

ATTACHMENT 2

ARBITRATION PANEL

1. Paul Greenberg
2. Gloria Johnson
3. Andrew Strongin, Jr.
4. M. David Vaughn
5. Barry Shapiro
6. Charles Feigenbaum
7. Lois Hochhauser
8. Jerome Ross
9. Joyce Klein

COLLECTIVE BARGAINING WORKING CONDITIONS AGREEMENT

BETWEEN

**AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 1403,
AFL-CIO,**

AND

THE DISTRICT OF COLUMBIA,

AND

**THE OFFICE OF THE ATTORNEY GENERAL,
THE GOVERNMENT OF THE
DISTRICT OF COLUMBIA**

EFFECTIVE THROUGH SEPTEMBER 30, 2017

TABLE OF CONTENTS

ARTICLE		PAGE
1	Recognition	4
2	Labor/Management Relations	6
3	Administration of Leave	8
4	Alternative Work Schedule	9
5	Employee Assistance Program	10
6	Union Stewards/Official Time	11
7	Union Use of Employer Facilities and Services	16
8	Personnel Files	18
9	Job Descriptions	19
10	Late Arrival/Early Dismissal	20
11	Strikes and Lockouts	21
12	Contracting Out/Privatization	22
13	Union Rights and Security	23
14	Term Employees	25
15	Discrimination	26
16	Safety & Health	29
17	Informational Reports on Employees	31
18	Fitness for Duty	32
19	Requests for Information	33
20	Employee Use of Information Technology	34
21	Training	36

22	Employee Rights	37
23	Sabbatical/Extended Leave	39
24	Reassignments, Promotions, Details	40
27	Timely Receipt of Correct Pay and Expense Reimbursements	42
28	General Provisions	43
29	Computation of Time	44
30	Grievance and Arbitration Procedures	45
31	Discipline and Discharge	49
32	Savings Clause	51
33	Incorporation of Compensation Agreement Terms	52
34	Duration and Finality	53

ARTICLE 1 RECOGNITION

Section 1 - Recognition

A. The American Federation of Government Employees, (AFGE) Local 1403 (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 without discrimination as to membership.

C. The Employer shall give the Union an opportunity to be present at any formal meeting between the Employer and one or more employee(s) in the bargaining unit concerning any grievance or general condition of employment of the employee(s) in the bargaining unit. A "formal meeting" refers to any meeting between an employee and any individual in his or her supervisory chain of control that includes at least one (1) other management official or supervisor and at least one (1) Union representative.

Section 2 – Coverage

A. All Series 905 attorneys employed by the Office of the Attorney General for the District of Columbia (OAG or Employer), including Agency Counsel, except employees excluded under Section 5 of the Article. PERB Case No. 01-RC-03; Certification No. 121; PERB Case No. 01014-RC-0301, Certification No. 121, 133 (April 19, 2005).

B. AFGE Local 1403 is recognized as the sole and exclusive bargaining representative for the bargaining units set forth in PERB Certification No. 121 and PERB Certification No. 133. In the event that any attorney positions within Local 1403's bargaining unit that are currently assigned to the Office of the Attorney General are subsequently assigned to other agencies within the District of Columbia Government, the parties agree that Local 1403 will open negotiations, within thirty (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.

Section 3 – New Units

The provisions of this Agreement shall not cover bargaining unit employees under the administrative jurisdiction of the Attorney General and/or the Mayor of the District of Columbia newly certified during the term of this Agreement. Representatives of any new units shall meet to negotiate a separate Agreement which shall govern the new units.

Section 4 – Unit Clarification(s)

The Union and the Employer shall file a Joint Petition with the Public Employee Relations Board to clarify and correct inaccuracies contained or arising within the current unit certifications. Prior to filing the joint petition, the Union and Employer shall confer on the revised unit descriptions.

