

provided further, that the duty to defend or indemnify and save harmless shall be conditioned upon:

- (i) delivery to the Attorney General or an assistant attorney general at an office of the Department of Law in the State by the employees of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after they are served with such document, and
- (ii) the full cooperation of such employees in the defense of such action or proceeding and in defense of any action or proceeding against the State based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by such employees that the State provide for their defense pursuant to this section.

§29.3

The Employer agrees to indemnify and save harmless its employees as set forth in subdivision three (3) of Section 17 of the Public Officers Law in the amount of any judgment obtained against such employees in any State or Federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or settlement arose, occurred while the employees were acting within the scope of their public employment or duties; the duty to indemnify and save harmless prescribed by this Section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employees, provided further, that nothing contained herein shall authorize the State to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to Article 7(a) of the State Finance Law.

§29.4

Employees shall inform their supervisor when they inform the Attorney General of the services they have received under paragraphs 29.1, 29.2 or 29.3 above.

§29.5

The State shall prepare, secure introduction and recommend passage by the Legislature of appropriate and necessary legislation to continue the provisions of Section 19 of the Public Officers Law, to amend Section 19 to provide coverage for reimbursement of costs of employees for reasonable attorneys' fees for appearances before a grand jury arising out of any act which occurred while such employee was acting within the scope of his or her employment or duties and to amend Section 17 of the Public Officers Law to provide that the State shall provide a defense for employees in any civil action or proceeding brought pursuant to Section 1981 or Section 1983 of Title 42 of the United States Code arising out of an act or omission which occurred or is alleged to have occurred while the employee was acting within the scope of his or her public employment or duties.

ARTICLE 30 Credit Union Space

The State agrees to grant to credit unions of State employees occupying space in office buildings of the State on April 1, 1973 the use of their existing space without rental or other charge during the continuance of their services as such credit union and during the State's occupancy of the building, subject to their compliance with all appropriate rules and requirements of the building operation and maintenance. In consideration of said continuance of existing occupancy by credit unions, DC-37 expressly agrees that no claim by any credit union or other organization of State employees for any additional space under the jurisdiction or control of the State, except relocations of such credit unions to equivalent space in other state-owned buildings, shall hereafter constitute a term or condition of employment under any agreement between DC-37 and the State pursuant to Article 14 of the Civil Service Law.

ARTICLE 31 Grievance and Arbitration Procedure

§31.1 Definition of Grievance

(a) A contract grievance is a dispute concerning the interpretation, application or claimed violation of a specific term or provision of this

Agreement. Other disputes which do not involve the interpretation, application, or claimed violation of a specific term or provision of this Agreement including matters as to which other means of resolution are provided or foreclosed by this Agreement, or by statute or administrative procedures applicable to the State, shall not be considered contract grievances. A contract grievance does not include matters involving the interpretation, application or claimed violation of an agreement reached pursuant to any previously authorized departmental negotiations.

(b) Any other dispute or grievance concerning a term or condition of employment which may arise between the parties or which may arise out of an action within the scope of authority of a department or agency head and which is not covered by this Agreement shall be processed up to and including Step 3 of the grievance procedure, except those issues for which there is a review procedure established by law or pursuant to rules or regulations filed with the Secretary of State.

§31.2 Requirements for Filing Contract Grievances

(a) A contract grievance shall be submitted, in writing, on forms to be provided by the State.

(b) Each contract grievance shall identify the specific provision of the Agreement alleged to have been violated and shall contain a short plain statement of the grievance, the facts surrounding it, and the remedy sought.

(c) Upon agreement of the State and DC-37, DC-37 shall have the right to initiate at Step 2 a grievance involving more than one employee.

(d) If the contract grievance identifies Article 39, Benefits Guaranteed, as the provision allegedly violated the particular law, rule or regulation at issue shall be specified.

§31.3 Representation

DC-37 shall have the exclusive right to represent any employee or employees, upon their request, at any Step of the grievance procedure, provided, however, individual employees may represent themselves in processing grievances at Steps 1 through 2.

§31.4 Grievance Steps

Prior to initiating a formal written grievance pursuant to this Article, an employee or DC-37 is encouraged to resolve disputes subject to this Article informally with the appropriate immediate supervisor.

(a) Step One: The employee or DC-37 shall present the grievance to the division head or a designated representative not later than 30 calendar days after the date on which the act or omission giving rise to the grievance occurred. The division head or designated representative shall meet with the employee or DC-37, and shall issue a short plain written statement of reasons for the decision to the employee or DC-37, not later than 20 working days following the receipt of the grievance.

(b) Step Two: An appeal from an unsatisfactory decision at Step 1 shall be filed by the employee or DC-37, on forms to be provided by the State, with the agency head or the designee within ten (10) working days of the receipt of the Step 1 decision. Such appeal shall be in writing and shall include a copy of the grievance filed at Step 1, a copy of the Step 1 decision and a short plain written statement of the reasons for disagreement with the Step 1 decision. The agency head or a designee shall meet with the employee or DC-37 for a review of the grievance and shall issue a short, plain written statement of reasons for the decision to the employee or DC-37, as appropriate no later than 20 working days following receipt of the Step 1 appeal.

(c) Step Three: An appeal from an unsatisfactory decision at Step 2 shall be filed by DC-37 through its President or the President's designee, on forms to be provided by the State with the Director of the Governor's Office of Employee Relations, or the Director's designee, within 15 working days of the receipt of the Step 2 decision. Such appeal shall be in writing, and shall include a copy of the grievance filed at Step 1, and a copy of all prior decisions and appeals, and a short, plain written statement of the reasons for disagreement with the Step 2 decision. The Director of the Governor's Office of Employee Relations, or the Director's designee, shall issue a short, plain written statement of reasons for the decision within 15 working days after

receipt of the appeal. A copy of said written decision shall be forwarded to the President of DC-37, or the President's designee.

(d) Step Four Arbitration:

(1) Contract grievances which are appealable to arbitration pursuant to the terms of this Article may be appealed to arbitration by DC-37, by its President, or the President's designee by filing a demand for arbitration upon the Director of the Governor's Office of Employee Relations within 15 working days of the receipt of the Step 3 decision.

(2) The demand for arbitration shall identify the grievance, the department or agency involved, the employee or employees involved, and the specific term or provision of the Agreement alleged to have been violated.

(3) The panel of arbitrators agreed to by the State and DC-37 during the term of the 2007-2011 Agreement shall continue to serve for the term of this Agreement. After receipt of the demand for arbitration, the parties shall meet to select an arbitrator from this panel. The essential method of selection of the arbitrator for a particular case shall be by agreement and, if the parties are unable to agree, the arbitrator shall be assigned from this panel on a rotating basis. Initial assignment for rotation shall be determined by lot.

(4) Arbitrators shall have no power to add to, subtract from or modify the terms or provisions of this Agreement. They shall confine their decision and award solely to the application and/or interpretation of this Agreement. The decision and award of the arbitrator shall be final and binding consistent with the provisions of CPLR Article 75.

(5) Arbitrators shall confine themselves to the precise issue or issues submitted for arbitration and shall have no authority to determine any other issues not so submitted to them nor shall they make observations or declarations of opinion which are not essential in reaching the determination.

(6) In the event that the demand for arbitration filed by DC-37 specifies a different term or provision of the Agreement alleged to have been violated than specified at the submission of the grievance at Step 1, the grievance shall be remanded to Step 3 for processing in accordance with this Article.

(7) All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case.

(8) Any party requesting a transcript at an arbitration hearing may provide for one at its expense and, in such event, shall provide a copy to the arbitrator and the other party without cost.

(9)(a) The arbitration hearing shall be held within 60 working days after receipt of the demand for arbitration except, on a case-by-case basis, when the Director of the Governor's Office of Employee Relations or the Director's designee notifies the President of DC-37 or the President's designee that circumstances preclude such scheduling.

(b) The arbitration decision and award shall be issued within 30 calendar days after the hearing is closed by the arbitrator.

§31.5 Procedures Applicable to Grievance Steps

(a) Steps 1 and 2 shall be informal and the grievant and/or DC-37 shall meet with the appropriate step representative for the purpose of discussing the grievance, and attempting to reach a resolution.

(b) No transcript is required at any Step. However, either party may request that the review at Step 2 only be tape-recorded at its expense and shall provide a copy of such tape-recording to the other party.

(c) Step 3 is intended primarily to be a review of the existing grievance file; provided, however, that additional exhibits and evidence may be submitted in writing.

(d) Any meeting required by this Article may be mutually waived.

(e) All of the time limits contained in this Article may be extended by mutual agreement. Extensions shall be confirmed in writing by the party requesting them. Upon failure of the State, or its representatives, to provide a decision within the time limits provided in this Article, the grievant or DC-37 may appeal to the next step. Upon failure of the grievant, or grievant's representative, to file an appeal within the time limits provided in this Article, the grievance shall be deemed withdrawn.

(f) A settlement of or an award upon a contract grievance may or may not be retroactive as the equities of each case demand, but in no event shall such a resolution be retroactive to a date earlier than 30 days prior to the date the contract grievance was first presented in

accordance with this Article, or the date the contract grievance occurred, whichever is the later date.

(g) A settlement of a contract grievance in Steps 1 through 3 shall constitute precedent in other and future cases only if the Director of the Governor's Office of Employee Relations and the President of DC-37 agree, in writing, that such settlement shall have such effect.

(h) The State shall supply in writing, with each copy of each step response, the name and address of the person to whom any appeal must be sent, and a statement of the applicable time limits for filing such an appeal.

(i) All contract grievances, appeals, responses and demands for arbitration shall be submitted by certified mail, return receipt requested, or by personal service. All time limits set forth in this Article shall be measured from the date of certified mailing or of receipt by personal service. Where submission is by certified mail, the date of mailing shall be that date appearing on the postal receipt.

(j) Working days shall mean Monday through Friday, excluding holidays.

(k) The State and DC-37 shall prepare, secure introduction and recommend passage by the legislature of such legislation as may be appropriate and necessary to establish a special appropriation fund to be administered by the Department of Audit and Control to provide for prompt payments of settlements reached or arbitration awards issued pursuant to this Article.

(l) The purpose of this Article is to provide a prompt, equitable and efficient procedure to review grievances filed by an employee or DC-37. Both the State and DC-37 recognize the importance of the reasonable use of and resort to the procedure provided by this Article and the timely issuance of decisions to filed grievances among other aspects of the procedure provided by this Article. Representatives of the Governor's Office of Employee Relations and DC-37 shall meet at mutually agreed upon times to discuss and take the necessary steps to resolve matters of mutual concern in the implementation and administration of this procedure.

(m) A claimed failure to follow the procedural provisions of Article 33, Discipline Procedure, shall be reviewable in accordance with the provisions contained in that Article.

(n) The State shall initiate contract grievances against DC-37 directly at Step Four.

ARTICLE 32 Resignation

§32.1

Employees who are advised that they are alleged to have been guilty of misconduct or incompetency and who are therefore requested to resign shall be given a statement written on the resignation form that:

(1) They have a right to consult a representative of DC-37 or an attorney or the right to decline such representation before executing the resignation, and a reasonable period of time to obtain such representation, if requested, will be afforded for such purpose;

(2) They may decline the request to resign and that in lieu thereof, a notice of discipline must be served upon them before any disciplinary action or penalty may be imposed pursuant to the procedure provided in Article 33 of the Agreement between the State and DC-37;

(3) In the event a notice of discipline is served, they have the right to object to such notice by filing a grievance;

(4) The disciplinary grievance procedure terminates in binding arbitration;

(5) They would have the right to representation by DC-37 or an attorney at every step of the procedure; and,

(6) They have the right to refuse to sign the resignation and their refusal in this regard cannot be used against them in any subsequent proceeding.

