

# AGREEMENT

By and Between the

Illinois Nurses Association

And the

Department of Central Management Services  
And  
Healthcare and Family Services

State of Illinois

For RC-36  
Public Service Administrator, Option 8L

October 30, 2009 – June 30, 2012

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**ARTICLE I  
AGREEMENT**

This agreement is made and entered into on the 30<sup>th</sup> day of October, 2009, by and between the Illinois Department of Central Management Services on the Department of Healthcare and Family Services, Office of the Inspector General, hereinafter referred to as the Employer, and the Illinois Nurses Association, hereinafter referred to as the Association, as representative of employees and employed by the State of Illinois as set forth in this Agreement.

**ARTICLE II  
PURPOSE**

In order to establish harmonious employment relations through a mutual process, to provide fair and equitable treatment to all employees, to promote the quality and continuance of public service, to achieve full recognition for the value of employees and the vital and necessary work they perform, to specify wages, hours, benefits, and working conditions, and to provide for the prompt and equitable resolution of disputes, the parties agree as follows:

**ARTICLE III  
RECOGNITION**

**Section 1. Bargaining Unit**

The Employer recognizes the Association as the sole and exclusive bargaining representative in all matters establishing and pertaining to wages and salaries, hours, working conditions and other conditions of employment for Public Service Administrator's Option 8L's in the Department of Healthcare and Family Services' Office of Inspector General's Bureau of Administrative Legislation.

**Section 2. New Classifications-Scope of the RC-036 Unit**

- A. If the employer establishes a new position classification covering a significant part of the work now being done by any of the the classifications set forth in Section 1 of this Article, the Employer shall notify the Association. If the Employer establishes a new position which the Association believes should be included in this unit, the Association shall so notify the Employer.
  
- B. The parties will then review this new position classification and if unable to reach agreement as to its inclusion or exclusion from the bargaining unit shall submit the question to the Illinois State Labor Relations Board for final resolution. If the inclusion of the

position classification is agreed to by the Illinois Labor Relations Board, it shall be added to the list in Section 1 of this Article and the parties shall negotiate as to the proper pay grade for that classification together with other unique conditions of employment.

- C. If no agreement is reached within 30 days, the Association may file a grievance on the appropriateness of the pay grade at the 3<sup>rd</sup> step and such grievance shall be subject to appeal to the arbitration procedures of this Agreement. If an increase in pay grade results from negotiation, grievance or arbitration proceedings, it shall apply retroactively to the date the classification was established.
- D. The pay grade originally assigned to the position classification by the Employer shall remain in effect pending the arbitrator's decision.
- E. The arbitrator shall determine whether the proposed salary grade is in reasonable in relation to:
  - 1. The job content and responsibilities attached thereto in comparison with the job content and responsibilities of other position classifications in the classification series and in the bargaining unit: and
  - 2. Like positions with similar job content and responsibilities within the labor market generally.

### **Section 3. Changes in Existing Classifications**

The Employer shall notify the Association of any changes in bargaining unit job classifications and upon timely request meet and negotiate the impact with the Association prior to the submission of said classifications to the Civil Service Commission.

### **Section 4. Bargaining Unit Work**

Subject to the provisions of this agreement, it is the intent of the parties that bargaining unit work will be performed by bargaining unit personnel. The Employer recognizes the integrity of the bargaining unit and agrees that it will not propose or take any action for the purpose of eroding it, except, the Employer may hire provisional or emergency employees when needed to temporarily fill in due to unforeseen circumstances to supplement bargaining unit employee 's work on a temporary basis.

## **ARTICLE IV DEFINITIONS**

### **Section 1.**

“Director” refers to the Director of the Illinois Department of Central Management Services or Healthcare & Family Services as the context may require.

### **Section 2.**

“Employer” refers to the Illinois Department of Central Management Services or Healthcare & Family Services as the context may require.

### **Section 3.**

“Employee” refers to a person employed in the job classification covered by this Agreement; excluding temporary, emergency, provisional, per diem, supervisory, confidential or managerial employees.

### **Section 4.**

“Probationary employee” refers to an employee in a probationary period as currently administered under Personnel Rule 902. 300, provided, however, that such probationary employees shall have no right to the grievance procedure

### **Section 5.**

“Association” refers to the Illinois Nurses Association as the context may require.

### **Section 6.**

“Agency” refers to the Illinois Department of Healthcare & Family Services.

## **ARTICLE V MANAGEMENT RIGHTS**

### **Section 1. Management Rights**

It is understood and agreed by the parties that subject to the provisions of this Agreement and the I.P.L.R.A. (P.A. 83-1012), the Employer possesses the exclusive rights and authority to manage and operate its agencies so as to carry out the statutory mandate and goals assigned to the agencies and all management rights inherent to management, the management of the operations of the Employer, the determination of its policies, budget and operations, the manner of exercise of its statutory functions and the direction of its working forces, including, but not limited to, the right to hire, promote, demote, transfer, evaluate, allocate, assign and direct employees; to discipline, suspend, and discharge for just cause; to relieve employees from duty because of lack of work or

other legitimate reasons; to determine the size and composition of the work force; to make and enforce reasonable rules of conduct and regulation; to determine the departments, divisions, and sections and work to be performed therein; to determine the number of hours and shifts per workweek, to establish and change work schedules and assignments; the right to introduce new methods of operations; to eliminate, relocate, subcontract or transfer work and to maintain efficiency in the department is vested exclusively in the Employer.

## **Section 2. Non-Waiver**

The above enumerations of the Employer's rights are not inclusive and do not exclude other rights not specified including those duties, obligations or authority provided under law. The exercise or non-exercise of rights retained by the Employer shall not be construed to mean that any right of the Employer is waived.

## **Section 3. Sub-Contracting**

- A. Policy. It is the policy of the Employer to make every reasonable effort utilize its employees to perform work they are qualified to do, and to that end, the Employer will attempt to avoid, insofar as is practicable, the sub-contracting of work performed by employees in the bargaining unit. However, the Employer reserves the right to contract out any work it deems necessary.
- B. Application. The Employer agrees that upon formal consideration to sub-contract any work performed by the bargaining unit employees which would affect the work conditions of such employees, it shall:
1. Provide reasonable advance notice, in writing, to the Association.
  2. Meet with the Association prior to making a decision to contract bargaining unit work and at a time that is early in the period of considering such decision. Such meeting(s) shall be for the purpose of discussing the Employer's reasons for considering such a contract, and shall include discussions with the particular agency if the Association so requests.
  3. The Employer will furnish to the Association copies of the contracts referred to in this Article which are entered into after July 1, 2009.

## **Section 4. Employer Obligation**

Nothing in the Agreement shall be construed to modify, eliminate, or detract from the statutory responsibilities and obligations of the Employer.

## **ARTICLE VI UNION RIGHTS**

### **Section 1. Union Exclusivity**

The Employer will not meet, discuss, confer, subsidize or negotiate with any other employee organization or its representative on matters pertaining to hours, wages, and working conditions. Nor shall the Employer negotiate with employees over their hours, wages, and working conditions except as provided herein

### **Section 2. Association Activity During Working Hours**

Employees shall receive reasonable time off without loss of pay in order to process grievances, attend labor-management meetings or other joint labor-management committees.

