circumstances to provide the requested evidence or

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medical certification within the timeline, despite the employee's diligent, good faith efforts, the employee must provide the evidence of medical certification within a reasonable time under the specific circumstances involved. An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave. Employees will be carried in an absent without leave (AWOL) status until acceptable documentation is provided, after which the AWOL status will be converted to sick leave or other approved leave.

5. **Chronic Medical Conditions:** Employees with a chronic medical condition which requires occasional absence from work, but does not necessarily require medical treatment, and who have previously furnished medical certification of the chronic condition, shall not be required to furnish a medical certificate to substantiate sick leave for subsequent occurrences of the same condition. However, the Agency may periodically require further medical certification to substantiate that the condition still exists.

G. Sick Leave Abuse:

1. **Letter of Leave Restriction:** If reasonable grounds exist for questioning an employee's use of sick leave, the employee may be placed on a letter leave restriction. The notification will be in writing and inform the employee that no request for sick leave, or other leave in lieu of sick leave, will be approved for a stated period, not to exceed six (6) months, unless supported by acceptable medical documentation (see 3C Acceptable Documentation, above).
2. **Presenting Documentation:** If there is reason to believe that an employee has abused sick leave, the supervisor can require the employee to provide medical documentation signed by the appropriate medical official for the period of time of absence of sick leave. The employee will be notified in advance of this requirement. Although not required, the parties agree that the best practice is for employees suspected of abusing sick leave to normally be counseled on their attendance related deficiencies at least once prior to being placed on leave restriction. Any requirements regarding documentation of sick leave will be clearly and specifically stated in the leave restriction letter.

H. Advanced Sick Leave:

1. **Purpose:** Employees who are incapacitated for the performance of duties because of serious disability or ailment may request advance sick leave not to exceed 240 hours (30 days). A maximum of 240 hours of sick leave for any purpose for which sick leave is authorized above may be advanced to an employee. Requests for Advanced Sick Leave will be submitted through the Automated Time Attendance and Production System (ATAAPS) or the OPM Form-71.
2. **Conditions:** Requests for advanced sick leave may be granted in accordance with governing regulations when all of the following conditions are met:
 - a. The employee is eligible to earn sick leave;

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- b. The employee's request does not exceed 240 hours (or for temporary employees, the amount of hours to be earned during the period of temporary employment);
 - c. There is no reason to believe the employee will not return to work after having used the leave, and the employee has sufficient funds in their retirement account or any other source of monies owed to the employee by the government to reimburse the Agency for the advance, should the employee not return to work;
 - d. The employee has provided acceptable medical documentation of the need for advanced sick leave; and
 - e. The employee is not subject to leave restriction.
3. **Inter-Agency Transfers:** When an employee who is indebted for advanced sick leave transfers to another Federal agency without a break in service, any negative sick leave balance shall be transferred to the employee's new agency.
 4. **Repayment:** An employee who is indebted for advanced sick leave and separates from Federal service is required to refund the amount of advanced sick leave. However, if the employee dies, retires for disability, or is separated or resigns because of disability (as determined by the Agency), the requirement to repay does not apply.
 5. **Entry to Active-Duty Service:** An employee who enters active military service with a right to restoration will not be considered as having separated and will not be required to refund the amount of advanced sick leave when entering military service. The Agency will treat as confidential any medical information provided by an employee to any agent or representative of the Agency in support of a request for sick leave.
 6. **Liquidation of Advanced Sick Leave:** If an employee is a participant in the Agency's voluntary leave transfer program, advanced sick leave may be liquidated by substituting donated annual leave for sick leave that was advanced on or after the date of the medical emergency.

I. Privacy: The Agency may disclose such information subject to the Privacy Act of 1974 (5 USC 552a), 5 CFR 339, and 45 U.S.C. § 300 *et seq.* only for purposes of making informed management decisions and only to individuals who have a need to know. A need to know does not extend to secretarial or administrative staff.

J. Sick Leave for Family Purposes:

1. **Family and Medical Leave Act:** Employees are entitled to a total of 12 administrative workweeks of unpaid Family Medical Leave during any 12 month period for (a) birth of a son or daughter and care of the newborn; (b) the placement of a son or daughter with the employee for adoption or foster care; (c) the care of a spouse, son or daughter or parent with a serious health condition; or (d) a serious health condition of the employee that

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makes the employee unable to perform the duties of their position.

2. **Paid Parental Leave (PPL):** This leave will be provided to new parents, including grants of annual leave, sick leave, and leave without pay to the maximum extent allowable by law and government-wide regulation.

SECTION 8. FAMILY MEDICAL LEAVE ACT

A. Administration: The Agency will administer leave requests made pursuant to the Family and Medical Leave Act of 1993 (FMLA) in accordance with 5 U.S.C. §§ 6381-6387 and 5 C.F.R. Part 630, subpart L.

B. Eligibility: To be eligible for coverage under the FMLA, an employee must have completed at least twelve (12) months of civilian service with the Federal government.

C. Entitlement: Eligible employees will be entitled to a total of twelve (12) administrative work weeks of unpaid leave (leave without pay) during any 12-month period. An employee may elect to substitute any accrued annual or sick leave for the covered period (consistent with existing sick leave regulations).

D. Grounds for Leave: An eligible employee may take FMLA leave for the following reasons:

1. Birth of a son or daughter and care of newborn (within one (1) year after birth);
2. Care of spouse, son, daughter, or parent with a serious health condition;
3. Placement of a son or daughter with employee for adoption or foster care (within one (1) year after placement); or
4. Serious health condition of employee that makes employee unable to perform the essential duties of the employee's position.
5. Any other grounds established at law, rule, or regulation.

E. Injured Military Member: A Federal employee, who (1) 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 and (2) provides care for such service member, is entitled to up to 26 weeks of FMLA leave during a single 12-month period to care for the service member. However, the serious illness or injury must have been incurred by the covered service member in the line of duty while on active duty in the Armed Forces.

F. Continuation of Employment and Benefits: An employee who takes FMLA leave is entitled to be restored to the same position with equivalent benefits, pay status, and other terms and conditions of employment. The leave will not result in the loss of any employment benefit accrued before the leave began. If the employee uses leave without pay, he or she may elect to continue Federal Employee Health Benefits (FEHB) coverage and make arrangements to pay the

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employee contribution.

G. Requirements: Eligible employees will normally provide at least thirty (30) days notice of the need for FMLA leave, as practicable, by submitting an application (DOL Form WH-380) for FMLA leave to the Agency.

SECTION 9. EXCUSED ABSENCE:

A. Definition: An excused absence is an absence from duty administratively authorized by supervisors without loss of pay and without charge to leave. Excused absence under the following conditions is coded as Administrative Leave.

B. Eligibility for Excused Absence: With the exception of emergency conditions, an employee must be in duty status at the beginning and/or end of a period of excused absence in order to receive benefit of the excused time. If operational requirements preclude an employee from receiving the full amount of excused absence authorized in this Section for a specific purpose, the remaining time is not available for future use by the employee.

C. Voting:

1. **Time Off to Vote:** The Agency has determined that, if it does not interfere with mission requirements, the employee will be authorized, upon request, an amount of excused absence that will permit them to report for work up to four (4) hours after the polls open or leave work up to four (4) hours before the polls close, whichever requires the lesser amount of time off.
2. **Poll-Worker or Non-Partisan Observer:** Employees may also use up to 4 hours of administrative leave per leave year to serve as a non-partisan poll worker or to participate in non-partisan observer activities. A "leave year" begins on the first day of the first pay period commencing on or after January 1 of the given year and ends on the day before the first day of the next leave year. This leave is in addition to any administrative leave an employee uses to vote.

D. Donating Blood: The Agency has determined that, if it does not interfere with mission requirements, employees who donate blood to the Red Cross or other recognized Blood Banks, which the Agency sponsored, will be excused from duty upon request, for a period of not more than four (4) hours, including travel, and any necessary recovery time following the donation. The Agency has determined that, if it does not interfere with mission requirements, additional excused absence will be granted, upon request, to employees who donate of other blood products (such as platelets) through an Agency Program, consistent with mission requirement.

E. Bone Marrow and Organ/Tissue Transplant:

1. The use of excused absence can cover time off for activities such as donor screening, the actual medical procedure, and recovery time. Employees may use up to seven (7) days of paid leave each calendar year to serve as a bone marrow donor. An employee may also

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use up to thirty (30) days of paid leave each calendar year to serve to serve as an organ/tissue donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

2. For longer periods of incapacitation, employees may use sick leave, annual leave, advanced annual or sick leave, Voluntary Leave Transfer Program (VLTP) and LWOP under the Family Medical Leave Act (FMLA) may be used if the condition meets the requirements of these programs.

F. Preventative Medical Program Participation: Employees may be excused from duty to attend Agency-sponsored preventative medical programs offering health education, physical examinations, or immunizations.

G. Workplace Closures: Whenever the workplace is closed or otherwise not operational due to a declared OPM emergency or pandemic situation, workplace circumstances, or inclement weather, non-emergency employees may be granted administrative leave for the duration of the closure in accordance with OPM Governmentwide Dismissal and Closure Procedures and local Agency policy.

1. **Facility Closure:** Employees who are prevented from reporting to work due to the closure of all or part of a facility should be granted authorized absence in accordance with OPM guidance and/or government-wide regulations. The Agency will annually communicate these procedures to employees.
2. **Hazardous Conditions:** When hazardous conditions (e.g. extreme weather conditions, serious interruptions in public transportation, earthquake, and disasters such as flood, fire, or other natural phenomena) arise, the Agency will determine whether all or part of the Agency facilities should be closed or should be open as usual. If the Agency decides to close all or part of their facilities during periods the facilities would otherwise be open, the Agency will notify employees whether liberal leave or authorized absence will be granted.
3. **Leave Transfer Program:** In accordance with government-wide regulations, the agency will fully implement the provisions of any approved program designed to provide inter-agency leave donation for employees affected by natural disasters.
4. **Union Notification:** The Union shall be informed by the appropriate Agency official at the time the facility declares hazardous weather/emergency conditions.
5. Facilities under emergency conditions should provide access to both meals and accommodations, if safe and available, for employees who are required to remain at the facility during non-duty time, to the extent permitted by law.

H. Excused Absence for Employees Returning from Active Military Duty: Federal civilian employees who are called to active duty in support of the Overseas Contingency Operations (OCO) (formerly the Global War on Terrorism) are entitled to five (5) days of excused absence

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upon their return from active duty. The intent of this entitlement, which was granted through Presidential Memorandum, is to provide five (5) days of paid time off (excused absence) to employees returning to Federal civilian service from active duty to aid in their readjustment to civilian life. Employees and supervisors who require additional information should contact LMER. Employees may request Union representation for these situations.

I. Veterans Participating in Military Funeral Ceremonies: Employees who are veterans may be granted administrative leave not to exceed four (4) contiguous hours in any workday to enable them to participate as active pallbearers or as members of firing squads or guards of honor in funeral ceremonies for members of the Armed Forces of the United States whose remains are returned from abroad for final interment in the United States, subject to applicable law and regulation.

1. Supervisors may also excuse absences up to four hours for veterans, for the purpose of participating as active pallbearers or as members of firing squads or guards of honor, in funerals of active-duty military not covered above or for such participation in funerals of veterans.
2. Upon request and workload permitting, annual leave/ leave without pay may be approved in conjunction with the administrative leave for the remainder of the workday.

J. Emergency Rescue or Protective Work: Employees who are members of the Civil Air Patrol or other similar organizations, whose services can be excused, may be granted excused absence for up to three (3) days to participate in emergency rescue or protective work during an emergency such as fire, flood, or search operations. When an employee has requested and received approval for excused absence in excess of one day for such activities, the employee shall provide to the leave-approving official a statement signed by a responsible official of the local emergency organization certifying the employee's attendance throughout the period of excused absence. This provision does not cover employees who respond to emergencies in National Guard/Reserve status.

SECTION 10. COURT LEAVE:

A. Definition: Employees are authorized court leave with pay when summoned to serve as a juror, or when summoned as a witness in a non-official capacity on behalf of any party in connection with any judicial proceeding in which the United States, the District of Columbia, or a State or local Government is a party. If testifying in an official capacity, this is considered duty time and not court leave.

B. Administration: The Agency will provide employees with court leave, and employees will provide documentation to the Agency, in accordance with 5 U.S.C. §§ 5515, 5537, and 6322; and other applicable statutes, regulations, and policies.