Section 5 - Exclusions from Coverage

The following employees are excluded from the bargaining unit covered by the Agreement:

1. All management officials;
2. All supervisors;
3. Employees who act in a confidential capacity with respect to an individual who formulates or effectuates management policies regarding attorney employees in the field of labor relations;
4. Employees engaged in personnel work regarding attorney employees in other than a purely clerical capacity;
5. Employees who are engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139; and
6. Interns, volunteers, pro bono attorneys, contract attorneys, attorneys who are detailed to the OAG from federal agencies.

ARTICLE 2 LABOR-MANAGEMENT RELATIONS

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

A. The parties shall continue the existing Labor-Management Committee (LMC) that will be constituted of an agreed upon number of Union and Employer representatives.

B. The purpose of the LMC is to provide a forum for the exchange of views on working conditions, terms of employment, risk assessment, matters of common interest or other matters, which either party believes will contribute to improvement in the relations between the Union and the Employer within the framework of this Agreement.

C. Performance evaluation appeals, grievances and disciplinary matters shall not be the subject of discussions at these meetings, nor shall the meeting be for any other purpose, which would modify, add to or detract from the provisions of this Agreement. The Committee shall adopt rules for meetings including rules for notices, agendas, times and locations.

D. Changes to the functions and structure (except changes involving a particular individual as to personnel/supervisory appointments or transfers or space relocations) of the OAG are a proper matter for consideration by the Labor-Management Committee or relevant subcommittee.

Section 2 - Subcommittees

The parties may mutually agree to establish subcommittees of the LMC to study problems and conditions.

Section 3 – Union’s Right to Request Impact and Effects Bargaining

Nothing herein shall be construed to limit the Union's right to request impact and effects bargaining over any proposed organizational changes.

Section 4 - 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 Attorney General or his/her designee for consideration. The Attorney General 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 Attorney General or his/her designee, the committee or subcommittee shall recommend a requested response date from the Attorney General, or his/her designee.

Section 5 - Labor-Management Meetings

A. In mutual recognition of the parties' joint desire to discuss and resolve matters of concern at the lowest possible level, the Union steward and first-level supervisor, who shall be a Section Chief for those attorneys who are in a Section or Deputies for those attorneys who are not in a Section, should meet periodically for the purpose of meaningful consultation and communication on the problems and policies of the organization in their working unit, and if appropriate, the steward may meet with supervisors of a higher level. Such meetings between supervisors and stewards shall be on duty time, shall be brief, and shall cover matters of concern between them and appropriate to their relationship.

B. Appropriate Management and Union representatives shall meet at either party's request to discuss problems concerning the implementation of this Agreement. Each party shall furnish the other with an itemized agenda setting forth the topics of discussion one (1) day before the meeting, unless otherwise agreed. The parties further agree that items not on the agenda may be raised for discussion, if agreed to by the parties at the meeting.

Section 6 - Organizational Changes

A. 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 the OAG 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. 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.

Section 7 – Risk Assessment

- A. The LMC will act as the Risk Assessment and Control Committee (RACC) on all risk management issues concerning the OAG. When the LMC acts as the RACC, an equal number of representatives from Union and Management shall be included in the meetings.
- B. The LMC will make recommendations to the Attorney General concerning risk management issues for OAG. The Attorney General or his/her designee will respond to risk management recommendations of the LMC within a reasonable period of time after receipt, but in no event later than four (4) weeks following the transmittal of a written recommendation from the LMC to the Attorney General. The Attorney General will take any corrective actions needed within a reasonable period of time, given the context of the recommendation.
- C. The LMC shall include a RACC risk management agenda within the agenda of the LMC at least four (4) times each year on a quarterly basis.
- D. Risk management issues will be considered by the LMC as a whole, with one vote for each committee member authorized.