### **Section 3. Access to State Premises by Association Representatives**

The Employer agrees that non-employee officers and representatives of the Association shall have reasonable access to the premises of the Employer during working hours with advance notice to the appropriate Employer representative. Upon arrival, said Association representative shall also give notice to the appropriate Employer representative. Such access shall be for the reasons of the administration of this Agreement. The Association agrees that such activities shall not interfere with the normal work duties of employees. The Employer reserves the right to designate a meeting place and/or to provide a representative to escort the Association representative.

## **ARTICLE VII NON-DISCRIMINATION**

### **Section 1. Prohibition**

Neither the Employer nor the Association shall discriminate against any employee on the basis of race, color, religion, national origin, age, sex, disability, political affiliation, or sexual orientation.

### **Section 2. Employer's Responsibility**

The Employer shall not discriminate against, interfere with, restrain or coerce employees because of their lawful activities on behalf of the Association or because of their exercise of any rights granted by this Agreement or by the Illinois Labor Relations Act (5 ILCS 315).

### **Section 3. Association Responsibility**

The Association shall not restrain or coerce employees in the exercise of rights guaranteed by this Agreement, or by the Illinois Public Labor

Relations Act (5 ILCS 315). Nor shall its members solicit membership for political purposes in/on State owned or leased property.

**Section 4. Equal Employment/Affirmative Action/ADA**

The parties recognize the Employer's obligation to comply with federal and state Equal Employment Affirmative Action Laws and the Americans with Disabilities Act.

**ARTICLE VIII  
DUES DEDUCTION**

**Section 1. Deductions**

Employer agrees to deduct Association membership fees and assessments upon receipt of an appropriate written authorization in accordance with the law and procedures of the Comptroller.

**Section 2. Remittance**

Employer agrees to remit deductions made pursuant to Section 1 of this Article promptly to the Association at the address designated in writing to the Comptroller by the Association

**Section 3. Fair Share Agreement**

Pursuant to Section 3 (g) of the Illinois Public Labor Relations Act (P.A. 83-1012) employees in the respective unit shall be required to pay their proportionate share of the costs to the collective bargaining process, contract administration, and other costs legally chargeable as determined and defined by the Illinois Labor Relations Board and/or the courts of appropriate jurisdiction, affecting wages, hours, and other conditions of employment, but not to exceed the amount of dues uniformly required of members. Such proportionate share, once certified by the exclusive bargaining agent, shall be deducted from the employee's paycheck. Such fair share provision shall remain in effect for the duration of the labor agreement.

**Section 4. Indemnification**

The Association shall indemnify, defend and hold the Employer harmless against any claim, demand, suit, or liability arising from any action taken by the Employer in complying with this Article.

**ARTICLE IX  
SENIORITY**

Seniority and the rights attendant thereto and the manner by which such rights may be lost or exercised, shall be length of service with the agency.

## **ARTICLE X HOURS OF WORK**

### **Section 1. Definition**

For the purpose of calculating payroll, the work week is defined as a regularly re-occurring period of 168 hours consisting of seven (7) consecutive 24-hour periods. The employees' workweek shall consist of five (5) consecutive work days consisting of 7.5 hours each day and 37.5 hours each week. Monday through Friday followed by two consecutive days off.

### **Section 2. Work Schedule**

The current scheduling practices prevail with respect to the starting and quitting time, days off, or shifts thereof. Where changes in permanent schedules affecting bargaining unit employees are desired by the Employer, the Employer shall notify and discuss with the Association prior to implementation.

The Employer reserves the right to make temporary work schedule changes with reasonable notice.

### **Section 3. Flex Time**

An employee may request a flex time schedule which may be granted when the Employer determines its operating needs are not adversely impacted by such schedule. Where more employees request flex schedules than can be granted, distribution shall be granted on the employee's personal need, seniority and operational needs. The Employer may review flex schedules annually for renewal.

### **Section 4. Four-Day Work Week**

In lieu of the normal work week as defined in Section 2, an employee may request a work week composed of four (4) consecutive days of relatively equal length, followed by three (3) consecutive days off, or reasonable variations thereof. Approval shall be at the discretion of the Employer. The Employer will give due consideration to the employee's request. If the Agency determines its' own needs may appropriately be met by such requested schedule, it may request approval of any such schedule under Personnel Rule 303.300

### **Section 5. Rest Period**

Employees shall be afforded two paid 15-minute rest periods at approximately midway during both the first and second half of the workday. Such rest periods shall be granted except during operational emergencies.

**Section 6. Meal Period**

The Employer shall afford employees a non paid meal period of not less than thirty (30) but not more than sixty (60) consecutive minutes at the approximate midpoint of the work day.

**Section 7. Limitation**

This Article shall not be construed as a guarantee or limitation on the number of hours per day or per week.

**ARTICLE XI  
RATES OF PAY**

**Section 1. Steps**

The Employees next step increase will be on current creditable service dates following the date of this agreement.

**Section 2. Cost of Living Increases (COLAs)**

The Employer will agree to pay back wages from March 1, 2009 to October 31, 2009. The COLA's are as follows:

1/1/10 – 1.75%

7/1/10 – 2.0 %

1/1/11 – 2.0 %

7/1/11 – 4.0 %

1/1/12 – 1.25 %

**Section 3. Direct Deposit**

All paychecks for employees shall be delivered via direct deposit.

**ARTICLE XII  
GRIEVANCE PROCEDURE**

**Section 1. Definition**

- A. A grievance is defined as any dispute or difference between Employer and the Association or any employee or group of employees covered by this Agreement with respect to the meaning, interpretation or application of this Agreement or arising out of other circumstances or conditions of employment.
  
- B. Grievances may be processed by an employee as provided herein, and by the Association on behalf of itself, on behalf of any employee or on behalf of a group of employees but must set forth

the names or classifications of such group of employees in the grievance. The resolution of a group grievance shall be made applicable only to those employees listed as grievants.

## **Section 2. Grievance Steps**

**Step 1.** The employee and Association representative, if requested by the employee, shall first present and discuss the grievance with the employer representative within ten (10) working days of the incident giving rise to the grievance, or from the date the employee should have become aware of the incident with the exercise of reasonable diligence. Only one subject matter shall be covered in any one grievance. The grievance shall contain a clear and concise statement of facts giving rise to the grievance, the issue involved, the relief sought and specific references to this Agreement when applicable. Within ten (10) working days of receipt of the grievance, the grievant immediate supervisor shall issue a written decision and serve a copy on the grievant and/or on the Association.

**Step 2.** If the grievance is not resolved with the Step 1 decision, the grievant or the Association may appeal by providing a written statement of grievance to Step 2 within ten (10) working days of receipt of the Step 1 decision or the date such decision is due, whichever is earlier. The Agency representative shall discuss the grievance with the Association Representative within ten (10) workdays to attempt to resolve the grievance. Failure to file to Step 2 within the prescribed time limits, unless mutually agreed otherwise, shall result in the grievance being resolved pursuant to the Step 1 decision. Within ten (10) working days of receipt of the grievance, the Agency Representative shall issue a written decision and serve a copy on the grievant and/or the Association.

**Step 3.** If the grievance is not resolved with the Step 2 decision, the Association may appeal to Step 3 within ten (10) working days of receipt of the Step 2 decision or the date such decision was due, whichever is earliest. Failure to file to Step 3 within the prescribed time limits, unless mutually agreed otherwise, shall result in the grievance being resolved pursuant to the Step 2 decision. The Director or his/her designee shall schedule a meeting to discuss the grievance with the Association. Such meeting shall be scheduled within ten (10) working days of receipt of the grievance. Within ten (10) working days after such meeting, the Director or his/her designee shall issue a written decision and serve a copy on the Association.