C. Pay Status Requirement: The Agency will grant court leave only for days within the employee's regularly scheduled tour of duty when he or she otherwise would be in a duty or pay status.

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D. Leave Period: The leave will start on the date on which the employee must report to the court, as identified in the summons, and will run until the date on which the court discharges the employee from service. It does not include:

1. time during which the employee is excused or discharged by the court for an indefinite period subject to recall by the court; or
2. time during which the employee is excused or discharged for one (1) or more days or for a substantial part of a day (more than five [5] hours).

E. Adjustment of Schedule: An employee who is normally assigned to a work schedule adjustment that conflicts with a requirement to appear in court, whether on jury duty or as a witness during the day, will be granted an adjustment in their regular schedule in order to coincide with the court day(s). In the alternative, the employee may request court leave for the employee's regularly scheduled tour of duty, to allow for sufficient rest to perform their court duties. In such cases, the employee will not suffer any loss of pay and will continue to be entitled to night differential or other regularly scheduled premium payments in accordance with applicable payroll policies.

F. Return to Duty: If an employee on court leave is excused from court with sufficient time to enable that employee to return to duty for at least two (2) hours of the scheduled workday, excluding travel time, the employee shall return to duty or request approval to telework, unless granted appropriate leave by the Agency. Employees will request and receive approval prior to going on leave to the extent practicable, using procedures as set forth above.

G. Expense Money: Employees may keep any court-provided expense money received for mileage, parking, or required overnight stay, to the extent consistent with law.

SECTION 11. MILITARY LEAVE

A. Administration: The Agency will grant military leave to eligible employees in accordance with 5 U.S.C. § 5519, 5 U.S.C. § 6323, Public Law 106- 554 (December 21, 2000), Public Law 108-136 (November 24, 2003), and other applicable statutes, regulations and policies.

B. Eligibility: A full-time employee who is a reservist of the Armed Forces or a member of the National Guard is entitled to military leave for active duty or for training, in accordance with applicable statutes, regulations, and policies.

C. Pay Status Requirement: The Agency will grant military leave only for days within the employee's regularly scheduled tour of duty when he or she otherwise would be in a duty or pay status.

D. Guard/Reserve Duty: The Agency will comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USC§ 4301, et al, which applies to employees who perform duty, voluntarily or involuntarily, in the uniformed services,

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including the Army, Air Force, Navy, Marine Corps, Coast Guard, Public Health Service, or other Commissioned Corps, as well as the reserve components of each of these services. Uniformed service includes active duty, active duty for training, inactive duty training (such as drills), initial active-duty training, and funeral honors duty performed by National Guard and reserve members as well as the period for which a person is absent from a position of employment for the purpose of an examination to determine fitness to perform any such duty.

E. Reintegration: Service members returning from a period of service in the uniformed services must be reemployed by the "pre-service" employer if they meet all four (4) eligibility criteria as set forth in USERRA in accordance with government regulations.

1. the person must have held a civilian job;
2. the person must have given notice to the Agency that he or she was leaving the job for service in the uniformed services unless giving notice is precluded by military necessity or otherwise impossible or unreasonable;
3. the period of service must not have exceeded five (5) years;
4. the person must not have been released from service under less than honorable or other punitive conditions; and the person must have reported back to the civilian job in a timely manner based on OPM guidelines.

F. National Guard or Reservists Called to Active Duty: Employees who are called to active duty in support of the ongoing national emergency are entitled to military leave under two separate provisions, 5 U.S.C. 6323(a) and 5 U.S.C. 6323(b).

1. U.S.C. 6323(a). A Federal employee who is a member of the National Guard or Reserves is entitled to 15 days (120 hours) of paid military leave under 5 U.S.C. 6323(a) each fiscal year for active duty, active duty training, or inactive duty training. An employee on military leave under section 6323(a) receives their full civilian salary, as well as military pay. This leave accrues at the beginning of each fiscal year, and all Guard or Reserve members, including those on extended active duty, should be credited with 15 days of paid military leave on October 1 of each year. An agency may charge military leave under 6323 (a) only for hours the employee otherwise would have worked. An employee no longer "loses leave" on weekends and other non-workdays and will be paid their full civilian pay for all 120 hours.
2. 5 U.S.C. 6323(b). Employees who perform full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code, are entitled to 22 days of military leave under 5 U.S.C. 6323(6). Under this provision the employee is entitled to the greater of his military or civilian pay. Employees also are entitled to use any accrued or accumulated annual leave for periods of active military duty. Employees using annual leave will receive their full civilian pay, as well as compensation for their military service.

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SECTION 12. LEAVE WITHOUT PAY:

A. Definition: Leave Without Pay (LWOP) is a temporary non-pay status and absence from duty authorized by the Agency.

B. Entitlements: An employee is entitled to LWOP in the following circumstances:

1. **Medical Treatment for Disabled Veterans:** Disabled veterans are entitled to LWOP for medical treatment, examinations, and absences from duty in connection with their disability after presenting an official statement from a medical authority that such treatment is required. An employee must give prior notice of the period during which the employee's absence for treatment will occur.
2. **Military Duty:** Full time employees who are Military Reservists or National Guardsmen are entitled to LWOP for the time periods during which they are required to perform active duty or training if they have exhausted their military leave or are not entitled to military leave, in accordance with applicable laws and policy.
3. **FMLA:** Eligible employees are entitled to LWOP for certain family and medical needs covered by the FMLA.
4. **Worker's Compensation:** Employees are entitled to LWOP for the period during which they are receiving worker's compensation payments from the U.S. Department of Labor.

C. LWOP to Serve in Certain Union Offices: An employee may be granted LWOP to engage in Union Activities on the national, district, or local level to work in programs sponsored by the Union or the AFL-CIO, upon written request by the appropriate Union office. Such requests will be referred to the appropriate management official, in consultation with LMER, for approval or disapproval. Such employees shall continue to accrue benefits in accordance with applicable OPM regulations. The amount of LWOP is based upon the type and duration of activity in which the employee is engaged.

1. Upon request, the Agency may grant a one (1) year extension of LWOP status for this purpose. All requests for extensions must be requested thirty (30) days prior to expiration of the LWOP.
2. Employees on extended LWOP while serving as employee union representatives may arrange to make payment for retirement, Thrift Savings Plan (TSP), and health and life insurance benefits in accordance with applicable regulations.

D. Discretionary Grants of LWOP: The Agency may grant LWOP in other circumstances, but will not do so unless the leave will result in:

1. Better work performance; or
2. Protection or improvement of the employee's health; or

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3. Retention of a desirable employee; or
4. Furtherance of a program of interest to the government (e.g., Peace Corps volunteers); or
5. An employee at their option may request LWOP for annual leave for Officers and/or duly elected delegates of the Union for attendance at the Union's triennial convention or other Union sponsored training/event.

E. LWOP or Compensatory Time for Religious Observances: Subject to the Agency's mission requirements, when an employee has personal religious beliefs that require absence from work, the Agency may grant annual leave, LWOP, or compensatory time off for such religious observances:

1. When the employee requests and the Agency grants compensatory time off for religious observance, in each instance the Agency will afford the employee the opportunity to earn such compensatory time-off hours; Supervisors may contact DHA Equal Opportunity and Diversity Management (EODM) Office for further guidance.
2. An employee may work compensatory time-off for religious observances before or after taking such compensatory time-off on an hour-for-hour basis. A grant of advance compensatory time-off for religious observances will be repaid by the appropriate amount of compensatory time worked within three (3) pay periods or such time will be charged to annual leave;
3. If advanced compensatory time off is granted for a religious observance, the employee will be scheduled for the time to be worked to repay the compensatory time when the request is granted.
4. Compensatory time worked to repay time-off for religious observance is not subject to premium pay provisions applicable to overtime hours.

This Memorandum of Understanding (MOU) is entered into pursuant to the provisions of 5 U.S.C. Chapter 71 and is between the Defense Health Agency Headquarters (DHA HQ) (hereinafter referred to as the “Agency”) and American Federation of Government Employees (AFGE), AFL-CIO, Local 4200 (hereinafter referred to as the “Union”), collectively referred to as the “Parties”. This MOU covers the implementation of Management Rights and Leave, as certified in Case No. WA-RP-21-0037 and are hereby agreed to and effective this 20th day of December 2023.

For the Agency:

Andrea Dowdy

For the Union:

Cathie M Huiston

ADVERSE AND DISCIPLINARY ACTIONS

SECTION 1: GENERAL: The Agency and the Union recognize that the public interest requires maintenance of efficient operations through high standards of employee performance and conduct. Adverse and Disciplinary actions will be taken for just and sufficient cause and in accordance with applicable law and regulation.

SECTION 2. INVESTIGATIONS/MANAGEMENT DIRECTED INQUIRY OF EMPLOYEE CONDUCT: The Agency will initiate an investigation/ management directed inquiry of employee conduct regarding an incident or situation as soon as possible. These investigations/inquiries are to compile relevant evidence to determine whether misconduct has occurred, if the misconduct warrants disciplinary action, and the range of appropriate disciplinary actions. Disciplinary investigations/inquiries will be conducted fairly and impartially, and a reasonable effort will be made to reconcile conflicting statements by developing additional evidence. In all cases, the information obtained will be documented.

A. Union Representation: The employee who is the subject of the inquiry will be informed of their right to representation before any questioning takes place or signed statements are obtained.

1. **Witness Statements:** Other employees questioned in connection with the incident who reasonably believe they may be subject to disciplinary action have the right to Union representation upon request.
2. **Union Representative Participation:** The union representative in attendance at an investigative interview is entitled to take an active role. An active role for a union representative at an investigative interview includes, but not limited to, the right to ask questions, assist in producing relevant information, and consult with the employee being interviewed.

B. Memorandum for Record (MFR): An MFR may be used to support an action detrimental to an employee only when the MFR has been provided to the employee in a timely manner after the occurrence of the act.

SECTION 3. ADVERSE ACTIONS:

A. Definitions: Adverse actions are removals, suspensions of more than fourteen (14) days, reductions-in-grade or pay (demotions), and furloughs of thirty (30) days or less, as included in subchapter 5 CFR, Part 752.

B. Procedures: Adverse actions will be taken and implemented in accordance with applicable laws and regulations. The following procedures will be followed:

1. **Advance Notice:** Normally, an employee will be given at least thirty (30) calendar days advance written notice of a proposed adverse action. In the proposal letter the employee will be advised of their right to representation.
2. **Material Relied Upon:** A copy of the material relied upon by the Agency to support the proposed adverse action will be provided to the employee and/or the designated representative.
3. **Employee Response:** The employee will then have fifteen (15) calendar days to present

ADVERSE AND DISCIPLINARY ACTIONS

any oral and/or written reply to a designated management official. The employee or the designated representative may request an extension of time in which to reply.

4. **Written Decision:** The Agency will render a written decision based upon the information referenced in B.2. (above) and through whatever information the employee or his/her representative provided in any response to the notice. The management official will issue the written decision at the earliest practicable date. The written decision shall include the reason for the disciplinary action and a statement of conclusions as to each charge.

C. Appeals: The decision notice will advise the employee of the right to appeal the action to the Merit Systems Protection Board (MSPB) or through the Grievance and Arbitration Agreement. The employee may elect to file an MSPB Appeal or Grievance, but not both.

D. Timeliness: If the Agency's decision adopts the proposed adverse action (or any mitigated discipline), such action will be initiated in a timely manner after completion of review for legal sufficiency, normally within thirty (30) days.

SECTION 4. DISCIPLINARY ACTIONS: Disciplinary actions fall into two (2) categories: informal (verbal counseling and written warnings) and formal [letters of reprimand or suspensions of less than fourteen (14) days].

A. Informal Disciplinary Actions: An action taken by management to correct minor misconduct or delinquency. Informal disciplinary actions include written or oral counseling that are not made a matter of record in the employee's official electronic personnel file (eOPF).

B. Formal Disciplinary Actions: An action that is made a matter of record for inclusion in the employee's eOPF, such as a reprimand or a suspension of fourteen (14) calendar days or less.

