

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**FEDERATION OF ADMINISTRATIVE LAW  
JUDGES -D.C.**

**AND**

**THE DISTRICT OF COLUMBIA,**

**AND**

**THE OFFICE OF ADMINISTRATIVE HEARINGS,  
THE GOVERNMENT OF THE  
DISTRICT OF COLUMBIA**

**EFFECTIVE OCTOBER 1, 2015 THROUGH SEPTEMBER 30, 2019**

## TABLE OF CONTENTS

Recognition	4
Savings	5
Duration and Finality	5
<b>PART I: NON-COMPENSATION</b>	
<b>ARTICLE</b>	
1 Labor Management Relations	6
2 Administration of Leave	7
3 Alternative Work Schedule	8
4 Senior Status	9
5 Employee Assistance	9
6 Union Officials/Official Time	10
7 Union Use of Employer Facilities and Services	13
8 Personnel Files	14
9 Dissemination of Information	15
10 Contracting Out/Non-ALJ Adjudicators	16
11 Union Rights and Security	16
12 Discrimination	18
13 Safety and Health	19
14 Requests for Information	21
15 Information Technology	21
16 Training	22
17 Employee Rights	23
18 Sabbatical/Extended Leave	24

19	Principal Administrative Law Judge Positions (PALJs)	25
20	Timely Receipt of Correct Pay and Expense Reimbursements	25
21	General Provisions	26
22	Computation of Time	27
23	Timeliness Standards	27
24	Performance Appraisals	28
25	Grievance and Arbitration Procedures	29
26	Discipline and Discharge	34

APPENDIX Official Time Report form

**PART II - COMPENSATION**

ARTICLE

1	Wages	37
2	Benefits Committee	37
3	Benefits	39
4	Monthly Transit Subsidy – SMARTRIP Benefits	48
5	Sick Leave Incentive Program	48
6	Annual Leave/Compensatory Time Buy-out	49
7	Back Pay	49

## **RECOGNITION**

### **Section 1 - Recognition**

A. The Federation of Administrative Law Judges – D.C. (FALJ), affiliated with the International Federation of Professional and Technical Engineers (IFPTE) (Union), is recognized as the sole and exclusive collective bargaining representative of employees in the bargaining unit as defined in Section 2 of this Article.

B. As the sole and exclusive representative, the Union is entitled to act for and to negotiate collective bargaining agreements (CBA) on behalf of all employees in the bargaining unit. The Union shall represent the interests of all employees in the bargaining unit.

C. The Employer District of Columbia Office of Administrative Hearings (OAH or Agency) will recognize representatives of the IFPTE National Office. The Union will provide reasonable advance notice of visits to OAH by representatives of the National Office. Such visitors shall have access to employee work spaces to meet with employees in the bargaining unit.

D. OAH shall give the Union an opportunity to participate at any formal meeting between the Employer and one or more employee(s) in the bargaining unit concerning any grievance. A “formal meeting” is any meeting between an employee and any management official or supervisor.

### **Section 2 – Coverage**

A. All Administrative Law Judges (ALJs) in the District of Columbia Office of Administrative Hearings (OAH or Agency) appointed pursuant to D.C. Official Code §§ 2-1831.06 and 2-1831.08, excluding all management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139. Public Employee Relations Board (PERB) Case No. 12-RC-03, Certification No. 158 (2014).

B. The PERB has authorized that this bargaining unit of ALJs shall constitute a unit for the purpose of compensation bargaining, as Compensation Unit No. 35: All administrative law judges in the District of Columbia OAH appointed pursuant to D.C. Official Code §§ 2-1831.06 and 2-1831.08, and compensated pursuant to § 2-1831.05(a)(11), excluding all management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139. PERB Case No. 16-CU-03, Slip Op. No. 1583 (2016).

C. FALJ is recognized as the sole and exclusive bargaining representative for the bargaining units set forth in PERB Certification No. 158. In the event that any ALJ positions within FALJ's bargaining unit that are currently assigned to OAH are subsequently assigned to other agencies within the District of Columbia Government, the parties agree to open negotiations, within 30 days

of the effective date of the transfer of positions, to establish an agreement governing the working conditions of the bargaining unit employees within those positions.

## **SAVINGS CLAUSE**

### **Section 1**

In the event any article, section or portion of this Agreement is held to be invalid and unenforceable by reason of any existing or subsequently enacted law or by decree of any court or other authority of competent jurisdiction, such decision shall apply only to the specific article, section, or portion thereof specified in the decision; and upon issuance of such law or decision, the Employer and the Union agree to immediately negotiate a substitute for the invalidated article, section or portion thereof to the extent possible.

### **Section 2**

The terms of this Agreement supersede any conflicting District Personnel Manual (DPM) regulations, or departmental rules concerning non-compensation or compensation matters covered herein for the term of this agreement.

## **DURATION AND FINALITY**

### **Section 1 -- Effective Date**

This Agreement shall be implemented as provided herein subject to the requirements of the District of Columbia Comprehensive Merit Personnel Act D.C. Official Code, § 1-617.15(a) for Part I covering non-compensation, and § 1-617.17 for Part II covering compensation, (2012 Repl.). This Agreement shall be effective on the date provided by law (i.e., when Part I covering non-compensation is approved by the Mayor and when Part II covering compensation is approved by the Council of the District of Columbia or as otherwise effective pursuant to D.C. Official Code § 1617.17 (2012 Repl.)). This Agreement shall remain in full force and effect until September 30, 2019, or until a new non-compensation or compensation agreement becomes effective. Notice to reopen the Agreement shall be provided as required by D.C. Official Code § 1- 617.17 (f)(1)(A)(i) (2012 Repl.).

### **Section 2 -- Finality**

This Agreement was reached after negotiations during which the parties were able to negotiate on any and all negotiable non-compensation and compensation issues, and contains the full agreement of the parties as to all such non-compensation and compensation issues that were or could have been negotiated.

## **PART I: NON-COMPENSATION**

### **ARTICLE 1 LABOR-MANAGEMENT RELATIONS**

#### **Section 1 - Composition and Function of the Labor-Management Committee**

- A. The parties shall create a Labor-Management Committee (LMC) that will consist of an agreed upon number of Union and Employer representatives.
- B. The LMC shall be a forum for the exchange of views on working conditions, terms of employment, matters of common interest, or other matters, which either party believes will contribute to improvement in the relations between the Union and the Employer.
- C. Performance evaluation appeals, specific grievances and disciplinary matters shall not be the subject of discussions at these meetings, nor shall the meetings be for any other purpose which would modify, add to or detract from the provisions of this Agreement, or curtail the Union's right to bargain on the impact and effect of any changes to the function and structure of OAH. The Committee shall adopt rules for meetings including rules for notices, agendas, times, and locations.

#### **Section 2 - Findings and Recommendations of the Labor-Management Committee or Subcommittee**

When possible, the findings and recommendations of the LMC or subcommittee thereof will be forwarded to the Chief Administrative Law Judge or his/her designee for consideration. The Chief Administrative Law Judge or his/her designee shall respond in writing to any written findings and recommendations of the committee or subcommittee within a reasonable period of time. At the time recommendations are forwarded by the committee or subcommittee to the Chief Administrative Law Judge or his/her designee, the committee or subcommittee shall recommend a response date from the Chief Administrative Law Judge or his/her designee.

#### **Section 3 - Organizational Changes**

The parties agree that changes to the functions and structure (except changes involving a particular individual as to personnel/supervisory appointments or transfers or space relocations) of OAH are a proper matter for consideration by the Labor-Management Committee or relevant subcommittee. The Employer may, in its discretion, solicit the views of the Union on any proposed organizational change at any time, but agrees that it shall provide to the Union President a copy of the final draft of organizational changes that will impact Bargaining Unit Employees. The Union President or his/her designee may call a meeting of the Labor-Management Committee or relevant subcommittee concerning the proposed changes and Employer shall honor any such request by convening and attending the meeting. Following these consultations, the Union will be provided a copy of the final plan that has been approved by appropriate officials. If any changes to the plan are made thereafter, the Union shall be provided a copy of such changes.



## **ARTICLE 2 ADMINISTRATION OF LEAVE**

### **Section 1**

District government law and rules and regulation governing the administration of leave shall apply to this Article, except as augmented in Part I or Part II of this Agreement.

OAH shall make every reasonable effort to approve periodic annual leave requests, subject to the needs of the Agency. Once annual leave is approved, that leave will be reflected on the Court's schedule and the requesting ALJ will not be scheduled for hearings during the leave period. In cases of conflicts between leave requests, such conflicts will be resolved in favor of the leave request that was filed first.

In addition to scheduled periodic annual leave, ALJs may request to take annual leave at other times and with less notice. Requests for unscheduled annual leave must be submitted to the Chief Administrative Law Judge for approval. In emergency situations, requests and approvals may be made by email.

### **Section 2**

The Chief Administrative Law Judge may grant up to 10 work days of administrative leave for an ALJ to attend meetings or conferences, or to participate in an approved training program in any fiscal year, or if the Chief determines that the ALJ's attendance is in the best interest of the District government. The administrative leave days may be taken consecutively or not.

The ALJ seeking administrative leave will request leave authorization from the Chief Administrative Law Judge in writing, in advance. The Chief Administrative Law Judge shall fairly consider all administrative leave requests, considering the requesting-ALJ's productivity and the scheduling needs of OAH. If the Chief Administrative Law Judge denies a request and the requesting-ALJ asks for it, the Chief Administrative Law Judge shall explain his/her rationale in writing, which may be an email. No requests for administrative leave will be entertained unless the judge is in compliance with the timeliness standards under Article 23 of this Agreement.

A Bargaining Unit Employee who is a Union Representative may use administrative leave to attend union meetings and conferences.

A Bargaining Unit Employee may use administrative leave to complete his/her own investigation of a matter that may lead to a corrective or adverse personnel action.

### **ARTICLE 3 ALTERNATIVE WORK SCHEDULE**

**Section 1 - COMPRESSED WORK SCHEDULES:** An ALJ working an approved compressed work schedule shall be allowed to complete an 80 hour work schedule in nine work days in any biweekly pay period. But an ALJ working a compressed work schedule shall not exceed 10 hours for any work day.

**Section 2 - FLEXIBLE WORK SCHEDULES:** An ALJ on a flexible schedule may set his/her workday to start as early as 7:30 a.m. or end as late as 6:00 p.m., Monday through Friday, as long as each day is eight hours long and the starting time is the same each day.

**Section 3 - TELEWORK:** OAH agrees to maintain its current telework program for the duration of this agreement. An ALJ utilizing the telework program works nine eight-hour days in the office and one eight-hour day from home, in every biweekly pay period. But telework shall only be available to ALJs who have been employed with OAH for at least two years.

**Section 4 -** An ALJ may only request one form of AWS at a time. Although every effort will be made to comply with an ALJ's AWS selection, the decision is subject to the ALJ's compliance with office Timeliness Standards (Article 23) and the CALJ's determination of OAH's operational needs.

**Section 5 -** The ALJ shall submit his/her written request to the CALJ for a specific AWS. The CALJ shall approve or deny the request in writing, within five (5) business days.

**Section 6 -** When approving an AWS request, the CALJ shall endeavor to give the specific schedule requested by the ALJ. But the CALJ shall ensure that there is sufficient ALJ coverage each day that OAH is open. The CALJ shall use ALJ seniority in the office as the controlling factor when there is a scheduling conflict.

**Section 7 -** The CALJ shall determine OAH's operational needs when creating a Master Alternative Work Schedule for the office. The parties agree to continue consulting and collaborating together if the CALJ's Master Schedule does not work as envisioned or as problems arise with implementation of the AWS system.

**Section 8 -** An ALJ may not refuse to hold a hearing that otherwise must be held in any emergency or time-sensitive matter, or any case with a statutory or regulatory deadline, because s/he is off work due to AWS.