ARTICLE 3 ADMINISTRATION OF LEAVE

Except as otherwise provided in this Agreement or the corresponding Compensation Agreement, the parties shall adhere to all applicable law and District government rules and regulation in the administration of leave. Annual leave must be reasonably requested in advance except in an emergency (unanticipated event). Employer's decision to grant or deny annual leave shall be made within 72 hours of the request, excluding Saturdays, Sundays, holidays, and any other day that the District government is closed and will be based solely on mission (including coverage) requirements. Except in emergency situations, the Employer shall not consider the reason for the annual leave request in making the leave determination. If requested by the employee, the supervisor shall discuss the reason for the denial of any request, and discuss when the employee will be able to take the requested leave. Requests for annual leave shall be approved when possible.

ARTICLE 4 ALTERNATIVE WORK SCHEDULE

The Employer agrees to continue implementation of its Attorney, Non-Attorney Manager, and Support Staff Alternative Work Schedule Program (Office Order No. 2011-07) (March 28, 2011), in effect on September 12, 2013, and set out as Attachment A to this Agreement.

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, the Employer will, 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 STEWARDS/OFFICIAL TIME

Section 1 - Number of Stewards

- A. The Union may designate, other than the Chief Steward, no more than five (5) stewards, or one (1) steward for every fifty (50) bargaining unit employees, whichever is greater.
- B. The Union will endeavor, whenever possible, to limit the number of Union Representatives working in the same division, to a number that will not cause a significant work disruption in that work unit.

Section 2 - Designation of Representatives

- A. Union Officers, Stewards and Other Representatives
 - 1. Union Officers and Stewards: The Union agrees to provide the OAG and the Office of Labor Relations and Collective Bargaining (OLRCB) with a written list of its officers and stewards within two (2) workdays after the date this Agreement is executed and within five (5) 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 (2) workdays prior to the assumption of representational responsibilities by any new officers, stewards or other representatives. If a Union official is not on the list of designated representatives and is needed prior to the two (2) days 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 Stewards. The Union shall also be notified prior to the organization of tours of duty that would affect the members of the unit.

F. Employer recognizes that the Union may designate employee members, selected or appointed to a Union office or delegated to a Union function and agrees that, upon request, the employee may be granted annual leave or leave without pay for the period of time required to be away from his/her job. Such requests will be submitted as far in advance as possible, but not less than one (1) working day prior to the day the leave is to begin in the event the leave request is eight (8) hours or less, or five (5) working days in advance, in the event the leave request exceeds eight (8) hours. The Union shall be notified of a disapproval of leave in writing together with the Employer's justification. Leave contemplated under this article shall not be denied except for good cause.

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.

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 actual use of official time and 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. The Union President (office currently occupied by Shana Frost on an acting basis) will be assigned a caseload equal to no greater than 50% of the average caseload of an attorney with his or her grade level and experience in the Division which employs the Union President. The Union Vice President # 1 (office currently occupied by Robert DeBerardinis) will be assigned a caseload equal to no greater than 75% of the average caseload of an attorney with his/her grade level and experience in the Division which employs the Union Vice President #1. No other Union members or officer will be assigned a reduced caseload. However, other Union members or officers shall be granted reasonable amounts of official time to investigate, prepare for, and conduct representational functions as needed, including necessary travel time. Employer will not be required to grant or approve official time for any Union shop steward, officer or other representative who has not complied with the Employer notification requirements of Section 2 of this Article.

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, and matters affecting working conditions;
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 oral reply meeting, if the Union is designated as representative of the employee;
6. any meetings for the purpose of presenting replies to the proposed termination of probationers, if the Union is designated as representative of the employee;
7. any meeting for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases, if the Union is designated as representative of the employee;
8. attendance at an examination of an employee who reasonably believes he or she may be the subject of a disciplinary or adverse action;
9. informal consultation meetings between the Employer and the Union;

10. conferring with affected employees about matters for which remedial relief is available under the terms of this Agreement;
 11. attendance at meetings of committees on which Union representatives are authorized members by the Employer or this Agreement;
 12. attendance at labor-management committee meetings or other joint labor-management cooperative efforts;
 13. attendance at Employer recognized or sponsored activities to which the Union has been invited;
 14. 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 OAG or labor relations/labor matters in the District of Columbia that impact or may impact the Union;
 15. necessary travel to any of the activities listed above;
 16. training related to the representational functions of Union officials and stewards 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
 17. 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;
 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 Official Time