§32.2

A resignation which is requested and secured in a manner which fails to comply with this procedure shall be null and void.

§32.3 Unauthorized Absence

(a) Any employee absent from work without authorization for 14 consecutive calendar days shall be deemed to have resigned from his or her position if he or she has not provided a satisfactory explanation

for such absence on or before the 15th calendar day following the commencement of such unauthorized absence.

(b) Prior to the conclusion of this 15-day period, the appointing authority shall notify the employee and the DC-37 Local President by certified mail, return receipt requested, that his or her absence is considered unauthorized and would be deemed to constitute resignation pursuant to Article 32.

(c) Within 15 calendar days commencing from the 15th consecutive day of absence from work without authorization, an employee may submit an explanation concerning his or her absence, to the appointing authority. The burden of proof shall be upon the employee to establish that it was not possible for him or her to report to work or notify the appointing authority, or the appointing authority's designee, of the reason for his or her absence. The appointing authority shall issue a short response within five (5) calendar days after receipt of such explanation. If the employee is not satisfied with the response, DC-37, upon the employee's request, may appeal the appointing authority's response to the Governor's Office of Employee Relations within five (5) calendar days after receipt of the appointing authority's response. The Director of the Governor's Office of Employee Relations, or the Director's designee, shall issue a written response within five (5) calendar days after receiving such appeal. Determinations made pursuant to this subsection shall not be arbitrable.

ARTICLE 33 Discipline

§33.1 Applicability

The disciplinary procedure set forth in this Article shall be in lieu of the procedure specified in Sections 75 and 76 of the Civil Service Law and shall apply to all persons currently subject to Sections 75 and 76 of the Civil Service Law. In addition, it shall apply to those non-competitive class employees described in Section 75(1)(c) of the Civil Service Law who, since last entry into State service, have completed at least two (2) years of continuous service in the non-competitive class, or who were appointed to a non-competitive class position as described in Section 75(1)(c) of the Civil Service Law on or after April 1, 1979

and have completed at least one year of continuous service in such position.

§33.2 Purpose

The purpose of this Article is to provide a prompt, equitable and efficient procedure for the imposition of discipline for just cause. Both parties to this Agreement recognize the importance of counseling and the principle of corrective discipline. Prior to initiating formal disciplinary action pursuant to this Article, the appointing authority, or the authority's designee, is encouraged to resolve matters informally; provided, however, such informal action shall not be construed to be a part of the disciplinary procedure contained in this Article and shall not restrict the right of the appointing authority, or the designee, to consult with or otherwise counsel employees regarding their conduct or to initiate disciplinary action.

§33.3 Employee Rights

(a) Employees may represent themselves or be accompanied for purposes of representation by DC-37 or an attorney, at meetings or hearings held pursuant to the disciplinary procedure set forth in Section 33.5, and when, as provided in subdivision (b) or (c) below, the employee is required to submit to an interrogation or requested to sign a statement. Unless the employee declines representation, a reasonable period of time shall be given to obtain a representative. If the employee requests representation and the employee or DC-37 fails to provide a representative within a reasonable period of time, the meetings or hearings under the disciplinary procedure may proceed, an interrogation as provided in subdivision (b) below may proceed, or, the employee may be requested to sign a statement as provided in subdivision (c) below. An arbitrator under this Article shall have the power to find that a delay in providing a representative may have been unreasonable. Where an employee elects to be represented by DC-37 exclusively, the DC-37 representative assigned by DC-37, if a State employee, shall not suffer any loss of earnings or be required to charge leave credits for absence from work as a result of accompanying an employee for purposes of representation as provided in this subdivision.

(b) An “interrogation” shall be defined to mean the questioning of an employee who, at the time of the questioning, has been determined to be a likely subject for disciplinary action. The routine questioning of an employee by a supervisor or other representative of management to obtain factual information about an occurrence, incident or situation or the requirement that an employee submit an oral or written report describing an occurrence, incident or situation, shall not be considered an interrogation. If during the course of such routine questioning or review of such oral or written report, the questioner or reviewer determines that the employee is a likely subject for disciplinary action, the employee shall be so advised. An employee shall be required to submit to an interrogation by a department or agency (1) if the information sought is for use against such employee in a disciplinary proceeding pursuant to this Article, or (2) after a notice of discipline has been served on such employee, only if the employee has been notified, in advance of the interrogation, of the rights to representation as provided in subdivision (a) above. If an employee is improperly subjected to interrogation in violation of the provisions of this subdivision (b), no information obtained solely through such interrogation shall be used against the employee in any disciplinary action. No recording device shall be used nor shall any stenographic record be taken during an interrogation unless the employee is advised in advance that a record is being made. A copy of any formal record shall be supplied to the employee upon request.

(c) No employee who has been served with a notice of discipline pursuant to Section 33.5, or who has been determined to be a likely subject for disciplinary action, shall be requested to sign any statement regarding a matter which is the subject of a disciplinary action under Section 33.5 of this Article unless offered the right to have a representative of DC-37 or an attorney present and, if he or she requests such representation, is afforded a reasonable period of time to obtain a representative. A copy of any statement signed by an employee shall be supplied to him or to her. Any statements signed by an employee without having been so supplied to him or her may not subsequently be used in a disciplinary proceeding.

(d) In all disciplinary proceedings under Section 33.5, the burden of proof that discipline is for just cause shall rest with the employer.

Such burden of proof, even in serious matters which might constitute a crime, shall be preponderance of the evidence on the record and shall in no case be proof beyond a reasonable doubt.

(e) An employee shall not be coerced, intimidated or caused to suffer any reprisals, either directly or indirectly, that may adversely affect wages or working conditions as the result of the exercise of the rights under this Article.

§33.4 Suspension or Temporary Reassignment Before Notice of Discipline

(a) Prior to the service of a notice of discipline or the completion of the disciplinary procedure set forth in Section 33.5, an employee may be suspended without pay or temporarily reassigned by the appointing authority, or the authority's designee, in his or her discretion, only pursuant to paragraphs (1) and (2) of this subdivision.

(1) The appointing authority or his or her designee may, in his or her discretion, suspend an employee without pay or temporarily reassign him or her when a determination is made that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would interfere with operations. A notice of discipline shall be served no later than five (5) calendar days following any such suspension or temporary reassignment.

(2) The appointing authority or his or her designee, in his or her discretion, may suspend without pay or temporarily reassign an employee charged with the commission of a crime. Such employee shall notify the appointing authority in writing that there has been a disposition of a criminal charge within seven (7) calendar days thereof. Within 30 calendar days following such suspension under this paragraph, or within five (5) calendar days from receipt by the appointing authority of notice of disposition of the charge from the employee, whichever occurs first, a notice of discipline shall be served on such employee or such employee shall be reinstated with back pay. Where the employee who is charged with the commission of a crime is temporarily reassigned, the notice of discipline shall be served on such employee within seven (7) days after the disposition of the criminal charges or the employee shall be returned to his or her regular

assignment. Nothing in this paragraph shall limit the right of the appointing authority or the authority's designee to take disciplinary action during the pendency of criminal proceedings. Nothing in this paragraph shall preclude the application of the provisions in Section 33.4(b).

(b) Temporary Reassignment

(1) Where the appointing authority has determined that an employee is to be temporarily reassigned pursuant to this Article, the employee shall be notified in writing of the location of such temporary reassignment and the fact that such reassignment may involve the performance of out-of-title work. The employee may elect in writing to refuse such temporary reassignment and be suspended without pay. Such election must be made in writing before the commencement of the temporary assignment. An election by the employee to be placed on a suspension without pay is final and may not thereafter be withdrawn. Once the employee commences the temporary assignment, no election is permitted.

(2) The fact that the State has temporarily reassigned an employee rather than suspending him or her without pay or the election by an employee to be suspended without pay rather than be temporarily reassigned shall not be considered by the disciplinary arbitrator for any purpose.

(3) Temporary reassignments under this Section shall not involve a change in the employee's rate of pay.

(c)(1) Suspensions without pay and temporary reassignments made pursuant to this Section shall be reviewable by a disciplinary arbitrator in accordance with provisions of Section 33.5 to determine whether the appointing authority had probable cause.

(2) Where an employee has been suspended without pay or temporarily reassigned he or she may, in writing, waive the agency level meeting at the time of filing a disciplinary grievance. In the event of such waiver, the employee shall file the grievance form within the prescribed time limits for filing an agency-level grievance directly with the Governor's Office of Employee Relations, Disciplinary Panel Administration, Corporate Plaza East, Suite 502, 240 Washington Avenue Extension, Albany, NY 12203, ATTN: Panel Administrator in

accordance with Section 33.5. The Disciplinary Panel Administrator shall give the case priority assignment and shall forthwith set the matter down for hearing to be held within 14 calendar days of the filing of the demand for arbitration. The time limits may not be extended.

(3) In the instance where an employee is suspended without pay or temporarily reassigned, and the hearing will extend beyond one day, the parties may jointly authorize the arbitrator to issue an interim decision and award solely with respect to the issue of whether there was probable cause for the suspension or temporary reassignment.

(4) Within five (5) calendar days of any suspension without pay or temporary reassignment pursuant to this section, the designee of the President of DC-37 shall be sent a notice advising him or her, in writing, of such suspension without pay or temporary reassignment. Such notice shall be sent by certified mail, return receipt requested.

(d) In the event of a failure to serve a notice of discipline within the time limits established in Section 33.4(a), the employee shall be deemed to have been suspended without pay as of the date of service of the notice of discipline or, in the event of a temporary reassignment, may return to his or her actual assignment until such notice is served. In the event of failure to notify the designee of the President of DC-37 of the suspension within the time period established in Section 33.4(c)(4), the employee shall be deemed to have been suspended without pay as of the date the notice is sent to the designee of the President of DC-37.

(e) During a period of suspension without pay pursuant to the provisions of Sections 33.4(a)(1) or 33.4(a)(2), the State shall continue to pay its share of the cost of the employee's health coverage under Article 9 which was in effect on the day prior to the suspension provided that the suspended employee pays his or her share. In addition, any employee suspended pursuant to the provisions of Sections 33.4(a)(1) or 33.4(a)(2) shall be counted for the purpose of calculating the amount of any periodic deposit to the employee benefit fund.

§33.5 Disciplinary Procedure

(a) Where the appointing authority or the authority's designee seeks to impose discipline, notice of such discipline shall be made in writing and served upon the employee. Discipline shall be imposed only for just cause. Disciplinary penalties may include a written reprimand, a fine not to exceed two weeks' pay, suspension without pay, demotion, restitution, dismissal from service, loss of leave credits or other privileges, or such other penalties as may be appropriate. The specific acts for which discipline is being imposed and the penalty or penalties proposed shall be specified in the notice. The notice shall contain a description of the alleged acts and conduct, including reference to dates, times and places. Two copies of the notice shall be served on the employee. Service of the notice of discipline shall be made by personal service or by certified mail, return receipt requested.

(b) In those cases where such acts are alleged to constitute a crime, a notice of discipline must be served no later than the period set forth for the commencement of a criminal proceeding against a public employee in the Criminal Procedure Law of the State of New York.

(c) The designee of the President of DC-37 shall be advised by certified mail, return receipt requested, of the name and work location of an employee against whom a notice of discipline has been served.

(d) The notice of discipline served on the employee shall be accompanied by a copy of this Article and a written statement¹ that:

(1) the employee has a right to object by filing a disciplinary grievance within 14 calendar days;

(2) he/she has the right to have the disciplinary action reviewed by an independent arbitrator;

(3) the employee is entitled to be accompanied for the purposes of representation by DC-37 or an attorney at every step of the disciplinary proceeding; and

(4) If a disciplinary grievance is filed, no penalty can be implemented unless the employee fails to follow the procedural requirements, or until the matter is settled, or until the arbitration procedure specified in subdivision (g) below, is completed.