**Step 4.** If the grievance is not resolved with the Step 3 decision, or if no decision is issued within the specified time limit, the Association may appeal to the Director of CMS or his/her designee by submitting a written notice of appeal with a copy of the grievance attached within ten (10) working days after the receipt of the Step 3 decision or the date such

decision was due. Failure to file to Step 4 within the prescribed time limits, unless mutually agreed otherwise, shall result in the grievance being resolved pursuant to the Step 3 decision without precedent or prejudice in resolution of future grievances. Within twenty (20) working days after receipt of the Step 4 appeal, the CMS Director or his/her designee, the parties shall schedule a meeting to:

- a) Discuss and attempt to resolve the grievance; or
- b) Select an arbitrator to hear the grievance and establish, where possible, the hearing date.
- c) Both parties agree to attempt to arrive at a joint stipulation of the facts and issues as outlined to be submitted to the arbitrator. The Employer or the Association shall have the right to request the arbitrator to require the presence of witnesses and/or documents. Each party shall bear the expense of its own witnesses.

Questions of arbitrability shall be decided by the arbitrator. The arbitrator shall make a preliminary determination on the question of arbitrability. Once a determination is made that the matter is arbitrable or that such preliminary determination cannot reasonably be made, the arbitrator shall then proceed to determine the merits of the dispute. The issue as stated in the written grievance shall constitute the sole and entire subject matter to be appealed unless the parties agree to modify the scope of the hearing.

The arbitrator shall only have authority to determine compliance or non-compliance with the provisions of this Agreement and shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. The arbitrator shall be without power to make a decision contrary to or inconsistent with or modifying laws and rules and regulations having the force and effect of law.

The arbitrator shall submit in writing his decision within (30) calendar days following close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to written extension thereof. The award of the arbitrator shall be final and binding on the Employer, the Association and the employee or the employees involved. The expenses and fees of the arbitrator and the cost of the hearing room shall be paid by the losing party. In cases of split decisions the arbitrator shall determine what portion each party shall be billed for expenses and fees. Written briefs may be submitted upon mutual agreement of the parties.

Nothing in this Article shall preclude the parties from agreeing to the appointment of a permanent arbitrator(s) during the term of the

Agreement or to use the expedited arbitration procedures of the American Arbitration Association.

### **Section 3. Representation**

Employees covered by this Agreement shall be represented only by the Association. Such Representation shall be permitted at any and all steps of the procedure. The Association representatives shall be from the same work location as the employee requesting representation, unless the work location does not have a representative. In any case where an employee represents himself/herself, the final level through which the grievance may be processed by the employee shall be Step 2.

### **Section 4. Time Limits**

- A. Grievances may be withdrawn at any step in the procedure without prejudice. Grievances not appealed within the designated time limits shall be treated as withdrawn or shall result in the grievance being resolved pursuant to the Employer's decision, as applicable. Failure of Employer to respond within the designated time limits at any step of the grievance procedure shall permit the Association, and where provided, the employee, to process the grievance to the next step within ten (10) working days of the date the response was due.
- B. The time limits at any step may be extended only by agreement of both parties.
- C. Certain issues which by nature are not capable of being settled at a preliminary step of the grievance procedure may by mutual agreement be filed at the appropriate step where the action giving rise to the grievance was initiated. Mutual agreement shall take place between the appropriate Association representative and the proper Employer representative at the step where it is desired to initiate the grievance.

### **Section 5. Time Off**

- A. The grievant and/or the Association steward shall be permitted reasonable time with pay during their normal working hours to process a grievance. No employee or Association steward shall leave his/her work to process a grievance without first notifying and receiving authorization from his/her supervisor, which authorizations shall not unreasonably be withheld. Such leave shall not interfere with the operating needs of the agency. Such reasonable time off shall not exceed four (4) hours in any one day, except for arbitration days.

- B. Employer shall not be responsible for any subsistence expenses incurred by grievants or the Association steward in the processing of grievances.
- C. Witnesses who have been subpoenaed and who are State employees and whose testimony is pertinent to the grievance presentation will be permitted reasonable time off without loss of pay to attend grievance or arbitration hearings.

**Section 6. Stewards and Jurisdictions**

The Association shall designate one (1) steward, who is authorized to represent employees. The Association shall provide the Employer with the name of the steward within 30 days of the execution of this agreement. Any changes shall be forwarded to the Employer by the Association within 30 days of the change.

**Section 7. Deferral to the Grievance Procedure**

The parties recognize that any dispute arising from the collective bargaining agreement must be resolved pursuant to this Agreement, the Illinois Public Labor Relations Act or the Uniform Arbitration Act

**ARTICLE XIII  
DISCIPLINE**

**Section 1. Definition**

Disciplinary action shall include the following:

- A. Oral Reprimand
- B. Written Reprimand
- C. Suspension
- D. Discharge

Discipline may be imposed upon an employee only for just cause. Discipline should be imposed as soon as possible after the Employer is aware of the event or action giving rise to the discipline and has had an opportunity to investigate the matter. Discipline will be issued within forty-five (45) days after the completion of the pre-disciplinary meeting. The Employer agrees with the tenants of corrective and progressive discipline. When disciplinary action is necessary, consideration is given to the seriousness of the action and the facts of the case. The parties recognize that counseling and corrective action plans are not considered disciplinary actions.

## **Section 2. Suspension Pending Discharge**

The employer may suspend an employee without pay up to thirty (30) days pending a decision on discharge of the employee. Such actions shall not be subject to the grievance procedure, however if suspension pending discharge is replaced by another disciplinary action, written notice will be issued and such action may be subject to the grievance procedure.

## **Section 3. Pre-Disciplinary Meeting**

When disciplinary action is being contemplated the Employer shall notify the Association and the employee. Employees shall be informed of their rights to Association representation. The Employer shall afford the employee a pre-disciplinary meeting with the employee involved and, if requested by the employee, the Association. The meeting will be held for the purposes of providing all relevant available documentation, and names of witnesses relating to the facts of the charge(s); and to permit the employee to rebut and/or ask for clarification of the charge(s), if the employee so desires. Upon request, the employee or the Association representative will be granted up to five (5) workdays to furnish the Employer with a written rebuttal. If the employee does not request Association representation, the Association representative shall be entitled to be present as a non-active participant in any and all such meetings. Pre-disciplinary meetings may be rescheduled by mutual agreement. Reasonable requests will not be denied.

Pre-disciplinary meetings shall not be required to be held in cases of oral and written reprimands.

## **Section 4. Notice**

In the event of a suspension or discharge action taken against an employee, the Employer shall promptly furnish the employee and the Association with a clear and concise copy of the statement of facts giving rise to the discipline and the measure of discipline intended.

The measure of discipline and the statement of charges may be modified for any contemplated disciplinary action, after the investigation of the facts and circumstances is complete. Once the measure of discipline has been imposed, the employer shall not increase it for the particular act of misconduct that arose from the same facts and circumstances.

## **Section 5. Investigatory Interview**

An employee shall be entitled to the presence of a steward and/or Association staff at an investigatory interview if he/she requests one and if the employee has reasonable grounds to believe that the interview may be used to support disciplinary action against her/him. Association representation shall not be denied, however under no circumstances

shall the investigatory interview be delayed by the Association for more than 48 hours. In the event the Association representation is denied, after a request has been made any statement made by the employee shall not be used in support of any subsequent disciplinary action taken against the employee. Association representation shall not act in such a manner so as to obstruct the investigation.