- A. All use of official time by any Union officer, official, steward or other representative must be recorded on the Employer-approved Official Time Report Form and submitted on a monthly basis to Employer's designee.
- B. Official time for Union representatives should be requested on the approved "Official Time Report" form. The Union representative will request authorization for official time from his or her supervisor in advance and as is consistent with workload requirements except when circumstances do not allow for 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). Failure to properly request and obtain approval of official time may result in disciplinary action depending on the circumstances.
- C. All advance requests for official time are understood to be estimates.
- D. If a request for official time is denied, the manager or supervisor refusing such permission shall give the reasons for refusal in writing to the individual who was so denied if the individual involved makes such a request.
- E. Employee Union representatives, except the Union President, in light of her 50% reduced caseload, and Vice President #1, in light of his 25% reduced caseload, will complete the "Official Time Report" form (attached to this Agreement as Exhibit "A") provided by the Employer to accurately depict the actual official time used in a timely manner each pay period.
- F. 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: official time requests shall be granted unless they hinder the accomplishment of essential workload requirements that cannot otherwise be accommodated.
- G. 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.

Section 6

- A. The parties agree that Union officials and stewards are entitled to take a reasonable amount of official time and the officials and stewards requesting/using official time shall be treated with civility and shall not be discriminated against because they participate in Union activities and/or take official time. Likewise, Union officials and stewards shall treat supervisors with civility in regard to their supervisors need to have information about the amount and type of official time being requested

so that the supervisor can effectively manage their personnel and allotted workload. The parties agree that there is a need for flexibility to enable managers to effectuate the mission of the government and, at the same time, to enable Union officials and stewards of the bargaining unit to take care of Union business expeditiously.

B. In cases of alleged abuse of official time by the Union, or alleged improper restriction of official time or discrimination by the Employer, the parties shall endeavor to resolve the matter at the lowest possible level. If efforts to resolve the matter between the first line supervisor and the Union official or representative fail, then the party alleging the abuse or improper restriction shall bring the matter to the attention of the appropriate management and Union representatives. If the matter is not resolved then either party may seek assistance from the D.C. Office of Labor Relations and Collective Bargaining.

Section 7

The parties shall conduct separate training concerning use of official time for members and managers and supervisors.

ARTICLE 7 UNION USE OF EMPLOYER FACILITIES AND SERVICES

A. Upon request, the Union may have access to meeting space by following established OAG procedures. Except as provided elsewhere in this Agreement, the Union shall attempt to hold meetings during the non-work time of employees attending the meetings. 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.

B. Employer manpower, office space, and supplies, except as otherwise provided in this Agreement, shall not be used in support of internal Union business.

C. The Employer may provide appropriate 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 sixty (60) days in advance. Other approximately equivalent or mutually agreeable space will be made available at least fifteen (15) business days prior to the time the Union is required to vacate the present office.

D. The Employer will make available to the Union at a minimum two (2) locking file cabinets, one (1) desk, and three (3) chairs.

E. The Union shall limit its posting of notices and bulletins to Union-designated bulletin boards, and each such posting shall be authorized and initialed by a Union officer or steward. A courtesy copy of all materials to be posted pursuant to this article will be provided to the Attorney General 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 AFGE Local 1403 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 Attorney General or his/her designee may request the removal of language or material that it believes is defamatory or discriminatory. With notice to the Union, Employer may remove language or material that is defamatory or discriminatory.

F. 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 Attorney General, 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

Employees and/or their authorized representatives shall be permitted to examine all contents of the employee's personnel files, including without limitation the OPF, whether maintained by OAG, DCHR or elsewhere, upon request.

Section 3 - Right to Respond

Each Employee shall have the right to answer any material filed in his/her OAG 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 OAG personnel file, Employees 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

An employee and/or their authorized representatives will be permitted to copy any material in all personnel files, including without limitation the OPF, for that employee maintained by the Employer.