**Section 9 -** The CALJ's approval of a compressed work or telework schedule shall be for six months, at which point the ALJ either reverts back to a regular schedule or reapplies for a new AWS (this allows other ALJs to seek particular days or schedules that might have been taken earlier). Pursuant to Section 4 above, the approval of AWS is subject to the CALJ's review and modification at any time.



## **ARTICLE 4 SENIOR STATUS**

**Section 1** - An ALJ who has been employed with OAH for at least five years (an initial two-year term plus three years) and remains an ALJ serving a term of appointment, may request to work part-time in "Senior Status."

**Section 2** - In order to be eligible for Senior Status, the applicant ALJ must agree in writing to: i) work 20 hours per week, ii) partner with another eligible ALJ who will go on Senior Status at the same time so that together they work a full 40-hour work week; iii) waive his/her right to return to full-time employment as an ALJ; iv) share an office with his/her "partner" ALJ; and v) limit his/her time in Senior Status to 36 months, or the expiration of his/her current term, whichever occurs first.

**Section 3** - The CALJ shall endeavor to approve all such requests; first considering whether the applicant ALJ is in compliance with office Timeliness Standards (Article 23) and the scheduling needs of OAH. The CALJ shall review each ALJ's placement in Senior Status at his/her first and second year anniversaries to ensure that the placement still meets the standards established in this Article.

**Section 4** - After an ALJ has been in Senior Status for 36 months, he/she shall retire. There shall never be more than eight ALJs in Senior Status at any one time.

## **ARTICLE 5 EMPLOYEE ASSISTANCE PROGRAM**

### **Section 1 - General**

The parties recognize that alcoholism, drug abuse, and emotional and mental illness are health problems that may affect job performance. To this end, OAH shall, at least annually, make employees aware of the District's Employee Assistance Program (EAP) (District Personnel Manual (DPM) Chapter 20B, Section 2050) and available services provided under it. The provisions of the DPM govern except as provided below.

### **Section 2 - Use of Sick Leave**

Employees undergoing a prescribed program of treatment for alcoholism, drug abuse, emotional illness, or mental illness will be allowed to use available sick leave with appropriate documentation of attendance and/or referral for this purpose on the same basis as any other illness.

## **ARTICLE 6 UNION OFFICIALS/OFFICAL TIME**

### **Section 1 - Number of Representatives**

The Union may designate, other than the Grievance Committee Chair, no more than four representatives, or, if the number of OAH ALJs increases beyond 30, one new representative for every new 15 bargaining unit employees.

### **Section 2 - Designation of Representatives**

#### **A. Union Officers, Grievance Committee Chair, and Other Representatives**

1. Union Officers and Grievance Committee Chair: The Union agrees to provide OAH and the Office of Labor Relations and Collective Bargaining (OLRCB) with a written list of its officers and Grievance Committee Chair within two workdays after the date this Agreement is executed and within five working days after each general election.
2. Other Representatives: The Union will also notify the Employer and OLRCB, in writing, of other Union representatives who may request official time, along with a description of their individual Union assignments.

B. Changes in the list will be submitted to the Employer's designated official(s) at least two workdays prior to the assumption of representational responsibilities by any new officers, Grievance Committee Chair, or other representatives. If a Union official is not on the list of designated representatives and is needed prior to issuance of the two-day-notice, the Union President shall notify the Employer's designated official(s) by phone and/or e-mail before the official will be recognized. The Employer shall recognize any Union official designated pursuant to this section.

C. The Employer will not recognize any Union official or representative who is not listed as required or for whom notification was not provided in accordance with this section.

D. Except where explicitly provided, this Agreement shall not be interpreted in any manner that interferes with the Union's right to designate representatives of its own choosing on any particular representational matter.

E. The Union will be notified prior to any change in tours of duty of duly appointed Representative. The Union shall also be notified of changes prior to the organization of tours of duty that would affect the members of the unit.

### **Section 3 - Performance Appraisals**

A. No Union representative will be disadvantaged in the assessment of his/her performance based on his/her participation in Union activities and/or use of official time to conduct labor-management business authorized by this Agreement. However, performance problems unrelated to participation in Union activities and/or the use of official time may be addressed in accordance with other relevant provisions of this Agreement and applicable personnel laws and regulations.

B. At the beginning of the rating year or when the Union representative is initially appointed, workload and performance expectations will be established that consider the impact on performance of the duties of the employee's position. Additionally, the designated supervisor and the Union representative will meet at least quarterly to discuss needed adjustments to workload and representational needs.

#### **Section 4 - Official Time for Representational Activity**

A. Pursuant to the statutory right and responsibility of the Union to represent bargaining unit employees, representatives of the Union will be granted reasonable amounts of official time to investigate, prepare for, and conduct representational functions in accordance with the provisions of this Article as follows. Officers of the Union shall have the following time periods set aside on their agendas. Officers agree to use their best efforts to direct representational duties to the time periods set aside on their agendas. If they do not exhaust these periods of time, they agree to return to their regular ALJ duties. Any official time that is not used during any pay period will not carry over to any other pay period. At the sole discretion of and upon request by the Chief Administrative Law Judge, Union officials and representatives must record the use of all official time noting why the time was used, and the specific date and time involved. Officers may request additional time as required on the Official Time Report form (See Appendix), beyond the time frames set forth below in line with procedures in Section 5:

1. President – 5 hours, as needed, per pay period
2. Vice President – 5 hours, as needed, per pay period
3. Secretary – Treasurer – 5 hours, as needed, per pay period
4. Grievance Chair – 4 hours, as needed, per pay period

B. For the purpose of this Article, "representational functions" means those authorized activities undertaken by employees on behalf of other employees or the Union pursuant to representational rights under the terms of this Agreement and District of Columbia law. Examples of activities for which reasonable amounts of official time will be authorized include:

1. collective bargaining negotiations;
2. discussions with Employer representatives concerning personnel policies, practices, or other general conditions of employment;
3. any proceeding in which the Union is representing an employee or the Union pursuant to its obligations under this Agreement;
4. grievance meetings and arbitration hearings;
5. a disciplinary or adverse action meeting, if the Union is designated as representative of the employee;
6. attendance at any meeting concerning an employee who reasonably believes he or she may be the subject of a disciplinary or adverse action;
7. informal consultation meetings between the Employer and the Union;

8. conferring with affected employees about matters for which remedial relief is available under the terms of this Agreement;
9. attendance at committee meetings for which Union representatives are authorized members by the Employer or this Agreement;
10. attendance at labor-management committee meetings or other joint labor-management cooperative efforts;
11. attendance at Employer recognized or sponsored activities to which the Union has been invited;
12. attendance at public hearings of the District of Columbia City Council or other legislative/administrative bodies of the District or federal government relating to matters that affect either the OAH or labor relations/labor matters in the District of Columbia that impact or may impact the Union;
13. necessary travel to any of the activities listed above;
14. training related to the representational functions of Union officials and representatives which the parties agree is to their mutual benefit and for which management is given notice and provided with an agenda and course description; and
15. new employee orientation meetings.

**C.** Official time shall not include time spent on internal Union business, including, but not limited to:

1. Attending Local, Regional, or National Union meetings (for which administrative time is available);
2. Soliciting members;
3. Collecting dues;
4. Posting notices of Union meetings; administering elections;
5. Preparing and distributing internal Union newsletters or other such internal documents; and,
6. Internal Union strategy sessions, except for representational functions.

## **Section 5 - Requesting Additional Official Time**

A. Union representatives who require additional official time should request it on the approved Official Time Report (See Appendix) form. The Union representative will request authorization for additional official time from the Chief Administrative Law Judge in advance, except when circumstances prohibit advance approval (e.g., unscheduled meetings called by management where the Union's attendance

is requested; or representation of employees in investigatory interviews; or circumstances where the employee might be subject to discipline).

B. All advance requests for official time are understood to be estimates.

C. If a request for additional official time is denied, the Chief Administrative Law Judge shall give the reason(s) for refusing in writing to the individual who was so denied.

D. Management shall not prevent Union representatives from representing employees at reasonable times consistent with the provisions of this Agreement. The Union and employees recognize that workload and scheduling considerations will not always allow for the immediate release of employees from their assignments. However, the Employer agrees that such permission for release shall not be unreasonably delayed or denied. Workload needs will be balanced with official time needs prior to approval based on the following standard: requests for additional official time shall be granted unless they hinder the accomplishment of essential workload requirements that cannot otherwise be accommodated.

E. All affected employees (e.g., grievants, representatives, witnesses, and appellants) whose presence has been determined to be necessary, by either the Union or the Employer, as the case may be, at relevant proceedings (including hearings, meetings, arbitrations, oral replies, or other labor-management business) will receive necessary official/duty time to participate in and travel to and from the proceedings. Management will release employees on a staggered basis, as appropriate for the proceedings and to allow for continuity of operations.

## **ARTICLE 7**

### **UNION USE OF EMPLOYER FACILITIES AND SERVICES**

**Section 1** - Upon request, the Union may have access to meeting space by following established OAH procedures. The Union will be responsible for maintaining decorum at meetings on the Employer's premises and for restoring the space to the same condition to which it existed prior to the meetings.

**Section 2** - Employer personnel, office space, and supplies, except as otherwise provided in this Agreement, shall not be used in support of internal Union business.

**Section 3** - The Employer shall provide office space with a locking door for the Union. Assigned Union office space will remain in use unless or until the Employer needs require the use of the assigned space. In this event, management will notify the Union 60 days in advance. Other approximately equivalent or mutually agreeable space will be made available at least 15 business days prior to the time the Union is required to vacate the present office.

**Section 4** - The Employer will make available to the Union at a minimum two locking file cabinets, one desk, and two chairs.



**Section 5** - The Union shall limit its posting of notices and bulletins to Union-designated bulletin board, and each such posting shall be authorized and initialed by a Union officer. A courtesy copy of all materials to be posted pursuant to this article will be provided to the Chief Administrative Law Judge or his/her designee at the time of posting. Each bulletin board shall have the following notice posted in a prominent place:

This bulletin board is for the exclusive use of FALJ-D.C. and its membership. Matters posted on the board are not intended to reflect the official views of the DC Government or the Employer unless issued by them.

The contents of the notices posted on the bulletin board shall be at the discretion of the Union, except that the Chief Administrative Law Judge or his/her designee may request the removal of language or material that it believes is defamatory or discriminatory or otherwise illegal or offensive. With notice to the Union, Employer may remove language or material that is defamatory or discriminatory or otherwise illegal.

**Section 6** - Union officers and representatives, and other unit members who serve in any capacity on behalf of the Union, may use their regular workstations including telephones, computers, and e-mails to communicate with bargaining unit employees in connection with their representational functions; provided however, such activity shall not interfere with the effective operation of the Government's business. Employer shall not monitor Union telephone or email activity or content related to representational functions. All communication regarding terms and conditions of employment shall be in accordance with the Code of Conduct applicable to District Government employees as defined in the Government Ethics Act (D.C. Law 19-124, D.C. Official Code § 1-1161.01 *et seq.*). Communications, including broadcast emails, will not contain statements that reflect on or attack the integrity or motives of individuals, the Office of the Administrative Hearings, or other agencies of the District Government. Communications will clearly identify the Union official responsible for its content.

## **ARTICLE 8 PERSONNEL FILES**

### **Section 1 - Official Files - Definition**

The Official Personnel File ("OPF") for each employee is maintained solely by the District of Columbia Department of Human Resources ("DCHR").

### **Section 2 - Right to Examine**

Except as otherwise prohibited by law, ALJs and/or their authorized representatives shall be permitted to examine all contents of the ALJ's personnel files, including without limitation the OPF, whether maintained by OAH, DCHR or elsewhere, upon request.