1. **Reprimands:** A Letter of Reprimand is the lowest formal disciplinary action issued to correct an employee's delinquency or misconduct. The procedures for reprimands are as follows:
 - a. **Advance Notice:** If possible, an employee will be given at least seven (7) calendar days advance written notice of a reprimand. Any notice will include a specific description of the infraction for which a reprimand is proposed.
 - b. **Representation:** In the proposal letter, the employee will be advised of their right to representation.
 - c. **Material Relied Upon:** A copy of the material relied upon by the Agency to support the proposed reprimand will be provided to the employee and/or the designated representative.
 - d. **Employee Response:** The employee will then have seven (7) calendar days to present any oral and/or written reply to a designated management official. The employee or the designated representative may request an extension of time in which to reply.

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- e. **Written Decision:** The Agency will render a written decision based upon the information referenced in 1.c of this section (above) and through whatever information the employee or their representative provided in any response to the notice. The management official will issue the written decision at the earliest practicable date. The written decision shall include the reason for the disciplinary action and a statement of conclusions as to each charge.
2. **Suspensions:** Suspension means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay. The procedures for suspensions of 14 calendar days or less are as follows (*see* 5 CFR 752.203):
- a. **Advance Notice:** If possible, an employee will be given at least fifteen (15) calendar days advance written notice of an administrative disciplinary action. Any notice will include a specific description of the infraction for which formal discipline is proposed.
 - b. **Representation:** In the proposal letter, the employee will be advised of their right to representation.
 - c. **Material Relied Upon:** A copy of the material relied upon by the Agency to support the proposed disciplinary action will be provided to the employee and/or the designated representative.
 - d. **Employee Response:** The employee will then have fifteen (15) calendar days to present any oral and/or written reply to a designated management official. The employee or the designated representative may request an extension of time in which to reply.
 - e. **Written Decision:** The Agency will render a written decision based upon the information referenced in 2.c of this section (above) and through whatever information the employee or their representative provided in any response to the notice. The management official will issue the written decision at the earliest practicable date. The written decision shall include the reason for the disciplinary action and a statement of conclusions as to each charge.

C. Progressive Discipline: The parties also agree to the concept of progressive discipline, which is discipline designed primarily to correct and improve employee behavior, rather than punish. The steps of progressive discipline may be bypassed when the severe nature of the behavior makes a lesser form of discipline inappropriate.

D. Employee Statements: Upon request, a copy of an employee's own written statements made in conjunction with an agency inquiry will be provided to the employee and/or the designated representative.

E. Timeliness: If the Agency believes disciplinary action is necessary, such action will be initiated in a timely manner after completion of any applicable inquiry and review for legal sufficiency, normally within thirty (30) calendar days.

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F. Removals of Disciplinary Actions: Reprimands may be removed from an employee's files after a six-month period. If an employee requests removal of such actions after six months, they should be removed if the purpose of the discipline has been served (employee behavior is corrected and improved). In all cases, a reprimand will be removed after two (2) years.

G. Douglas Factors: In arriving at its written decision on any proposed disciplinary or adverse action, the Agency shall comply with applicable law, regulations and the terms of this agreement. As required by 5 CFR Part 752, the Agency will consider only the reasons specified in the notice of proposed action and any answer of the employee and/or the representative made to the Deciding Official, along with any medical documentation provided. The Agency shall also consider the Douglas factors, which are attached to this Article as Appendix A.

SECTION 5: Alternative Dispute Resolution (ADR) Program: ADR is an optional method of solving problems available to employees at any point in the disciplinary or grievance process. The intent of this cooperative process is to use a non-involved mediator to assist with reaching a mutual resolution of issues in dispute.

- A. An ADR process shall be established for the purpose of resolving workplace disputes and/or in lieu of the agency imposing traditional disciplinary penalties such as reprimand, suspension or removal.
- B. At any point in the disciplinary or grievance process, the parties, by mutual agreement, may elect to utilize the services of a mediator obtained for ADR.
- C. Discipline or grievance time periods shall be held in abeyance during the ADR process.
 - 1. If the parties do not reach resolution in the ADR process, the disciplinary or grievance process will resume at the same point where it paused.
- D. Mediators used in the ADR process will be a neutral third party (e.g., FMCS or Federal Executive Board Shared Neutrals Consortium) who will assist the parties in developing solutions.
- E. The objective of the mediator is to assist the parties to voluntarily reach a mutually acceptable resolution of issues in dispute.
- F. The ADR program is strictly voluntary.
- G. The employee may be represented by the union during the ADR process.

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Appendix A – Douglas Factors

The Merit Systems Protection Board in its landmark decision, *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), established criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct.

The Douglas Factors: The following relevant factors must be considered in determining the severity of the discipline (this is not an all-inclusive list):

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with any applicable agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10. The potential for the employee's rehabilitation;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

OVERTIME

SECTION 1. GENERAL PROVISIONS: In accordance with Title 5 of the United Code, the Fair Employment Practice Agency (FEPA), and other applicable statutes and government-wide regulations, employees shall be compensated for overtime hours worked based on the Fair Labor Standards Act (FLSA) and the provisions of this MOU.

A. Fair Labor Standards Act:

1. All FLSA determinations as “exempt” or “non-exempt” for bargaining unit positions will be determined at the time the position is classified.
2. When classification actions are proposed that will result in a change to the FLSA determination, the proposed changes will be provided to the employees and the Union twenty-five (25) calendar days prior to the effective date.
3. Employees who are classified non-exempt under the Fair Labor Standards Act may not perform overtime work outside normal scheduled hours unless specifically ordered or authorized by the supervisor. If the Agency “suffers and permits” these employees to work, the employee should be compensated.

B. Types of Overtime:

1. Scheduled (Regular): Any overtime work scheduled and approved in advance of the administrative work week as part of an employee's regularly scheduled work week. The employee shall be compensated for regular overtime worked in 15-minute increments, IAW the provisions of OPM regulations (ATAAPS Code "OS" or “CE”).
2. Unscheduled (Irregular or Occasional): Unscheduled overtime is paid in the same manner as scheduled overtime work (ATAAPS Code "OU" or “CE”).
 - a. Overtime that was not scheduled or approved prior to the start of the administrative work week and is made a part of an employee's scheduled work week.
3. Call-Back: Any employee called back to perform unscheduled overtime work, either on a regular workday after the employee has completed their regular shift and departed the premises or for a day outside of their basic work week, shall be paid a minimum of two (2) hours overtime pay (ATAAPS Code "OC" or “CE”).
4. In addition to the types discussed above, other codes may be appropriate.

SECTION 2. DISTRIBUTION OF OVERTIME: The Union recognizes that management has the right to determine and assign overtime work. The Agency will ensure fair and equitable assignments of overtime work among employees determined to be qualified to perform the work. Overtime will not be distributed or withheld to reward or penalize employees.

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- A. It is agreed that normally, non-bargaining unit employees will not be scheduled on overtime to perform the duties of bargaining unit employees for the sole purpose of eliminating the need to schedule bargaining unit employees for overtime.
- B. **Notice:** The Agency agrees that for scheduled overtime the following applies:
1. Unless emergency situations preclude sufficient notice, employees who are required to work will be notified by their supervisor at least 24 hours before overtime work is required.
 2. If an employee is submitting a request to be excused from scheduled overtime, an employee must notify the supervisor of their potential unavailability for overtime assignments within eight (8) hours of when the scheduled overtime work is required. If notification is not given by this deadline, the employee may be required to work as assigned.
 3. When an overtime assignment is excused at the request of an employee, after the eight (8) hours deadline, for any reason, the supervisor may fill the void with any available qualified employee, and the assigned employee will be moved to the bottom of the mandatory list.
- C. The Agency shall make a reasonable effort to give the employee as much notice as possible when planned overtime is required. Consideration will be given to any personal circumstances expressed by the employee that may affect their ability to work overtime hours. The Agency will endeavor to avoid mandated overtime exceeding four hours at the end of the employee's tour of duty.
- D. **Compensatory Time:** The Agency shall, to the extent practicable, permit the following for employees who earn compensatory time (instead of overtime):
1. Use their compensatory time at the earliest time convenient to them within 26 pay periods.
 2. When requested, compensatory time off shall be granted before annual leave is approved. If annual leave would otherwise be forfeited, however, the annual leave shall be granted before compensatory time off.
 3. Any employee who is unable to use compensatory time within 26 pay periods shall receive overtime pay instead.
- E. **Voluntary Basis:** Where overtime work is available, it will be offered by the supervisor on a voluntary basis to qualified employees before directing mandatory overtime.
- F. **Overtime Assignment Procedures:** The Agency will first try to fill the need for overtime by asking for qualified volunteers. If there are not sufficient volunteers, the following overtime procedures will be utilized:

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1. Rosters: Overtime rosters will be maintained and managed in accordance with this MOU.
 - a. A “Voluntary Roster” for each branch/section/team will be maintained and will be based on the Service Computation Date (SCD) for civilian service.
 - b. A mandatory overtime roster will be maintained and will be based on inverse seniority.
 - c. Rosters will be reset annually in accordance with this MOU.
2. Rotation:
 - a. Once an employee is chosen and completes an overtime assignment, the employee will move to the bottom of the roster.
 - b. Employees who have declined an offer of overtime (voluntary) work will remain in the same place on the roster pending the next offer.
3. Absence: Employees who are on leave, assigned to a temporary detail outside of their assigned branch/section/team or otherwise unavailable for an overtime assignment will remain in the same place on the roster, pending their return to duty or return to their assigned branch/section/team.
4. Newly Assigned Employees:
 - a. Newly assigned employees will be placed on the appropriate roster at the bottom of the voluntary list and the top of the mandatory list.
 - b. At the resetting of the rosters, new employees will be placed appropriately by SCD for civilian service per Section 2.H. of this MOU.
 - c. Employees who are detailed or temporarily assigned to a new branch/section/team will be placed on the roster in the same manner.
5. Qualifications: An employee will retain their position on the roster when it is determined that the employee does not possess the specialized skills, or knowledge to perform the particular overtime assignment. In such cases, the employee retains his or her position on the roster for the next assignment.

G. **Roster Retention:** The supervisor will maintain a copy of the overtime rosters in accordance with this MOU. Upon request, current rosters will be made available for review.

H. **Resetting of Rosters:** Overtime rosters shall be reset according to the employee’s SCD for civilian service date on January 1 of each year.

SECTION 3. RATE OF PAY: When an employee works overtime, whether covered by the Fair Labor Standards Act or exempt, such overtime will be paid in increments of 15 minutes.

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- A. **FLSA Non-Exempt:** Overtime pay for FLSA non-exempt employees is equal to one and one-half (1.5) times the employee's hourly rate of pay.
- B. **FLSA Exempt:** Overtime pay for FLSA exempt employees is equal to one and one-half (1.5) times the employee's hourly rate of pay. However, if the employee's rate of pay exceeds the rate for a GS-10, Step 1, including any applicable special rate of pay or special pay adjustments, a locality-based comparability payment, or any applicable special rate of pay, the overtime rate is the greater of:
 - 1. One and one-half (1.5) times the applicable minimum hourly rate of basic pay for GS-10, Step 1; or
 - 2. The employee's hourly rate of basic pay.

SECTION 4. COMPENSATORY TIME IN LIEU OF OVERTIME PAY:

- A. **Election:** Employee requests to work overtime shall be subject to supervisory approval. No employee shall be required to earn credit hours in lieu of earning overtime. Employees shall not be required to accept compensatory time off in lieu of payment for any overtime work performed, whether at the employees request or the supervisor's direction. This includes employees on alternate and regular work schedules. Employees may initiate requests in ATAAPS for compensatory time or credit hours in lieu of overtime pay, which the Agency will consider and acknowledge. If the Agency does not approve that request, the employee is entitled to compensation in accordance with the overtime requirements.
- B. **Telework Employees:** An employee's pay will not be negatively impacted solely by the employee's decision to telework. Overtime pay, premium pay, special salary rate, and other entitlements continue while the employee telecommutes as long as the employee remains eligible under Federal pay laws/authorities for overtime pay, premium pay, special salary rates, and other entitlements.
- C. **Usage:** Compensatory time off earned must be used by the end of the 26th pay period after such time was earned (5 U.S.C. §5547).
- D. **Payment of Unused Compensatory Time:**
 - 1. **FLSA Non-Exempt:** Upon expiration of twenty-six (26) pay periods or upon separation of the employee from the Agency, the Agency will pay FLSA non-exempt employees for any unused compensatory time off, earned in lieu of overtime pay to the employee's credit, at the overtime rate in effect when the compensatory time off was earned. Compensatory time earned for travel will be handled in accordance with 5 C.F.R. Part 550.
 - 2. **FLSA Exempt:** FLSA exempt employees earned compensatory time off will be forfeited if not used prior to the expiration of twenty-six (26) pay periods. However, if an employee is

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prevented from using compensatory time off due to an exigency of the Agency's business, the unused compensatory time off will be paid out at the overtime rate in effect when earned. Compensatory time earned for travel will be handled in accordance with 5 C.F.R. Part 550.