¹ In the case of an employee who speaks only Spanish, the written statements required shall also be given in a Spanish translation.

(e) The penalty proposed by the appointing authority may not be implemented until (1) the employee fails to file a disciplinary grievance within 14 calendar days of the service of the notice of discipline, or (2) having filed a grievance, the employee fails to file a timely appeal as provided in subdivision (g) below or (3) the penalty is upheld or a different penalty is determined by the arbitrator to be appropriate, or (4) the matter is settled.

(f) If not settled or otherwise resolved, the notice of discipline may be the subject of a grievance before the agency head, or a designee, and shall be filed either in person or by certified mail, return receipt requested, by the employee or by the representative with the employee's written consent, within 14 calendar days of service of the notice of discipline. The employee shall be entitled to a meeting with the agency head, or a designee. The meeting shall include an informal presentation by the agency head, or a designee, and by the employee, or a union representative, of relevant information concerning the acts or omissions specified in the notice of discipline, a general review of the evidence and defenses that will be presented if the matter proceeds to the next level, and a discussion of the appropriateness of the proposed penalty. The meeting need not involve the identification or presentation of prospective witnesses, the identification or specific description of documents, or other formal disclosure of evidence by either party. The meeting provided for herein may be waived, in writing, on the grievance form, only in accordance with Section 33.4(c)(2). A written response shall be rendered in person, or by certified mail, return receipt requested, no later than seven (7) calendar days after such meeting. If possible, the department or agency head, or a designee, should render the written response at the close of such meeting. When the agency head, or a designee, fails to issue a written response within seven (7) calendar days from such meeting, the grievant has the right to proceed directly to the next appropriate level by filing an appeal in accordance with subdivision (g).

(g) Disciplinary Arbitration

(1) If a disciplinary grievance is not settled or otherwise resolved, it may be appealed to independent arbitration. Such appeal must be filed with the Governor's Office of Employee Relations, Disciplinary Panel Administration, Corporate Plaza East, Suite 502, 240 Washington

Avenue Extension, Albany, NY 12203, ATTN: Panel Administrator by certified mail, return receipt requested, on a disciplinary grievance form, with a copy to the appointing authority, within 14 calendar days of service of the department or agency response. If there is no department or agency response received within ten (10) calendar days after the agency meeting, the appeal to arbitration must be filed within 24 calendar days of such meeting.

(2) The disciplinary arbitrator shall hold a hearing within 14 calendar days after his/her selection. A decision shall be rendered within seven (7) calendar days of the close of the hearing or within seven (7) calendar days after receipt of the transcript, if either party elects a transcript as provided in paragraph eight (8), or within such other period of time as may have been mutually agreed to by the agency and the grievant or his or her representative.

(3) Disciplinary arbitrators shall render determinations of guilt or innocence and the appropriateness of proposed penalties, and shall have the authority to resolve a claimed failure to follow the procedural provisions of this Article. Disciplinary arbitrators shall neither add to, subtract from nor modify the provisions of this Agreement.

(4) The disciplinary arbitrator's decision with respect to guilt or innocence, penalty, probable cause for suspension, or temporary reassignment, if any, and a claimed failure to follow the procedural provisions of this Article, shall be final and binding on the parties. If the arbitrator, upon review, finds probable cause for suspension without pay, he or she may consider such suspension in determining the penalty to be imposed. Upon a finding of guilt the disciplinary arbitrator has full authority, if he or she finds the penalty or penalties proposed by the State to be inappropriate, to devise an appropriate penalty including, but not limited to, ordering reinstatement and back pay for all or part of any period of suspension.

(5) Where an employee is suspended without pay or temporarily reassigned pursuant to Section 33.4, and it appears that the hearing will extend beyond one day, the parties may jointly authorize the arbitrator to issue an interim decision and award solely with respect to the issue of whether there was probable cause for the suspension without pay or the temporary reassignment.

(6) The panel of arbitrators agreed to by the State of New York and DC-37 during the term of the 2007-2011 Agreement shall continue to serve for the term of this Agreement. The composition of the panel of arbitrators may be changed by the mutual agreement of the State and DC-37.

(7) All fees and expenses of the arbitrator, if any, shall be divided equally between the appointing authority and DC-37 or the employee if not represented by DC-37. Each party shall bear the costs of preparing and presenting its own case. The estimated arbitrator's fees and estimated expenses may be collected in advance of the hearing. When such request for payment is made and not satisfied as required, the grievance shall be deemed withdrawn.

(8) Either party wishing a transcript at a disciplinary arbitration hearing may provide for one at its own expense and shall provide a copy to the arbitrator and the other party without cost.

(h) The agency head or a designee has full authority, at any time before or after the notice of discipline is served by an appointing authority or a designee, to review such notice and the proposed penalty and to take such action as he or she deems appropriate under the circumstances in accordance with this Article including, but not limited to, determining whether a notice should be issued, amendment of the notice no later than the issuance of the agency response, withdrawal of the notice or a reduction of the proposed penalty.

(i) An employee shall not be disciplined for acts, except those which would constitute a crime, which occurred more than one year prior to the notice of discipline. The employee's entire record of employment, however, may be considered with respect to the appropriateness of the penalty to be imposed, if any.

(j) The disciplinary arbitrator is not restricted by the contractual limits on penalties which may be proposed by the State. He or she has full authority, if the remedy proposed by the State is found to be inappropriate, to devise an appropriate remedy, but shall not increase the penalty sought by the State except that the arbitrator may direct referral to a rehabilitative program in addition to the penalty.

§33.6 Settlements

A disciplinary matter may be settled at any time following the service of the notice of discipline. The terms of the settlement shall be agreed to in writing. Before executing such settlement, an employee shall be advised of the right to have a DC-37 representative or an attorney present and, if such representation is requested, shall be afforded a reasonable period of time to obtain representation. A settlement entered into by an employee, the DC-37 representative or an attorney, on behalf of the employee, shall be final and binding on all parties. Within five (5) calendar days of any settlement, the Staff Director shall be sent a notice advising him or her, in writing, of the settlement. Such notice shall be sent by certified mail, return receipt requested.

§33.7 Definitions

(a) As used in this section, "days" shall mean calendar days unless otherwise specified.

(b) "Service" shall be complete upon personal delivery or, if it is made by certified mail, return receipt requested, it shall be complete upon the date the employee or any other person accepting delivery has signed the return receipt or when the letter is returned to the appointing authority undelivered.

(c) "Filing" shall be complete upon actual receipt.

§33.8 Timeliness

In the event of a question of timeliness of any disciplinary grievance or appeal to arbitration, the date of mailing appearing on the postal receipt shall be determinative.

§33.9 Time Limits

Except as provided in Section 33.4(c)(2), time limits contained in this Article may be waived by mutual agreement of the parties. Any such agreement must be in writing.

Changes in shift, pass day, job assignment, or transfer or reassignment to another facility, work location or job station may not be made for the sole purpose of imposing discipline unless imposed

pursuant to the provisions of Section 33.5, provided, however, that temporary reassignments may be made pursuant to Section 33.4.

§33.10 Time and Attendance Disciplinary Procedures

(a) All notices of discipline based solely on time and attendance, including tardiness, which have not been settled or otherwise resolved, shall be reviewed by a permanent umpire in accordance with the attached schedule except as otherwise provided in paragraph (g) below.

(b) The determinations of the permanent umpire shall be confined to the guilt or innocence of the grievant and the appropriateness of the proposed penalty. The employee's entire record of employment may be considered by the permanent umpire with respect to the appropriateness of the penalty to be imposed. The permanent umpire shall have the authority to resolve a claimed failure to follow the procedural provisions of this Article.

(c) The decision and award of the permanent umpire with respect to guilt or innocence and penalty, if any, shall be final and binding on the parties and not subject to appeal to any other forum except that, in the case of a decision and award of the permanent umpire which results in a penalty of dismissal from service, the decision and award may be reviewed in accordance with Article 75 of the CPLR. The permanent umpire shall, upon a finding of guilt, have full authority to uphold the penalty proposed in the notice of discipline or to impose a lesser penalty within the minimum and maximum penalties as contained in the attached schedule and appropriate to that notice of discipline. In appropriate cases and in addition to the penalty imposed, the permanent umpire may direct the grievant to attend counseling sessions or other appropriate programs jointly agreed upon by the State and DC-37.

(d) Within one (1) month of the execution of this Agreement, the State and DC-37 shall mutually select a panel of two or more permanent umpires, who shall serve for the term of this Agreement, and shall be jointly administered by the State and DC-37.

(e) Unless the State and DC-37 mutually agree otherwise, a permanent umpire shall be available to hold reviews at least once each month on a regularly scheduled basis. At such times, the permanent umpire shall review and finally determine all time and attendance

disciplinary grievances which have been pending no less than ten (10) days prior to the permanent umpire's scheduled appearance, and are unresolved in accordance with paragraph (a) above.

(f) An employee is entitled to appear at the review before a permanent umpire and is entitled to have a DC-37 representative or an attorney present provided at his or her own expense. Matters scheduled to be heard by the permanent umpire may not be adjourned except at the discretion of the permanent umpire for good cause shown. Any matters which are adjourned shall be rescheduled for the next regularly scheduled appearance of the permanent umpire.

(g) Where an employee is to be served a notice of discipline related solely to time and attendance and, within three (3) years of such notice, has been found guilty of or settled (or a combination of both) two prior notices of discipline not solely related to time and attendance, the appointing authority may elect either to pursue such time and attendance notice before the permanent umpire in accordance with the attached schedule or to serve a notice of discipline and proceed before a disciplinary arbitrator. This paragraph shall not apply to notices of discipline based solely on tardiness.

For the purposes of the Time and Attendance Schedule only, "prior record" shall mean any notice of discipline based solely on time and attendance where either guilt was found or a settlement occurred or a combination of both occurred. However, for all notices of discipline based solely upon time and attendance issued on or after the date of execution of this Agreement, the "prior record" shall not include any notices of discipline based solely upon time and attendance that are three or more years old if the employee has not been served a notice of discipline based solely upon time and attendance within the three years from the date of the resolution of the last notice of discipline based solely upon time and attendance.

Notices of discipline based solely on tardiness shall proceed on the tardiness schedule only and shall not be considered as a prior record for any other offense.

The penalty level for notices of discipline which contain charges of both tardiness and unauthorized absence shall be the appropriate level within the type of unauthorized absence charge.

(h) As used in this Article, "time and attendance disciplinary grievances" shall mean those disciplinary grievances based upon notices of discipline which specify tardiness, or unauthorized absence, including improper use of sick leave, and do not contain any other allegations of misconduct or incompetence.

(i) All fees and expenses (if any) of the umpire(s) shall be divided equally between the appointing authority and DC-37 or the employee if not represented by DC-37.

See Time and Attendance Schedule on following page.