### **Section 3 - Right to Respond**

Each ALJ shall have the right to answer any material filed in his/her OAH personnel files and his/her answer shall be attached to the material to which it relates. Unless prohibited by law or regulation, in the case of complaints made orally that are reduced to writing and placed in an OAH personnel file, ALJs shall be informed of the person making the complaint; the substance of the complaint, and the date the complaint was made and may respond as provided for in this section.

### **Section 4 - Right to Copy**

Except as otherwise prohibited by law, an ALJ and/or his/her authorized representative will be permitted to copy any material in all personnel files maintained by the Employer for that employee, including without limitation the OPF.

### **Section 5 - Access by Union**

Except as otherwise prohibited by law, upon presentation of written authorization by an employee, the Union representative may examine all of the employee's personnel files, including without limitation the OPF, and obtain copies free of charge.

### **Section 6 - Employee to Receive Copies**

As consistent with applicable law, the employee shall receive a copy of all material placed in his/her OPF and all personnel related materials, including electronic data, upon request.

## **ARTICLE 9 DISSEMINATION OF INFORMATION**

**Section 1** - OAH shall provide the Union with access to the OAH Policy Manual and other Agency policies via an Agency shared drive or Intranet.

**Section 2** - OAH shall post this Agreement on an Agency shared drive or Intranet, to which all bargaining unit ALJs have reasonable access.

**Section 3** - Upon implementation of this Agreement, OAH shall provide to the Union a list of all ALJs employed in the Agency that includes their initial appointment dates to OAH, the length of current terms, and the expiration date of their current terms. Thereafter, every year upon request, the Agency will provide the Union with an updated list.

**Section 4** - OAH shall make its best efforts to provide the Union with the date and time of any District of Columbia City Council or U.S. Congressional hearing in which an OAH representative is scheduled to testify as soon as it becomes aware of any such hearing. OAH shall provide the Union with copies of any testimony and/or documents provided to the oversight body in relation to any such hearing once the testimony and/or documents are ready for submission. The Union shall provide OAH with copies of any testimony and/or documents provided to the oversight body in relation to any such hearing once the testimony and/or documents are ready for submission.

**Section 5** - OAH shall afford the Union an opportunity to conduct a presentation for new ALJs during any new employee training. Attendance at the orientation will be optional.

## **ARTICLE 10 CONTRACTING OUT/NON-ALJ ADJUDICATORS**

**Section 1** - The Agency recognizes the Union's desire to retain all work regularly performed for the Agency, and the Union recognizes the Agency's need to maintain an efficient workplace; therefore, the Agency will use its best efforts to continue to use bargaining unit employees and not subcontract work (use non-OAH ALJs) or hire non-ALJs to adjudicate matters (such as hearing officers or examiners) that have been traditionally and regularly performed by bargaining unit employees.

**Section 2** - These decisions are areas of discretion of the Agency. But the impact and implementation of these decisions is a mandatory subject of bargaining. The Agency must notify the Union at least 90 days in advance of any decision to contract out (use non-OAH ALJs) or to pursue legislative authority to hire non-ALJ adjudicators. If the Agency did not initiate or pursue such legislative authority, then the Agency will notify the Union as soon as it learns of any efforts to pursue such legislation. The Union shall have full opportunity to make its recommendations known to the Employer who will duly consider the Union's position and give reasons in writing to the Union for any such decision. The Employer shall consult with the Union to determine if the needs of the Government may be met by other means.

## **ARTICLE 11 UNION RIGHTS AND SECURITY**

### **Section 1 – Exclusive Agent**

The Union shall be the exclusive collective bargaining representative of bargaining unit employees.

### **Section 2 – Access to Employees**

Representatives of the Union shall have access to individual employees in its bargaining unit to explain Union membership, services and programs. Such access shall be voluntary for new and rehired employees and shall occur during the orientation session. The Union shall have the opportunity to provide a 15-minute presentation as a part of OAH's new ALJ orientation programs.

### **Section 3 – Dues Check off**

Members will use the Peoplesoft system to authorize allotments for dues. Any disputes that arise concerning dues will be resolved solely between the Union and the member. The Union shall be solely responsible for notifying new ALJs, prior to obtaining their authorization, that they have certain constitutional rights under *Chicago Teachers Union Local No. 1 v. Hudson*, 475 U.S. 292 (1986) and related cases.

#### **Section 4 – Service Fees**

In keeping with the principle that employees who benefit by the Agreement should share in the cost of its administration, the Union shall require that employees who do not pay Union dues to pay a service fee (not to exceed Union dues) that represents the cost of negotiation and/or representation.

The service fees for bargaining unit employees who are not members of the Union shall be equal to the proportionate share of the Union's costs of representational activities, including negotiating and administering the collective bargaining agreement and addressing grievances and disputes of bargaining unit employees.

The Union shall be solely responsible for providing notices to bargaining unit employees who pay service fees and for maintaining procedures consistent with their constitutional rights, including an internal arbitration process for resolving disputes. Should the Union's annual "Hudson Plan" result in any challenges or objections, the arbitration award shall establish the amount of service fees for non-member employees. The Union shall notify the Office of Labor Relations and Collective Bargaining (OLRCB) of the pro-rata amount to be paid for service fees and the results of any arbitration award should it result in a change in service fees payable by any unit member.

#### **Section 5 – Notification of Service Fees Amount and Service Fee Payers**

The amount to be deducted for service fees shall be certified to the OLRCB annually in writing by the appropriate official of the Union. Also, FALJ will notify OLRCB in writing, by the appropriate Union official, of the ALJs in the bargaining unit that should have service fees deducted. It is the responsibility of the employee and the Union to bring errors or changes in status to the attention of the Employer and OLRCB. Corrections or changes shall be made at the earliest opportunity after notification is received but in no case will changes be made retroactively.

#### **Section 6 – Cost of Processing**

Service fees shall be transmitted to the Union, minus a fee of ten (\$0.10) cents per deduction per pay period, payable to the OLRCB, for the administrative expenses associated with the collection of said service fees.

#### **Section 7 – Hold Harmless**

The Union shall indemnify, defend and hold the Employer harmless against any and all claims, demands and other forms of liability that may arise from the operation of this Article. In any case in which a judgment is entered against the Employer as a result of the deduction of service fees, the amount held to be improperly deducted from an employee's pay and actually transferred to the Union by the Employer shall be returned to the Employer or conveyed by the Union to the employee(s) as appropriate.

#### **Section 8**

Payment of dues or service fees shall not be a condition of employment.

## **Section 9**

The terms and conditions of this Agreement shall apply to all employees in the bargaining unit.

## **ARTICLE 12 DISCRIMINATION**

### **Section 1 – General Provisions**

Employer and the Union agree to cooperate to provide equal opportunity for employment and promotion to all qualified persons, to cooperate in ending discrimination, and to promote the full realization of equal employment opportunity through a positive and continuing effort. To this end, EEO concerns may be filed with OAH's EEO Director in accordance with OAH's Equal Employment Opportunity Office policy. At the request of either party, the EEO Director shall consider any employment practice or policy that allegedly has an adverse impact on members of any protected group.

### **Section 2 - Equal Employment Practices**

The Employer shall continue implementation of an Equal Employment Opportunity Policy and any Affirmative Action Plan in accordance with existing law on affirmative action. The Affirmative Action Plan will be developed in accordance with Federal and D.C. Office of Human Rights guidelines.

Union may provide nonbinding input on the development of the Affirmative Action Plan through OAH's EEO Director. The Employer shall provide the Union a copy of the current Equal Employment Opportunity Policy and Affirmative Action Plan, and any updates, when developed by the Employer.

### **Section 3 – Sexual Harassment**

**A.** All Employees must be allowed to work in an environment free from sexual harassment. Therefore, the parties agree to identify and work to eliminate such occurrences in accordance with the District and OAH Sexual Harassment policies, as amended or any subsequent policy developed. Employer shall provide copies of the current policy and any amended versions.

**B.** Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.



#### **Section 4 – Union Activity**

The Employer shall not in any way discriminate against any employee because of his/her membership or affiliation in or with the Union or service in any capacity on behalf of the Union. Each employee has the right, freely and without fear of penalty or reprisal:

1. To form, join and assist in labor organization or to refrain from this activity;
2. To engage in collective bargaining concerning terms and conditions of employment, as may be appropriate under the law, rules and regulations through a duly designated representative; and
3. To be protected in the exercise of these rights.

#### **Section 5 – Discrimination Charges**

An employee may raise a complaint of discrimination under applicable law (to OAH's EEO Director through the administrative complaint process at the Office of Human Rights, the Equal Employment Opportunity Commission, and local or federal courts). Any charges of discrimination shall be considered by the appropriate administrative agency or courts of competent jurisdiction and shall therefore not be subject to the negotiated grievance procedure.

### **ARTICLE 13 SAFETY AND HEALTH**

#### **Section 1 - Working Conditions**

A. Recognizing that security is of paramount importance in OAH, the Agency will, to the extent practicable, take actions necessary to minimize the risk of physical and health-related dangers to ALJs. OAH agrees to solicit the Union's views on safety matters prior to making any major safety-related changes. Further the parties agree to establish a joint safety sub-committee as part of the Labor-Management Committee.

B. Matters involving safety and health will be governed by the D.C. Occupational Safety and Health Plan in accordance with the Comprehensive Merit Personnel Act (D.C. Official Code section 1-620.01 *et seq.*, as amended (2012 Repl.)).

#### **Section 2 - Corrective Actions**

A. If an Employee observes a condition that he or she reasonably believes to be unsafe, the employee shall report the condition to the Chief Administrative Law Judge, the OAH Executive Director, and the D.C. Office of Risk Management.

B. If the Chief Administrative Law Judge determines that a condition constitutes an immediate hazard to the health and safety of the ALJ, the Chief shall take immediate precautions to protect the employee and contact the Office of Risk Management as necessary. If the Chief does not agree that the condition constitutes an immediate hazard to the health and safety of the

ALJ, the Chief shall explain in writing, which may be an email, why not and shall meet as soon as possible with the ALJ and his/her Union representative to assess what final actions should be taken, if any.

C. Employees shall be protected against penalty or reprisal for reporting an unsafe or unhealthful working condition or practice, or assisting in the investigation of such condition or practice.

### **Section 3 - First Aid Kits and Defibrillators**

A. Subject to budget, Employer shall continue to make first-aid kits available in hearing rooms for the use of all employees in case of on the job injuries.

B. The need for additional first-aid kits is an appropriate issue for the Joint Safety Committee. Recommendations of the Joint Safety Committee will be referred to the Chief Administrative Law Judge or his/her designee.

C. Employer shall provide accessible defibrillators meeting the applicable standard of care on each floor where OAH controls its own office space.

D. Employees who have been identified by the Office of Risk Management as having been exposed to a toxic substance (including, but not limited to asbestos) in sufficient quantity or duration to meet District Government risk standards shall receive appropriate health screening. In the absence of District Government risk standards, the Office of Risk Management will refer to standards established by other appropriate authorities such as OSHA, NIOSH or the EPA.

### **Section 4 - Excessive Temperatures in Buildings**

Employees, other than those determined by the Employer to be essential, shall be released from duty or reassigned to other duties of a similar nature at a suitably temperate site because of excessively hot or cold conditions in a building. The Employer shall make this determination as expeditiously as possible. In lieu of dismissal, the Employer may authorize employees affected by excessive temperature conditions to telecommute until the condition abates. Administrative leave shall be granted if authorized by the Mayor or his or her designee.

### **Section 5 - Maintenance of Health Records**

Medical records of employees shall be maintained in accordance with the applicable provisions of law. Medical records shall not be disclosed to anyone except in compliance with applicable laws, rules and regulations relating to the disclosure of information. Copies of rules relating to medical records and information shall be made available to the Union.