- a. FLSA exempt employees, whose rate of basic pay is above the rate for GS-10, Step 10, the Agency may at its discretion require the employee to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime.
- b. FLSA exempt employees whose rate of pay does not exceed the rate for GS-10, Step 10, may request, in writing, to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime. Such written requests will be subject to mission requirements.

SECTION 5. OTHER PROVISIONS:

A. **Hold-over Overtime:**

1. Definition: Term referring to overtime offered to qualified personnel currently on duty.
2. Qualified personnel on duty will be offered overtime assignments first at the authorized rate of overtime.

B. **Compensation for hours worked:** Employees shall not be required to perform any work or duty before or after their scheduled work hours without compensation. It is further understood that if an employee is required by the Agency to report to a designated location at a specified time prior to or subsequent to their regular shift hours, such time shall be compensated as set forth in Section 4A above.

C. **Overtime Compensation:** All employees will be paid for all hours of overtime, the only exceptions being Administrative Leave and Court Leave. Such hours of overtime include all hours scheduled outside the scheduled tour of duty (i.e., any hours more than eight for a standard work schedule).

D. **Exceptions:** Employees who are on extended annual leave of five or more successive days, or who are on unscheduled sick leave on the day of the overtime assignment, shall not be paid overtime.

E. **Training:** Overtime may be approved in limited circumstances for employees to obtain specialized training that ordinarily would not be otherwise available.

F. **Breaks:** During overtime assignments which extend for four (4) hours beyond the normal eight (8) hour day, affected employees so assigned will be permitted to have a second meal break. Employees required to work through their non-duty meal period shall be paid for such time.

OVERTIME

G. **Religious Observance:** Management shall consider an employee's request to abstain from work during certain periods of the workday or workweek due to religious beliefs when assigning overtime. Employees who have declined to work overtime for this reason shall be required to work overtime only if other qualified employees are unavailable.

SECTION 6. STANDBY DUTY AND ON-CALL:

A. **Standby Duty:** Time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for their own purposes. Employees are compensated if the standby conditions are met in accordance with 5 C.F.R. Part 550 for exempt employees and 5 C.F.R. Part 551 for non-exempt employees.

B. **On-Call Status:** Time spent in an on-call status is not hours of work, and the employee shall be considered off duty:

1. If the employee is allowed to leave a telephone number or carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or
2. If the employee is allowed to make arrangements for another qualified person to perform any work that may arise during the on-call period.

TELEWORK AND REMOTE WORK

SECTION 1: PURPOSE

The Parties agree that telework and remote work should be actively promoted and implemented throughout DHA Headquarters Facilities to support the DoD's commitment to workforce efficiency, emergency preparedness, and quality of life. It is further agreed that employees that telework are bound by the DoD standards of conduct while working at an alternative worksite. The Telework and Remote Work Program offers the following:

1. Facilitates the accomplishment of work.
2. Serves as an effective recruitment and retention strategy.
3. Enhances DoD's efforts to employ and accommodate people with disabilities.
4. Creates cost savings by decreasing the need for office space and parking facilities.
5. Enhances employee safety during emergencies.
6. Reduces transportation costs and impacts to local infrastructure.
7. Offers eligible employees flexible work arrangements.
8. Compliments the DHA Continuity of Operations Program (COOP) plan, which allows work to continue during emergencies and closures.

SECTION 2: TELEWORK

- A. **Definition:** The term 'telework' or 'teleworking' refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.
- B. **Types of Telework Arrangements:** All eligible employees may request a telework arrangement and requests will not be unreasonably denied. The following telework arrangements are available:
1. Regular Recurring Telework (TW): A recurring telework arrangement under which an employee may telework for up to eight (8) days per pay period.
 - a. Prior to participating in the Program, the employee must complete the Telework Agreement form. See Attachment A.
 - b. Scheduled in office days will be requested in the Telework Agreement and submitted to the Supervisor.
 - c. The request will be considered by the supervisor or authorized management official within the employee's chain of command. A response will be provided in writing to the employee no later than five (5) business days from the date of receipt of the request.
 - d. Requests will be approved or denied based on the criteria in this MOU.

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- e. If a recurring telework request is denied, the employee may ask the next level supervisor to review the denial. If such a request is made, the next level supervisor will respond no later than (10) business days from the date of receipt of the request.
- f. A teleworker may request to telework on an alternate day than what is designated in their agreement.
- g. Requests by the employee to temporarily change their scheduled telework day in a particular week or pay period must be approved in advance by the supervisor.

2. Situational Telework (TS)

- a. Definition: An approved telework arrangement that is not part of an ongoing schedule and occurs occasionally.
- b. Situational telework requests will not be unreasonably denied.
- c. Situational telework is authorized on a case-by-case basis as the need arises, such as:
 - i. To prepare for continuity of operations (COOP)
 - ii. Perform special projects
 - iii. Complete complex tasks
 - iv. Conduct web-based training,
 - v. Allow for recovery from illness or injury, or tend to personal situations to include, but not limited to, a medical condition of an immediate family member. Employees may perform telework with a child or other person requiring care or supervision present at the alternative worksite, provided the employee is not engaging in dependent care activities while performing official duties.
 - vi. When opting for unscheduled telework when OPM announces the Federal Government operating status, in the area of the employee's regular worksite as, "Open with an Option for Unscheduled Leave or Unscheduled Telework."
 - vii. Situational telework may also be authorized for routine teleworkers in such circumstances on regularly scheduled in-office days.
- d. Situational telework may be approved for a period of time up to 10 days per pay period.
- e. The employee will submit a Telework Agreement for situational telework to their immediate supervisor. See Attachment A

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- f. The request will be considered by the supervisor or authorized management official within the employee's chain of command. A response will be provided in writing to the employee no later than five (5) business days from the date of receipt of the request.
 - g. Requests will be approved or denied based on the criteria in this MOU.
 - h. If the situational telework agreement is denied, the employee may ask the next level supervisor to review the denial. If such a request is made, the next level supervisor will respond no later than ten (10) business days from the date of receipt of the request.
 - i. The employee will request approval to situationally telework with as much notice as possible from the supervisor by email or phone prior to each situational telework occurrence.
3. Temporary Alternate Telework Location: Employees who have an approved telework arrangement may request to telework at a location other than their primary telework site, so long as approval to do so is granted in advance.
- a. The Alternate Worksite must meet the terms and conditions of the employee's Telework Agreement, and the employee must complete the safety certification checklist.
 - b. Requests will not be unreasonably denied.

SECTION 3: TELEWORK ELIGIBILITY: Telework position eligibility criteria will be applied impartially and consistently without consideration of prohibited factors such as race, color, religion, sex, national origin, age, disability, or genetic information. Job functions alone, not managerial preference, determine telework position eligibility.

A. **Employee Eligibility Criteria:** All BUEs are eligible to submit requests for telework arrangements. Bargaining Unit Employees will only be identified as eligible if the conditions listed below can be met. The agency will evaluate each request based on the following criteria:

1. The employee has NOT been disciplined for being absent without permission for more than five (5) days in the most recent calendar year.
2. The employee has NOT been disciplined for violations of subpart G ("Misuse of Position") of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.
3. The employee can satisfy the alternative worksite requirements.
4. The employee has completed the telework training.

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TELEWORK AND REMOTE WORK

5. All eligible bargaining unit employees may be authorized to participate in telework to the maximum extent practical as long as:
 - a. Participation does not negatively impact employee performance.
 - b. Participation does not negatively impact the organizational mission requirements.
 - c. Meets the position and employee criteria as outlined in this MOU.
- B. **Position Criteria:** Whether a position is suitable for telework depends on the specific job duties. The job title, type of appointment, work schedule, or grade are not factors in determining if a position is suitable for telework. The following criteria will be used to determine if a position is eligible for telework:
 1. Work activities are portable and can be performed effectively outside the office.
 2. Job assignments are easily quantifiable or primarily project oriented.
 3. Contact with other employees and customers is predictable; In person contact is limited.
 4. The position does not require daily access to classified materials that cannot be transmitted over the internet or taken out of the office without risk of breach.
 5. The technology needed to effectively perform the job off-site is available.
 6. Privacy Act concerns can be adequately addressed.
 7. If a position has been designated as suitable for telework (in accordance with Section 3. B of this MOU), then the same or similar position description assigned to bargaining unit employees within the section, shall be given the same consideration for telework eligibility.

SECTION 4: REMOTE WORK:

- A. **Definition:** Remote work is an alternative work arrangement that involves an employee performing their official duties at an approved alternative worksite without a requirement to return to the agency worksite during each pay period.
- B. **Remote Work Requests:** All eligible employees may request a remote work arrangement.
 1. Employee will submit a remote work agreement to their immediate supervisor. (See Attachment B)
 2. The supervisor or authorized management official in the employee's chain of command will approve or deny the request in writing based on the criteria in this MOU no later than ten (10) business days from the date of receipt of the request.
 3. Requests will not be unreasonably denied.

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4. If the request is denied, the employee may ask the next level supervisor to review the denial. If such a request is made, the next level supervisor will respond no later than ten (10) business days from the date of receipt of the request.

C. **Temporary Remote Work:** Employees may request temporary situational remote work for personal situations including, but not limited to, involuntary reassignment/relocation of a spouse.

SECTION 5: REMOTE WORK ELIGIBILITY: All bargaining unit employees may be eligible to participate in remote work to the maximum extent practical for the employee's work unit and as long as the position and employee criteria are met as outlined in this MOU.

A. **Employee Eligibility Criteria:** All BUEs are eligible to submit requests for remote work arrangements and may only be identified as eligible if the conditions listed below can be met. The agency will evaluate each request based on the following criteria:

1. The employee has NOT been disciplined for being absent without permission for more than five (5) days in the most recent calendar year.
2. The employee has NOT been disciplined for violations of subpart G ("Misuse of Position") of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.
3. The employee can satisfy the alternative worksite requirements.

B. **Position Eligibility Criteria:** Any position eligible for remote work, must meet the criteria for telework eligibility. Positions that are eligible for telework may be eligible for remote work. Whether a position is suitable for remote work depends on the following:

1. Need for in-person interaction.
2. Availability of resources to ensure the remote worker will be provided the same opportunity for assignments and consistency of workload as peers at the official worksite. To include, but not limited to:
 - a. Standards and guidelines which promote fair and equitable application of remote work duties.
 - b. Tools to manage workload and facilitate collaboration with coworkers.
 - c. Activities to engage remote workers with on-site coworkers.
 - d. Communication channels for announcements or changes in policies.
 - e. Supplies and training.
3. Number of remote work arrangements the work section can accommodate.

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4. The position does not require daily access to classified materials that cannot be transmitted over the internet or taken out of the office without risk of breach.
5. The technology needed to effectively perform the job off-site is available.
6. Privacy Act concerns can be adequately addressed.
7. If a position has been designated as suitable for remote work in accordance with Section 5B of this agreement, then the same or similar position description assigned to bargaining unit employees within the work unit, shall be given the same consideration for remote work eligibility.
8. Remote Work position eligibility criteria will be applied impartially and consistently without consideration of prohibited factors such as race, color, religion, sex, national origin, age, disability, or genetic information. Job functions alone, not managerial preference, determine remote position eligibility.

SECTION 6: PROGRAM IMPLEMENTATION PROCEDURES:

A. Standards:

1. A telework/remote work employee's work schedule may include any alternative work schedule.
2. Agency policies on tour of duty, work schedules, and leave apply to all employees participating in the Program.
3. All business days (M-F) are eligible telework days as documented in the approved telework agreement.
4. Normally, employees under an approved Telework or Remote work agreement will not receive weather and safety leave if the employee is telework-ready. Exceptions will be made in accordance with 5 CFR 630.1603 and 5 CFR 630.1605
5. The employee may be granted administrative leave, on a case-by-case basis, when other circumstances (e.g. power failure or weather related emergency) prevent the employee from working at the telework/remote site.
6. The Agency will implement and facilitate the Telework and Remote Work Program in accordance with the DoD Instruction 1035.01, Jan 8, 2024 and the terms of this agreement.