Section 5 - Access by Union

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 of the material 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 JOB DESCRIPTIONS

Each employee within the unit shall receive a copy of his/her current job description upon request. When an employee's job description is changed, the employee and the Union shall be provided a copy of the new job description. When there is a material change in job duties, the employee shall be given advance notice of the change.

ARTICLE 10 LATE ARRIVAL/EARLY DISMISSAL

Section A -- Late Arrival

Employees shall be permitted to arrive late at work without charge to leave during inclement weather or during other extraordinary circumstances where the District government has authorized a late arrival for all non-essential employees, consistent with the authorization. All employees shall be considered non-essential for purposes of this Article unless they have been previously notified of their essential status.

Section B -- Early Dismissal

Whenever the Mayor, designated agency head, or an authorized official authorizes the early dismissal of District government employees, all employees (except those who have been designated in advance as essential employees consistent with the applicable laws and regulations and those who have been notified by their supervisor that because of specific pressing work requirements that they may not leave work early) shall be permitted to leave their duty stations consistent with the early dismissal authorization. The Attorney General (or his or her designee) shall make every reasonable effort to ensure that employees are notified timely of the early

dismissal or other leave policy during extraordinary circumstances. In addition, managers and supervisors shall make every reasonable attempt to ensure that employees who they manage or supervise are notified of the early dismissal authorization.

Notice shall be provided to employees whose work assignments do not permit them to leave work early regardless of the general early release authorization.

Section C -- Employees on leave during the late arrival/early dismissal period

An employee who previously requested and was granted leave during the authorized late arrival and/or early dismissal hours shall not be charged leave for the period requested that coincides with the authorized late arrival and/or early dismissal hours.

ARTICLE 11 STRIKES AND LOCKOUTS

In accordance with applicable law, it shall be unlawful for any District Government employee or the Union to authorize, ratify or participate in a strike against the District. The term strike as used herein means any unauthorized concerted work stoppage or slowdown. No lockout of employees shall be instituted by the Employer during the term of this Agreement except that the Employer in a strike situation retains the right to close down any facilities to provide for the safety of employees, equipment or the public.

ARTICLE 12 CONTRACTING OUT/PRIVATIZATION

Employer recognizes the Union's desire to retain all work regularly performed for the Employer, and the Union recognizes the Employer's need to maintain an efficient workplace; therefore, Employer will use its best efforts to continue to use bargaining unit employees and not subcontract work that has been traditionally and regularly performed by its employees. Decisions regarding contracting out are areas of discretion of the Employer. The impact and implementation of contracting out upon bargaining unit employees is a mandatory subject of bargaining. The Employer must notify the Union at least thirty (30) days in advance of any contracting out actions. 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 contracting out action. The Employer shall consult with the Union to determine if the needs of the Government may be met by means other than contracting out work traditionally performed by bargaining unit employees. The Employer shall minimize displacement actions by reassigning or retraining affected employees in order to retain bargaining unit employees consistent with available budget and applicable laws and regulations.

ARTICLE 13 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, either new or rehired, 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 formal orientation session. The Union shall have the opportunity to provide a fifteen (15) minute presentation as a part of the orientation programs for the Employer.

Section 3 – Dues Check off

Pursuant to D.C. Official Code § 1-617.07 (2012 Repl.), the Employer shall deduct dues from the bi-weekly salaries of those employees who authorize the deduction of said dues. The Union shall be solely responsible for notifying employees, 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. The employee must complete and sign an authorized dues deduction form to authorize the withholding. Employer will promptly process dues deduction forms.

Section 4 – Annual Notification of Annual Dues Amount

The amount to be deducted shall be certified to the Office of Labor Relations and Collective Bargaining (OLRCB) annually in writing by the appropriate official of the Union. The employee's authorization shall be forwarded to the OLRCB. It is the responsibility of the employee and the Union to bring errors or changes in status to the attention of the Employer. Corrections or changes shall be made at the earliest opportunity after notification is received but in no case will changes be made retroactively, unless the Employer fails to deduct dues due to the Employer's action or inaction. This provision shall supersede any other dues deduction agreement in effect prior to the effective date of this Agreement.