## **ARTICLE 14**

### **REQUESTS FOR INFORMATION**

**Section 1:** Consistent with law and upon request of the Union, OAH shall provide relevant and necessary information that the Union needs to carry out its representational functions, including, but not limited to its duties in collective bargaining negotiations. The Union has an equal obligation to provide information on the request of management for collective bargaining or contract administration.

**Section 2:** Nothing in this article is to be construed as a waiver of the ALJ's or Union's right to request additional information under other authorities such as the Freedom of Information Act, Privacy Act.

## **ARTICLE 15**

### **INFORMATION TECHNOLOGY**

#### **Section 1 – New Technology**

Whenever OAH proposes to acquire or implement equipment or technological changes (including software and computer systems) that may materially impact employees in the bargaining unit, OAH shall notify and consult with the Union and, when requested, bargain over any material impact. Additionally, appropriate training for affected employees that will enable them to perform their jobs in accord with professional standards shall be among the principal considerations as part of such bargaining. OAH shall provide training for affected employees to acquire and maintain the skills and knowledge necessary for new equipment or procedures. The training shall be held during working hours. The Employer shall bear the expense of the training. The Employer shall provide training for employees who had previously not been required to use existing technology but who are then required to do so.

#### **Section 2 – Caseload Allocation System**

The parties agree that they have made significant progress in the development of a transparent caseload allocation system that fairly distributes cases across the court. OAH will administer the Caseload Allocation System as set forth in OAH Policy regarding the Case Allocation System and Assignment of Judges. The Chief Administrative Law Judge still retains the right to assign cases directly to ALJs. The parties agree to continue consulting and collaborating together if the Caseload Allocation System does not work as the parties envision and/or as problems arise with implementation of the system.

#### **Section 3 – Electronic Mail Use**

The parties acknowledge that D.C. Government-provided electronic mail (email) services are to be used for internal and external communications that serve legitimate government functions and purposes. Employees are expected to be familiar with the D.C. Government's Email User Policy. The parties agree that employees are allowed to use email on a limited basis for personal

purposes, but such use should be limited to non-work time and should not interfere with the performance of the employee's duties, nor used to conduct outside employment or for discriminatory or harassing purposes or exchange of pornographic, discriminatory or harassing material. All government business conducted by email shall be conducted from government email accounts. If a party is unable to access the government email system, and uses a personal email for government work, a copy shall be sent through DC government email.

#### **Section 4 – Internet Access and Use**

The parties agree that Internet access through the OAH facilities is considered D.C. Government property and must be used for the program needs of the OAH. Employees are expected to be familiar with and adhere to the D.C. Government's Internet Access and Use Policy. The parties agree that ALJs may be allowed to use the Internet on a limited basis for personal purposes, but that such use should not interfere with the performance of the employee's duties. ALJs are expressly prohibited from visiting Websites to conduct outside employment or that contain discriminatory, pornographic, bandwidth-consuming, or harassing material.

#### **Section 5 – Telephone Use**

The Employer and Union agree that D.C. Government telephones must be used primarily in support of D.C. Government programs. The parties acknowledge that employees are permitted to use telephones on an occasional and selective basis for personal purposes. Such use is a privilege and not a right and may not be abused for the conduct of outside employment during the scheduled tour of duty of the employee or for discriminatory, pornographic, or harassing purposes. Because caller identification may identify the origin of a call as the D.C. government or by a party's name, government phones cannot be used for any purpose where a person might perceive that the personal call is being made under the cloak of law or where the other party might feel pressured or intimidated by the D.C. government identification or identification of a judge's name.

#### **Section 6 - Privacy**

Except as provided generally under current, written, and published D.C. Government policies, the Office of Administrative Hearings shall not monitor employee email, telephone, or internet use; unless it has good cause in compliance with OCTO policies to believe that an employee has violated this Article or any applicable law or regulation. To protect the Union's right to request impact and effects bargaining, the Employer will share with the Union notices of any changes or modifications to said policies.

### **ARTICLE 16 TRAINING**

#### **Section 1 - New Employee Orientation**

Employer will provide each new ALJ with orientation to include at least a 15-minute presentation by the Union regarding Union membership.

## **Section 2 -Training Opportunities**

OAH and Union mutually agree that continuing training and education of ALJs are important objectives of the administrative court. In fact, the Chief Administrative Law Judge is statutorily required to "establish standard and specialized training programs for Administrative Law Judges." D.C. Official Code, 2-1831.045(a)(4). Accordingly, OAH shall assist ALJs in obtaining judicial training and education both inside and outside OAH. The OAH Training Committee shall provide continued training, within budgetary constraints and shall inform ALJs of the time or expense assistance it may be able to provide. OAH will use its best efforts to provide a variety of appropriate continuing judicial education opportunities, throughout each year at no cost or at reduced cost to ALJs.

## **Section 3 - Requests for Optional Judicial and Other Training**

OAH will consider ALJ requests for optional judicial and other training and may provide time or expense assistance to such ALJs. Continued training opportunities shall be afforded ALJs on a fair and impartial basis to the maximum extent possible. ALJs shall be promptly informed of a denial of a training request together with the reason for the denial. The parties agree that the program needs of OAH are paramount in providing training to ALJs. Requests for optional training programs will only be considered if ALJs are current with their caseload in compliance with the timeliness standards under Article 23 of this Agreement.

# **ARTICLE 17 EMPLOYEE RIGHTS**

## **Section 1 – Respect in the Workplace**

It is the intent of the OAH and the Union that all ALJs and employees outside the bargaining unit be treated with fairness and dignity.

## **Section 2 - Employee Rights**

All Union employees have the right, and shall be protected in the free exercise of that right without fear of penalty or reprisal:

1. to organize a labor organization free from interference, restraint, or coercion;
2. to form, join, or assist any labor organization;
3. to bargain collectively through representatives of their own choosing; and
4. to refrain from any or all such activities under subsections (1), (2), and (3) of this subsection, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in D.C. Official Code § 1-617.11 (2012 Supp.) ("Employee Rights").

Employee Rights shall extend to participation in the management of the Union and acting for it in the capacity of a Union representative, including representation of its views to the officials of the Mayor, District of Columbia City Council, or U.S. Congress.

### **Section 3 - Employee Grievances**

An individual ALJ may present a grievance at any time to the Employer without the intervention of the Union; provided, however, that the Union is afforded at least 48 hours advance notice to be present and to offer its view when requested by an ALJ at any meeting held to resolve the grievance. Any ALJ or group of ALJs who present a personal grievance to OAH may not do so under the name, or by representation, of the Union. Resolutions of grievances must be consistent with the terms of this Agreement.

## **ARTICLE 18 SABBATICAL/EXTENDED LEAVE**

It is the policy of OAH to allow ALJs to apply for an extended time away from work (up to five months), in a non-pay status, for community service, education, travel or other outside interests. To be eligible for a sabbatical, an ALJ must have both: 1) been employed with OAH for seven years, and 2) received a performance evaluation of Meets Expectations, or an equivalent rating, in every category for the rating period which immediately precedes the application for sabbatical/extended leave. An ALJ who receives a Fails Expectation, or an equivalent rating, in any category is ineligible. After completion of the ALJ's seventh anniversary with OAH and each successive five years after return from a sabbatical, the ALJ may request up to five months of leave as sabbatical.

### **Section 1 – Process**

Application for sabbatical should be submitted to the Chief Administrative Law Judge no later than 120 days before the proposed leave is to commence. The Chief shall review each application and approve or disapprove the request within 30 days of the submission.

### **Section 2 – Supervisor's Authority**

Sabbaticals may be taken for any purpose. The final decision on request for sabbatical is in the sole discretion of the Chief Administrative Law Judge to set limits on the number of ALJs who shall be approved for a sabbatical in any one year. If an ALJ asks for the reason for the denial, the Chief must provide a written justification for the denial.

### **Section 3 – Potential Loss of Benefits and Insurance Premiums**

ALJs understand that an extended leave of absence in a non-pay status may impact his or her retirement and other benefits with the District of Columbia. ALJs also understand that they are required to pay their portion of any insurance premiums while in a non-pay status. ALJs shall learn of the District of Columbia rules and regulations applicable to an extended leaves of absence in a non-pay status before submitting the request for sabbatical. Under no circumstances is OAH required to allow an ALJ to use leave intermittently to avoid the loss of benefits while the ALJ is on sabbatical.



**ARTICLE 19**  
**PRINCIPAL ADMINISTRATIVE LAW JUDGE POSITIONS (PALJs)**

**Section 1 --** The Parties agree that each PALJ should have: (a) strong administrative and interpersonal skills; (b) an ability to manage his/her own caseload; (c) the ability to monitor the caseloads of the ALJs in his/her jurisdiction; and (d) the ability to problem-solve to ensure smooth operations of the jurisdiction including collaboration with the Clerk's Office. Each PALJ is also expected to support and implement operational policies and practices related to timeliness, efficiency, productivity and quality.

**Section 2 --** Pursuant to the Agreement, any ALJ who has completed an initial two-year appointment, is in "good standing" in the office (is not currently under disciplinary- or performance-related limitation or restriction), and meets OAH's timeliness standards as set forth in Article 23 of this Agreement, may seek appointment to be a PALJ by submitting a short statement of interest to the CALJ.

**Section 3 --** The PALJ assignments shall be on a rotating basis among interested ALJs and shall be determined by office seniority, assuming the other criteria are met. Rotations as a PALJ will be initially for 12 months, but may be extended by mutual agreement of the PALJ and the CALJ to meet the needs of the office. PALJ assignments will be in the jurisdictions where s/he is currently assigned except as required by the needs of the office. The CALJ reserves the ability to shorten or terminate any particular PALJ rotation.

**ARTICLE 20**  
**TIMELY RECEIPT OF CORRECT PAY AND EXPENSE REIMBURSEMENTS**

**Section 1 - Tardy or Non-Receipt of Pay**

A. Employer shall use its best efforts to take all action necessary to correct tardy or non-receipt of ALJ paychecks due to pay errors within its control.

B. Employer shall use its best efforts to take all action necessary to assist in correcting tardy or non-receipt of employee paychecks due to pay errors when the specific error or needed correction is not within its control.

**Section 2 - Pay Errors**

Employer shall expeditiously use its best efforts to take all action necessary to correct all other paycheck errors including those concerning benefits, sick leave, annual leave and various deductions. In any event, the Employer shall correct all pay errors no later than two weeks following the identification of the error by the employee or the Employer. In the event that pay errors continue to exist more than two pay periods after the ALJ provides notice to the appropriate Employer representative and the delay results due to no fault of the ALJ, the ALJ shall receive four hours of administrative leave.

### **Section 3 - Timely Receipt of Pay, Pay Increases, Bonuses and Reimbursements**

A. OAH agrees to use its best efforts to ensure that pay increases, including but not limited to those resulting from bonuses and other salary increases, are paid on the effective date. To this end, Employer shall, among other things, use its best efforts to ensure that paperwork needed to implement such increases is completed within a reasonable time of the proposed effective date of the action and shall process the proposed action as expeditiously as possible, to avoid or minimize any delay in implementation.

B. OAH must pay all pay increases, including but not limited to those resulting from bonuses and other salary increases no later than four (4) pay periods following the effective date of the increase or approval by the District of Columbia Council.

### **Section 4 - Timely Reimbursement of Expenses**

OAH shall use its best efforts to take all necessary action to ensure that reimbursement of pre-authorized expenses related to an ALJ's employment, including but not limited to travel and education expenses, is paid within sixty (60) days of submission of a proper request. Reimbursements will only be paid for expenses approved in accordance with the OAH travel or training policy, a copy of which shall be provided to the Union.

### **Section 5 - Audits**

In the event an ALJ requests an audit of pay and benefit records because of computation errors, OAH shall complete such audit and transmit the results to the requesting employee within ten business days or shall provide the ALJ a reason why additional time is required and shall give a projected date of completion.