B. Dependent Care:

1. While performing official duties, teleworkers are expected to arrange for dependent care just as they would if they were working at an agency worksite; however, telework may be used as part of a more flexible work arrangement. Employees may perform telework with a child or other person requiring care or supervision present at the alternative worksite, provided the employee is not engaging in dependent care activities while performing official duties.

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2. Permissible telework arrangements may include authorizing an employee to telework while another individual provides dependent care, to take intermittent paid or unpaid leave to fulfill dependent care responsibilities during the workday, and to work a flexible schedule that permits an employee to complete a full workday while completing dependent care responsibilities.
3. Telework arrangements must comply with all workplace policies, including those applicable to tours of duty, flexible work schedules, time and attendance, and performance and conduct.

C. Equipment:

1. Supplies: The Agency will provide basic office supplies to employees who telework or work remotely (e.g. staples, note pads, pens, paper clips, binder clips, highlighters, Post-It notes, or file folders) upon request.
2. Equipment: Other equipment may be provided (printer, ink or toner and printer paper) to employees who work remotely.
3. The Agency will provide communication software onto government-furnished devices for employees who telework or work remotely.
4. The agency must provide the equipment listed on the Technology / Equipment Worksheet on the approved Telework Agreement or Remote Work Agreement.
5. Program participants do not relinquish any entitlement to submit reimbursement claims for appropriately authorized expenses incurred while conducting business for the Agency.

D. Labor Obligations:

1. The Agency will fulfill appropriate Labor obligations prior to implementing any change in telework policy or telework program for any bargaining unit employee or group of BUEs.
2. In developing or modifying the telework policy, the Agency will provide the union with the opportunity for pre-decisional involvement.

E. Agency Responsibilities:

1. The agency is responsible for ensuring employees are aware of Program eligibility.
2. The agency is responsible for designating the eligibility of positions for telework and remote work. If the agency has not designated a position as eligible for telework or remote work then this determination must be done within sixty (60) business days of the execution of this agreement.
3. The agency is responsible for notification to the union and employees within 10 (ten) business days after of determination of position eligibility.

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4. If an employee has an existing telework agreement or remote work agreement, signed by their current supervisor, that shall serve as prior notification of position eligibility.
 5. The agency shall ensure that employees and supervisors are educated on the policies and procedures pertaining to telework and remote work decision-making authority as delineated in this MOU.
 6. Ensure requests for telework or remote work are not denied based on the employee's inclusion in the bargaining unit.
 7. Provide telework/remote work training for employees and supervisors that promotes collaboration to resolve any challenges that may occur.
 8. The supervisor shall not retaliate or otherwise taking adverse actions towards employees on the basis of their requests or decisions for participation or nonparticipation in the program.
 9. Standards and guidelines will be consistent and promote fair and equitable application of telework/remote work duties.
 10. The agency shall provide equitable treatment of employees, as required by 5 U.S.C. §6503(a)(3). Examples of matters for which teleworking and non-teleworking employees must be treated equitably are:
 - a. Periodic appraisals of job performance;
 - b. Training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees; and,
 - c. Work requirements.
 11. The Agency will verify that SF-50 forms accurately reflect the official duty station of assigned employees.
- F. **Telework Agreement or Remote Work Agreements:** The Telework Agreement or Remote Work Agreement is a written agreement between the employee and the supervisor requiring each to adhere to applicable guidelines and policies. Once submitted for approval, the Telework Agreement or Remote Work Agreement constitutes a request to participate in the Program.
1. Time and Attendance: employees must appropriately code their telework status in ATAAPS. Normally, the same premium pay rules will apply to employees who telework similar to those employees who report into the agency worksite.
 2. Telework Agreements and Remote Work Agreements must be reviewed every two years.
 3. A permanent change in the telework agreements or remote work arrangement requires a revised agreement.
 4. Temporary circumstances not to exceed 120 days shall not require a new agreement.

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5. New agreements are not required when a new supervisor is assigned to an employee without a change in position.

G. Attendance at DHA worksite:

1. If a teleworker is required to report to the DHA worksite for a finite pre-determined period, the supervisor will normally provide the Program participant with at least (5) business days advance notice.
2. If a remote worker is required to report to the DHA worksite for a finite pre-determined period, then the Joint Travel Regulations will apply. The supervisor will normally provide the employee with at least (10) business days advance notice.
3. Joint Travel Regulations are applicable to employees working at an official duty station and apply to teleworkers and remote workers. A teleworker or remote worker who is directed to travel to another worksite during their regularly scheduled basic tour of duty would have the travel hours credited as hours of work (RG).
4. Teleworkers who are required to return to their place of employment to perform unscheduled overtime work after their regularly scheduled telework basic tour of duty are entitled to at least 2 hours of overtime pay or compensatory time off.
5. Ensuring that employees reporting to the worksite two or more days a pay period have a designated workspace. Employees that are working remote shall have available space in the event they are required to report to the Official Duty Station.

H. Termination of Telework Agreements or Remote Work Agreements: The following shall apply for termination of Telework Agreements or Remote Work Agreements:

1. An employee can terminate their Telework Agreement or Remote Work Agreement at any time.
 - a. In the event that the employee elects to terminate their Telework Agreement or Remote Work Agreement, the request for termination is effective within two (2) pay periods following the submission of the Program termination request.
 - b. Employees who voluntarily terminate a Telework Agreement or Remote Work Agreement will be eligible to reapply to the Program.
2. Telework Agreements and Remote Work Agreements may be terminated after:
 - a. The employee's ineligibility is documented and based on the requirements established in this MOU.
 - b. The employee has been officially disciplined for being absent without permission (AWOL) for more than 5 days in any calendar year.
 - c. The employee has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child

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pornography, on a Federal Government computer or while performing official Federal Government duties.

- d. If telework continues to diminish employee or agency performance, even after attempts to mitigate such diminishment have been attempted.
- e. If an employee does not comply with the terms of this MOU or written agreement (5 U.S.C. 6502(b)(3)).
- f. A supervisor should provide notice to the employee before termination of a Telework Agreement. The notice should:
 - i. Be in writing.
 - ii. Provide an explanation.
 - iii. Include an effective date that is normally no less than thirty (30) calendar days from the date of official notice.
 - iv. Follow agency policies, procedures, and labor agreements for denial/termination of telework requests; and,
 - v. Advise the employee of any appeals/grievance procedures available.
- g. A bargaining unit employee whose telework or remote work agreement has been terminated may reapply to participate in the Program once the eligibility requirements outlined in this MOU have been met.
- h. The agency will fulfill appropriate Labor obligations prior to implementing any change.

SECTION 7: REASONABLE ACCOMODATIONS

It is important to distinguish between ordinary requests for telework and requests for telework as a reasonable accommodation for a qualified individual with a disability. Requests for Telework as a Reasonable Accommodation will be handled pursuant to law, regulation, policy, and any applicable negotiated agreement(s).

SECTION 8: TELEWORK REPORT

On an annual basis the Agency will provide the Union with telework data for the prior year that will include number of employees participating, the employee's name, directorate, office, job title, series and grade, indicator whether remote work or telework in spreadsheet format.

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TELEWORK AND REMOTE WORK

ATTACHMENT A: DD FORM 2946 DATED AUGUST 2021

Prescribed by: DoDI 1035.01

DEPARTMENT OF DEFENSE TELEWORK AGREEMENT		OMB No. 0704-0011 OMB approval expires 8/31/2024
PRIVACY ACT STATEMENT		
<p>AUTHORITY: 110 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; DoD Instruction 1035.01, Telework Policy.</p> <p>PURPOSE: Information is collected to register individuals as participants in the DoD alternative workplace program; to manage and document the duties of participants; and to fund, evaluate and report on program activity. The records may be used by Information Technology offices to determine equipment needs, to ensure appropriate safeguards are in place to protect government information, and for assessing and managing technological risks and vulnerabilities.</p> <p>ROUTINE USES: Disclosure of records are generally permitted under 5 U.S.C. 522a(b) of the Privacy Act of 1974, as amended. To disclose to appropriate Federal officials pertinent workforce information for use in national or homeland security emergency/disaster response. Additional routine uses are listed in the applicable System of Records Notice: OPM/GOVT-1, General Personnel Records at: https://dpoid.defense.gov/Portals/49/</p> <p>DISCLOSURE: Voluntary; however, failure to provide the requested information may result in your inability to be a participant in the telework program.</p> <p>The public reporting burden for this collection of information, 0704-0011, is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dodinformationcollections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p>		
TERMS OF TELEWORK AGREEMENT		
<p>The terms of this agreement must be read in conjunction with Department of Defense (DoD) telework policy, available on the DoD Issuances Web Site at https://www.esd.whs.mil/DD/ and any additional guidance provided by the employing organization. Signatories certify they will abide by this agreement, DoD telework policy, and all supplemental terms established by the employing organization.</p> <ol style="list-style-type: none"> 1. Work schedules and hours of duty may be modified as necessary, but are subject to local management procedures and approval and/or collective bargaining agreement requirements. A copy of the employee's approved work schedule should be kept on file with the signed telework agreement. In emergency situations (as indicated in Section I, Block 12 of the telework agreement), the teleworker's work hours may be subject to change. Emergency schedules will be set based on mission needs. 2. If the employee reports to the regular worksite at least twice per pay period, the regular worksite is the official worksite as defined in part 531.605, subpart F of title 5, Code of Federal Regulations. 3. If the employee does not report to the regular worksite at least twice each biweekly pay period, the official worksite is the location of the employee's telework site. Exceptions to the twice each biweekly pay period requirement may be made during emergencies (including a pandemic) and for short-term situations (e.g., special projects, medical accommodation). 4. All pay (to include locality pay or local market supplement), leave, and travel entitlements are based on the employee's official worksite as documented on a Notice of Personnel Action. 5. Prior to signing this Telework Agreement, the supervisor and employee will discuss: a. Office procedures (e.g., procedures for reporting to duty, procedures for measuring and reviewing work, time and attendance, procedures for maintaining office communications); b. Safety, technology and equipment requirements; and c. Performance expectations. 6. Employee will not work in excess of the prescheduled tour of duty (e.g., overtime, holiday work, or Sunday work) unless he or she receives permission from the supervisor. By signing this form, the employee acknowledges that failure to obtain proper approval for overtime work may result in cancellation of the telework agreement and may also include appropriate disciplinary action. 7. If designated employee (as indicated in Section I, Block 12 of this agreement) is unable to work due to illness or dependent care responsibilities, the employee must take appropriate leave. Supervisors may, on a case-by-case basis, administratively excuse the designated teleworker from teleworking if circumstances, such as a power failure or weather related emergency, prevent the employee from working at the telework site. To the extent practicable, managers will include a description of emergency duties with this agreement if emergency duties are different from the employee's prescribed duties and responsibilities. 	<ol style="list-style-type: none"> 8. Teleworkers may be required to return to the regular worksite on scheduled telework days based on operational requirements. In situations where the employee is called to return to the office outside normal work hours, the recall shall be handled in accordance with established policy and/or collective bargaining agreements, if applicable. 9. If the employee uses Government-furnished equipment (GFE), the employee will use and protect the equipment in accordance with the DoD Component's procedures. GFE will be serviced and maintained by the Government. 10. The employee agrees to comply with the terms of computer software license and copyright agreements, computer virus and protection requirements and procedures. 11. No classified documents (hard copy or electronic) may be taken to, or created at, an employee's alternative worksite. If classified telework is authorized at an approved alternative secure location, teleworkers must comply with the procedures established by DoD Manual 5200.01 and the DoD Component regarding such work. Controlled unclassified information (CUI) data may be taken to alternative worksites if necessary precautions are taken to protect the data, consistent with DoD regulations. 12. When CUI including competition sensitive or source selection data is authorized for use at the telework location, criteria for the proper encryption and safeguarding of such information and data must be consistent with Enclosure 3, subparagraphs 3.f. (1) through (3) of DoDI 1035.01, Telework Policy. Component specific instructions must be included in the space allowed for Component specific comments or cite the appropriate Component references that contain these instructions. 13. The supervisor will ensure that employees working from an alternate location are creating and storing records in accordance with DoD Instruction 5015.02, "DoD Records Management Program" and all agency specific records management guidelines. DoD employees are not to use personal email accounts, hard drives, or commercial cloud/file sharing services for official business, or forward email from an official email account to a personal account. 14. The employee may be reimbursed for authorized expenses (e.g., installation of broadband or telephone lines) incurred while conducting business for the Government, as provided by statute and implementing regulations and as articulate. d in this agreement. (Approved authorizations are filed with this agreement.) 15. The employee will apply approved safeguards to protect Government records from unauthorized disclosure or damage and will comply with Privacy Act requirements set forth in the Privacy Act of 1974, and codified at section 552a of title 5, United States Code. The use of personal email accounts for transmission of Personally Identifiable information (PII) is strictly prohibited. PII may only be emailed between government email accounts and must be encrypted and digitally signed. 	