Section 5 – 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 an amount (not to exceed Union dues) that represents the cost of negotiation and/or representation. Such service fee deductions shall be allowed when the Union presents evidence that at least fifty-one percent (51%) of the employees in the unit are members of the Union.

Section 6 – Cost of Processing

Union dues and/or service fees shall be transmitted to the Union, minus a fee of \$.15 per deduction (dues or service fee) per pay period, payable to the OLRCB, for the administrative expenses associated with the collection of said dues pursuant to executed dues check off authorizations.

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 dues or other 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

When a service fee is not in effect, the Union may require that an employee who does not pay dues or service fees to pay reasonable costs incurred by the Union in representing such employee in grievances, adverse actions or appeal proceedings within the provisions of the CMPA, provided the Union gives advance notice of said costs to the employee.

Section 10

The terms and conditions of this Agreement shall apply to all employees in the bargaining unit without regard to Union membership.

ARTICLE 14 TERM EMPLOYEES

Section 1

- A. Term employees in the bargaining unit shall be given not less than two (2) pay period's notice of the termination of their appointment.
- B. Term bargaining unit employees shall be fully informed in their offer letter prior to their entrance on duty that the offer of employment is a term position. Term employees shall be provided a copy of their official position description.
- C. To the extent not inconsistent with District or Federal law and regulations, the Employer shall use its best efforts, subject to funding, to convert term bargaining unit employees ("NTE employees") to permanent ("FTE") status by the end of each fiscal year, when the term bargaining unit employee: 1) performs services for which OAG has a continuous need, 2) is in a pay status as of September 30, 2013, and continuing on an ongoing basis any term bargaining unit employee in a pay status by September 30th of each successive year, and 3) has both served for at least one year and performed at a meets expectations level, or the equivalent, for the most recent evaluation rating period. If a term employee is separated by management for any reason, other than project termination or budgetary reasons, and management previously extended the employee's term for 13 months, so that the employee is separated at the end of his or her second term, the employee shall have an opportunity to challenge his or her separation to the same extent as permanent unit employees.
- D. By December 1st of each year, Employer must provide the Union with the names of all unit term employees, the reason why their positions are term positions, and the names of all unit employees who have been converted to FTE status.

Section 2 – Priority Conversion of NTE Employees to FTE Status

When management determines to fill a FTE vacancy in a legal services section, the most senior qualified NTE employee with substantially similar, or greater, experience to the vacant position in that section, providing that the employee has a satisfactory performance appraisal and more than 24 months continuous employment, must be offered the FTE position.

ARTICLE 15 DISCRIMINATION

Section 1 – General Provisions

A. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code 2-1401 *et seq.* (2012 Repl.), the Employer shall not discriminate against any Employee because of actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, disability, gender identity or expression or genetic information. The Employer's violation of the Human Rights Act shall also constitute a violation of this Agreement.

B. 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 OAG's EEO Director in accordance with OAG's Equal Employment Opportunity Office Order No. 2006-11. 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 its Equal Employment Opportunity Policy (OAG Office Order No. 2006-11 (March 9, 2006 or successor orders) 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 input on the development of the Affirmative Action Plan may be provided through OAG's EEO Director. The Employer shall provide the Union a copy of the Affirmative Action Plan, 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 OAG Sexual Harassment policy contained in OAG Office Order No. 2006-11 as amended or any subsequent policy developed.