### **Section 6. Administrative Reassignment**

The Employer may reassign an employee during the course of an investigation. In the event that the Employer decides to reassign an employee, upon request the Employer, an Association representative and the employee shall meet to discuss said reassignment.

### **Section 7. Removal of Discipline**

Any discipline imposed for tardiness or absenteeism shall be removed from an employee's record if, from the date of the last discipline two (2) years pass without the employee receiving an additional warning or discipline for the same or similar offense. The two year period shall be extended by any leave of absence or disciplinary suspension. Such removal shall be at the written request of the employee.

Verbal and written reprimands shall be removed from the employee's record if, from the date of the last discipline two (2) years pass without the employee receiving an additional warning or discipline for the same or similar offense. Such removal shall be at the written request of the employee.

## **ARTICLE XIV LEAVE OF ABSENCE**

### **Section 1. General Leave**

The Employer may grant leaves of absence without pay to employees for periods not to exceed six (6) months. Such leaves may be extended for good cause by the Employer for additional six (6) month periods. An employee may request a general leave pursuant to this Section, for maternity related purposes. Such leave request, when combined with the actual length of disability leave or use of such leave for maternity purposes, pursuant to Section 9, shall not exceed a total of six (6) months. Such leave request shall be granted unless the operating needs of the agency preclude approval.

### **Section 2. Leaves for Elected Office**

Any employee who is elected to a state office shall, upon request, be granted a leave of absence for the duration of the elected term.

### **Section 3. Veterans Leave**

Leaves of absence shall be granted to employees who leave their positions and enter military service for four (4) years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or a similar position on making an application to the Employer within ninety (90) days after separation from active duty or from hospitalization continuing after discharge for not more than one (1) year. The employee must provide evidence of satisfactory completion of training and military service when making application and be qualified to perform the duties of the position. Any permanent employee drafted into military services shall be allowed up to three (3) days leave with pay to take a physical examination required by such draft. Upon request, the employee must provide the Employer with certification by a responsible authority that the period of the leave was actually used for such purpose.

### **Section 4. Leave for Military Reserve or Special Duty**

Any full-time employee who is a member of a reserve component of the Armed Services, the Illinois National Guard or the Illinois Naval Militia, shall be allowed annual leave with pay in accordance with the provisions of 5 ILCS 325/0.01 et. seq. to fulfill the military reserve obligation. Such leaves will be granted without loss of seniority or other accrued benefits.

In the case of an emergency call-up (or order to State active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of seniority or other accrued benefits. Military earnings for the emergency call-up paid under the Illinois Military Code must be submitted and assigned to the employing agency, and the employing agency shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earnings for the period, the employing agency shall return the difference to the employee.

To be eligible for military reserve leave or emergency call-up pay, the employee must provide the employing agency with a certificate from the commanding officer of his/her unit that the leave taken was for either such purpose.

Any full-time employee who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia shall be granted leave from State employment for any period actively spent in such military service, including basic training and special or advanced training, whether or not within the State, and whether or not voluntary.

During such basic training, and up to sixty days (60) days of special or advanced training, if such employee's compensation for military activities

is less than his/her compensation as a State employee, he/she shall receive his/her regular compensation as a State employee minus the amount of his/her base pay for military activities. During such training, the employee's seniority and other benefits shall continue to accrue.

**Section 5. Peace or Job Corps Leave**

Any employee who volunteers and is accepted for service in the overseas or domestic Peace or Job Corps shall be given an unpaid leave of absence from employment for the duration of the initial period of service and restored to the same or similar position, provided that the employee returns to employment within ninety (90) days of the termination of the employee's service or release from hospitalization from a service-connected disability.

**Section 6. Adoption Leave**

Employees shall be granted an unpaid leave of absence for a period not to exceed one year for the adoption of a child. Such leave may be renewed pursuant to Section 1 of this Article. Seniority and continuous service shall be retained and accumulated during the first six months of such leave.

**Section 7. Leave to Take an Exempt Position** The Director of Central Management Services may approve unpaid leaves of absence for employees who accept appointment in a State position which is exempt from Jurisdiction "B" of the Personnel Code. Such leaves of absence may be for a period of one (1) year or less and may be extended for additional one (1) year time periods. At the expiration thereof, an employee shall be restored to the same or similar position, seniority permitting, upon making application to the Employer.

**Section 8. Illness or Injury Leave**

Employees who have utilized all their accumulated sick leave days (except as provided in Section 9 below) and are unable to report to or back to work because of the start of or continuance of their sickness or injury, including pregnancy related disability, shall receive an unpaid disability leave. During said leave the disabled employee shall provide written verification by a person licensed under the Illinois Medical Practice Act or under similar laws of Illinois. Such verification shall show the diagnosis, prognosis, and expected duration of the disability; such verification shall be made no less often than every 30 days during a period of disability unless the nature precludes the need for such frequency.

Prior to requesting said leave, the Employee shall inform the Employer in writing of the nature of the disability and approximate length of time needed for leave. The written statement shall be provided by the

attending physician. If the Employer has reason to believe the employee is able or unable to perform his/her regularly assigned duties and the employee's physician certifies he/she as being able or unable to report back to work the Employer may rely upon the decision of an impartial physician as to the employee's ability to return to work. Such examination shall be paid for by the Employer. The Employer will not arbitrarily deny such a leave request.

A certified employee shall retain and accumulate seniority and continuous service while on Illness and Injury Leave up to a maximum of (3) years.

### **Section 9. On the Job Injury**

- A. In the case of an on-the-job or service connected injury or disability, the employee shall accumulate seniority for the duration of the leave. At the end of an employee's Illness or Injury Leave he/she can return to his/her prior position classification, seniority permitting. If the employee does not have the seniority, the layoff provisions of this Agreement shall apply.
- B. An employee who suffers an on-the-job injury or who contracts a service-connected disease shall be allowed full pay during the first calendar week of absence without utilization of any accumulated sick leave or other benefits. Thereafter the employee shall be permitted to utilize accumulated sick leave. In the event such service-connected injury or illness becomes the subject of an award by the Worker's Compensation Commission, the employee shall return to the state the dollar equivalent which duplicates payments received as sick leave days or other accumulated benefit time, and the employee's benefit accounts shall be credited with appropriate leave time equivalents.

### **Section 10. Leave for Association Business**

- A. The Employer shall grant requests for leaves of absence without pay for not more than one (1) bargaining unit employee at one time for the purpose of service as INA representatives or officers of the INA, or its international affiliate for up to a maximum of two (2) years each, provided adequate notice thereof is given to the Employer and the granting of such leave will not substantially interfere with the Employer's operations. Such leaves shall be in increments of no less than one (1) month. During such leave employees shall retain and accumulate seniority and continuous service.
- B. An employee attending a state or national Association convention, or other legitimate Association function such as State or area Association committee meetings having to do with

collective bargaining shall be allowed time off without pay, subject to the prior approval of the Employer, which will be granted, provided such time off would not interfere with the operating needs of the Employer. The employee may utilize any accumulated time (holiday, personal, vacation days, compensatory time) in lieu of taking such time without pay. The Association shall give the Employer at least ten (10) workdays advance notice of the employees who will be attending such functions.

Nothing in this section shall preclude the present practice of allowing time off with or without pay to employees for the purpose of attending certain professional activities.