DD FORM 2946, AUG 2021

PREVIOUS EDITION IS OBSOLETE.

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TELEWORK AND REMOTE WORK

Prescribed by: DoDI 1035.01

TERMS OF TELEWORK AGREEMENT (Continued)

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| <p>16. The DoD Component may inspect the home worksite, by appointment only, if the DoD Component has reason to suspect that safety standards are not being met and GFE is not being properly maintained.</p> <p>17. The DoD Component will not be responsible for operating, maintenance, or any other costs (e.g., utilities) associated with the use of the employee's residence.</p> <p>18. The DoD Component is not liable for damages to an employee's personal or real property while the employee is working at home, except to the extent the Government is held liable by the Federal Tort Claims Act or from claims arising under the Military Personnel and Civilian Employees Claims Act.</p> <p>19. Employees paid from appropriated funds are covered under the Federal Employee's Compensation Act if injured in the course of performing official duties while at the official alternative worksite. Employees paid from nonappropriated funds are covered under the Longshore and Harbor Workers' Compensation Act. Any accident or injury occurring at the alternative workplace must be brought to the immediate attention of the supervisors who will investigate all reports as soon as practical following notification.</p> | <p>20. The employee acknowledges that telework is not a substitute for dependent care.</p> <p>21. The employee acknowledges that telework is a discretionary alternative workplace arrangement. The employee may be required to work at the regular worksite on scheduled telework day(s) if necessary to accomplish the mission.</p> <p>22. Either the employee or the supervisor can cancel the telework agreement. When possible, advance written notice should be provided. Management will terminate the telework agreement should the employee's performance or conduct not meet the prescribed standard or the teleworking arrangement fail to meet organizational needs.</p> <p>23. The employee continues to be covered by DoD Component standards of conduct while working at the alternative worksite.</p> <p>24. The employee has assessed the telework location against the attached safety checklist and certifies the location meets all safety requirements.</p> <p>25. DoD Component-specific conditions may be included below.</p> |
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COMPONENT-SPECIFIC TERMS AND CONDITIONS

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TELEWORK AND REMOTE WORK

Prescribed by: DoDI 1035.01

SECTION II - SAFETY CHECKLIST			
SAFETY FEATURE	(X)	YES	NO
1. Temperature, ventilation, lighting and noise levels are adequate for maintaining a home office.		<input type="checkbox"/>	<input type="checkbox"/>
2. Electrical equipment is free of recognized hazards that would cause physical harm (frayed, exposed, or loose wires; loose fixtures, bare conductors; etc.).		<input type="checkbox"/>	<input type="checkbox"/>
3. Electrical system allows for grounding of electrical equipment (three-prong receptacles).		<input type="checkbox"/>	<input type="checkbox"/>
4. Office (including doorways) is free of obstructions to permit visibility and movement.		<input type="checkbox"/>	<input type="checkbox"/>
5. File cabinets and storage are arranged so drawers and doors do not enter into walkways.		<input type="checkbox"/>	<input type="checkbox"/>
6. Phone lines, electrical cords, and surge protectors are secured under a desk or alongside a baseboard.		<input type="checkbox"/>	<input type="checkbox"/>
7. If material containing asbestos is present, it is in good condition.		<input type="checkbox"/>	<input type="checkbox"/>
8. Office space is free of excessive amount of combustibles, floors are in good repair, and carpets are well secured.		<input type="checkbox"/>	<input type="checkbox"/>
I verify that this safety checklist is accurate and that my home office is a reasonably safe place to work.			
9. EMPLOYEE SIGNATURE		10. DATE (YYYYMMDD)	

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TELEWORK AND REMOTE WORK

Prescribed by: DoDI 1035.01

SECTION III - TECHNOLOGY/EQUIPMENT			
(1) TECHNOLOGY/EQUIPMENT <i>(Indicate all that apply)</i>	(2) REQUIREMENT <i>(Y or N)</i>	(3) OWNERSHIP: AGENCY OR PERSONAL <i>(A or P)</i>	(4) REIMBURSEMENT BY COMPONENT <i>(Y or N)</i>
1. COMPUTER EQUIPMENT			
a. LAPTOP	▼	▼	▼
b. DESKTOP	▼	▼	▼
c. PDA	▼	▼	▼
d. OTHER	▼	▼	▼
	▼	▼	▼
2. ACCESS			
a. IPASS/VPN ACCOUNT	▼	▼	▼
b. CITRIX - WEB ACCESS	▼	▼	▼
c. OTHER	▼	▼	▼
	▼	▼	▼
3. CONNECTIVITY			
a. DIAL-IN	▼	▼	▼
b. BROADBAND	▼	▼	▼
4. REQUIRED ACCESS CAPABILITIES			
a. SHARED DRIVES (e.g., H or P Drive)	▼	▼	▼
b. EMAIL	▼	▼	▼
c. COMPONENT INTRANET	▼	▼	▼
d. OTHER APPLICATIONS:	▼	▼	▼
	▼	▼	▼
	▼	▼	▼
5. OTHER EQUIPMENT/SUPPLIES			
a. COPIER	▼	▼	▼
b. SCANNER	▼	▼	▼
c. PRINTER	▼	▼	▼
d. FAX MACHINE	▼	▼	▼
e. CELL PHONE	▼	▼	▼
f. PAPER SUPPLIES	▼	▼	▼
g. OTHER	▼	▼	▼
	▼	▼	▼
	▼	▼	▼
6. SUPERVISOR'S SIGNATURE			7. DATE (YYYYMMDD)
8. EMPLOYEE SIGNATURE			9. DATE (YYYYMMDD)

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TELEWORK AND REMOTE WORK

Prescribed by: DoDI 1035.01

SECTION IV - NOTICE OF TELEWORK ARRANGEMENT CANCELLATION (Complete this section when the telework agreement is cancelled.)

1. CANCELLATION DATE (YYYYMMDD)		2. INITIATED BY (X one) <input type="checkbox"/> EMPLOYEE <input type="checkbox"/> MANAGEMENT	
3. REASON(S) FOR CANCELLATION			
4. GOVERNMENT-FURNISHED EQUIPMENT/PROPERTY RETURNED LIST PROPERTY AND DATE OF RETURN: <input type="checkbox"/> YES <input type="checkbox"/> NO			
5. SUPERVISOR'S SIGNATURE		6. DATE (YYYYMMDD)	
7. EMPLOYEE SIGNATURE		8. DATE (YYYYMMDD)	

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TELEWORK AND REMOTE WORK

ATTACHMENT B: REMOTE WORK AGREEMENT

Remote Work Agreement

Date of Request : 	Proposed Start Date of Remote Work :
Location of Official Work Site: City: <input style="width: 150px;" type="text"/> State: <input style="width: 100px;" type="text"/> <i>Note: Official worksite is used to determine pay, reduction in force competitive area, travel reimbursement, and unemployment compensation.</i>	
Assignments and Communication: [Use if appropriate. This may include work assignment, clarification related to remote worksite, agreements related to office communication, checking/responding to voicemail and email, and/or contacting the supervisor.] 	
Travel and Relocation Expenses All costs associated with a move to the new official worksite are the responsibility of the employee. The employee agrees to waive any rights to moving expenses if directed to return to the regular worksite based on a decline in performance or for misconduct. <div style="text-align: right;">Employee Initials <input style="width: 50px;" type="text"/></div> <u>Remote work within the locality pay area:</u> <ul style="list-style-type: none"> • Employees will not be paid for local travel to the agency's worksite if their official worksite is within the local commuting area (50-mile radius, as defined in the Joint Travel Regulations (JTR)). • Employees will be paid for travel to the agency's worksite if their official worksite is outside the local commuting area (50-mile radius, as defined in the JTR). • Employees will be paid for travel from their official worksite for official business travel to locations away from the agency's worksite. <u>Remote work outside the locality pay area:</u> <ul style="list-style-type: none"> • Employees will be paid for travel from their official worksite for official business travel to the agency's worksite. • Employees will be paid for travel from their official worksite for official business travel to locations away from the agency's worksite. 	
Pay Entitlements All pay entitlements (including locality-based pay) and other government benefits are based on the new official remote worksite identified above.	
Requests for Change of Remote Location Employees must obtain supervisor's written approval to work at a location other than the approved alternative remote worksite prior to making any arrangements and reporting to work (e.g., temporary arrangements). Requests for permanent changes to alternative remote work location must be made in writing. Approved requests will require a new remote work agreement and the servicing human resources office will complete a Standard Form 50, "Notification of Personnel Action," documenting the approved alternative worksite location.	
Employee Name: <input style="width: 100%;" type="text"/>	
Date: <input style="width: 150px;" type="text"/>	Employee Signature: <input style="width: 150px;" type="text"/>
Supervisor Action <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove Supervisor Signature: <input style="width: 100%;" type="text"/>	
Date: <input style="width: 150px;" type="text"/>	

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SECTION 1. OFFICE SPACE: Dedicated Office Space will be provided at facilities for Union use at the following locations within 60 days of the execution of this agreement;

A. Office Locations

1. Falls Church, Virginia: 8111 Gatehouse Rd
2. Fort Sam Houston, San Antonio, Texas: 2456 Stanley Rd. Bldg. 2272
 - a. This location is not ready for occupation. The union will occupy this space as soon as it is appropriate after construction in accordance with all Agency and Federal Safety and Occupational Health Programs (DoD Instruction 6055.01).
 - b. Construction includes the wall to section off the agreed upon space (Room 103 and the space directly across from it).
 - c. The agency will request from the 502nd two (2) reserved parking spaces for AFGE in the parking area in front of the building.
 - d. Until building 2272 is appropriate for occupancy, the union office will be located at MIF 4, RM 459. The agency will request from the 502nd two (2) temporary reserved parking spaces for AFGE. Requested locations will include the following:
 - i. Southern spaces (Closest to MIF4) in the East parking lot of building 1350, at the corner of McGee Rd. and Womack Rd.
 - ii. or Southern spaces (Closest to MIF4) in the West parking lot of 1350 at the corner of Garden Ave and McGee Rd.
3. San Antonio, Texas: 3130 General Hudnell Dr., Tech II Building
4. Aberdeen Proving Ground, Maryland: 8968 Depot Rd, Bldg E-1930, RM 143
5. Aurora Colorado: 16401 E. Centretech Parkway

B. The Agency agrees that the Union may request additional office space as needed. The Agency will respond to these requests expediently. The response will be provided in writing, within thirty (30) calendar days of the request.

1. Alternate Space: Where dedicated union office space is not provided, representatives will be provided, upon request and when available, access to a private space (e.g. conference rooms) within the vicinity of the BUE work area for purposes of meeting with and consulting with bargaining unit employees on representational matters.

2. Major Reconfigurations: When the Agency does any major reconfiguration of space, such as realignment or closure of a building or part of a building, the Agency, a

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committee, or any other designee, shall consider Union requests during the preliminary phase and before final allocation.

C. Office Equipment and Supplies: The Agency will provide, at a minimum, the following office equipment and supplies appropriate for the size of allocated space at Agency occupied facilities without cost to the Union.

1. At least one (1) desk and at least one (1) desk chair and (1) guest chair, commensurate with the standard items provided to all employees in that location;
2. The Agency will provide a network drop for each desk with access to the Agency's network, email, Intranet and internet. Union representatives are permitted the use of their government issued laptop while in a non-work status;
3. One (1) active telephone;
4. Access to Network Printers, copiers, and scanners (i.e. multifunctional devices)
5. Locking file cabinets;
6. At least one (1) office key per union representative (Up to four (4) office keys) for access to the office; and
7. Office signage for AFGE Local 4200. Signage will be displayed in accordance with Agency/Facility policy.
8. The Agency will provide the Union officials with routine office supplies commensurate with what is generally used in that work location.