TIME AND ATTENDANCE SCHEDULE

<u>Type of Offense</u>	<u>Prior Record</u>	<u>Minimum Penalty</u>	<u>Maximum Penalty</u>
Tardiness	1 st , 2 nd , or 3 rd Notice of Discipline	Written reprimand	\$300 fine
	4 th or more Notice of Discipline	Penalty contained in Article 33.5(a)	Penalty contained in Article 33.5(a)
Unauthorized absence including improper use of sick leave of 3 consecutive workdays or less	1 st & 2 nd Notice of Discipline	Written reprimand	\$150 fine
	3 rd Notice of Discipline	\$150 fine	Suspension without pay of 4 weeks or equivalent
	4 th or more Notice of Discipline	\$250 fine	Dismissal
Unauthorized absence including improper use of sick leave of more than 3 but less than 8 consecutive workdays	1 st Notice of Discipline	\$200 fine	Suspension without pay of 3 weeks or equivalent
	2 nd Notice of Discipline	\$250 fine	Suspension without pay of 8 weeks or equivalent
	3 rd or more Notice of Discipline	\$300 fine	Dismissal
Unauthorized absence including improper use of sick leave of 8 consecutive workdays or more	1 st Notice of Discipline	\$300 fine	Dismissal
	2 nd Notice of Discipline or more	Suspension with- out pay of 8 weeks or equivalent	Dismissal

ARTICLE 34 Reimbursement for Property Damage

The State agrees to provide for the uniform administration of the procedure for reimbursement to employees for personal property damage or destruction as provided for by subdivisions 12 and 12-c of Section 8 of the State Finance Law and to provide for payments of up to \$50,000 out of local funds at the institution level as provided therein. Allowances shall be based upon the reasonable value of the property involved and payment shall be made against a satisfactory release.

ARTICLE 35 Accidental Death Benefit

§35.1

In the event an employee dies subsequent to the effective date of this agreement as the result of an accidental on-the-job injury and a death benefit is paid pursuant to the Workers' Compensation Law, the State shall pay a death benefit in the amount of \$50,000 to the employee's surviving spouse and children to whom the Workers' Compensation Accidental Death Benefit is paid and in the same proportion as the Workers' Compensation Accidental Death Benefit is paid. However, in the event that the Workers' Compensation Accidental Death Benefit is paid to the deceased employee's estate, the State shall pay this death benefit to the employee's estate.

§35.2

Children of an employee who received an Accidental Death Benefit paid by the State under the terms of Section 35.1 above, and who thereafter enroll in and attend any college or other unit of the State University of New York, shall receive from the State a payment equal to the amount of the tuition cost for each semester they are enrolled and in attendance at such college or other unit. In addition, children of an employee who received an Accidental Death Benefit paid by the State under the terms of Section 35.1 above who meet the institution's entrance requirements and enroll in an accredited private college or university within New York State, shall receive a payment from the State, equal to the corresponding semester's tuition at the

State University of New York as determined by the State, for each semester they are enrolled and are in attendance at such private college or university.

ARTICLE 36 Employee Assistance Program/Work-Life Services

In recognition of the mutual advantage to the employees and the employer inherent in an employee assistance program the State shall prepare, secure introduction and recommend passage by the Legislature of such legislation as may be appropriate and necessary to obtain an appropriation in the amount indicated in each year of the 2011-2016 Agreement: \$3,354 in 2011-2012, \$3,354 in 2012-2013, \$3,354 in 2013-2014, \$3,421 in 2014-2015 and \$3,489 in 2015-2016 to continue the Employee Assistance Program effort. A joint labor/management advisory body, which recognizes the need for combined representation of all employee negotiating units and the State, will monitor and evaluate the Employee Assistance Program and other Work-Life services.

ARTICLE 37 Family Benefits/Work-Life Services

§37.1

The name of the New York State Labor/Management Child Care Advisory Committee (NYSLMCCAC) shall be changed to the Family Benefits/Work-Life Services Committee in recognition of its expanded role. The new Committee will continue to serve as a multi-union joint labor/management advisory body to monitor and evaluate the family benefits programs and other work-life services.

§37.2

Effective January 1, 2015, the State shall provide a contribution per Dependent Care Advantage Account (DCAA) as follows:

Employee Gross Annual Salary	Employer Contribution
Under \$30,000	\$700
\$30,001 - \$40,000	\$600
\$40,001 - \$50,000	\$500
\$50,001 - \$60,000	\$400
\$60,001 - \$70,000	\$300
Over \$70,000	\$200

In subsequent years, the employer contribution may be increased or reduced so as to fully expend available funds for this purpose, while maintaining salary sensitive differentials. In the event available funds are not fully expended for this purpose, the residual funds shall be made available to benefit DC-37 members as mutually determined by the Director of GOER and the President of DC-37 or their designees. In no event shall the aggregate employer contribution exceed the amounts provided for this purpose.

§37.3

In the interest of providing greater availability of dependent care and other services to DC-37 represented employees and maximizing resources available, the Family Benefits Program may support additional initiatives as recommended by the Advisory Board.

§37.4

The State and DC-37 remain committed to ensuring that all network childcare available to State employees is provided in safe, high quality centers. Therefore, the State and DC-37 agree to:

- (a) Continue financial support for health and safety grants for childcare network centers.
- (b) Provide technical support and training for child and elder care initiatives; and
- (c) Encourage the continuation of existing host agency support for childcare centers.

§37.5

Employees choosing not to use the Flexible Benefit Spending Program who use work site child care centers designated by the

Governor's Office of Employee Relations may elect to pay their child care fees to the child care centers through a payroll deduction program pursuant to law.

§37.6

The State shall prepare, secure introduction and recommend passage of legislation for appropriations in the amount indicated in each year of the 2011-2016 Agreement: \$10,061 in 2011-2012, \$10,061 in 2012-2013, \$10,061 in 2013-2014, \$10,262 in 2014-2015 and \$10,467 in 2015-2016 to fund the activities of the Family Benefits/Work-Life Services Program.

ARTICLE 38 Job Classifications

The State, through the Office of the Director of Classification and Compensation, will provide to DC-37 copies of any new or revised tentative classification specifications and standards for titles in the Rent Regulation Services Unit for review and comment. DC-37 will provide its comments, if any, to the Director of Classification and Compensation within 45 calendar days after its receipt of such material. The specifications and standards will not be issued in final form during the 45 calendar days in order to permit consideration of any comments submitted by DC-37.

ARTICLE 39 Benefits Guaranteed

With respect to matters not covered by this Agreement, the State will not seek to diminish or impair during the term of this Agreement any benefit or privilege provided by law, rule or regulation for employees without prior notice to DC-37; and, when appropriate, without negotiations with DC-37; provided, however, that this Agreement shall be construed consistently with the free exercise of rights reserved to the State by the Management Rights Article of this Agreement.

ARTICLE 40 Severability

In the event that any article, section or portion of this Agreement is found to be invalid by a decision of a tribunal of competent jurisdiction or shall have the effect of loss to the State of funds made available through Federal law, then such specific article, section or portion specified in such decision or having such effect shall be of no force and effect, but the remainder of this Agreement shall continue in full force and effect. Upon the issuance of such a decision or the issuance of a ruling having such effect of loss of Federal funds, then either party shall have the right immediately to reopen negotiations with respect to a substitute for such Article, Section or portion of this Agreement involved. The parties agree to use their best efforts to contest any such loss of Federal funds which may be threatened. In the event that the Legislature fails to implement Sections 7.1 through 7.8, any or all Articles may be reopened at the option of DC-37 or the State, and renegotiated. In the event that any other Article, Section or portion of this Agreement fails to be implemented by the Legislature, then in that event, such article, section or portion may be reopened by DC-37 or the State and renegotiated. During the course of any reopened negotiations any provision of this Agreement not affected by such reopener shall remain in full force and effect.

ARTICLE 41 Printing of Agreement

The cost of printing this Agreement shall be shared equally by the State and DC-37.

ARTICLE 42 Approval of the Legislature

It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefore, shall not become effective until the appropriate legislative body has given approval.

ARTICLE 43 Duration of Agreement

The term of this Agreement shall be from April 2, 2011 through April 1, 2016.

**THE EXECUTIVE BRANCH OF
THE STATE OF NEW YORK**

**DISTRICT COUNCIL 37
AFSCME, AFL-CIO**

Joseph M. Bress
Chief Negotiator
State of New York

Henry Garrido
Executive Director
District Council 37
AFSCME, AFL-CIO

Appendix A DC-37 SALARY SCHEDULE – April 2, 2011

DC-37 Salary Schedule-April 2, 2011

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	JR INCR	JR INCR
1	22041	22785	23529	24273	25017	25761	26505	27249	744	744
2	22883	23663	24443	25223	26003	26783	27563	28343	780	780
3	24025	24840	25655	26470	27285	28100	28915	29730	815	815
4	25074	25937	26800	27663	28526	29389	30252	31115	863	863
5	26274	27178	28086	28986	29890	30794	31698	32602	904	904
6	27744	28683	29622	30561	31500	32439	33378	34317	939	939
7	29278	30263	31248	32233	33218	34203	35188	36173	985	985
8	30928	31951	32974	33997	35020	36043	37066	38089	1023	1023
9	32653	33722	34791	35860	36929	37998	39067	40136	1069	1069
10	34521	35642	36763	37884	39005	40126	41247	42368	1121	1121
11	36523	37700	38877	40054	41231	42408	43585	44762	1177	1177
12	38612	39830	41048	42266	43484	44702	45920	47138	1218	1218
13	40903	42177	43451	44725	45999	47273	48547	49821	1274	1274
14	43270	44596	45922	47248	48574	49900	51226	52552	1326	1326
15	45781	47163	48545	49927	51309	52691	54073	55455	1382	1382
16	48346	49792	51238	52684	54130	55576	57022	58468	1446	1446
17	51067	52595	54123	55651	57179	58707	60235	61763	1528	1528
18	51268	53027	54786	56545	58304	60063	61822	63580	1594	1594
19	54047	55879	57711	59543	61375	63207	65039	66871	1670	1670
20	56813	58727	60641	62555	64469	66383	68297	70211	1746	1746
21	59825	61819	63813	65807	67801	69795	71789	73783	1822	1822
22	63041	65119	67197	69275	71353	73431	75509	77587	1914	1914
23	66376	68538	70700	72862	75024	77186	79348	81510	1994	1994
24	69911	72159	74407	76655	78903	81151	83399	85647	2078	2078
25	73768	76111	78454	80797	83140	85483	87826	90169	2162	2162
26	77654	80091	82528	84965	87402	89839	92276	94713	2246	2246
27	81858	84425	86992	89559	92126	94693	97260	99827	2330	2330
28	86167	88834	91501	94168	96835	99502	102169	104836	2414	2414
29	90685	93452	96219	98986	101753	104520	107287	110054	2498	2498
30	95423	98293	101163	104033	106903	109773	112643	115513	2582	2582
31	100510	103447	106468	109447	112426	115405	118384	121363	2666	2666
32	105854	108931	112008	115085	118162	121239	124316	127393	2750	2750

Appendix B DC-37 SALARY SCHEDULE – April 2, 2014

DC-37 Salary Schedule-April 2, 2014

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR	JR INCR
1	22482	23240	23998	24756	25514	26272	27030	27795	758	765
2	23341	24137	24933	25729	26525	27321	28117	28913	796	796
3	24506	25338	26170	27002	27834	28666	29498	30323	832	825
4	25575	26456	27337	28218	29099	29980	30861	31735	881	874
5	26799	27721	28643	29565	30487	31409	32331	33253	922	922
6	28299	29257	30215	31173	32131	33089	34047	35005	958	958
7	29864	30868	31872	32876	33880	34884	35888	36899	1004	1011
8	31547	32591	33635	34679	35723	36767	37811	38848	1044	1037
9	33306	34397	35488	36579	37670	38761	39852	40936	1091	1084
10	35211	36355	37499	38643	39787	40931	42075	43212	1144	1137
11	37253	38454	39655	40856	42057	43258	44459	45660	1201	1201
12	39384	40626	41868	43110	44352	45594	46836	48078	1242	1242
13	41721	43020	44319	45618	46917	48216	49515	50814	1299	1299
14	44135	45488	46841	48194	49547	50900	52253	53606	1353	1353
15	46697	48107	49517	50927	52337	53747	55157	56567	1410	1410
16	49313	50788	52263	53738	55213	56688	58163	59638	1475	1475
17	52088	53646	55204	56762	58320	59878	61436	63001	1558	1558
18	52293	54087	55881	57675	59469	61263	63057	64849	1794	3437
19	55128	56997	58866	60735	62604	64473	66342	70013	1869	3671
20	57949	59901	61853	63805	65757	67709	69661	73519	1952	3858
21	61022	63056	65090	67124	69158	71192	73226	77376	2034	4150
22	64302	66421	68540	70659	72778	74897	77016	81415	2119	4399
23	67704	69909	72114	74319	76524	78729	80934	85635	2205	4701
24	71309	73602	75895	78188	80481	82774	85067	90020	2293	4953
25	75243	77633	80023	82413	84803	87193	89583	94334	2390	5251
26	79207	81692	84177	86662	89147	91632	94117	97627	2485	3510
27	83495	86113	88731	91349	93967	96585	99203	102844	2618	3641
28	87890	90610	93330	96050	98770	101490	104210	107953	2720	3743
29	92499	95322	98145	100968	103791	106614	109437	113275	2823	3838
30	97331	100259	103187	106115	109043	111971	114899	118843	2928	3944
31	102520	105558	108596	111634	114672	117710	120748	124810	3038	4062
32	107971	111110	114249	117388	120527	123666	126805	130961	3139	4156