### **Section 11. Employee Rights After Leave**

- A. When an employee returns from a leave of absence of six (6) months or less, or authorized extension thereof under Personnel Rule 303.140, or other leaves permitted by this Agreement, the Employer shall return the employee to the same or similar position in the same position classification in which the employee was incumbent prior to the commencement of such leave, seniority permitting. If the employee does not have the seniority, the layoff provisions of this agreement shall apply.
  
- B.
  - 1. When an employee returns from a leave of absence of 120 continuous days or less, he/she shall be given the same permanent job assignment as the employee filled just prior to the start of such leave, provided however, the returning employee does not displace an employee from that job assignment with more seniority and such job assignment is still in existence.
  
  - 2. When an employee returns from a leave of absence of more than 120 continuous days, he/she shall not be allowed to displace an employee in order to be placed in their previous job assignment.
  
  - 3. This section does not supersede paragraph A with regard to employee's seniority rights to their job classification upon return from leave of absence, but it is for the purpose of defining job assignment rights upon return from leave.

### **Section 12. Failure to Return From Leave**

Failure to return from leave of absence within five (5) days after the expiration date thereof may be cause for discharge.

### **Section 13. Family Responsibility Leave**

A. An employee who wishes to be absent from work in order to meet or fulfill responsibilities, as defined in subsection (F) below, arising from the employee's role in his/her family or as head of the household will normally, upon request and in the absence of another more appropriate form of leave, be granted a Family Responsibility Leave for a period not to exceed one year. Such request shall not be unreasonably denied. The Agency Head will consider whether the need for the family responsibility leave is substantial, whether the action is consistent with the treatment of other similar situations and whether the action is equitable in view of the particular circumstances prompting the request.

B. Any request for such leave shall be in writing by the employee not less than 15 calendar days in advance of the leave unless such notice is precluded by emergency conditions, stating the purpose of the leave, and the expected duration of absence.

C. Such leave shall be granted only to a permanent full-time employee, except that an intermittent employee shall be non-scheduled for the duration of the required leave. An employee in temporary, emergency, provisional, or trainee status shall not be granted such leave.

D. 'Family Responsibility' for purposes of this Section is defined as the duty or obligation perceived by the employee to provide care, full-time supervision, custody or non-professional treatment for a member of the employee's immediate family or household under circumstances temporarily inconsistent with uninterrupted employment in state service.

E. 'Family' has the customary and usual definition for this term and purposes of this Section, which is:

1. Group of two or more individuals living under one roof having one head of the household and usually, but not always, having a common ancestry, and including the employee's spouse.
2. Such natural relation of the employee, even though not living in the same household, as parent, sibling or child; or
3. Adoptive custodial and 'in-law' individuals when residing in the employee's household but excluding persons not otherwise related of the same or opposite sex sharing the same living quarters but not meeting any other criteria for 'family'.

F. Standards for granting a Family Responsibility Leave are:

1. To provide nursing and/or custodial care for the employee's newborn infant, whether natural born or adopted for a period not to exceed one year;
2. To care for a temporarily disabled, incapacitated or bedridden resident of employee's household or member of the employee's family;
3. To furnish special guidance, care or supervision of a resident of the employee's household or a member of the employee's family in extraordinary need thereof;
4. To respond to the temporary dislocation of the family due to a natural disaster, crime, insurrection, war or other disruptive event;
5. To settle the estate of a deceased member of the employee's family or to act as conservator if so appointed and providing the exercise of such functions precludes the employee from working; or,
6. To perform family responsibilities consistent with the intention of this Section but not otherwise specified.

G. If the agency requires substantiation or verification of the need by the employee for such leave, the substantiation or verification shall be consistent with and appropriate to the reason cited in requesting the leave, such as:

1. A written statement by a physician or medical practitioner licensed under the "Medical Practice Act" (Ill. Rev. Stat. 1981, ch. 111, para. 4401 et seq.) or under similar laws of Illinois or of another state or country or by an individual authorized by a recognized religious denomination to treat by prayer of spiritual means, such certification to show the diagnosis, prognosis and expected duration of the disability requiring the employee's presence;
2. Written report by a social worker, psychologist, or other appropriate practitioner concerning the need for close supervision or care of a child or other family member; or
3. Written direction by an appropriate officer of the courts, a probation officer or similar official directing close supervision of a member of the employee's household or family; or
4. An independent verification substantiating that the need for such leave exists.

H. Such leave shall not be renewed, however a new leave shall be granted at any time for any reason consistent with Section 303.148(f) other than that for which the original leave was granted.

I. If any agency has reason to believe that the condition giving rise to the given need for such leave no longer exists during the course of the leave, it would require further substantiation or verification and, if appropriate, direct the employee to return to work on a certain date.

J. Failure of an employee upon request by the employing agency to provide such verification or substantiation is cause on due notice for termination of the leave.

K. Such leave shall not be used for the purpose of securing alternative employment. An employee during such leave may not be gainfully employed full-time, otherwise the leave shall terminate.

L. Upon expiration of the Family Responsibility Leave, or prior to such expiration by mutual agreement between the employee and the employing agency, the agency shall return the employee to the same or similar position classification that the employee held immediately prior to the commencement of the leave. If there is no such position available, the employee will be subject to layoff in accordance with the Section on Voluntary Reduction and Layoff (80 Ill. Adm. Code 302: Subpart J).

M. Nothing in this Section shall preclude the reallocation or abolition of the position classification of the employee during such leave nor shall the employee be exempt from the Section on Voluntary Reduction and Layoff by virtue of such leave.

#### **Section 14. Maternity/Paternity Leave**

All female bargaining unit members who show proof that they have received prenatal care in the first twenty (20) weeks will be eligible for four (4) weeks (20 work days) paid maternity leave. Such proof shall be provided to the Employer no later than the 24<sup>th</sup> week of pregnancy. All male bargaining unit members who show proof that their spouses have received prenatal care in the first twenty (20) weeks, with notification to the Employer within 24 weeks, will be eligible for four (4) weeks (20 work days) of paid paternity leave. The State shall require proof of the birth and marriage for a non-covered spouse. Maternity and/or paternity leave shall be limited to one (1) leave per family per each birth. Leaves under this Section shall also be granted in cases of a full term still born child.

All bargaining unit members are eligible for four (4) weeks (20 days) of paid leave with a new adoption, with the leave to commence when physical custody of the child has been granted to the member, provided that the member can show that the formal adoption process is underway. The agency personnel office must be notified, and the member must submit proof that the adoption has been initiated. Adoption leave shall be limited to one (1) leave per family per year. Employees are not eligible for the above referenced leave in the event the adoption is for a child with whom the employee has previously established residency.

## **ARTICLE XV SICK LEAVE AND ILLNESS AND INJURY LEAVE**

### **Section 1. Sick Leave**

All employees shall accumulate paid sick leave at the rate of one (1) day for each month's service during their current period of continuous service. Sick leave may be used for illness, disability, or injury of the employee, appointments with the doctor, dentist, or other professional medical practitioner, and not for more than 30 days in one (1) calendar year in the event of serious illness, disability, injury, or death of the member of an employee's immediate family or household. For purposes of definition, the "immediate family or household" shall be husband, wife, mother, father, brother, sister, children, or any relative or person living in the employee's household from whom the employee has custodial responsibility or where such person is financially and emotionally dependent on the employee and where the presence of the employee is needed. Sick time may be taken in increments of not less than one-half (1/2) hour after a minimum use of one hour. Supervisors may however, grant employees requests to use sick time in smaller increments of fifteen (15) minutes after a minimum use of one-half (1/2) hour. Evidence of illness, including doctor's statement, may be required where the Employer has reason to believe that such leave days were not used for the purpose herein set forth. For periods of absence for more than ten (10) consecutive workdays, the employee shall provide verification for such absence in accordance with the provisions of Personnel Rule 303.145. Sick leave may also be used in the event of death of grand relations and parent and child-in-laws. Visit of four (4) days per year to a veterans' hospital or clinic for examination needed because of military service-connected disability shall be in pay status without charge to Sick leave.