D. Union Hand Receipt: The Union President or designee will maintain hand receipt for all items IAW Agency policy.

E. Cleaning and Maintenance: The Agency will provide routine cleaning and maintenance service for Union occupied space in Agency facilities. Should additional cleaning be required, the Union must submit a ticket with the Agency's facilities department. The Union is responsible for ensuring accessibility to its space during normal cleaning and maintenance schedules.

SECTION 2. USE OF AGENCY PROVIDED EQUIPMENT:

A. Computer Equipment: Computer equipment will have access to the Agency's network, email, Intranet and internet. The Union will be responsible for maintaining its own equipment.

B. Telephones: Telephones will have access to DSN, as available, and local calling. The Agency will provide conference calling capability including codes for Agency conference line, voicemail, and caller ID commensurate with what is provided in other Agency workspace.

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C. Copy Machine: Union representatives may use the Agency's self-service copying machines. Union representatives will use the government copy machines in a reasonable, prudent, and cost-conscious manner. The Agency will provide the procedures to utilize copy machines that require CAC enabled access.

SECTION 3. CONFERENCE ROOMS AND AUDITORIUMS:

A. Conference Rooms: The Union will be given access to conference rooms and auditoriums for meetings requiring that size space. The Union will follow the same reservation and use procedures as all other users.

B. Utilization Policy: The Union agrees to comply with normal safety, security, and utilization policies and regulations concerning facilities made available when occupying space provided by the Agency. The Agency will, on an as needed basis, provide conference rooms as available for discussions between employees and Union officials. The Union will exercise reasonable and prudent care in use of such space. Neither employees nor Union representatives shall use any Agency facilities to conduct personal business enterprises or for any direct personal use outside of the Agency's acceptable use policy.

SECTION 4. USE OF AGENCY'S COMMUNICATION SYSTEMS: The Agency's electronic communications systems, including computers with e-mail and fax machines, are to be used in accordance with Agency and Federal policies and regulations, and the terms of this agreement.

A. Electronic Communications: Both the Union and employees may use the Agency's electronic communication systems to communicate with Union representatives, Agency officials, other employees, and appropriate third parties. In accordance with applicable law, Agency electronic communications systems may be used for Union Representatives to present the Union's views to Members of Congress but may not be used for activities that constitute grassroots lobbying or lobbying concerning pending legislation.

B. Communication Directories: Agency telephone directories or listings published and/or posted on the Agency's website and/or Microsoft Outlook e-mail (or their successor) after the execution of this Agreement will contain the name and phone number of the Local President and all other officers for whom dedicated official time is provided for under this agreement.

C. Agency Intranet: The Agency will allow AFGE to establish a site on the DHA hosted Intranet.

1. The Union will develop and will retain control of the web page and contents of this site. The agency will provide the Union with the appropriate permissions to complete development and content management. The Union will act in accordance with Agency and Federal policies and regulations, and the terms of this agreement. In the event there is a conflict between the Agency policies/regulations and the terms of this agreement, the agreement will take precedence. The Agency will not enforce any Government-wide rule or regulation promulgated after the effective date of this Agreement which is in conflict with the provisions of this

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Agreement unless such rule or regulation is properly subject to the provisions of 5 U.S.C. §7116(a)(7).

2. Should the Agency change the intranet site and the location of the Union's link, the Union will be notified.
3. The Agency will provide a quick link or icon to the site in the following locations:
 - a. The Welcome Center Button at:
<https://info.health.mil/SitePages/WelcomeCenter.aspx>; and
 - b. In the Resources Navigation Section at <https://info.health.mil/SitePages/Home.aspx> on the Agency's official intranet site, "Inside DHA".

SECTION 5. ACCESS TO FACILITIES AND PUBLICATION OF UNION INFORMATION:

A. Membership Campaigns: The Union will request, in advance, the use of an Agency facility for membership drives at a location that will provide access to unit employees during non-work time and lunch periods. The Agency will provide facilities commensurate with the details provided in the request for such membership drives. The Union may conduct periodic membership campaigns during the non-work time of the employees involved. The union may utilize agency telephones and computer systems to send notices and announcements about such events.

B. Access for Union Representatives:

1. Agency Employed Union Representatives: Union Representatives who are agency employees will be provided unescorted access to all buildings, work areas, cafeterias, break rooms or any other areas where bargaining unit employees may work or be on break. The Union will notify the Agency within 24 hours when the employee is no longer a union representative and access will be restricted. If the Union representative violates the security policy then the Agency will notify the Local President of the violation. The Agency will provide instructions, and appropriate security group email box for Union Representative to request scanned entry via their CAC card, or alternate entry measures in accordance with internal security procedures.

2. Non-Agency Union Representatives: Upon request, the Agency will authorize Union representatives, who are not Agency employees, access to the Agency's premises pursuant to agency policy, including DOD Manual 5200.08, Volume 3.

C. Distribution of Union Literature: Union Representatives may distribute Union literature to employees during the workday, under the following circumstances:

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1. Union representative distributing the material is in a non-work status at the time of distribution, and
2. The employee receiving the literature is in a non-work status at the time of distribution. (i.e. lunch periods, break, or leave).

D. Information Sharing

1. **Bulletin boards:** The Agency will provide access to fifty (50) designated bulletin boards for the union's exclusive use.
2. Within 30 days of this agreement, the parties will meet to determine where bulletin boards will be located. Such bulletin board space shall be used for the posting or displaying of materials pertaining to communications to employees. The agency will provide to the union access to any digital bulletin boards. The union will provide the agency with the information to be posted. The agency will provide the union the contact information of the individuals to whom the information should be provided for posting.

E. Electronic Distribution of Literature: The Union's newsletter or other communications may be distributed to the employees via the Agency's computer systems including e-mail.

SECTION 6. MAIL SERVICES: Incoming mail to the Union will be processed in accordance with applicable laws, rules governing the U.S.P.S. mailing system.

A. Incoming Mail: The Agency will provide the Union with procedures to establish a mailbox for incoming pre-postage official mail.

B. Outgoing Mail: The Agency will receive and distribute pre-postage official mail on behalf of the Union.

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SECTION 1. OVERVIEW: The Parties of this MOU agree that the Defense Health Agency appraisal system shall be used to appraise the employees' performance of assigned duties and responsibilities in accordance with applicable laws and regulations at the time of this Agreement. The resulting performance appraisals shall be used by the Agency as a basis for training, rewarding, reassigning, promoting, reducing in grade, and removing employees when such action is warranted. Government-wide regulations and the Agency's implementing regulation are applicable to employees in the bargaining unit, except where provisions of the system are in conflict with this MOU and then the Parties agree that this MOU is controlling.

SECTION 2. DEFINITIONS: All terms used herein will be defined as set forth in 5 CFR. Part 430 *et. Seq.* and the Department of Defense Instruction (DoDI) 1400.25 Volume 431 (change 3, Jan 10, 2022).

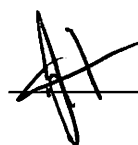
SECTION 3. PURPOSE: The employee performance management system and its application will be fair, equitable, reasonable, related to the organizational goals, the employee's position description and duties performed by the employee. Provide a framework for supervisors and managers to communicate expectations and job performance.

1. Facilitates a fair and meaningful assessment of employee performance.
2. Establishes a systematic process for planning, monitoring, evaluating, and recognizing and rewarding employee performance that contributes to mission success.
3. Nurtures a high-performance culture that promotes meaningful and ongoing dialogue between employees and supervisors and holds both accountable for performance.
4. Complies with merit system principles in Section 2301 of Title 5, U.S.C
5. The assessment system will emphasize:
 - a. Overall employee contributions;
 - b. Employee development;
 - c. Recognition of special skills and contributions in addition to regular job duties;
 - d. Support of team endeavors;
 - e. Expectations or requirements that are realistic and attainable by an employee working under normal conditions;
 - f. Each employee's performance will be judged solely against their performance standards with no prescribed distribution of levels of ratings for employees covered by this MOU.
6. The assessment system will not:
 - a. Be used as a disciplinary tool;
 - b. Foster individual competition;
 - c. Be based on numerical goals and/or numerical performance levels not contained in the employee's own performance standards;

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- d. Be punitive or adversarial;
- e. Apply absolute performance standards except where they are crucial to the mission.

SECTION 4. APPRAISAL CYCLE: The appraisal cycle for employees covered by the DoD Performance Management and Appraisal Program (DPMAP) is April 1 through March 31 of each calendar year. An employee must work under a supervisor and an approved performance plan for a minimum of ninety (90) calendar days to receive a rating of record. When this is not the case the annual rating may be deferred until these time frames are met.

SECTION 5. DPMAP: The DPMAP program provides an automated system to create, review, and approve performance plans; document modifications to performance plans; document progress reviews; document employee input on their individual performance; and document performance appraisals. When supervisors or employees do not have access to the electronic DPMAP appraisal tool, they must use the paper copy of DD Form 2906 to document the performance plan, progress review(s), and rating of record.

SECTION 6. PROCEDURES:

A. Agency Officials shall:

1. Provide supervision and feedback to employees on an ongoing basis with the goal of improving employee performance;
2. Consider nominating deserving employees for performance awards;
3. In accordance with DOD Instruction, meet with the employee a minimum of three (3) times during the rating cycle in a private setting. These reviews will be documented in DPMAP or on the DD Form 2906:
 - a. To issue the Performance Plan (at the beginning of the appraisal cycle);
 - b. To discuss the employee's job performance during the mid-point; and
 - c. To provide the appraisal rating of record final rating (at the end of the appraisal cycle).

B. Employees shall:

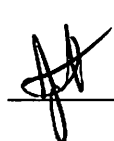
1. Perform assigned duties at an acceptable level as outlined in their performance elements and standards.
2. Promptly notify supervisors about factors that interfere with their ability to perform their duties at the level of performance required by the performance elements.

SECTION 7. CRITICAL ELEMENTS: Performance plans must have a minimum of one (1) critical performance element, and each element must have associated performance standards that define expectations. A critical element is a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is rated as "Unacceptable." Critical elements are only used to measure individual performance; supervisors must not establish

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critical elements for team performance.

- A. Accuracy: The critical elements in the performance appraisals will be directly aligned to the duties in the employee's assigned Position Description (PD) and supervisor's expectations. These shall be communicated to the employee at the beginning of the rating period or whenever elements or expectations change.
- B. Consistency: The critical elements for like positions should generally be consistent.
- C. Union Notifications and Bargaining: In accordance with labor obligations, the Agency will provide union notifications and where appropriate an opportunity to bargain over negotiable aspects for the following:
 - 1. Significant changes that have a substantial impact on condition of employment; more than *de minimis* in an employee's current standards or
 - 2. Changes that impact a significant number of employees (new programs, equipment).


SECTION 8. PERFORMANCE STANDARDS: A performance standard describes how the requirements and expectations in the performance elements are to be evaluated. The standard should include specific, measurable, achievable, relevant, and timely (S.M.A.R.T) criteria.

- 1. **Specific:** Goals are sufficiently detailed in describing what needs to be accomplished.
 - 2. **Measurable:** The accomplishment of the performance element is clear and can be quantified or substantiated using objective criteria.
 - 3. **Achievable:** Goals are realistic, yet challenging and can be accomplished with the resources, personnel, and time available.
 - 4. **Relevant:** The critical element aligns with or links to organizational mission and success.
 - 5. **Timely:** Goals will be completed within a realistic timeframe.
- A. **Fully Successful:** A written performance standard will indicate the performance level which will meet or satisfy the requirements at the "Fully Successful" level for an element.
 - B. **Performance Planning:**
 - 1. Performance standards should be consistent with duties and responsibilities contained in an employee's position description (PD). This requirement shall not be interpreted to interfere with management's right to assign work.
 - 2. The standards for like positions should generally be consistent.
 - 3. If there are variations in the performance plan elements and the duties in the PD the Agency will determine the appropriate document to revise and notify the employee, subject to Union Notification and Bargaining provision in Section 7C above.
 - C. Upon request, supervisors will discuss with employees the criteria to exceed a standard.
 - D. **Application:** Application of all performance standards shall be non-discriminatory and consistent with statutory and regulatory requirements.

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SECTION 9. PERFORMANCE PLANS: Employees should be actively involved in the development of their performance plans, including establishment and changes in individual performance standards. The performance plan must be approved by the employees' Rating Official (RO) and Higher-Level Reviewer (HLR).