## **ARTICLE 21 GENERAL PROVISIONS**

### **Section 1 - Work Rules**

ALJs will be advised of verbal and written work rules that they are required to follow. The OAH agrees that proposed new written work rules and the revision of existing written work rules shall be subject to notice and consultation with the Union.

### **Section 2 - Identification Device**

OAH agrees that ALJs have a right to participate and identify with the Union as their representative in collective bargaining matters. OAH, therefore, agrees that such identification devices as emblems, buttons and pins supplied by the Union to the employees within the bargaining unit may be worn on their clothing.

### **Section 3 - Distribution of Agreement**

The Employer and the Union agree to electronically distribute the fully executed version of this contract to all management and covered employees upon execution of the contract by the parties.



#### **Section 4 – Office Space**

Barring any extenuating circumstances, OAH shall ensure that all ALJs and PALJs have equivalent sized offices. OAH will afford the Union the advance opportunity to consult over the design of new office space at each step of the design process. The parties acknowledge that this does not interfere with management's final authority to determine the final design.

### **ARTICLE 22 COMPUTATION OF TIME**

All time frames referenced in this Agreement shall be interpreted as business days, unless otherwise specified.

### **ARTICLE 23 TIMELINESS STANDARDS**

**Section 1** - For cases assigned after implementation of the Case Allocation and Assignment of ALJs policy (Article 15, Section 2), when determining the timeliness of case closure, as defined in Section 3 below, all statutory and regulatory deadlines shall apply. For any cases without a statutory or regulatory deadline, all cases shall be closed, in other words a Final Order issued, no later than 120 days after the evidentiary record is closed.

**Section 2** - For all cases assigned before May 13, 2016, when determining the timeliness of cases for which the evidentiary record was closed, as defined in Section 3 below, statutory and regulatory deadlines shall apply. For any case without a statutory or regulatory deadline, all cases shall be closed and a Final Order issued, consistent with OAH policy.

**Section 3** - Absent unusual circumstances, the record is closed when nothing remains to be done in a case other than issuing a Final Order (or Final Decision). The filing of a motion under OAH Rule 2828 shall not alter the determination of when the record is closed.

**Section 4** - For all enforcement jurisdiction cases where the Respondent pled "Admit with Explanation" (AWE) or for which a default order is to be issued, all statutory and regulatory deadlines shall apply. For all cases assigned before May 13, 2016, which do not have a statutory and regulatory deadline, all cases shall be closed and a Final Order issued, consistent with OAH policy. For all cases assigned after implementation of the Case Allocation and Assignment of ALJs policy (Article 15, Section 2), which do not have a statutory or regulatory deadline, all cases shall be closed and a Final Order issued, no later than 120 days after the case is assigned to the ALJ.

**Section 5** - This Article shall be administered consistent with OAH policy.

**Section 6** - Every week the appropriate PALJ shall meet with the ALJs to assess all cases open at least 75 days to set a work plan to timely complete the Final Orders. Where appropriate, the PALJ and ALJ shall identify those cases that reasonably cannot or should not be completed by the appropriate deadline.

## **ARTICLE 24**

### **PERFORMANCE APPRAISALS**

**Section 1** - The evaluations will assess actual work performance in relation to the performance requirements of the position and be at the Meets Expectations or Does Not Meet Expectations levels.

**Section 2** - The Parties agree that the ALJs will be evaluated on four criteria: a) timeliness, b) judicial temperament, c) the accuracy and clarity of written orders, and d) legal analysis. The timeliness criteria shall constitute 52% of the evaluation and the remaining criteria shall constitute 16% each. The CALJ shall review ALJ performance using the objective criterion agreed upon in Article 23, Timeliness Standards. The CALJ shall only review and rate the subjective criteria based on input from litigants, their representatives, members of the public, and other observers who have had the opportunity to consider these matters and who have brought their comments to the attention of OAH. An ALJ who satisfies the timeliness standards and has not been rated on the other three criteria, shall be rated "Meets Expectations." An ALJ who does not satisfy the timeliness standards and has not been rated on the other three criteria, shall be rated "Does Not Meet Expectations." Where there are questions or criticisms of judicial temperament, the accuracy and clarity of written orders, or legal analysis, the CALJ shall evaluate these allegations and determine whether the allegations are frivolous/unmeritorious or problematic. Prior to concluding that any allegation is problematic, the CALJ shall make reasonable inquiry about the circumstances, which will include consultation with the ALJ about whom the allegations have been made.

**Section 3** - The appraisal or performance management period for ALJs shall be one year from the beginning of each fiscal year (October 1<sup>st</sup>) to the end of the fiscal year (September 30<sup>th</sup>). However, the parties understand and agree that the appraisal period for FY 2016 will be shorter than one year. At least 30 days before the start of each appraisal period, the Chief Administrative Law Judge shall give the ALJs notice that the new evaluation cycle is beginning, circulate the ALJ Evaluation Form to be used, and solicit additional information that any ALJ would like considered or included in his/her evaluation.

**Section 4** - Pursuant to this Agreement, performance evaluations will be given to ALJs within 45 days after the close of the evaluation period.

**Section 5** - If an ALJ's rating is Does Not Meet Expectations, the Agency will allow the ALJ to have a Union representative at the performance appraisal meeting. In those instances, the ALJ will be advised in advance of the meeting that they may have a Union representative and allowed a reasonable amount of time to get a representative for the meeting if they so choose.

**Section 6** - If the Agency plans to observe an ALJ's hearing (either in person or by listening to an electronic recording of a hearing) for performance evaluation purposes, the Agency will notify the ALJ in advance if possible. Feedback from the observation will be provided to the ALJ as promptly as possible, but in any event within one week of the observation.

**Section 7** – If the CALJ decides to refer proposed adverse action or a negative reappointment recommendation to the COST, the CALJ shall first provide the ALJ with written notice of the proposed adverse action referral or negative reappointment recommendation and the basis therefore. The ALJ will then have 15 calendar days to respond to the proposal before the CALJ may make the referral. The CALJ shall consider the ALJ's response before sending any adverse action referral or negative reappointment recommendation to COST. If the CALJ decides to proceed with a COST referral, the CALJ shall (i) submit the ALJ response to the COST with all other referral documents and (ii) provide the ALJ with copies of all referral documents at the time they are submitted to the COST. This section's requirements governing a negative reappointment recommendation to the COST, shall only take effect on October 1, 2017. Nothing in this section shall limit the CALJ's authority to take summary personnel action pursuant to 6B DCMR Chapter 37.

**Section 8** – The Agency will not make any changes to the performance evaluation process that affect working conditions of bargaining unit employees for the duration of this agreement, absent a mutual agreement to do so. The Union reserves the right to be provided advance notice and the opportunity to negotiate any policies, procedures, guidance or instructions contemplated by the Agency that affect working conditions issued after the effective date of this agreement or not disclosed in the course of these negotiations.

**Section 9** – All aspects of the performance appraisal process are grievable, except for the rating itself, (See Article 25, Section 2), under the terms of the negotiated grievance procedure, agreed upon by the parties.

## **ARTICLE 25 GRIEVANCE AND ARBITRATION PROCEDURES**

### **Section 1 – Definitions**

A grievance under this section is an allegation that the other party has violated a provision of this Agreement. RIFs, furloughs, reappointments, disciplinary actions and performance ratings (in contrast to allegations that the Agency violated the performance rating process or non-substantive disciplinary procedures, which are grievable under this Article) are excluded from the definition of grievance under this section and such disciplinary actions and ratings are not subject to challenge, review or arbitration under the grievance and arbitration procedures of this section.

### **Section 2 – Performance Ratings**

For each evaluation period, the CALJ shall establish a three-person committee to hear ALJ requests for review of performance evaluations. The CALJ's representative on the committee shall be the OAH General Counsel, FALJ shall select one committee member from the pool of OAH ALJs, and the parties shall agree on the third member from the pool of OAH PALJs. The Committee shall hear all appeals in any given evaluation period. An ALJ has 15 calendar days after receipt of any performance evaluation to request the committee review it by submitting the request to the CALJ. The committee shall be empowered to review the basis for rating, the rating itself, conduct an inquiry (if necessary), receive written submissions, and issue a written decision which shall

approve, modify, or reverse a performance rating. A majority vote of the committee is required to resolve an ALJ request for review. The committee's decision shall be final and no further appeal shall be allowed under this Agreement. If the committee does not act on the appeal within 30 calendar days of the appeal, the evaluation may be appealed directly to the CALJ who shall fulfill the Committee's role and issue a decision within 21 calendar days thereafter. If the CALJ does not act within 21 calendar days, the ALJ shall be deemed to have prevailed and his/her requested relief shall be granted. The CALJ shall establish procedures for appeals under this Section. The parties agree to use the D.C. Department of Human Resources in an impartial advisory capacity to guide the administration and disposition of performance evaluation review cases.

### **Section 3 – General Provisions**

This article sets out the exclusive procedures by which ALJs, the Union and the Agency can resolve workplace disputes covered by this Article. Other than a disciplinary action and evaluations, any grievance that may arise between the parties involving an alleged violation, misinterpretation, or misapplication of this Agreement, or any law, rule or any regulation, affecting conditions of employment of ALJs, shall be settled as described in this Article unless otherwise agreed to in writing by the Union President and the Chief Administrative Law Judge.

**Section 4** – The parties wish to foster an atmosphere of cooperation and mutual respect between the Agency and the Union. Therefore, nothing in this Article shall be construed as precluding discussion between an ALJ and the Chief Administrative Law Judge of a matter of interest or concern to either of them. Once a matter has been made the subject of a grievance under this procedure, nothing herein shall preclude either party from attempting to resolve the grievance informally, provided the other party voluntarily agrees.

### **Section 5 – Information Requests**

Both parties shall provide all information determined to be reasonable and needed by the other party for processing of a grievance after a request by the other party within a reasonable amount of time.

### **Section 6 - Procedure**

The parties agree to endeavor to engage in productive meetings to resolve a grievance.

**Step 1:** The ALJ and/or the Union shall file the grievance, in writing, with the Chief Administrative Law Judge within 10 business days from the date of the occurrence or when the ALJ or the Union knew or should have known of the occurrence, whichever is later. The written grievance shall be clearly identified as a grievance submitted under the provisions of this Article, and shall list:

- (a) The provision of law, rule, regulation or this Agreement alleged to have been violated;
- (b) The manner in which the provision of law, rule, regulation or this Agreement was violated;
- (c) The date of the violation;
- (d) The remedy requested; and



(e) The name of the individual representing the party filing the grievance. The grievance shall also state whether a meeting is requested.

The Chief Administrative Law Judge shall respond in writing to the Union Representative and/or the ALJ within 15 business days after the receipt of the grievance.

**Step 2:** If the Chief Administrative Law Judge's response does not resolve the grievance and a meeting was requested, it will be held within five calendar days, or as soon as possible thereafter, from the day the ALJ receives the Chief Administrative Law Judge's response. The Chief and his/her designee, grievant ALJ, and Union Representative, if any, shall be present at the meeting.

**Step 3:** If, after the meeting, the grievance is still unresolved, or the Chief Administrative Law Judge has failed to respond in Step 1, the Union may by written notice request arbitration within 20 business days after the reply in Step 1 is due.

When mutually agreed by the parties, grievances on the same matter on behalf of two or more ALJs may be processed as a single grievance for the purpose of resolving all the grievances.

A grievance filed by the Union which does not seek personal relief for a particular employee or a group of employees, but rather expresses the Union's disagreement with management's interpretation or application of the Agreement and which seeks an institutional remedy shall be filed within 10 business days from the date of the occurrence or when the Union knew or reasonably should have known of the occurrence.

A grievance concerning a continuing violation of this Agreement may be filed at any time during the existence of the alleged violation of this Agreement.