## **Section 2. Accumulation of Sick Leave**

Employees shall be allowed to carry over from year to year of continuous service any unused sick leave allowed under this provision and shall retain any unused sick leave or emergency absence leave accumulated prior to the effective date of this Agreement. Sick leave that remains at the time of employee separation or retirement shall be treated in accordance with Personnel Rules and Illinois Legislative Compiled Statutes.

## **Section 3. Illness or Injury Leave**

Employees who have utilized all of their accumulated sick leave days and are unable to report to or back to work because their sickness or injury shall receive an Illness or Injury Leave without pay and may receive additional extension(s) of such leave. Prior to application for such leave or extension thereof, the employee shall inform the Employer that such condition exists, or advise the Employer that such condition is continuing before the expiration of their original leave or an extension thereof and if so requested, take a physical examination given by employer's physician if there is a doubt as to the employee's illness. The employee shall report back to work as soon as physically able. If there is a difference of opinion between the employer's physician and the employee's physician as to his/her illness or ability to return to work, Employer may request an examination by another physician (who is not employed by the State). Such examination shall be paid for by the Employer.

## **Section 4. Proof of Illness or Injury Status**

The Employer may place an employee on proof status by notifying the employee that future use of sick time must be substantiated, if the Employer has reason to believe there is sick time abuse. In said notice, the Employer will state its reasons for placing the employee on proof status and will specify the type of substantiation required. The Employer shall specify any specific information it requires in the substantiation and the length of proof status. The employee or the Association may grieve being placed on proof status pursuant to the grievance procedure. If an employee on proof status fails to provide a medical statement which verifies he/she was seen by a medical practitioner on the date in question, and they were unable to work on that date, the employee will not be allowed to use accumulated sick leave and may be subject to docking and/or discipline.

## **ARTICLE XVI LAYOFF**

### **Section 1. Layoff Procedure**

The agency shall provide the Association and the employees to be affected by the proposed layoff thirty (30) days notice of such proposed layoff. When the number of positions in the bargaining unit is to be reduced, employees shall be laid off in reverse order of seniority. Employees laid off from the bargaining unit shall be placed on the recall list for 24 months.

### **Section 2. Recall**

A laid off employee shall be recalled to a position in a classification in the bargaining unit in reverse order of layoff from the bargaining unit prior to filling such position in a classification by any other means. Recall notice shall be sent to the employee and to the Association. An employee who declines an offer to return to his/her same classification from recall shall be removed from the recall list. An employee shall be removed from the recall list if they submit a written request.

## **ARTICLE XVII VACATIONS**

### **Section 1. Amounts**

Employees shall earn vacation time. No employees on a leave of absence may earn vacation except when the leave was for the purpose of accepting a temporary working assignment in another classification.

Eligible employees shall earn vacation time in accordance with the following schedule:

- A. From the date of hire until the completion of five (5) years of continuous service: ten (10) workdays per year.
- B. From the completion of five (5) years continuous service until the completion of nine (9) years continuous service: fifteen (15) workdays per year.
- C. From the completion of nine (9) years of continuous service until the completion of fourteen (14) years of continuous service: seventeen (17) workdays per year.
- D. From the completion of fourteen (14) years of continuous service until the completion of nineteen (19) years of continuous service: twenty (20) workdays per year.

E. From the completion of nineteen (19) years of continuous service until the completion of twenty-five (25) years of continuous service: twenty-two (22) workdays per year.

F. From the completion of twenty-five (25) years of continuous service: twenty-five (25) workdays per year.

### **Section 2. Vacation Time**

Subject to operational needs, vacation time may be taken in increments of not less than one-half (1/2) hour after a minimum use of one (1) hour. Supervisors may however, grant employee requests to use vacation time in smaller increments of fifteen (15) minutes after a minimum use of one-half (1/2) hour. Vacation time shall not be accumulated for more than 24 months after the end of the calendar year in which it is earned. Vacation time earned shall be computed in workdays.

### **Section 3. Interrupted Service**

Computation of vacation time of state employees who have interrupted continuous state service shall be determined as though all previous state service which qualified for earning of vacation benefits is continuous with present service.

### **Section 4. Vacation Scheduling**

In approving vacation schedules, the agency shall consider both the employee's preference and the operating needs of the agency. When the agency, based on operational need, is unable to grant and schedule the vacation preference for all employees within the unit, but is able to grant some (one or more) vacation preferences, such approval shall be based on seniority.

Vacation must be scheduled so that it may be taken no later than 24 months after the expiration of the calendar year in which such vacation was earned. If the employee does not request and take accrued vacation within 24-month period, vacation earned during calendar year shall be lost.

### **Section 5. Vacation Request Action**

The Department shall approve or disapprove vacation requests within five (5) days of the receipt of the request.

### **Section 6. Vacation Payment**

If, due to operational needs, the Employer cannot grant an employee's request for vacation time within the 24-month period after the expiration of the calendar year such time was earned, such vacation time shall be liquidated in cash at straight time provided the employee has made at

least three (3) separate requests with at least 15 days between each request, for such time within the calendar year preceding liquidation.

No salary payment shall be made in lieu of vacation earned but not taken except as provided in this Section and on termination of employment for eligible employees with at least six (6) months of continuous service in which case the effective date of termination shall not be extended by the number of days represented by said salary payment.

## **ARTICLE XVIII HOLIDAYS**

### **Section 1. Amounts**

All employees shall have time off, with full salary payment on the following holidays or the day designated as such by the State:

- New Year's Day
- Martin Luther King Day
- Lincoln's Birthday
- Washington's Birthday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans' Day
- Thanksgiving Day
- Friday Following Thanksgiving Day
- Christmas Day

General Election Day (on which members of the House of Representatives are elected) and any additional days proclaimed as holidays or nonworking days by the Governor of the State of Illinois or by the President of the United States.

### **Section 2. Equivalent Time Off**

When a holiday falls on an employee's scheduled day off, or an employee works on a holiday, equivalent time off shall be granted within the following twelve (12) month period. It shall be *granted* on the day requested by the employee unless to do so would interfere with the Employer's operations, in which event the employee's next requested day off shall be given or cash paid in lieu thereof, or accumulated indefinitely.

### **Section 3. Banked Holiday Time**

If an employee has Holiday time banked, all time banked but not used will be cashed out annually at the end of each fiscal year.

## **ARTICLE XIX WORK RULES**

### **Section 1. Definition**

Work rules are those rules promulgated by the Employer which regulate the personal conduct of the employee as it affects his/her employment.

### **Section 2. Notice**

The Association and the Employer recognize management's right to establish reasonable work rules. Work rules shall not conflict with any of the provisions of this Agreement. Newly established work rules or amendments to existing work rules shall be reduced to writing and furnished to the Employees and the Association at least five (5) workdays prior to the effective date of the rule, and discussed upon request with the Association.