APPENDIX C DC-37 SALARY SCHEDULE – April 2, 2015

DC-37 Salary Schedule-April 2, 2015

SG	HR	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	JR	INCR	JR INCR
1	22932	23706	24480	25254	26028	26802	27576	28350	774	774
2	23808	24619	25430	26241	27052	27863	28674	29492	811	818
3	24996	25844	26692	27540	28388	29236	30084	30932	848	848
4	26087	26985	27883	28781	29679	30577	31475	32373	888	898
5	27335	28275	29215	30155	31095	32035	32975	33915	940	940
6	28865	29842	30819	31796	32773	33750	34727	35704	977	977
7	30461	31486	32511	33536	34561	35586	36611	37636	1025	1025
8	32178	33243	34308	35373	36438	37503	38568	39633	1065	1058
9	33972	35084	36196	37308	38420	39532	40644	41756	1112	1112
10	35915	37081	38247	39413	40579	41745	42911	44077	1166	1166
11	37998	39223	40448	41673	42898	44123	45348	46573	1225	1225
12	40172	41439	42706	43973	45240	46507	47774	49041	1267	1267
13	42555	43880	45205	46530	47855	49180	50505	51830	1325	1325
14	45018	46398	47778	49158	50538	51918	53298	54678	1380	1380
15	47631	49069	50507	51945	53383	54821	56259	57697	1438	1438
16	50299	51803	53307	54811	56315	57819	59323	60834	1504	1511
17	53130	54719	56308	57897	59486	61075	62664	64260	1589	1596
18	53339	55169	56999	58829	60659	62489	64319	67827	1830	3508
19	56231	58137	60043	61949	63855	65761	67667	71412	1906	3745
20	59108	61099	63090	65081	67072	69063	71054	74986	1991	3932
21	62242	64316	66390	68464	70538	72612	74686	78922	2074	4236
22	65588	67750	69912	72074	74236	76398	78560	83044	2162	4484
23	69058	71307	73556	75805	78054	80303	82552	87351	2249	4799
24	72735	75074	77413	79752	82091	84430	86769	91821	2339	5052
25	76748	79186	81624	84062	86500	88938	91376	96732	2438	5356
26	80791	83326	85861	88396	90931	93466	96001	99580	2535	3579
27	85165	87835	90505	93175	95845	98515	101185	104901	2670	3716
28	89648	92422	95196	97970	100744	103518	106292	110112	2774	3820
29	94349	97228	100107	102986	105865	108744	111623	115541	2879	3918
30	99278	102264	105250	108236	111222	114208	117194	121220	2986	4026
31	104570	107669	110768	113867	116966	120065	123164	127306	3099	4142
32	110130	113332	116534	119736	122938	126140	129342	133560	3202	4238

APPENDIX D ARTICLE 21 Protection of Employees

A. REDEPLOYMENT PROCESS AND PROCEDURES

This process and procedure is developed to support the provisions of Article 21 regarding the redeployment of permanent employees impacted by the State's right to contract out for goods and services.

It is the State's intent to redeploy employees affected to the maximum extent possible in instances where the positions will be eliminated as a result of the contracting out for goods and services. All agencies will work cooperatively to ensure that every opportunity to redeploy is explored. Employees will be flexible in considering redeployment alternatives.

(1) General Redeployment Rules and Definitions

(a) Rules 1.a. All employees whose functions will be contracted out will be placed on a redeployment list with the employees' eligibility remaining in effect until the employee is redeployed, exercises his or her displacement or reemployment rights, or is separated pursuant to the provisions of Article 21.1. However, such list, established pursuant to the intended contracting out of the specific function, will expire when all employees on that list are either redeployed, exercise their displacement or reemployment rights, or are separated pursuant to Article 21.1. In the event that not all employees in an affected title in a layoff unit must be redeployed, eligibility for retention shall be based on seniority as defined in Section 80 and 80(a) of the Civil Service Law, except that employees in such affected titles may voluntarily elect to be redeployed. In the event that more employees elect redeployment than can be accommodated, eligibility for redeployment shall be in order of seniority as defined in Section 80 and 80(a) of this law. The names of persons on a redeployment list shall be certified for redeployment in order of seniority.

(b) Should an employee not be redeployed prior to separation, that employee shall continue on a redeployment list after separation for a period not to exceed six (6) months or until the employee is redeployed or exercises his/her reemployment rights.

A redeployment list comprised of separated employees shall be certified to positions occupied by non-permanent employees pursuant

to Civil Service procedures, prior to the certification of other reemployment lists.

It is anticipated that, based on Civil Service practice, redeployment lists will be certified against non-permanent appointees within 30-45 days of separation.

(2) Redeployment under the terms of Article 21 shall not be used for disciplinary reasons.

(3) The State shall make its best efforts to arrange with other non-executive branch agencies, authorities and other governmental entities to place redeployed personnel should redeployment in the classified service not be possible.

(4) A vacancy in any State department or agency shall not be filled by any other means, except by redeployment, until authorized by the Department of Civil Service. Agencies with authority to fill vacancies will be required to use the redeployment list provided by the Department of Civil Service to fill vacancies.

(5) Employees offered redeployment shall have at least five (5) working days to accept or decline the offer.

(6) Full-time employees will be redeployed to full-time assignments and part-time employees will be redeployed to part-time assignments, unless the employees volunteer otherwise.

(7) Redeployment opportunities within RRSU shall first be offered to affected employees in the unit. Exceptions to this section may be agreed to by the Employment Security Committee.

(8) There shall be the following types of redeployment:

(a) Primary redeployment shall mean redeployment to the employee's current title or a title determined by the Department of Civil Service to have substantially equivalent tests, qualifications or duties. Comparability determinations shall be as broad as possible and will include consideration of the professional licenses or educational degrees required of the incumbents of the positions to be contracted out.

(b) Secondary redeployment shall mean redeployment to a title for which the employee qualifies by virtue of his or her own background and qualifications. Participation shall not be mandatory for either party. If an individual employee is interested in secondary redeployment, the State shall work with that employee to identify

suitable available positions and arrange for placements. Should the Department of Civil Service determine that an employee can be certified for appointment to a particular job title, such employee shall be placed on the appropriate reemployment roster immediately upon such determination. Appointments from such reemployment rosters shall be governed by Civil Service Law. The State shall make its best efforts to identify suitable available positions and arrange for placements. Secondary redeployment shall not be considered until primary redeployment alternatives are fully explored.

(c) Employees not successfully redeployed through their primary and secondary redeployment options may be temporarily appointed to positions in which they are expected to be qualified for permanent appointment within nine (9) months. At the discretion of the appointing authority and the Department of Civil Service, this period may extend to one year. Participation shall not be mandatory for either party.

When the employee completes the necessary qualification(s) for the position, such employee shall be permanently appointed to the position pursuant to Civil Service Law, Rules and Regulations.

If the employee fails to complete the required qualification(s) for the position, fails the required probation, or is otherwise not appointable, the employee's transition benefits shall be subject to the provisions of subsection 14(d) below.

In the event an employee completes the qualification(s) but is unappointable because of the existence of a reemployment list, that employee shall be placed on the reemployment roster for the title in question.

If the trainee employee is appointed pursuant to the foregoing to a higher level position, the employee shall retain his/her present salary while in a trainee capacity.

If the trainee employee is appointed pursuant to the foregoing to a lower level position, a trainee salary rate appropriate to the new position will be determined at the time of appointment.

(d) Employees who are redeployed to comparable titles or through secondary redeployment in a lower salary grade shall be placed on reemployment lists.

(9) Agencies with employees to be redeployed shall notify the Department of Civil Service of the name, title and date of appointment of affected employees at least 90 days prior to the effective date of the contract for goods and services which makes redeployment necessary. If more than 90-days' notice is possible, such notice shall be provided. Agencies shall be responsible for managing the redeployment effort in conjunction with the Department of Civil Service. Employees to be redeployed shall be notified by their agency at the same time as the agency notifies the Department of Civil Service.

(10) Redeployment to current or comparable titles shall be accomplished without loss to the redeployed employee of compensation, seniority or benefits (except as benefits other than base salary are affected by new bargaining unit designations). Future increases in compensation of employees redeployed to comparable titles shall be determined by the position to which the employee is redeployed. Subsequently negotiated salary increases shall not permit an employee to exceed the second longevity step of the new position.

(11) Salary upon secondary redeployment shall be that appropriate for the salary grade to which the employee is redeployed, as calculated by the Office of the State Comptroller and/or the Director of Classification and Compensation, as appropriate.

(12) An employee may elect redeployment to any county in New York State, but the employee may not decline primary redeployment in his/her county of residence, or county of current work location. Such declination will result in separation without the transition benefits of Article 21.1(b) of the Agreement.

(13) Any fees required by the Agency or the Department of Civil Service upon the redeployment of an employee shall be waived. Redeployed employees who qualify for moving expenses under the State Finance Law Section 202 and the regulations thereunder shall be entitled to payment at the rates provided for in the Rules of the Director of the Budget 9 NYCRR Part 155.

(14) Probation

(a) Permanent non-probationers redeployed to positions in their own title or to titles for which they would not be required to serve a probationary period under Civil Service Law and Rules shall not be subject to further probation.

(b) Probationers redeployed to positions in their own title shall serve the balance of their probationary period in the new agency.

(c) Employees redeployed to comparable titles for which they would be required to serve a probationary period under applicable Civil Service Law and Rules or under secondary redeployment shall be subject to a probationary period in accordance with the Rules for the Classified Service.

(d) Employees who fail probation shall be eligible for layoff and preferred list rights in their original titles. Additionally, such employees who fail probation shall have an opportunity to select either the transition benefit of an Educational Stipend as set forth in Appendix D(B), or the Severance Option as provided for in Appendix D(C). The value of the salary earned during the redeployed employee's probation (or in connection with 8(c) above) shall be subtracted from the value of the transition benefit, C(B) or C(C), chosen by the employee.

(b) Definitions

(1) Seniority shall be determined by Section 80 of the Civil Service Law for competitive class employees and by Article 22.1 of the Agreement for non-competitive and labor class employees.

(2) In the event that two or more employees have the same seniority date, the employee with the earliest seniority date in an affected title shall be deemed to have the greater seniority. Further tie breaking procedures shall be developed by the Committee and applied consistently.

(2) Role of the Employment Security Committee

The Committee shall meet at least bimonthly to discuss open issues related to the redeployment process. Such issues shall include, but not be limited to: comparability determinations; vacancy availability; information sharing in hiring and redeployment; dispute resolution, Civil Service layoff procedures; hardship claims from individual employees in the redeployment process. The Committee shall also explore the viability of expanding the redeployment concept to other reduction in force situations.