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 and Election

A. An employee may raise a complaint of discrimination under applicable law (to OAG's EEO Director through the administrative complaint process, the Office of Human Rights, the Equal Employment Opportunity Commission, local or federal courts), or through the negotiated grievance procedure but not both. In consideration for the benefits of arbitration, each employee must sign the attached waiver acknowledging voluntary waiver of his/her federal statutory rights, including his/her rights under Title VII as a condition precedent to submission of his/her discrimination complaint to the grievance process. If an employee elects not to voluntarily waive his/her rights, the employee cannot submit his/her discrimination claim through the grievance process. Grievances must be filed within thirty (30) days of the date that the employee knew or should have known of the conduct being grieved. An employee shall be deemed to have exercised this option when the matter that give rise to the allegation of discrimination is made the subject of a timely filed grievance or a formal EEO complaint, whichever event (filing) occurs first.

B. The Union and Employer shall agree on a panel of arbitrators who shall have at least five years of experience in employment discrimination law to hear such grievances at the arbitration level of review.

C. A complainant has the right to be accompanied, represented, and advised by a representative of her/his choosing at any stage of the complaint process, except where there is a conflict of interest or position.

D. The Employer shall notify the Union of all remedial or corrective actions that impact on bargaining unit employees to be taken as the result of informal or formal resolution of EEO complaints.

FORM TO BE COMPLETED BY EMPLOYEES WHO DECIDE TO FILE A GRIEVANCE
OVER A DISCRIMINATION CHARGE

I, _____, acknowledge that I have decided to submit my employment discrimination charge through the grievance procedure. In consideration of arbitration, I will forego and waive my rights to file a separate claim under the discrimination statutes, including Title VII, in accordance with applicable law governing such elections. *See Alexander v. Denver-Gardner*, 415 U.S. 36 (1974).

Dated:

EMPLOYEE'S NAME

**ARTICLE 16
SAFETY AND HEALTH**

Section 1 - Working Conditions

A. The Employer shall provide and maintain safe working conditions for all employees. It is understood that the District may exceed standards established by regulations consistent with the objectives set by law. The Union will cooperate in these efforts by encouraging its members to work in a safe manner and to obey established safety practices and regulations.

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 immediate supervisor and the OAG Risk Manager Specialist.

B. If the supervisor determines that a condition constitutes an immediate hazard to the health and safety of the employee, the supervisor shall take immediate precautions to protect the employee and contact the Risk Manager Specialist as necessary. If the supervisor does not agree that the condition constitutes an immediate hazard to the health and safety of the employee, the employee may immediately refer the matter to the next level supervisor or designee. The

supervisor or designee shall meet as soon as possible with the employee and his/her Union representative to make a determination of final actions to 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 make first-aid kits reasonably available 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 Risk Assessment and Control Committee recommendation. Recommendations of the Risk Assessment and Control Committee will be referred to the Attorney General or his/her designee.

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

D. Employees who have been identified by the Risk Management Specialist 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 OAG Risk Manager 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 17
INFORMATIONAL REPORTS ON EMPLOYEES

Upon request, and at least annually by December 31st of each year, Employer shall provide the Union a list of bargaining unit members that includes the name, grade, step, title, hire date, organizational unit, assignment, location, contact information (including work address, telephone number and fax number) and bargaining unit status of each bargaining unit employee. The Employer shall maintain the Union on the regular distribution list for the New Hires and Resignations Report, which shall be updated at least quarterly. The Employer shall include the Union status on the New Hires and Resignations Report provided to the Union.

ARTICLE 18
FITNESS FOR DUTY

The Employer agrees to comply with applicable District law and controlling regulations concerning fitness for duty.

ARTICLE 19
REQUESTS FOR INFORMATION

Consistent with law and upon request of the Union, the Employer shall provide relevant information that the Union needs to perform its duties in grievance processing and collective bargaining negotiations.

ARTICLE 20
EMPLOYEE USE OF INFORMATION TECHNOLOGY

Section 1 – New Technology

Whenever the Employer proposes to acquire or implement equipment or technological changes that may adversely impact employees in the bargaining unit, the Employer shall notify the Union and, when requested, bargain over any adverse effect. Appropriate training for affected employees that will enable them to maintain their present job status shall be among the principal considerations as part of such bargaining. The Employer 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 – 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