### **Section 3. State Officials and Employees Ethics Act**

Employees shall comply with all of the provisions set forth in the State Officials and Employees Ethics Act.

### **Section 4. Employee Handbook**

The Parties agree that Department Employee Handbook policies are work rules and shall remain unaffected by this agreement.

## **ARTICLE XX FILLING OF VACANCIES**

### **Section 1. Classification**

The parties recognize there is presently only one classification in the bargaining unit

### **Section 2. Policy**

The Employer reserves the right to use at its discretion other means available as provided in the Personnel Rules of the Director of Central Management Services for filling vacancies subject to the provisions of this Agreement.

### **Section 3. Posting**

A vacancy occurs when the Employer determines that there is a need to fill a position. The Department of Central Management Services shall maintain a computerized central listing of all available bargaining unit job openings.

Permanent vacancies shall not be filled until the position has been posted for a minimum of five (5) days by an internet posting. Such postings shall include job description, training and experience requirements, specialized skills and pay related information. Applicants must be deemed qualified and eligible to be considered for selection. The employer reserves the right to administer appropriate examinations.

**Section 4. Transactions**

The Employer will notify the Association of all new hires and discharges. The Employer will furnish each employee covered by this agreement with a written job description and a copy of the agreement upon written request by the employee.

**ARTICLE XXI  
LEGISLATED BENEFITS**

During the term of this Agreement, the Employer shall continue in effect and employees shall enjoy the benefits, rights and obligations of (a) the group insurance health and life plan applicable to all Illinois State employees pursuant to the provisions of the State Employees Group Insurance Act of 1971 (5 ILCS 375) as amended or expressed; and (b) the retirement program provided in the Illinois Pension Code (40 ILCS 5) as amended or superseded.

Employees shall make the employee contribution to the appropriate Retirement System in an amount equal to the coordinated rate.

**ARTICLE XXII  
LABOR-MANAGEMENT MEETINGS**

The Employer and the Association shall meet at mutually agreeable times and places upon request by either party and/or at regularly scheduled times for the purpose of discussion on matters of mutual interest. A bargaining unit member may attend the labor-management meeting. A second member may attend labor-management meetings with prior management approval.

## **ARTICLE XXIII PERSONNEL FILES**

### **Section 1. Number and Type**

Only one personnel file will be maintained in the Division for each employee and the agency shall have the right to maintain a copy at its central Personnel Office. The Department of Central Management Services shall keep and maintain an official personnel file. Working files may be kept by supervisors for employees, and such files shall contain only job related material. Working files shall not be considered personnel files as required in this Article. No other files shall be kept by the Employer or any or any of its representatives except as may be prepared or used by the Employer in the course of preparation or participation for any pending case such as a grievance, civil service matter, criminal investigation, Department of Human Rights or EEOC matter, ect. An employee has the right upon written request to review the contents of his/her personnel file or working file. Such review may be made during working hours with no loss of pay for time so spent within reason.

Upon authorization by an employee, the Association may inspect that employee's personnel file following written request to the Employer.

### **Section 2. Employee Notification**

A copy of any disciplinary action or material related to an employee's performance which is placed in the personnel file will be served in person upon the employee (the employee noting receipt, or the supervisor noting failure of employee to acknowledge receipt) or sent by certified mail (return receipt requested) to his/her last address appearing on the records of the Employer. It is the obligation of each employee to provide Employer with his/her current address and telephone number.

### **Section 3. Evaluations**

Employees shall receive copies of performance evaluations. The employee will have the option to rebut and/or grieve the evaluation.

## **ARTICLE XXIV MISCELLANEOUS**

### **Section 1. Distribution of Contract**

The contract shall be available on the Department of Central Management Services' website.

## **Section 2. Assignment within Classification Specification**

The phrase “performs other duties as required or assigned” under illustrative examples of work in the job classification specification shall be interpreted to mean other duties which are reasonably within the intended scope of the job classification.

## **Section 3. Notification of Leave Balances**

Employee shall be allowed to review and verify their time and attendance records on a monthly basis.

## **Section 4. Fitness for Duty**

In accordance with the current practices, when the Employer has reason to suspect that an employee is not fit for duty and has requested a fitness for duty evaluation which determines the employee is unfit for duty and the employee’s physician certifies the employee is fit for duty, the Employer may rely upon the decision of an impartial physician from SERS (State Employee Retirement System) for the employee’s fitness for duty. Such examination shall be paid for by the Employer.

## **Section 5. Rehabilitation**

Pursuant to the State of Illinois Employee Assistance Program, the Employer shall make employees aware of and offer referral for counseling and any other reasonable and appropriate services.

## **Section 6. Professionalism**

The parties acknowledge the importance of a respectful and professional working environment in order to provide the best legal representation to the Department.

## **Section 7. Attorney Registration and Disciplinary Commission**

### **Annual Fee**

The Employer shall continue its practice of paying the annual attorney registration fees of bargaining unit members.

## **Section 8. Minimum Continuing Legal Education**

The employer shall continue to provide to bargaining unit members all hours of continuing legal education required pursuant to the Minimum Continuing Legal Education Rules. Such education shall be conducted during employees’ regular hours of work.

## **Section 9. Furlough Plan**

Members of the bargaining unit will schedule a minimum of four (4) furlough days, and can volunteer for a maximum of twelve (12) furlough days prior to July 1, 2010. The rules governing the scheduling of furlough days that have already been circulated by the Department of Central Management Services will be adopted by these employees.

**ARTICLE XXV  
NO STRIKE/NO LOCK-OUT**

There shall be no lock-out of bargaining unit employees during the term of this Agreement. Bargaining unit employees will not strike against the Employer during the term of this Agreement. The Employer has the right to discipline, up to and including discharge, its employees for violating the No Strike/No Lock-Out provision.

**ARTICLE XXVI  
AUTHORITY OF CONTRACT**

**Section 1. Partial Invalidity**

Should any parts of this Agreement or any provisions contained herein be judicially determined to be contrary to law, such invalidation of such part or provision shall not invalidate the remaining portions hereof and they shall remain in full force and effect. The parties shall attempt to re-negotiate the invalidated part or provision. The parties recognize the provisions of this contract cannot supersede law.

**Section 2. Effect of Department of Central Management Services Personnel Rules and Pay Plan**

Unless, specifically covered by this Agreement, The Rules of the Department of Central Management Services and its Pay Plan shall control. However, the parties agree that the provisions of this Agreement shall supersede any provisions of the Rules and Pay Plan of the Department of Central Management Services relating to any subjects of collective bargaining contained herein when the provisions of such Rules or Pay Plan differ with this Agreement.

**Section 3. Increase or Decrease of Benefits**

In the event the Director of Central Management Services unilaterally grants an increase in fringe benefits to every and all non-INA bargaining unit employees subject to the Personnel Code, such increase shall be made applicable to the employees covered by this Agreement. Reduction in benefits, however, shall not be made applicable, and the provisions of this Agreement shall apply.

**Section 4. Obligation to Bargain**

Unless otherwise provided herein, this Agreement represents the entire Agreement of the parties and shall supersede all previous agreements, written or verbal. The parties acknowledge that during the negotiations which resulted in this Agreement each had the unlimited right and

opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that all of the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Association agree that the other shall not be obligated to bargain on any issue which was bargained or should have been bargained during negotiations resulting in this agreement, unless mutually agreed otherwise.