(3) Grievability and Dispute Resolution

(a) The application of terms of the Appendix shall be grievable only up to Step 3 of the provisions of Article 31 (Grievance and Arbitration Procedure).

(b) Disputes raised to the Step 3 level will be reviewed by the Employment Security Committee for attempted resolution. If a decision must eventually be rendered and no resolution is agreed to, the decision shall be issued pursuant to the procedures outlined in Article 31.1(b).

B. EDUCATION STIPEND

(1) Eligibility

(a) The Education Stipend shall solely apply to permanent employees who are eligible as per Article 21.1, who have agreed to accept the terms as set forth herein and have been notified of their acceptance by the State.

(b) Employees who have exercised one of the options described in Article 21.1(b)(ii), (iii) of the Agreement and related Appendices shall be ineligible for the Education Stipend set forth herein.

(2) Stipend

An employee may elect to receive an Education Stipend for full tuition and fees at an educational institution or organization of the employee's choosing to pursue course work or training offered by such institution or organization provided, however, that the employee meets the entrance and/or course enrollment requirements. The maximum stipend cannot exceed the one-year (two semesters) SUNY tuition maximum for Resident Graduate Students. Such tuition will be paid by the State directly to the institution in which the employee is pursuing course work, subject to certification of payment by the agency.

(3) Health Insurance

A permanent affected employee who elects the Education Stipend and is separated, shall continue to be covered under the State Health Insurance Plan at the same contribution rate as an active employee for one year following such separation or until reemployment by the State or employment by another employer, whichever occurs first.

(4) Grievability and Dispute Resolution

(a) The application of terms of the Appendix shall be grievable only up to Step 3 of the provisions of Article 31 (Grievance and Arbitration Procedure).

(b) Disputes raised to the Step 3 level will be reviewed by the Employment Security Committee for attempted resolution. If a decision must eventually be rendered and no resolution is agreed to, the decision shall be issued pursuant to the procedures outlined in Article 31.1(b).

C. SEVERANCE OPTION

(1) Definitions

(a) The terms "affected employee" and "affected employees" shall refer to those employees of the State of New York who are represented by District Council 37 and who are subject to redeployment pursuant to provisions of Article 21.1, unless otherwise indicated herein.

(b) The term "Service" shall mean an employee's State service as would be determined by the Retirement System, regardless of jurisdictional class or Civil Service status.

(2) Eligibility

(a) The severance benefits provided by this Severance Option shall apply solely to permanent employees who are eligible pursuant to Article 21.1, and

(b) Who have agreed to accept the terms as set forth herein; have been notified of their acceptance by the State; have executed a Severance Agreement; and are subject further to the limitations set forth in Section 2(c) below.

(c) Employees who have declined a primary redeployment opportunity in county of residence, or county of work location or exercise one of the options described in Article 21.1(b) (i) or (iii) shall be ineligible for the severance benefits set forth in this Severance Option.

(3) Payment Schedule

(a) Other than those covered under (b) below, all affected employees with at least six (6) months, but less than one year of

service are eligible to receive \$2,000 or two weeks' base pay, whichever is greater.

Each additional year of service will result in a \$600 increase per year to a maximum of \$15,000. However, employees in the following categories will receive the amount specified if that amount exceeds that which would be otherwise payable:

One year of service, but less than three years of service. 4 Weeks of Base Pay

Three years of service, but less than five years of service. 6 Weeks of Base Pay

Five years of service, but less than ten years of service. 8 Weeks of Base Pay

Ten years of service, but less than fifteen years of service. 10 Weeks of Base Pay

Fifteen years of service but less than twenty years of service. 12 Weeks of Base Pay

Twenty or more years of service. 14 Weeks of Base Pay

(b) Affected employees 50 years of age or over may choose the schedule in (a) above or the following at their option:

- employees with 10 years of service, but less than 15 are eligible to receive 20% of base annual salary;
- employees with 15 years of service, but less than 20 are eligible to receive 30% of base annual salary;

- employees with 20 years of service, but less than 25 are eligible to receive 40% of base annual salary;
- employees with 25 years of service or more are eligible to receive 50% of base annual salary.

(4) Payment Conditions

(a) All payments made to affected employees under the Severance Option shall be reduced by such amounts as are required to be withheld with respect thereto under all federal, state and local tax laws and regulations and any other applicable laws and regulations. In addition, the severance payment made pursuant to Section 3 of this Severance Option shall not be considered as part of salary or wages for the purposes of determining State and member pension contributions and for the purposes of computing all benefits administered by the New York State Employees' Retirement System.

(b) All payments made to affected employees under this Severance Option are considered to be one-time payments and shall not be pensionable. Each affected employee must execute a Severance Agreement (sample hereto) prior to separation from State service in order to be eligible to receive said payment.

(c) In no event shall an affected employee who returns to State service receive severance pay in an amount that would exceed that which he or she would otherwise have received as base annual salary during the period of separation from State service. Should the amount of severance pay exceed the amount of base annual pay otherwise earned during the period of separation from State service, said employee shall repay the difference pursuant to the following rules:

(i) Any affected employee who resumes State service shall repay such excess payments received within one (1) year of the employee's return to payroll, by payroll deductions in equal amounts.

(ii) Nothing in this Section 4(c) shall affect the State's right to recover the full amount of the monetary severance payment by other lawful means if it has not recovered the full amount by payroll deduction within the time periods set forth herein.

(5) Grievability and Dispute Resolution

(a) The application of terms of the Appendix shall be grievable only up to Step 3 of the provisions of Article 31 (Grievance and Arbitration Procedure).

(b) Disputes raised to the Step 3 level will be reviewed by the Employment Security Committee for attempted resolution. If a decision must eventually be rendered and no resolution is agreed to, the decision shall be issued pursuant to the procedures outlined in Article 31.1(b).

(6) Health Insurance

A permanent affected employee who elects the severance option and is separated, shall continue to be covered under the State's Health Insurance Plan at the same contribution rate as an active employee for one year following such separation or until reemployment by the State or employment by another employer, whichever occurs first.

(7) Savings Clause

If any provision of this Severance Option is found to be invalid by a decision of a tribunal of competent jurisdiction, then such specific provision or part thereof specified in such decision shall be of no force and effect, but the remainder of this Severance Option shall continue in full force and effect.

SAMPLE SEVERANCE AGREEMENT

I hereby apply for the severance benefits as described in the Severance Option (Appendix E(C)) to the 2011-2016 Collective Bargaining Agreement) and agree to accept such benefits if my application is approved by the State of New York. I understand that the State of New York shall approve applications of all employees who are eligible to apply for such benefits pursuant to the provisions of Section 21.1 of the 2011-2016 Collective Bargaining Agreement.

I understand that by accepting these severance benefits, I agree to be bound by the terms and conditions set forth in Appendix E(C), which is incorporated herein by reference. These terms and conditions include the following:

I understand that I shall not be required to make any payment on account of the monetary severance payment and/or any other benefits I receive pursuant to this agreement into any Retirement or Pension System or Plan of which I am or may become a member, nor shall any such payment be permitted.

I understand that the State of New York shall not be required to make any contribution or payment into any Retirement or Pension System or Plan of which I am or may hereafter become a member based upon the monetary severance payment, and/or any other benefits I receive pursuant to this agreement.

I understand that any monetary severance payment and/or other benefits paid to me pursuant to this agreement shall not be considered in computing the amount of benefits or allowances to which I or my beneficiaries or heirs may be entitled under any Retirement or Pension System or Plan of which I am or may hereafter become a member.

I understand that, in exchange for my agreement to all the terms and conditions set forth in Appendix E(c), the State will do the following:

The State will pay me a monetary severance payment in the amount determined in accordance with my length of service, as described in Appendix E(c).

This written agreement, including Appendix E(c) referenced herein, contains all the terms and conditions agreed upon by the parties. In the event that the terms of this agreement conflict with the

2011-2016 Collective Bargaining Agreement between the State and District Council 37, the terms of the 2011-2016 Collective Bargaining Agreement shall prevail.

I accept the severance benefits as described in Appendix E(c) to the 2011-2016 Collective Bargaining Agreement between District Council 37 and the State of New York.

Please print:

Employee's Name

Employee's NYS EMPLID

Employee's Agency

Employee's Civil Service Title

Signed

Date

Sworn to before me this

_____ date of

_____,
Notary Public

APPENDIX E - Leave Donation

This Appendix describes the leave donation program applicable to employees of the Rent Regulation Services Unit. Detailed guidelines on program administration are contained in Attendance and Leave Manual Appendix H.

Program Description

The intent of the Leave Donation Program is to provide a means of assisting employees who, because of long-term personal illness, have exhausted their accrued leave credits and would otherwise be subject to a severe loss of income during a continuing absence from work. This Appendix extends the current provisions of the Leave Donation Program.

Eligibility Criteria - Donors

In order to donate vacation credits an employee of this unit must:

- have a minimum vacation balance of at least ten days after making the donation, based on the donor's work schedule. Vacation credits which would otherwise be forfeited may not be donated; and
- donor identity is kept strictly confidential.

Eligibility Criteria - Recipients

In order to receive donated leave credits, an employee of this unit must:

- be subject to the Attendance Rules or otherwise eligible to earn leave credits;
- be absent due to a non-occupational personal illness or disability for which medical documentation satisfactory to management is submitted as required;
- have exhausted all leave credits;
- be expected to continue to be absent for at least two biweekly payroll periods following exhaustion of leave credits or sick leave at half-pay;

- not have had any disciplinary actions or unsatisfactory performance evaluations within the employee's last three years of State employment.

Donation to and from Employees in Other Units

Employees of this Unit may participate in the voluntary donation or receipt of accrued vacation credits with employees of other bargaining units or those designated M/C subject to the following conditions:

- Vacation credits may only be donated, received, or credited between employees who are deemed eligible to participate in an authorized leave donation program, provided that there are simultaneously in effect a Leave Donation Exchange Memorandum of Agreement between the Governor's Office of Employee Relations and the employee organizations representing both the proposed recipient and the proposed donor, or applicable attendance rules for managerial or confidential employees, that authorize such donation.
- The donations are governed by the provisions of the program applicable to the donor; receipt, crediting and use of donations are governed by the provisions of the program applicable to the recipient.

Restrictions on Donations

Only vacation credits which would not otherwise be forfeited may be donated. Credits must be donated in full-day units (7.5 or 8 hours). There is no limit on the number of times an eligible donor may make donations. Donated credits not used by recipients are returned to the donor, provided the donor is employed in the same agency as the recipient. Donated credits from employees outside the agency will NOT be returned.

There is no maximum number of days which a recipient employee may accept, provided, however, that donated credits cannot be used to extend employment beyond the point it would otherwise end by operation of law, rule or regulation. There is no maximum number of donors from whom an eligible employee may accept donations.

An employee's continuing eligibility to participate in this program must be reviewed by the agency personnel office at least every 30 days and more frequently if appropriate, based on current standards as to what constitutes satisfactory medical documentation.

Use of Donated Credits

Donated credits may be used, at the employee's option, in full-day units after exhaustion of all leave credits and prior to sick leave at half-pay or in either full- or half-day units after exhaustion of sick leave at half-pay.

An employee who opts to use donated credits prior to sick leave at half-pay is permitted to again participate in this program following exhaustion of sick leave at half-pay. Use in full- or half-day units is based on the recipient employee's work schedule.

Donations made across agency lines shall be used prior to donations made within the agency.