A. Rating Period of Performance: The period for which an employee is rated, begins when the employee is provided the approved critical elements and related performance standards for their position (with the signatures of both the rating official and the higher-level reviewer). Refusal to sign acknowledging receipt does not delay the start of rating period.

B. Notification: Employees will be provided with approved elements and standards:

1. For existing employees, at the beginning of every rating period, or normally, within the first thirty (30) calendar days of employment for new employees;
2. Whenever a new or modified performance plan is issued;
3. A change of supervisor of record;
4. Details of ninety (90) calendar days or more;
5. Reassignment and/or relocation;
6. Changes to assigned duties that occur during the appraisal cycle;
7. When an employee returns from an extended absence (medical/ non-medical) of 90 days or more; and
8. If there is a change in work assignments, work process or component, related to the position, that affects how a standard is evaluated.

C. Discussion: The process of the discussion are as follows:

1. The rating official will meet one-on-one with the employee to present the performance plan.
2. During this oral discussion the rating official will explain, clarify and communicate:
 - a. The employee's job responsibilities to ensure that there is a clear and common understanding of the duties and responsibilities; and
 - b. The levels of performance necessary to obtain fully successful for a given critical element; and
 - c. The element's relationship to the Agency's mission and its' organizational goals.


D. Employee Feedback: The employee will be given five (5) workdays to review the proposed plan and submit any recommended changes, deletions or additions, as well as justification for the recommendations. An employee's acknowledgement, initials or signature do not imply agreement with the performance plan.

E. The employee will be given five (5) workdays to review the proposed plan and submit any recommended changes, deletions or additions, as well as justification for the recommendations.

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- F. Meeting: The rating official will meet with the employee within five (5) workdays of the employee's feedback to present the employee's performance plan. During this meeting the employee shall have Union representation when requested. If any of the employee's recommendations were not incorporated the rating official should provide the reason to the employee in writing.
- G. New and Revised Elements: When a performance element or standard is revised by the rating official, the employee will be provided with a copy of the draft revision of the new or revised element or standard.
- H. Modifications: The modification of an employee's performance plan during the appraisal cycle will be conducted according to DOD Instruction 1400.25-V431 (change 3, Jan 10, 2022).
- I. Performance Discussions: Performance discussions may be initiated by the supervisor, rating official, or employee. If requested by the employee, the meeting will be scheduled within fifteen (15) workdays.
- J. A joint Performance Management Forum with agency officials and the Union will be conducted annually to share recommendations concerning performance plan procedures, training topics and discuss issues regarding performance management that may impact bargaining unit employees.
- K. Progress Review: At least once during the annual appraisal cycle, the supervisor shall provide each employee with a mid-point Progress Review. Further progress reviews/feedback may be conducted to provide guidance on an employee's performance. The supervisor and employee should engage in meaningful communications throughout the appraisal cycle to review and convey:
1. Organizational goals and priorities.
 2. Performance elements and standards, including ensuring the performance plan accurately reflects the work being evaluated.
 3. Supervisor's expectations.
 4. Employee's accomplishments and contributions.
 5. Employee's level of performance, including any areas that need improvement.
 6. Barriers to success.
 7. Employee's developmental needs and career goals.
 8. Express to the employee if they are on target with meeting the "fully successful" standard for each critical element and if improvement in the element is necessary.
 9. If at any time during the rating period the supervisor has identified shortcomings in the employee's performance, the employee shall be notified in writing when the problem is perceived. Where performance is less than fully successful, the rater will suggest ways for the employee to improve his work in order to raise the employee's performance to a fully successful level.

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SECTION 10. CONTINUOUS MONITORING OF PERFORMANCE: Monitoring performance consists of ongoing assessment of performance compared to the stated expectations and ongoing feedback to employees on their progress toward reaching their goals. By monitoring performance throughout the appraisal cycle, supervisors shall provide timely feedback on meeting expectations and identify unacceptable performance during the appraisal cycle in order to provide assistance to improve performance, rather than waiting until the end of the cycle when a rating of record is assigned.

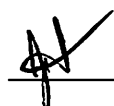
SECTION 11. ANNUAL APPRAISAL:

- A. Performance rating: All bargaining unit employees will receive an annual performance rating. A written rating of record will be provided at the end of the appraisal cycle for each employee who has been under an approved performance plan for 90 calendar days during the cycle. This period will be extended where an employee is subject to a Performance Improvement Plan (PIP) and the established ending date would not afford them a reasonable opportunity to demonstrate improved performance. The performance rating will be issued in writing to the employee(s) normally within 30 calendar days of the end of the assessment period, but no later than May 31st of the performance year. Ratings may be issued beyond the 30 calendar days of the assessment period on a limited case-by-case basis (e.g. PIP, extended leave).
- B. Minimum Period: New employees must work under a performance plan for a minimum of ninety (90) calendar days before a rating can be given.
- C. Performance Plan Changes: When an employee's performance plan changes less than ninety (90) calendar days before the end of the appraisal cycle, a rating will be given to the elements in place 90 days prior to the change.
- D. Unratable Elements: If an employee does not have an opportunity to perform work associated with a performance element for 90 calendar days due to matters beyond their control, (i.e. extended medical leave, unresolved agency network issues) the element is unratable.
- E. Effective Period: An employee's performance standards must be in effect for a period of ninety (90) calendar days before an employee's performance can be rated on that standard.
- F. Annual Appraisals: Employees will be appraised at least once a year and given a rating of record.
- G. Conclusion of Annual Appraisal Cycle: At the conclusion of the annual appraisal cycle the following will occur:
1. The employee may provide a written self-assessment which should be given serious consideration in developing the performance rating for that employee.
 2. Choosing not to provide the voluntary self-assessment will not disadvantage an employee relative to those who do provide such assessments.
 3. Performance appraisals will be prepared and documented in the MyPerformance appraisal tool.
 4. The appraisal will consist of a rating and a brief performance narrative on each, element

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including an assessment of whether the employee meets, exceeds, or fails to meet the achieved standard for each of the standards set forth in the Performance Plan.

5. The rating official and the employee will sign the Performance Appraisal. The employee's signature shall not be taken to mean that they agree with any/all of the information or that the employee waives any rights to appeal/ grieve the rating.
6. Final Rating of Record: A rating of record is final when it is signed by the rating official and the higher-level reviewer. A rating of record finalized and provided to the employee before June 1 will become effective June 1.

SECTION 12. RECONSIDERATION: Employees may request reconsideration of their final rating of record through the negotiated grievance procedure

SECTION 13. ANNUAL RATING OF RECORD:

- A. Retention of Records: Performance ratings of record will be retained as required by Government-wide and Agency regulations.
- B. Retention Standing for Reduction In Force Purposes: Employees' performance ratings of record due before the issuance due date of specific RIF notices will be submitted to the servicing personnel office in sufficient time for retention standing to be determined in accordance with all laws, rules, and regulations.
- C. Transfer of Performance Files: When an employee transfers to another DoD organization, the agency will coordinate the transfer of the most recent ratings of record and any subsequent performance ratings.


SECTION 14. ADDRESSING UNACCEPTABLE PERFORMANCE: It is the responsibility of the Agency to monitor employee performance throughout the rating period and take steps to assist employees in improving performance.

- A. **Initial Procedure:** If at any time during the rating period the supervisor determines that an employee is performing at an unsuccessful level in one or more critical elements, the supervisor will counsel the employee regarding their performance. During the counseling, the supervisor will advise the employee of the specific deficiencies in their performance, skills, and the written plan to improve their performance.
- B. **Issuance of PIP:** After a reasonable time period, if the employee's performance does not improve to the successful level, the employee will be issued a Performance Improvement Plan (PIP). This written notification is a formal warning to the employee that their performance is unacceptable in one or more critical elements. Upon request, the employee may have union representation at the meeting in which the PIP is issued. In any event, the union will be notified.
- C. **Elements of PIP:** The PIP will afford the employee a reasonable opportunity to demonstrate acceptable performance and will identify:

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1. The critical element(s) for which performance is unacceptable.
2. Specific instances (e.g. date, counseling) of unacceptable performance.
3. The performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance.
4. Which assigned tasks demonstrate the unacceptable performance and how they relate to an identified job requirement(s), element(s), and standard(s), as applicable.
5. A minimum of bi-weekly counseling to the employee and the identified supervisor or management official, on the progress made during the PIP period. Upon request, the employee may have union representation.
6. Other assistance that will be provided to the employee which may also include: formal training, on-the-job training, counseling, assignment of a mentor, offer Employee Assistance Program (EAP) assistance, or other assistance as appropriate.
7. A period, normally 90 calendar days, for the employee to improve to an acceptable level of performance for the identified element(s). The PIP period may be extended as necessary by mutual agreement of the agency and the employee or employee's representative.
8. The plan will state that unless performance in a critical element(s) improves to and is sustained at an acceptable level for a minimum period of one (1) year, the employee may be subject to a performance-based action to be reduced in grade, reassigned, or removed from Federal service.
9. The employee will be counseled regarding the consequences that may result such as a potential denial of a within grade increase, inability to be considered for merit promotion and loss of RIF retention standing.

D. Extension of the PIP: If the rating official is unable to make an assessment whether or not the employee is successfully performing their critical job duties and responsibilities following the performance improvement period, the rating official will extend the assistance period until an assessment can be made, consistent with law. The employee and union will be notified in writing of the extension.

E. Improvement: If the employee succeeds in demonstrating acceptable performance at the "Fully Successful" level by the end of the PIP, a new rating of record will be recorded. The date the employee is eligible for a WGI will be reset to accommodate the WGI delay offset period. The "Fully Successful" rating of record will establish the end date of the WGI delay offset period.

F. Lack of Improvement: If the employee fails to demonstrate performance at the "Fully Successful" level despite the PIP, the employee may be reduced in grade or removed from federal service pursuant to Section 432.105 of Title 5, CFR. The employee may also be subject to reassignment at the Agency's discretion. In cases of voluntary or management-directed personnel actions, such as change to lower grade, reassignment, resignation, separation, or removal, the effective date of the action will establish the end date of the WGI delay offset period.

SECTION 15. PERFORMANCE BASED ADVERSE ACTION: Notice of an Adverse Action will be provided in accordance with the Adverse and Disciplinary Actions MOU and will advise the

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employee of the right to appeal the action to the Merit Systems Protection Board (MSPB) or through the Grievance and Arbitration Agreement. The employee may elect to file an MSBP Appeal or Grievance, but not both.

- A. Basis of Decision: In no case will the final decision to take corrective action (reassignment, reduction in grade or removal) be based on a matter not specified in the notice of proposed action. A performance-based decision to remove, reduce-in-grade or reassign may be based only on critical elements that were included in the PIP.
- B. One (1) Year Limit: A decision to remove, reduce-in-grade or reassign may be based only on those instances of unacceptable performance by the employee that occurred during the one (1) year period ending on the date of the notice of proposed action.
- C. Specification of Critical Elements: The decision to remove, reassign or reduce-in-grade shall specify the critical elements of the employee's position involved in each instance of unacceptable performance on which the reassignment, reduction-in-grade or removal is based and shall be concurred in by an official in a higher position than the official who proposed the action.
- D. Timeliness: If the Agency's decision adopts the proposed performance-based action, such action will be initiated in a timely manner after completion of review for legal sufficiency, normally within thirty (30) days.

SECTION 16. USES OF THE PERFORMANCE RATING: The performance rating given to employees under this performance assessment system is used for a number of purposes, to include but not limited to:

- 1. An employee who has attained a rating of at least "Fully Successful," has achieved an "acceptable level of competence" and will be entitled to appropriate within-grade increases.
- 2. The rating of record will be used in consideration for appropriate awards, promotions, and other personnel actions.
- 3. This performance rating will be considered in making determinations regarding reductions-in-force (RIF) within the Agency in accordance with law, rule, and regulation.
- 4. The rating of record may be used in evaluating candidates under the merit promotion system in accordance with law, rule, and regulation.

SECTION 17. IMPLEMENTATION OF A NEW ELECTRONIC PERFORMANCE MANAGEMENT SYSTEM

Prior to implementing a new Electronic Performance Management System for bargaining unit employees, the Agency will provide the Union with notice and an opportunity to bargain over negotiable aspects of such changes in accordance with this MOU and subject to all applicable laws, rules, and regulations.

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