#### **Section 7 - Selection of the Arbitrator**

The arbitration proceeding shall be conducted by an arbitrator selected by the Agency and the Union. The Federal Mediation and Conciliation Service (FMCS) shall be requested to provide a list of seven arbitrators from which an arbitrator shall be selected within seven calendar days after both parties receive the list. Both the Employer and the Union may strike three names from the list using the alternate strike method. The party requesting arbitration shall strike the first name. The arbitration hearing shall be conducted pursuant to the FMCS guidelines unless modified by this Agreement.

#### **Section 8 - Authority of the Arbitrator**

The jurisdiction and authority of the arbitrator and his/her opinion and award shall be confined exclusively to the interpretation or application of the express provisions of this Agreement at issue between the Union and the Agency consistent with applicable law and regulation. He/she shall have no authority to add to, detract from, alter, amend, or modify any provision of this Agreement; or to impose on either party a limitation or obligation not explicitly provided for in this Agreement. The written award of the arbitrator on the merits of any grievance adjudicated within his/her jurisdiction and authority shall be final and binding on the aggrieved ALJ, the

Union and the Agency, subject to either party's appeal rights to the Public Employee Relations Board and the Superior Court of the District of Columbia.

#### **Section 9 – Initial Submissions to Arbitrator**

Within ten (10) working days after identification of the arbitrator, the parties shall submit to the arbitrator: (a) a copy of this Agreement, (b) a copy of the grievance and the response (if any) to the grievance, and (c) a joint statement of issues, if possible. The arbitrator shall be limited to the statement of the grievance as provided by the grievant under the grievance procedure, or a joint statement of issues if the parties agree to such a statement.

#### **Section 10 – Document Exchange**

No later than ten (10) calendar days before the hearing, the parties shall exchange documents intended to be entered into evidence at the arbitration hearing. If a document is not provided to the other party, it may not be entered into evidence at the arbitration hearing absent a showing of good cause as to why the document was not previously provided to the other party. The arbitrator shall determine if good cause exists.

#### **Section 11 – Witnesses**

The parties will exchange a list of witnesses no later than 10 calendar days before the hearing. If there is a dispute as to whether a proposed witness is relevant or reasonably available, the arbitrator shall decide the matter. If a witness is not able to be present in person at the arbitration hearing, telephonic hearing will be allowed.

#### **Section 12 – Fact-finding**

If there are no material factual issues in dispute, the arbitrator will be asked to render a decision on the grievance based upon the written information submitted to the record by the parties, along with any additional written information that the arbitrator deems necessary. The arbitrator shall hold a hearing to supplement this record if either party requests a hearing or the arbitrator determines that a hearing is necessary. Such hearing will normally be held at a mutually agreed time and location in the Washington, D.C. area. (See Section 17 below.). In the event the parties are unable to reach agreement on a place or time to hold a hearing, the matter of place and time will be submitted to the arbitrator as a threshold issue.

#### **Section 13 – Content of Decisions**

If the arbitrator grants the grievance in whole or in part, the decision of the arbitrator must specifically state: (a) the provision of law, rule, regulation or this Agreement violated, (b) the manner in which the provision of law, rule, regulation or this Agreement was violated, (c) the date of the violation, and (d) the remedy to be granted.



#### **Section 14 - Decision of the Arbitrator**

The arbitrator shall be requested to render his/her decision in writing within thirty (30) calendar days after the conclusion of the arbitration hearing.

#### **Section 15 - Refusal to Participate**

If either party refuses to participate in the arbitration process, the other party shall proceed in accordance with the procedures outlined in this Article. However, either party may refuse to arbitrate because of its assertion that no valid collective bargaining agreement exists between the parties or that the substantive matter in dispute is not covered by the arbitration clause. The party disputing such assertion may request the D.C. Superior Court to compel arbitration on the matter.

#### **Section 16 - Arbitration of Multiple Grievances**

When multiple grievances contain the same or similar facts or issues, and in other appropriate circumstances, the Parties may mutually agree to consolidate them for hearing in the interest of efficiency, consistency and fairness.

#### **Section 17 - Expenses of the Arbitrator**

Expenses for the arbitrator's services and the proceedings shall be borne equally between OAH and the Union. To the greatest extent possible, the parties shall use an OAH hearing room and its digital recording system (currently "For The Record") for arbitrations. OAH shall not arbitrarily deny the use of an available hearing room. Each party shall be responsible for compensating its own representatives and witnesses. Both parties shall be given a copy of the audio record of the proceeding, as captured by the digital recording system. If either party desires to transcribe the digital recording, that party(ies) shall bear the transcription costs. If the arbitrator is unwilling to use a digital recording of the proceeding, the parties shall equally share the transcription costs of the arbitrator's copy of the transcript.

If the parties are unable to use an OAH hearing room and/or the digital recording system, the parties will agree on the selection of the court reporter and shall equally bear the cost for the transcription services and for providing a copy of the transcript to the arbitrator. But each party will pay or cover the costs of obtaining its own copy of the transcript.

#### **Section 18 - Time Off For Grievance Hearings**

The employee and Union representative shall be permitted to meet and discuss grievances with designated management officials at each step of the Grievance Procedure.

#### **Section 19 - Time Limits**

All time limits following the initiation of any grievance set forth in this Article may be extended by mutual consent, but if not so extended, must be strictly observed. If a deadline under this

Article falls on a weekend or government holiday, then the following business day is the deadline. If the matter in dispute is not resolved within the time period provided for in any step, the next step may be invoked. The appropriate representative of either party shall not unreasonably deny a request for an extension of time if the request is made in writing before the original deadline date.

## **Section 20 – Termination of Grievance**

A grievance shall terminate when an ALJ or the Union terminates its own grievance, when both parties consent or for failure to meet contractual time limits. The termination of a grievance shall not prejudice an ALJ or the Union from reinstituting a grievance at a later date.

# **ARTICLE 26 DISCIPLINE AND DISCHARGE**

## **Section 1 – General Provisions**

The parties agree that in imposing discipline, the Agency will abide by the applicable principles in the DPM and interpretative case law. The parties also agree that under the concept of progressive discipline, discipline and adverse actions are used to correct and/or deter future employee misconduct. The effective use of progressive discipline requires timely application of sanctions to deal with employee misconduct. The Agency shall apply the principles of *Douglas v. Veterans Admin.*, 5 M.S.P.B. 313 (1981), in setting a penalty for disciplinary and adverse actions. The parties further agree that not all infractions should be addressed through progressive discipline. Some actions or conduct may demand summary suspension or summary referral to COST.

## **Section 2 - Representation**

A bargaining unit employee is entitled to self-representation, or Union representation, when responding to a notice of proposed disciplinary/adverse action. When an ALJ chooses to be represented by the Union, the Judge will provide the Agency with written notice of such designation. Upon receipt of such designation, the Agency will coordinate any meetings with the Union representative.

## **Section 3 - Disciplinary Actions**

A. ALJs are appointed to serve the District of Columbia pursuant to D.C. Official Code §§ 2-1831.06 and 2-1831.08. An ALJ may be subject to disciplinary action, including reprimand, suspension, or removal for cause that is not arbitrary or capricious, including the failure in any two years within a three year period to meet annual performance standards. Disciplinary actions shall be processed in accordance with Section B3700, Chapter 6 of the D.C. Municipal Regulations. OAH shall provide the ALJ with at least 10 calendar days advance notice of intent to impose discipline (whether the discipline is suspension of nine days without pay, or less, imposed directly by the Chief Administrative Law Judge, or discipline to be imposed by the COST), with the exception of summary suspensions. The proposed notice of discipline will also be sent to the Union. The notice shall comply with 6 DCMR B3740.5, and state at least the reasons for the proposed action with sufficient detail to

enable the ALJ to understand the reasons that the action is being proposed. The evidence relied upon to support the action will also be provided at that time. OAH will honor any written request from an ALJ to refrain from sharing a proposed or final corrective or adverse action with the Union.

**B.** Notwithstanding Section 1A, the Chief Administrative Law Judge, may summarily suspend a bargaining unit member, in accordance with 6 DCMR B3741, when the ALJ's conduct:

1. Threatens the integrity of the Office's operations;
2. Constitutes an immediate hazard to the Office or its employees, to the ALJ, or to the public.

**C.** Upon request, an employee subject to any disciplinary action shall be allowed access to his or her office, at a mutually agreeable time, to retrieve personal items. Such access shall not be granted at a time or under circumstances that would disrupt agency operations as determined by management.

**D.** Within 10 calendar days of receipt of the notice of intent to impose discipline, the ALJ may file a written response with the Chief Administrative Law Judge.

**E.** The Chief Administrative Law Judge shall consider the ALJ's written response, if any, before deciding whether to impose corrective discipline. The Chief Administrative Law Judge shall issue a written decision stating that corrective disciplinary action either shall be taken or not and shall contain a statement of the reasons for the Chief Administrative Law Judge's decision. If corrective disciplinary action is to be taken, the decision shall state the nature and applicable dates, if any, of the corrective disciplinary action and shall state with specificity the cause upon which the corrective disciplinary action is based.

#### **Section 4 -- Appeal Procedures**

After the Chief Administrative Law Judge issues a decision on the proposed corrective disciplinary action in accord with §B3740.8, Chapter 6 of the DCMR, the ALJ, or the Union on behalf of the Employee, may appeal the decision to the COST.

#### **Section 5 -- Stay of Disciplinary Action**

Absent intervention by the COST, the filing of an appeal shall not serve to stay or delay the effective date of the Chief Administrative Law Judge's corrective disciplinary action.

#### **Section 6 - Alternative Interventions**

**A.** The Agency and the Union support the use of alternative approaches to traditional disciplinary actions in certain circumstances ("Alternative Interventions"). Alternative Interventions may provide the opportunity to address ALJ misconduct, including but not limited to workplace misconduct, timeliness and time and attendance problems, and performance

deficiencies in a more positive manner. Nothing in this Article shall abridge the CALJ's personnel authority to utilize Alternative Interventions consistent with law.

B. The Agency has the discretion to propose the following types of Alternative Interventions in lieu of traditional discipline: suspension held in abeyance, counseling, training classes such as anger management, a last chance agreement, and/or a formal apology. Nothing in this subsection shall limit the Agency's authority to counsel or order training for any ALJ under any circumstances.

C. Documentation of Alternative Interventions shall be reduced to writing but shall not be placed in an ALJ's Official Personnel File (OPF).

D. Alternative Interventions may be used in lieu of traditional discipline only when the ALJ agrees to the proposed Alternative Interventions.

E. The Agency agrees not to exercise its discretion to impose Alternative Interventions arbitrarily or capriciously.

F. An ALJ may not grieve Alternative Interventions imposed under subsection (B) above in the same manner as traditional discipline.

#### **Section 7 -- Time Limits**

All time limits set forth in this Article must be strictly observed.

#### **Section 8 -- Extension of Time Limits**

All time limits set forth in this Article may be extended by mutual consent, but if not so extended, must be strictly observed. If the matter in dispute is not resolved within the time period provided for in any step, the next step may be invoked. However, if a party fails to pursue any step within the time limit, then he/she shall have no further right to continue the grievance. The appropriate representative of either party shall not unreasonably deny a request for an extension of time if such request is made in writing before the original deadline date.

#### **Section 9 -- Substitution of Binding Arbitration Procedures**

In the event that the Council of the District of Columbia legislatively establishes a binding arbitration process concerning discipline and discharge for any unit employees, the parties agree to reopen negotiations solely to rescind this Article to the extent of any conflict and incorporate the binding arbitration process into this Agreement to the maximum extent possible.

## **PART II: COMPENSATION**

### **ARTICLE 1 WAGES**

#### **Section 1 - FY 2016**

The base salary for all Bargaining Unit employees shall be increased to \$160,000 effective the first day of the first full pay period commencing on or after October 1, 2015. Any ALJs who were employed at OAH after October 1, 2015, but have since retired or resigned, will be entitled to retroactive pay.