Status of Recipient Employees

Recipient employees are deemed to be in leave without pay status for attendance and leave purposes while charging donated leave credits. They do not earn biweekly accruals or observe holidays, nor do they receive personal leave or vacation bonus days if their anniversary dates fall while using donated leave credits. Time charged to donated leave credits does not count as service for earning additional eligibility for sick leave at half-pay.

Employees using donated leave receive retirement service credit for days in pay status. Health insurance premiums, retirement contributions and other payroll deductions continue to be withheld from the employee's paycheck so long as the check is of an amount sufficient to cover these deductions.

Solicitations

Donations may be solicited by the recipient employee, on his or her behalf by coworkers or by local union representatives. The

employing agency may not solicit donations on the employee's behalf.

Administrative Issues

The employing department or agency is responsible for verifying medical documentation, reviewing eligibility requirements, approving and processing donations, confirming employee acceptance of donations and transferring credits. This program is not subject to the grievance procedure contained in this Agreement.

For purposes of this Appendix, family shall be defined as any relative or any relative-in-law regardless of place of residence, or any person with whom the employee makes his or her home.

APPENDIX F - Productivity Enhancement Program

This Appendix describes the Productivity Enhancement Program (PEP) available to employees in the Rent Regulation Services Unit (RRSU). Detailed guidelines on program administration will be issued by the Department of Civil Service.

Program Overview

Eligible employees may elect to participate in the Productivity Enhancement Program. As detailed below, this program allows eligible employees to exchange previously accrued annual leave (vacation) and/or personal leave in return for a credit to be applied toward their employee share NYSHIP premiums on a biweekly basis.

The program will be available effective July 1, 2014 for calendar year 2014 and the entire calendar year in 2015, and 2016. During each of these years the credit will be divided evenly among the State paydays that fall between January 1 and December 31.

Disputes arising from this program are not subject to the grievance procedure contained in this Agreement. This is a pilot program that will sunset on December 31, 2016 unless extended by mutual agreement of the parties.

Eligibility/Enrollment

In order to enroll an employee must:

- be a classified or unclassified service employee in a title below, or equated to a position below, Salary Grade 25;
 - be an employee covered by the 2011-2016 New York State/DC-37 Collective Bargaining Agreements;
 - have a sufficient leave balance to make the full leave forfeiture at the time of enrollment without bringing their combined annual and personal leave balances below 8 days; and
 - be a NYSHIP enrollee (contract holder) in either the Empire Plan or an HMO at the time of enrollment.
- Part-time employees who meet these eligibility requirements will be eligible to participate on a prorated basis.

Once enrolled for a given year, employees continue to participate unless they separate from State service or cease to be NYSHIP contract holders. Leave forfeited in association with the program will not be returned, in whole or in part, to employees who cease to be eligible for participation in the program.

During any calendar year in which an employee participates, the credit established upon enrollment in the program will be adjusted only if the employee moves between individual and family coverage under NYSHIP during that calendar year.

With the exception of calendar year 2014, open enrollment will be offered during the month of November of each year PEP is offered. The exact dates of open enrollment will be established by the Department of Civil Service. Employees will be required to submit a separate enrollment for each calendar year in which they wish to participate.

Calendar Year 2014

Effective July 1, 2014, full-time employees in Salary Grades 1-17 (or non-statutory employees with an annual salary no greater than the job rate of SG-17) who enroll in this portion of the program will forfeit a total of 1.5 or 3 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to \$250 or \$500 respectively, to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between July 1, 2014 and December 31, 2014.

Effective July 1, 2014, full-time employees in Salary Grades 18 (or non-statutory employees equated to SG-18, or in the absence of that, employees with an annual salary exceeding the job rate of SG-17) to 24 (or non-statutory employees with an annual salary no greater than the job rate of SG-24) who enroll in this portion of the program will forfeit a total of 1 day or 2 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to \$250 or \$500 respectively, to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between July 1, 2014 and December 31, 2014.

Calendar Year 2015

Full-time employees in Salary Grades 1-17 (or non-statutory employees with an annual salary no greater than the job rate of SG-17) who enroll in this portion of the program will forfeit a total of 3 or 6 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to \$500 or \$1,000 respectively, to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2015 and December 31, 2015.

Full-time employees in Salary Grades 18 (or non-statutory employees equated to SG-18, or in the absence of that, employees with an annual salary exceeding the job rate of SG-17) to 24 (or non-statutory employees with an annual salary no greater than the job rate of SG-24) who enroll in this portion of the program will forfeit a total of 2 or 4 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to \$500 or \$1,000 respectively, to be applied toward the employee share of

NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2015 and December 31, 2015.

Calendar Year 2016

Full-time employees in Salary Grades 1-17 (or non-statutory employees with an annual salary no greater than the job rate of SG-17) who enroll in this portion of the program will forfeit a total of 3 or 6 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to \$500 or \$1,000 respectively, to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2016 and December 31, 2016.

Full-time employees in Salary Grades 18 (or non-statutory employees equated to SG-18, or in the absence of that, employees with an annual salary exceeding the job rate of SG-17) to 24 (or non-statutory employees with an annual salary no greater than the job rate of SG-24) who enroll in this portion of the program will forfeit a total of 2 or 4 days of annual and/or personal leave standing to their credit at the time of enrollment in return for a credit of up to \$500 or \$1,000 respectively, to be applied toward the employee share of NYSHIP premiums deducted from biweekly paychecks issued between January 1, 2016 and December 31, 2016.

Eligible part-time employees:

- In Salary Grades 1-17 who participate during 2014 will forfeit a total of 1.5 or 3 prorated days of annual and/or personal leave and/or during 2015 and/or 2016 will forfeit 3 or 6 prorated days of annual and/or personal leave per year of participation and receive a prorated credit toward the employee share of their health insurance premiums based on their payroll percentage; in
- Salary Grades 18-24 during 2014 will forfeit a total of 1 or 2 prorated days of annual and/or personal leave and/or during 2015 and/or 2016 will forfeit 2 or 4 days of annual and/or personal leave per year of participation and receive a prorated credit toward the employee share of their health insurance premiums based on their payroll percentage.

APPENDIX G Voluntary Reduction in Work Schedule

PROGRAM GUIDELINES

Introduction

Voluntary Reduction in Work Schedule (VRWS) is a program that allows employees to voluntarily trade income for time off. The VRWS program is available to eligible annual-salaried employees in the Rent Regulation Services Unit (RRSU). Individual VRWS agreements may be entered into for any number of payroll periods up to a maximum of 26 biweekly pay periods in duration and must expire at the end of the last payroll period in the fiscal year.

(1) Purposes

- (a) VRWS provides agencies with a flexible mechanism for allocating staff resources.
- (b) VRWS permits employees to reduce their work schedules to reflect personal needs and interests.

(2) Limitations: Eligibility, Work Schedule Reduction, Terms of VRWS

(a) Eligibility: This program is available to certain annual-salaried employees in the RRSU

Employees are required to be employed to work on a full-time annual-salaried basis for a minimum of one biweekly payroll period immediately prior to the time of entry into the VRWS Program. Time on paid or unpaid leave from a full-time annual salaried position satisfies this requirement

and

Employees must remain in a full-time annual-salaried position during the term of the VRWS agreement

and

Employees must have one continuous year of State service on a qualifying schedule (any schedule which entitled the employee to earn leave credits, not necessarily a full-time schedule).

Consistent with the way in which creditable service is counted under the Attendance Rules, separations of less than one year and periods of leave without pay of any duration are not counted toward the one-year service requirement but do not constitute a break in service. Employees who separate from State service (through resignation, termination, layoff, etc.) for more than one year cannot count service preceding that break in service toward the one-year requirement (unless the employee is reinstated by the Civil Service Commission or Department or appointed while on a preferred list) Payroll periods of VRWS participation, Sick Leave at Half-Pay, or Workers' Compensation Leave and time on the Leave Donation Program will count toward the one-year service requirement.

(b) Work Schedule Reduction: Participating employees may reduce their work schedules (and salaries) a minimum of 5 percent, in 5 percent increments, up to a maximum of 30 percent.

(c) Term of VRWS Program: Effective with the first full biweekly payroll period in October 2000, the VRWS program will commence for employees in the RRSU.

(3) Description of an Employee VRWS Agreement

(a) An employee develops a plan for a reduced work schedule.

(b) Management reviews and approves the plan as long as it is consistent with operating needs.

(c) Jointly agreed plan specifies:

(1) Duration of VRWS agreement which may be up to a maximum of 26 biweekly payroll periods with the VRWS agreement expiring the last day of the last payroll period in the fiscal year.

(2) Percentage reduction of work schedule and salary.

(3) Amount of VR time earned in exchange for reduced salary.

(4) Schedule for use of VR time earned. This may be either a fixed schedule, e.g., every Friday, every Wednesday afternoon, an entire month off, etc., or intermittent time off.

(i) An employee's fixed schedule VR time off, once the VRWS

schedule has been agreed upon by management, cannot be changed without the consent of the employee except in an emergency. In the event an employee's schedule is changed without his or her consent, the employee may appeal this action through an expedited grievance procedure.

(ii) VR time used as intermittent time off will be subject to scheduling during the term of the VRWS agreement, and will require advance approval by the employee's supervisor.

(d) While the VRWS agreement is in effect, the employee will earn and accumulate VR credits in accordance with the percentage reduction in work week, e.g., a ten (10) percent reduction will result in 7.5 or 8 hours of VR credit earned each payroll period which the employee will charge on his or her scheduled VR absences. If the employee's VRWS schedule calls for one-half day off every Friday afternoon, 3.75 or 4 hours of VR credits will be charged for each Friday. An employee whose VRWS agreement calls for a ten (10) percent reduction and taking an entire month off will work his or her full 37.5 or 40 hours each week, accrue 7.5 or 8 hours of VR credit each payroll period, and have the accumulated VR credits to use during that month.

(e) The employee never goes off the payroll. The employee remains in active pay status for the duration of the agreement and receives pay checks each payroll period at the agreed-upon, temporarily reduced level.

(f) The employee will work a prorated share of his or her normal work schedule over the duration of the agreement period.

(g) Participation in the VRWS program will not be a detriment to later career moves within the agency or the State.

(h) Scheduled non-work time taken in accordance with a VRWS agreement shall not be considered to be an absence for the purpose of application of Section 4.5(f) of the Civil Service Rules governing probationary periods.

(4) Time Limits

The employee and management can establish a VRWS agreement on a fiscal year basis of any number of payroll periods in duration from one (1) to twenty-six (26). The VRWS contract must expire the last day of the last payroll period in the fiscal year. The VRWS agreement

must begin on the first day of a payroll period and end on the last day of a payroll period. VRWS ending balances must be segregated for each fiscal year. The employee and management may, by agreement, discontinue or modify the VRWS agreement if the employee's needs or circumstances change.

(5) Time Records Maintenance

(a) All VRWS schedules will be based on the crediting and debiting of VR credits on the employee's time card against a regular 37.5 or 40 hour workweek.

(b) VR credits earned during an agreement may be carried on the employee's time card past the end of the individual VRWS agreement and past the end of the fiscal year but must be liquidated by September 30 following the end of the fiscal year in which the individual VRWS agreement expires. VRWS ending balances must be segregated for each fiscal year.

(c) There is no requirement that existing paid leave credits (including previously earned and banked VR credits) be exhausted prior to the beginning of the new VRWS agreement. However, agencies should encourage employees to use carried-over VR credits on a priority basis.

(6) Advancing of VR Credits; Recovering a VR Credit Debit

(a) To accommodate an employee whose VRWS agreement calls for an extended absence during the agreement period, an agency may advance VR credits in an amount not to exceed the number of hours for which the employee is paid in one payroll period.

(b) If an employee terminates his or her employment and has a VR debit, the agency shall recover the debit from the employee's lagged salary payment for his or her last payroll period at work.