### **Section 5. Past Practice**

When a current policy or practice of the Employer conflicts with the provisions of this Agreement, the contract shall prevail. However, a past practice shall remain in effect during the term of this Agreement, unless the parties mutually agree to negotiate changes to, or the elimination of, a past practice. In order to qualify as a past practice, such practice must be (1) unequivocal, (2) clearly enunciated and acted upon, and (3) readily ascertainable over a reasonable period of time as a fixed and established practice accepted by both parties.

## **ARTICLE XXVII AFFIRMATIVE ATTENDANCE POLICY**

The Employer recognizes that personal problems may affect employee's attendance and encourages utilization of the Employee Assistance Program.

Unauthorized absences shall be those absences for which time is not approved. The threshold between late arrival and unauthorized absence is one hour after the starting time. Although tardiness is not considered an unauthorized absence under this agreement, employees are expected to report to work on time each day as scheduled. Any tardiness policies shall remain in full force and effect during the life of this agreement unless otherwise negotiated by the parties.

Where current practices exist, any unauthorized absence which is less than ½ day will be treated as misuse of time inclusive of all other time related infractions (including late arrival, extended breaks and lunch hours, leaving work without authorization) as one progressive and corrective disciplinary track. Such infractions will not be subject to the disciplinary track and/or timeframes set forth in this policy.

Authorized dock time shall be granted when sick time has been exhausted if proper medical certification is provided within three (3) workdays. It is the employee's responsibility to provide medical certification to their supervisor. Documents that do not contain

necessary elements will not be accepted and the employee will be so notified. The absences shall be considered unauthorized if acceptable certification is not subsequently provided within five (5) workdays.

Proper medical certification must contain the following elements:

- Signature, address, and phone number of the medical practitioner (or the authorized designee);
- The pertinent dates in question of the illness or injury;
- An Indication that the employee was unable to work on the date(s) in question for the reasons of personal or family illness;
- The original medical statement; if the employee needs a copy management will provide.

Notwithstanding the above, the Employer may accept an electronically generated statement with an electronic signature or a facsimile with cover page, as long as the necessary information is provided as set forth in this policy.

Vacation, holiday, compensatory and personal business time shall be requested in advance, except in emergency situations. If no personal business, vacation, holiday or compensatory time is available, authorized dock time shall be approved for emergency situations, subject to verification of the emergency situation.

Authorized dock time under this circumstances is limited to five (5) days within a twelve (12) month period, unless approval for more time is granted by the authorizing supervisor. Employees who have used all allowable authorized dock time shall be informed of their right to apply for an appropriate leave of absence. Employees who have been on proof status within the previous three (3) months shall have no right to authorized dock time.

All employees' requests for benefit time usage must be supported by a request for time off form submitted by the employee. In accordance with agency practice, requests for available benefit time other than unscheduled sick leave, emergency personal business and inclement weather situations, shall be made reasonably in advance, in writing, using the proper form.

Where current practices exist, same day call-in requests for vacation, compensatory, and holiday time shall be made only when it is not possible to request such time in advance and it writing using the appropriate form. When an employee is claiming that it is not possible to request the vacation, compensatory, or holiday time reasonably in

advance in writing, the Employer has the right to inquire as to why it was not possible, although such inquiry may only be made when reasonable grounds exist to suggest abuse. Same date call-in requests for vacation, compensatory, or holiday time shall not be denied unless a bona fide operating need exists to do so. Under no circumstances will such request be denied solely because a request is called-in on the day requested. The form must be provided to the supervisor no later than two (2) of the employee's workdays after the employee's return from the absence.

Supervisors must ensure that the form is readily available to the employee. Failure of the employee to provide this form may result in the absence being considered unauthorized, and the employee may be docked and disciplinary referral may be initiated. If the employee subsequently submits the form within two (2) of the employee's workdays after notification of being docked, the determination of an unauthorized absence shall be corrected.

Supervisors must process all completed forms generated from call-ins within five (5) calendar days of submission, either approving or disapproving the request.

As long as the employee meets the applicable Leave of Absence requirements, the Employer will approve leave for the time frame documented, including request for short-term leaves.

It is the employee's responsibility to provide proper medical certification to their supervisor. Documents that do not contain the necessary elements will not be accepted and the employee will be so notified. The absences shall be considered unauthorized if acceptable certification is not subsequently provided within five (5) workdays. Proper medical certification must contain the following elements:

- Signature, address, and phone number of the medical practitioner (or the authorized designee);
- The pertinent dates in question of the illness or injury;
- An Indication that the employee was unable to work on the date(s) in question for the reasons of personal or family illness;
- The original medical statement; if the employee needs a copy management will provide.

Notwithstanding the above, the Employer may accept an electronically generated statement with an electronic signature or a facsimile with cover page, as long as the necessary information is provided.

Unauthorized absences shall be subject to the following corrective and progressive disciplinary action:

Occurrence	Unauthorized Absence with Call-In
1 <sup>st</sup>	Counseling
2 <sup>nd</sup>	Oral Reprimand
3 <sup>rd</sup>	Written Reprimand
4 <sup>th</sup>	2 <sup>nd</sup> Written Reprimand
5 <sup>th</sup>	1 day suspension
6 <sup>th</sup>	3 day suspension
7 <sup>th</sup>	5 day suspension
8 <sup>th</sup>	7 day suspension
9 <sup>th</sup>	10 day suspension
10 <sup>th</sup>	15 day suspension
11 <sup>th</sup>	20 day suspension
12 <sup>th</sup>	Discharge

Each day of unauthorized absence shall be considered a separate offense for the purposes of progressive discipline.

Each day of unauthorized absence without a call-in shall be considered as two offenses, and appropriate progressive discipline shall be administered pursuant to the chart above.

Under this Affirmative Attendance Agreement, except for the last offense before discharge, no employee will serve any suspension time. Employees will be given the usual notice of a suspension but will be expected to report to work and lose no wages. An employee will only serve five (5) days of actual suspension time for the last offense prior to discharge.

The parties agree that this section does not alter any provisions in the Employee Handbook or the CMS Personnel Rules regarding discharge for five (5) consecutive days of unauthorized absence with no call-in.

Discipline under this policy will be considered timely and progressive based on a rolling 24-month period. If the last disciplinary action is more than 24 months old, the progression will start over.

Employees not covered by an Affirmative Attendance Agreement prior to the effective date of this Agreement shall be considered to have committed no offense. Employees, who have discipline under a prior Affirmative Attendance Policy, shall be placed on the closest step of the discipline track for the same offense that does not represent an increase in the level of discipline.

The Employer recognizes that personal problems may affect the attendance of employees. Upon request by the local Union president or designee, employees will be afforded a joint Union/Management consultation at the last suspension prior to discharge. The purpose of such consultations will be to provide guidance and counseling to the employee as to the need for their services, the consequences of continued unauthorized absences, the ability of services for problems, specifically including the Employee Assistance Program, which may be identified and the ability to request a leave of absence.

After training materials have been distributed to those Agencies previously not covered under an Affirmative Attendance Policy, the Employer will start the Affirmative Attendance Policy. Additionally, Agencies and the Union shall establish joint training program presentations in those Agencies previously not covered under an Affirmative Attendance Policy at the request of either party. In the event a training program presented, the Employer will initiate the Affirmative Attendance Policy within one month upon completion of the presentation.

This agreement supersedes any other Affirmative Attendance Agreement(s) on this issue.