#### **Section 2 - FY 2017**

The base salary for all Bargaining Unit employees shall increase by 1.5% to \$162,400 effective the first day of the first full pay period commencing on or after October 1, 2016.

#### **Section 3 - FY 2018**

The base salary for all Bargaining Unit employees shall increase by 1.5% to \$164,836 effective the first day of the first full pay period commencing on or after October 1, 2017.

#### **Section 4 - FY 2019**

The base salary for all Bargaining Unit employees shall be increased by 2% to \$168,132 effective the first day of the first full pay period commencing on or after October 1, 2018.

#### **Section 5 - Part-Time Bargaining Unit Employees**

Part-Time Bargaining Unit employees who work on a prearranged scheduled tour of duty are entitled to wages as provided above on a pro rata basis.

### **ARTICLE 2 BENEFITS COMMITTEE**

#### **Section 1 - General**

The Parties agree to establish a Benefits Committee for the purpose of addressing the benefits of bargaining units represented by FALJ at OAH. The Union shall appoint up to two representatives to serve on the Committee. The District of Columbia Department of Human



Resources shall appoint one committee representative with authority to make benefits decisions. Within 30 business days following the Council of the District of Columbia's approval of this Agreement, the Union shall contact DCHR's Associate Director of the Benefits and Retirement Administration to establish the Benefits Committee. Subsequently, the Benefits Committee shall meet at least once during the 6-month period immediately prior to the expiration of any of the District of Columbia contracts for benefits implicated herein and prior to the formal solicitation of bids from providers for such contracts. The Committee shall also meet after the award of the contract(s) but prior to implementation, in order to allow DCHR to explain any changes and debrief with the Benefits Committee.

## **Section 2 - Purpose**

The purpose of the Benefits Committee shall be to address the benefits of Bargaining Unit employees and to make recommendations to the Executive regarding those benefits. The Union shall not have final decision-making with regard to benefits. Differences in opinion arising from Benefits Committee meetings or the procurement process, including but not limited to vendor recommendations/selection and what benefits the District shall provide shall not be subject to grievance arbitration.

## **Section 3 – Responsibilities**

The members of the Benefits Committee are authorized to consider all matters that concern the benefits of Bargaining Unit employees. The Benefits Committee shall:

1. Monitor the quality and level of services provided to Bargaining Unit employees under existing Health, Retirement, Optical, Life, Disability, Indemnity and Dental Insurance Plans.
2. Review and recommend changes and enhancements in Health, Retirement, Optical, Life, Disability, Indemnity and Dental benefits, and any proposals for new benefits, consistent with D.C. Official Code, Chapter 6, Subchapter XXI (Health Benefits).
3. DCHR will review with the Committee in advance the technical requirements in preparation for the formal solicitation of bids from providers in order for the Committee to provide any comments, input and recommendations for DCHR's consideration. DCHR will highlight any changes or enhancements to existing benefit plans or programs reflected in the technical requirements.

4. Explore issues concerning the workers' compensation system that affects Bargaining Unit employees consistent with D.C. Official Code, Chapter 6, Subchapter XXIII (Public Sector Workers' Compensation).

5. DCHR shall notify the Committee by email after the award to providers but prior to implementation of any significant alteration of existing benefits programs, and proposed additional benefit programs to determine the extent to which they impact Bargaining Unit employees. Upon notification, the Committee shall notify the Office of Labor Relations and Collective Bargaining within 10 calendar days to discuss any concerns the Committee has regarding the impact on OAH ALJs.

#### **Section 4 – Maintenance of Benefits**

Nothing herein shall be construed to reduce, modify, or eliminate any benefits or benefit levels available to the Bargaining Unit employees prior to entering into this Agreement.

#### **Section 5 – Additional Benefits**

The Parties agree that the establishment of this Benefits Committee does not limit or prohibit the Parties from negotiating and agreeing to additional or modified benefits.

### **ARTICLE 3 BENEFITS**

Except as otherwise provided in this Agreement, the Parties hereby incorporate the following specific benefits provided under the Compensation Agreement between the District of Columbia Government and Compensations Units 1 and 2: Life Insurance; Health Insurance; Indemnity Insurance; Short and Long Term Disability Insurance; Optical and Dental Insurance; Annual, Sick and Other Leave; Pre-Tax Benefits; Retirement; Civil Services Retirement System; Defined Contribution; Deferred Compensation; as the applicable benefits for Bargaining Unit employees.

Such benefits shall be amended or revised by any additional benefits by engaging the Benefits Committee as provided for under Article 2 for the duration of this Agreement.

## Section 1 – Life Insurance

Life insurance is provided to covered employees in accordance with D.C. Official Code § 1-622.01, *et seq.* and Chapter 87 of Title 5 of the United States Code. D.C. Official Code § 1-622.03 requires that benefits shall be provided as set forth in § 1-622.07 to all employees of the District first employed after September 30, 1987, except those specifically excluded by law or by rule.

1. D.C. Official Code § 1-622.01 requires that benefits shall be provided as set forth in Chapter 87 of Title 5 of the United States Code for all employees of the District government first employed before October 1, 1987, except those specifically excluded by law or rule and regulation.
2. The District of Columbia currently provides the following life insurance benefits equal to the employee's annual salary rounded to the next thousand, plus an additional \$2,000 for employees hired on or after October 1, 1987. Employees pay two-thirds of the total monthly premium. The District Government pays the one-third of the total monthly premium. Employees may choose to purchase additional life insurance coverage through the District Government, but pay 100% of the cost of optional life insurance. These additions to the basic coverage are set-forth in the schedule below:

Option A – “standard” which provides \$10,000 additional coverage, cost determined by age.

Option B – “additional” which provides coverage in multiples of one to five times an employee's salary, cost determined by age.

Option C – “family” which provides \$10,000 coverage for the eligible spouse and \$10,000 for each eligible child up to age 21; or \$25,000 coverage for eligible spouse and \$10,000 for each eligible child up to age 21; or \$50,000 coverage for eligible spouse and \$10,000 for each eligible child up to age 21. Cost for each program is determined by age.

The level of life insurance benefits provided to employees covered under this Agreement shall not be decreased or revised during the term of this Agreement without engaging the Benefits Committee pursuant to Article 2. The District shall provide life insurance coverage for Bargaining

Unit employees hired on or after October 1, 1987, that is equal in coverage and level of benefits to similarly situated, non- Bargaining Unit employees.

Bargaining Unit employees must contact their respective personnel office to enroll or make changes in their life insurance coverage.

## **Section 2 – Health Insurance**

A. Pursuant to D.C. Official Code § 1-621.02, all Bargaining Unit employees who were hired after September 30, 1987, shall be entitled to enroll in group health insurance provided by the District of Columbia. Health insurance coverage shall provide a level of benefits comparable to the plan(s) provided on the effective date of this agreement. All District employees are required to execute an enrollment form in order to participate in this program.

1. The District of Columbia may elect to provide additional health care providers for employees employed after September 30, 1987, provided that the addition of providers does not reduce the current level of benefits provided to Bargaining Unit employees. If the District of Columbia decides to change or modify the list of eligible providers, it shall give Union representatives notice of the additions after the award but prior to implementation.

2. Bargaining Unit employees shall make the standard contribution to the total premium cost of the employee's selected plan. The Employer shall make the remaining, standard contribution to premium cost of the Bargaining Unit Employees' selected plan.

B. Pursuant to D.C. Official Code § 1-621.01, all Bargaining Unit employees who were hired before October 1, 1987, shall be eligible to participate in group health insurance coverage provided through the Federal Employees Health Benefits Program (FEHB) as provided in Chapter 89 of Title 5 of the United States Code. The United States Office of Personnel Management administers this program.

C. Health plan descriptions shall provide the terms of coverage and administration of the respective plans. Plan summaries and the full plans will be available on the DCHR website. Where the full plan is not posted a link to the plans will be provided on the DCHR website.

## **Section 3 – Optical and Dental**

The District shall provide Optical and Dental Plan coverage at a level of benefits comparable to the plan(s) provided on the effective date of this agreement. Benefits levels shall not be reduced during the term of this agreement without engaging the Benefits Committee pursuant to Article

2. All District employees are required to execute an enrollment form in order to participate in the Optical and Dental program.

The District may elect to provide additional Optical or Dental providers, provided that the addition of providers does not reduce the current level of benefits provided to Bargaining Unit Employees. Should the District Government decide to expand the list of eligible providers, the District shall give Union representatives notice of the additions after the award but prior to implementation.

#### **Section 4 – Short and Long Term Disability**

1. Bargaining Unit employees shall be eligible to enroll, at their own expense, in the District's Short and Long Term Disability Insurance Programs, which provide for partial income replacement when employees are required to be absent from duty due to a non-work-related qualifying medical condition. Bargaining Unit employees may use income replacement benefits under the program in conjunction with annual or sick leave benefits provided for in this Agreement.

2. Short and Long Term Disability Benefit levels shall not be decreased or revised during the term of this Agreement without engaging the Benefits Committee pursuant to Article 2.

3. The District may elect to provide additional Short or Long Term Disability coverage providers, provided that the addition of providers does not reduce or substantively modify the current level of benefits provided to Bargaining Unit employees. If the District decides to expand the list of eligible providers, the District shall give the Union notice of the additions after the award but prior to implementation.

#### **Section 5 – Indemnity Benefits**

Employer shall provide Bargaining Unit employees access to indemnity benefits currently in effect.

#### **Section 6 – Annual Leave**

1. In accordance with D.C. Official Code §1-612.03, full-time Bargaining Unit employees are entitled to:

- (a) one-half day (4 hours) for each full biweekly pay period for an Administrative Law Judge with less than three years of service (federal or District government) (accruing a total of thirteen (13) annual leave days per annum);



- (b) three-fourths day (6 hours) for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth days (10 hours), for an Administrative Law Judge with more than three but less than 15 years of service (federal or District government) (accruing a total of twenty (20) annual leave days per annum); and,
  - (c) one day (8 hours) for each full biweekly pay period for an Administrative Law Judge with 15 or more years of service (federal or District government) (accruing a total of twenty-six (26) annual leave days per annum).
- 2. Part-Time Bargaining Unit employees who work on a prearranged scheduled tour of duty are entitled to earn leave as provided above on a pro rata basis.
  - 3. Bargaining Unit employees shall be eligible to use annual leave in accordance with the District of Columbia Laws.
  - 4. A Bargaining Unit employee's request to use annual leave shall not be unreasonably denied.

#### **Section 7 - Sick Leave**

- A. In accordance with District of Columbia Code §1-612.03, a full-time Bargaining Unit employee covered by the terms of this Agreement accrues four hours of sick leave each full biweekly pay period, for a total of 13 days in a calendar year.
- B. Part-Time Bargaining Unit employees who work on a prearranged scheduled tour of duty are entitled to earn leave as provided above on a pro rata basis.
- C. Bargaining Unit employees may use sick leave to:
  - (1) Seek medical attention and/or to recover from illness or injury;
  - (2) Provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth;
  - (3) Provide care for a family member as a result of medical, dental, or optical examination or treatment;
  - (4) Provide care for a foster child or a prospective or newly adopted child in the employee's care; or

(5) Make any other use allowed by law.

- D. A Bargaining Unit employee's request to take sick leave shall not be unreasonably denied.