(7) Coordination with Alternative Work Schedules

It is possible to coordinate VRWS agreements with Alternative Work Schedule arrangements when desired by the employee and consistent with operating needs. For example, a VRWS agreement may be combined with four-day week scheduling for a 37.5 hour/week employee by the employee opting for a ten (10) percent reduction to produce a workweek of 3 days of 8.5 hours and 1 day of 8.25 hours. Such a schedule would generate savings for the employee of

commuting expenses, child care costs, etc. An alternative work schedule which applies to a single employee is considered to be an individualized work schedule and does not require approval through the normal Alternative Work Schedule approval process.

(8) Effect on Benefits and Status

The effect of participation in the VRWS program on benefits and status is outlined in Appendix A (attached).

(9) Effect on Overtime Payment for Overtime Eligible Employees

Scheduled absences charged to VR credits, unlike absences charged to leave credits, are not the equivalent of time worked for purposes of determining eligibility for overtime payments at premium rates within a workweek. For example, an employee who, under an 80 percent VRWS schedule, works four (4) days, charges the fifth day to VR credits, and is called in to work a sixth day, will not be considered to have worked the fifth day and thus will not be entitled to premium rate payments on the sixth day. Similarly, VR credits earned, banked and charged after the payroll period in which they are earned are not counted in determining eligibility for overtime in the workweek in which they are charged. However, employees who work full time at reduced salary and bank VR credits who, as the result of working and charging leave accruals other than VR credits, exceed their normal 37.5 or 40-hour workweek continue to be eligible for overtime compensatory time and paid overtime in that workweek as appropriate.

Sections 135.2(h) and (i) of Part 135 of the Budget Director's Overtime Rules are waived to the extent necessary to permit payment of overtime compensation to overtime-eligible employees who are participating in this program.

(10) Discontinuation or Suspension of VRWS Agreements

Although VRWS agreements are for stated periods of time, they can be discontinued by mutual agreement at the end of any payroll period. VR agreements may be discontinued, at management discretion, when an employee is promoted, transferred or reassigned within an agency, facility or institution, although VR credits must be carried forward on the employee's time record.

VR agreements may also be discontinued when an employee moves between agencies or between facilities or institutions within an agency. (See Provisions for Payment of Banked (unused) VR Time in Exceptional Cases below.)

Employees who go on sick leave at half-pay for 28 consecutive calendar days, who receive leave donation credits for 28 consecutive calendar days or who are absent because of a work-related injury or illness for 28 consecutive calendar days will have their VRWS agreement suspended and be returned to their normal full-time work schedule and pay base. VR agreements are suspended on the day employees begin to receive Short Term Disability (STD) or Long Term Disability (LTD) benefits under the Income Protection Plan. Suspension of a VR agreement does not extend the agreement beyond its scheduled termination date. If the employee returns to work prior to the scheduled termination date of the VR agreement, the employee's participation in the VR agreement resumes and continues until the scheduled termination date, unless both parties agree to terminate the agreement.

(11) Provisions for Payment of Banked (Unused) VR Time in Exceptional Cases

The VRWS program is intended to be a program that allows employees to voluntarily trade income for time off. The agreement for program participation between the employee and management includes a plan for the use of VR time earned. Management must make every effort to ensure that VR time earned by an employee is used (1) under the terms of the individual VRWS agreement, (2) before the September 30th liquidation date (see section 5(b)), (3) before the employee separates from State service, and (4) while the employee is on the job he or she was in when the VRWS program agreement was made. If this is not possible, payment for banked (unused) VR time may be made in exceptional cases that fall under the following criteria:

(a) Upon layoff, resignation from State service, termination, retirement or death, unused VR time will be paid at the then current straight time rate of pay.

(b) Upon movement of an employee from one agency to another or between facilities or institutions within an agency, unused VR time will be paid at the then current straight time rate of pay by the agency or facility/institution in which the VR time was earned, unless the employee requests and the new agency or facility/institution accepts the transfer of the VR time on the employee's time card. The lump sum payment for VR balances upon movement to another agency or facility/institution will be made irrespective of whether or not the employee is granted a leave of absence from the agency where the VR time was earned. Payment will be made within two payroll periods following the move to the new agency/facility/institution.

(c) VRWS ending balances must be segregated for each fiscal year. Employees who accumulate VR time in a fiscal year and who are unable to use the VR time by the applicable September 30 liquidation date due to management requirements predicated on workload will be paid at the then current straight time rate of pay. Payment will be made within two payroll periods following the applicable September 30 liquidation date. Requests for payment in these exceptional cases described in this subparagraph, as distinct from those specified in subparagraphs (a) and (b) above, should be directed to GOER Research Division-VRWS Program and will be decided on a case-by-case basis.

In all cases where payment for unused VR time is made, notification of payment must be sent to GOER Research Division VRWS Program. Such notification must include date of payment, circumstances of payment, employee's name, title, number of hours in the employee's normal workweek (37.5 or 40), number of days of unused VR time, daily rate of pay, and gross dollar amount of payment. In addition, agencies must certify that they have not already used these savings for replacement staff in other programs or, if they have, identify another funding source for the payment.

(12) Review of VRWS Denials

(a) Individual Requests

An employee whose request to participate in the VRWS program has been denied shall have the right to request a written statement of the reason for the denial. Such written statement shall be provided

within five (5) working days of the request. Upon receipt of the written statement of the reason for the denial, the employee may request a review of the denial by the agency head or the designee of the agency head. Such requests for review must be made, and will be reviewed, in accordance with the following procedure:

(1) Requests must be submitted by the employee or the employee's representative within ten (10) working days of receipt of the written statement or of the date when the written statement was due.

(2) Requests must be submitted to the official who serves as the agency head's designee at Step 2 of the grievance procedure. Employees of facilities must concurrently provide a copy of such request to the facility head.

(3) Such requests shall specify why the employee believes the written reasons for the denial are improper. The request must explain how the employee believes his or her work can be reorganized or reassigned so that his or her participation in the VRWS program will not unduly interfere with the agency's program operations.

(4) The designee of the agency head shall review the appeal and make a determination within ten (10) working days of receipt. The determination shall be sent to the employee and a copy shall be sent to the President of DC-37. The determination shall be based on the record, except that the agency head's designee may hold a meeting with the employee and/or the employee's supervisors if the designee believes additional information or discussion is required to make a determination. If the employee believes that there are special circumstances that make a meeting appropriate, the employee may describe these circumstances in addition to providing the information specified in paragraph 3 above, and request that a review meeting be held. The agency head's designee shall consider such request in determining whether or not to hold a review meeting.

(5) The determination of the agency head's designee shall not be subject to further appeal.

(b) Facility-Wide or Agency-Wide Practices

When DC-37 alleges that an agency or a facility, or a sub-division thereof, has established a practice of routinely denying employee applications to participate, this matter shall be an appropriate subject for discussion in a labor/management committee at the appropriate

level. Such labor/management discussions shall be held in accordance with Article 23 of the Agreement.

(13) Exceptions

The restrictions and limitations contained in these Program Guidelines may be waived by the Governor's Office of Employee Relations whenever that Office determines that strict adherence to the guidelines would be detrimental to the sound and orderly administration of State government.

Effect on Benefits and Status

Annual Leave - Prorate accruals based on the employee's VRWS percentage.

Personal Leave - Prorate credits based on the employee's VRWS percentage.

Sick Leave at Full Pay - Prorate accruals based on the employee's VRWS percentage.

Holidays - No change in holiday benefit.

Sick Leave at Half-Pay - There is no impact on eligibility or entitlement. Employees who go on sick leave at half-pay for 28 consecutive calendar days will have their VRWS agreement suspended and be returned to their normal full-time work schedule and pay base.

Workers' Compensation Benefits - There is no impact on eligibility for entitlement to workers' compensation benefits pursuant to rule or contract. Following 28 consecutive calendar days of absence due to a work-related injury or illness, the VRWS agreement is suspended and the employee is returned to his or her normal full time work schedule and pay base. (See subsection 10 above)

Disability under the Income Protection Plan - An employee's VRWS agreement is automatically suspended on the day the employee begins receiving STD/LTD benefits.

Leave Donation - Employees who are absent using donated leave credits for 28 consecutive calendar days will have their VRWS agreement suspended.

Military Leave - No impact on eligibility or entitlement.

Jury-Court Leave - No impact on eligibility or entitlement.

Paid Leave Balances on Time Card - There is no requirement that leave credits be exhausted prior to the beginning of the VRWS agreement. Vacation, sick leave and holiday balances are carried forward without adjustment; the personal leave balance is prorated.

Shift Pay - Prorate.

Inconvenience Pay - Prorate.

Location Pay - Prorate.

Geographic Pay - Prorate.

Pre-Shift Briefing - Prorate.

Standby Pay - No impact.

Salary - Normal gross salary earned is reduced by the percentage of voluntary reduction in work schedule. There is no effect on the base annual salary rate.

Payroll - The employee never leaves the payroll. An employee remains in full payroll status with partial pay for the duration of the agreement period and receives pay checks each pay period at the agreed upon temporarily reduced level.

Return to Normal Work Schedule - An employee will return to his

or her normal full-time work schedule and pay basis upon completion of the VRWS agreement period.

Banked (Unused) VR Time Upon Return to Normal Work Schedule - VR time credits may be carried forward on the employee's time card after completion of the individual VRWS agreement period but must be liquidated by the September 30 after the end of the fiscal year in which the employee's individual agreement expires. VRWS ending balances must be segregated for each fiscal year.

Banked (Unused) VR Time Upon Separation - Unused VR time credits will be paid at the straight time rate upon layoff, resignation from State service, termination, retirement or death.

Banked (Unused) VR Time Upon Promotion, Transfer or Reassignment Within an Agency or Within a Facility or Institution - Unused VR time credits are carried forward on the employee's time card when movement is within an appointing authority. Continuation of the VRWS program agreement is at the discretion of management.

Banked (Unused) VR Time Upon Movement From One Agency to Another or Between Facilities or Institutions Within an Agency - Unused VR time credits will be paid at the straight time rate by the agency or facility/institution in which the VR time was earned, unless the employee requests and the new agency or facility/institution accepts the transfer of VR time on the employee's time card.

Health Insurance - No effect; full coverage.

Dental Insurance - No effect; full coverage.

Employee Benefit Fund - No effect.

Survivor's Benefit - No effect.

Retirement Benefit Earnings - Participation will reduce final average salary if the VRWS period is included in three (3) years of earnings used to calculate final average salary.

Retirement Service Credit - Prorate.

Social Security - There is no change in the contribution rate, which is set by Federal Law and applied to the salary that the employee is paid.

Unemployment Insurance - No change; formula set by statute.

Performance Advance or Increment Advance - Evaluation date is not changed; no change in eligibility.

Performance Award or Lump Sum Payment - No impact; no change in eligibility.

Longevity Increase - No change in eligibility.

Probationary Period - No effect; scheduled non-work time under a VR agreement is not an absence for this purpose.

Traineeship - No effect; traineeships are not extended by scheduled non-work time under a VR agreement.

Layoff - No impact; seniority date for layoff purposes is not changed.

Seniority - No impact; employee never leaves the payroll; seniority date is not changed; full seniority credit is earned.

Seniority for Promotion Examinations - No impact; VR time used shall be counted as time worked in determining seniority credits for promotion exams.

Eligibility for Promotion Examinations - No impact; VR time used shall be counted as time worked in determining eligibility for promotion exams.

Eligibility for Open Competitive Examinations - Prorate; VR time used shall not be considered time worked for determining length of service for open competitive examinations.

Overtime Work - VR time used shall not be counted as time worked in determining eligibility for overtime payments at premium rates within a workweek.

NOTES