#### **Section 8- Other Forms of Leave**

- A. Family Leave – Within any 12-month period, a Bargaining Unit Employee is entitled to up to eight weeks of paid family leave for the birth or adoption of a child or to care for a family member (a person related by blood, legal custody, domestic partnership, or marriage) with a serious health condition.
- B. Military Leave: A Bargaining Unit Employee is entitled to leave, without loss of pay, leave, or credit for time of service as reserve members of the armed forces or as members of the National Guard to the extent provided in D.C. Official Code §1-612.03(m).
- C. Court Leave: A Bargaining Unit Employee is entitled to leave, without loss of pay, leave, or service credit during a period of absence in which he or she is required to report for jury duty or to appear as a witness on behalf of the District of Columbia Government, or the Federal or a State or Local Government to the extent provided in D.C. Official Code §1-612.03(l).
- D. Funeral Leave - A Bargaining Unit Employee is entitled to three days of leave (not necessarily consecutive) without loss of pay, leave, or service credit to make arrangements for or to attend the funeral or memorial service for an immediate relative. In addition, Employer shall grant a Bargaining Unit Employee's request for annual, sick or compensatory time up to three days upon the death of an immediate relative. Requests for leave shall be granted unless the Agency's ability to accomplish its work would be seriously impaired. For purposes of this section the term "immediate relative" means: an individual related to the employee by blood, marriage, adoption, or domestic partnership, such as spouse, "domestic partner" as defined in D.C. Official Code §32-701 and related laws, parents and grandparents, children, brother, sister, aunt, uncle, children, grandchildren, or similar familial relationship, or an individual for whom the employee is the legal guardian.
- E. Administrative Closing - A Bargaining Unit Employee who has previously scheduled leave for a day (or portion of a day) on which the District of Columbia or the Office of Administrative

Hearings closes by order of the Mayor or the Chief Administrative Law Judge shall not be charged leave for the day, or portion of the day, that OAH is closed.

F. **Back-to-School Leave** - Subject to the terms of this subsection, a Bargaining Unit Employee who is the primary caregiver for a child enrolled in school, including pre-school, elementary school, middle or junior high school, or high school, may take 2 hours of excused leave (that is not charged to the Bargaining Unit Employee's leave balance) to assist his or her child in preparing for and traveling to the first day of school during the academic year. OAH shall make every effort to grant requests for excused absences on the first day; however, the granting of all such requests may not be feasible if it results in disruption of public services. Accordingly, when OAH cannot grant an excused absence, the Bargaining Unit Employee shall be given an excused absence of 2 hours during the first week of school, in order to assist his or her child in preparing for school.

#### **Section 9 - Pre-Tax Benefits**

1. Bargaining Unit Employee contributions to benefits programs established pursuant to D.C. Official Code §1-611.19, including the District of Columbia employees Flexible Spending Accounts, may be made on a pre-tax basis in accordance with the requirements of the Internal Revenue Code and, to the extent permitted by the Internal Revenue Code, such pre-tax contributions shall not effect a reduction of the amount of any other retirement, pension, or other benefits provided by law.

2. To the extent permitted by the Internal Revenue Code, any amount of contributions made on a pre-tax basis shall be included in the Bargaining Unit Employee's contributions to existing life insurance, retirement system, and for any other District government program keyed to the Bargaining Unit Employee's scheduled rate of pay, but shall not be included for the purpose of computing federal or District income tax withholdings, including F.I.C.A., on behalf of any such Bargaining Unit Employee.

#### **Section 10- – Retirement**

1. **CIVIL SERVICE RETIREMENT SYSTEM (CSRS):** As required by 5 U.S.C. § 8401 and related chapters, Bargaining Unit employees first hired by the District of Columbia Government before October 1, 1987, are subject to the provisions of the CSRS, which is administered by the U.S. Office of Personnel Management. Under Optional Retirement these Bargaining Unit employees may choose to retire when they reach:

- (a) Age 55 with 30 years of service;
- (b) Age 60 with 20 years of service;
- (c) Age 62 with 15 years of service.

Under Voluntary Early Retirement, which must be authorized by the U.S. Office of Personnel Management, an employee may choose to retire when he/she reaches:

- (a) Age 50 with 20 years of service;
- (b) Any age with 25 years of service.

The pension of an employee who chooses Voluntary Early Retirement will be reduced by 2% for each year under age 55.

**2. DEFINED CONTRIBUTION PENSION PLAN:** The District of Columbia shall continue the Defined Contribution Pension Plan currently in effect which includes:

- (a) All eligible employees hired by the District on or after October 1, 1987, shall be enrolled into the defined contribution pension plan as prescribed by D.C. Official Code § 1-626.09.
- (b) After the completion of one year of service, the District shall contribute an amount not less than 5% of his/her base salary to Bargaining Unit Employee's Defined Contribution Pension Plan account. The District government funds this plan. There is no employee contribution to the Defined Contribution Pension Plan. After two years of plan participation, a Bargaining Unit Employee is entitled to 20% of the account. After three years of plan participation, a Bargaining Unit Employee is entitled to 40% of the account. After 4 years of plan participation, a Bargaining Unit Employee is entitled to 60% of the account. A Bargaining Unit Employee is fully vested after five years of plan participation and is entitled to 100% of the account.

**3. DEFERRED COMPENSATION PROGRAM:** All Bargaining Unit employees shall be eligible to participate in the District's Deferred Compensation Program as currently described in Section 1-626.05 and related Chapters of the D.C. Official Code. The Deferred Compensation Program is a pre-tax saving account of deferred gross income that is automatically deducted from employee pay, which allows employees to accumulate funds for long-term goals, including retirement. The portion of salary contributed reduces the amount of taxable income in each

paycheck. The Internal Revenue Service determines the annual maximum deferral amount. Under the program, employees may choose from various fixed or variable rate investment options.

(c)

### **Section 11 - Holidays**

1. The following legal public holidays are provided to all Bargaining Unit employees (when observed):

- (a) New Year's Day, January 1<sup>st</sup> of each year;
- (b) Dr. Martin Luther King, Jr.'s Birthday, the 3<sup>rd</sup> Monday in January of each year;
- (c) President's Day, the 3<sup>rd</sup> Monday in February of each year;
- (d) D.C. Emancipation Day, April 16<sup>th</sup> of each year;
- (e) Memorial Day, the last Monday in May of each year;
- (f) Independence Day, July 4<sup>th</sup> of each year;
- (g) Labor Day, the 1<sup>st</sup> Monday in September of each year;
- (h) Columbus Day, the 2<sup>nd</sup> Monday in October of each year;
- (i) Veterans Day, November 11<sup>th</sup> of each year;
- (j) Thanksgiving Day, the 4<sup>th</sup> Thursday in November of each year; and
- (k) Christmas Day, December 25<sup>th</sup> of each year.

2. Any other legal public holiday observed by the District and any other day declared a holiday for District workers by the President, Congress, or the Mayor will also be granted to all Bargaining Unit employees. When a Bargaining Unit Employee is relieved or prevented from working by order of the Mayor, on a day he/she was otherwise scheduled to work, he/she is entitled to the same pay for that day as if he/she worked an ordinary day.

### **Section 12 - Benefits Levels**

The level of benefits provided pursuant to this Agreement shall not be decreased or revised during the term of this Agreement without engaging the Benefits Committee pursuant to Article 2.



**ARTICLE 4**  
**MONTHLY TRANSIT SUBSIDY- SMARTRIP BENEFITS**

Beginning the first full pay period on or after final approval of this Agreement, the District of Columbia Government shall subsidize the cost of monthly transit passes by not less than twenty-five (\$25.00) per month who purchase and use such passes to commute to and from work.

**ARTICLE 5**  
**SICK LEAVE INCENTIVE PROGRAM**

In order to recognize a Bargaining Unit employee's productivity through his/her responsible use of accrued sick leave, time-off shall be provided as follows:

**Section 1 - Accrual**

A full-time Administrative Law Judge who is in a pay status for the leave year shall accrue annually:

1. Three days off for utilizing a total of no more than two days of accrued sick leave.
2. Two days off for utilizing a between two and four days of accrued sick leave.
3. One day off for utilizing between four and five days of accrued sick leave.

**Section 2 - Employees in Non-pay Status**

Employees in non-pay status two pay periods or less for the leave year shall remain eligible for incentive days under this Article. A Bargaining Unit Employee who uses sick leave to address pregnancy/childbirth or catastrophic illness/injury, not to exceed three consecutive pay periods, shall still be eligible for incentive leave under this Article.

**Section 3 - Procedure for Use of Time Accrued**

Time off pursuant to a sick leave incentive award shall be selected by the Bargaining Unit Employee and requested at least three full workdays in advance of the leave date. Requests for time off pursuant to an incentive award shall be given priority consideration and shall be approved unless staffing needs or workload considerations dictate otherwise. If the request is denied, the Bargaining Unit Employee shall request and be granted a different day off within one month of the date initially requested.

Requests for time off shall be made on the standard "Application for Leave" form.

#### **Section 4 – Use of Time Accrued**

All incentive days must be used in full-day increments following the leave year in which they were earned. Incentive days may not be substituted for any other type of absence from duty. There shall be no carryover or payment for any unused incentive days.

#### **Section 5 - Part Time Bargaining Unit Employees**

Part-time Bargaining Unit employees are not eligible for the sick leave incentive as provided in this Article.

### **ARTICLE 6**

#### **ANNUAL LEAVE/COMPENSATORY TIME BUY-OUT**

##### **Section 1 - Payment for Annual Leave/Compensatory Time**

A Bargaining Unit Employee who is separated or is otherwise entitled to a lump-sum payment under District of Columbia Government personnel regulations shall receive payment for each hour of unused annual leave or compensatory time accrued in the employee's official leave record subject to any applicable offsets for outstanding debts to the District government pursuant to DPM Chapter 29, Employee Debt Set-offs.

##### **Section 2 - Computation**

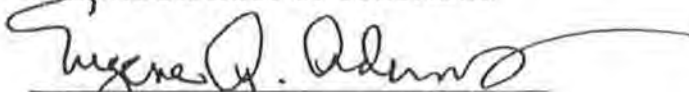
The lump-sum payment shall be computed on the basis of the employee's hourly pay rate at the time of separation.

### **ARTICLE 7 BACK PAY**


Arbitration awards or settlement agreements in cases involving a Bargaining Unit Employee shall be paid within 60 days of receipt from the Administrative Law Judge of relevant documentation, including documentation of interim earnings and other potential offsets. Employer shall submit the SF-52 and all other required documentation to the Department of Human Resources or the Office of Pay and Retirement Services within 30 days following receipt of relevant documentation.

Signed and executed this 6<sup>th</sup> day of Sept, 2016.

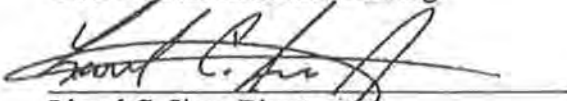
FOR THE DISTRICT OF COLUMBIA:



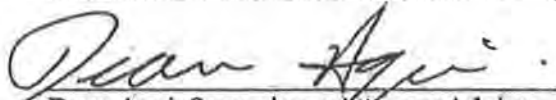
Eugene A. Adams  
Chief Administrative Law Judge  
Office of Administrative Hearings



Vanessa Natale  
General Counsel  
Office of Administrative Hearings



Lionel C. Sims, Director  
Office of Labor Relations & Collective Bargaining

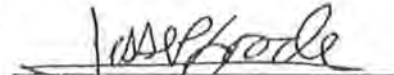


Dean Aqui, Supervisory Attorney Advisor  
Office of Labor Relations & Collective Bargaining

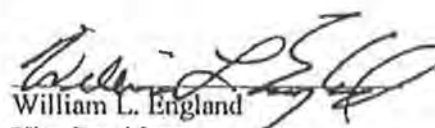


Kathryn A. Naylor, Attorney Advisor  
Office of Labor Relations & Collective Bargaining

FOR THE FALJ



Jesse P. Goode  
President



William L. England  
Vice President

#### APPROVAL

This collective bargaining agreement between the Federation of Administrative Law Judges – D.C. (FALJ-DC) and the District of Columbia Government and the D.C. Office of Administrative Hearings, dated September 6, 2016, has been reviewed in accordance with D.C. Official Code § 1-617.15, and is hereby approved on this 18<sup>th</sup> day of October, 2016.



Muriel Bowser, Mayor

