

Exempt Bargaining Unit Memorandum of Understanding

between

Baltimore City Community College



Careers Built Here



AFSCME Local 1870

Together We Are Stronger

and

AFSCME Council 92/ AFSCME Local 1870

September 22, 2004 to September 23, 2007

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Preamble

This Memorandum of Understanding (MOU) is entered into by and between the Baltimore City Community College (hereinafter referred to as “Employer” or “College”, and the American Federation of State, County and Municipal Employees, AFL-CIO, Council 92 (hereinafter referred to as the “Union” or AFSCME), and has for its purpose the promotion of harmonious relations between the employees in the bargaining unit, the College and the establishment of an equitable procedure for the amicable resolution of differences concerning wages, hours and other terms and conditions of employment.

Both the union and the College are committed to the goal of the College which is to educate and train a world class workforce for Baltimore. The parties to this agreement shall make a sincere effort to ensure that the administration of this MOU is conducted in a fair and consistent manner and the administration is for the benefit of establishing stability and understanding in the parties’ labor-management relationship. Therefore, pursuant to and consistent with the Collective Bargaining Law, Maryland State Personnel and Pensions Article Annotated, Section 3-501(d)(iii), 3-601(a)(2)(iii) the parties agree, based upon the various articles hereinafter set forth, that this MOU constitutes a Collective Bargaining Agreement between BCCC and AFSCME.

Article 1. Recognition and Definition of the Bargaining Unit

Section 1 AFSCME is the Exclusive Bargaining Representative

AFSCME is the sole and exclusive bargaining representative for all bargaining unit employees for purposes of collective bargaining with the College over matters establishing and pertaining to wages, hours and other terms and conditions of employment for all permanent and probationary full-time and regular part-time employees. In recognition of AFSCME’s status as the exclusive bargaining representative of bargaining unit employees, the College shall not bargain with any other organization concerning bargaining unit employees’ wages, hours, terms and conditions of employment.

Section 2. Bargaining Unit Definition

The bargaining unit shall be comprised of all job classifications identified in Appendix I to this MOU.

All job classifications and positions considered within this bargaining unit on the date of the Union’s certification, as outlined in SHELRB certification shall be considered bargaining unit positions. All employees occupying such positions on a full-time or part-time basis, who are under probationary or regular status, and who are not classified as managerial, supervisory, and/or confidential, are considered to be in the bargaining unit

and shall enjoy the benefits, rights, obligations and protections stipulated in this agreement in addition to any other rights provided by law.

A new job classification that is a successor title and with no substantial change in duties compared to a classification currently included in the bargaining unit shall be within the bargaining unit. A new classification assigned duties that are a significant part of the work done by any classification currently in the bargaining unit shall be within the bargaining unit. The College shall inform AFSCME of any intention to place a new job classification in a bargaining unit.

During the term of this MOU, if a new job classification(s) is created or the status of a classification within one of the bargaining units has changed, the College shall notify the Union at least sixty (60) days prior to the intended date of entry. If it is believed that the bargaining unit status of a position has changed, the College or the Union, whichever is proposing the change, shall notify the other as soon as possible. The parties will meet and attempt to resolve any disagreements concerning the relation of the position or classification to the bargaining unit. Any unresolved dispute between the parties regarding whether or not a position or positions should be included in the bargaining unit covered by this MOU may be submitted to the SHELRB by either party pursuant to its regulations. The decision of SHELRB shall be final and binding on both parties, as subject to any appeal rights provided by law or regulation.

Article 2. The Right of Employees to Non-Discrimination, Fairness and Respect

The College recognizes the rights and protections afforded its employees under Federal, State and local law. Fairness and respect in employment is not only guaranteed by State and Federal law, but is also embedded in the mission, vision and values of BCCC. It is the policy of the College to prohibit discrimination, including harassment in employment against any employee due to race, age, ancestry, color, religion, creed, sex, sexual orientation, gender identity, national origin, ethnic background, marital status, family status, disability, labor organization affiliation, membership or non-membership in the Union or any other category protected by law.

Similarly it is the policy of the Union that it shall not discriminate against any employee or cause or attempt to cause the College to discriminate against any employee due to race, age, ancestry, color, religion, creed, sex, sexual orientation, gender identity, national origin, ethnic background, marital status, family status, disability, labor organization affiliation, membership or non-membership in the Union or any other category protected by law.

Article 3. Duration, and Renewal

Section 1. Duration

This MOU shall become effective upon ratification by the respective parties. No provision of this MOU has retroactive application unless required by law or it has been agreed to expressly in this MOU. This MOU expires at 12:01 AM on the day of its third anniversary date. The parties shall ensure that their respective ratification processes are completed as promptly as possible after the conclusion of negotiations.

Section 2. Renewal

Except as otherwise provided herein, this Memorandum of Understanding shall become effective upon signing and remain in effect for three years ending on the date established in Section 1 above. . This MOU shall be automatically renewed from year to year thereafter unless either party provides written notification to the other by September 1 of the calendar year prior to expiration of its intent to terminate, modify or amend this MOU. After notification is provided, the parties shall then commence negotiations for a successor MOU during the last year of this MOU at dates and times agreed to by the parties.

Article 4. Mid-Contract Negotiations

Section 1.

The College and the Union acknowledge their mutual obligation to negotiate over the College's proposed changes in wages, hours and other terms and conditions of employment for bargaining unit employees. If the parties have not addressed a matter related to wages, hours or other terms and conditions of employment in this MOU, then any change in the current practice or any policy related to that term or condition shall be negotiated before it is implemented pursuant to Section 2 below.

Section 2.

The College shall provide the Union with notice of a change in practice or a new policy, as far in advance as is practical but no later than thirty (30) days of an intended change in wages, hours or other terms and conditions of employment, for bargaining unit employees. The Union may request bargaining within this thirty (30) day period and, upon request, the College shall negotiate with the Union. The Union may submit responsive proposals concerning the College's intended changes to change working conditions prior to a bargaining conference. Nothing in this Section requires the College to change its planned implementation date.

If an intended change is required to meet a legislative mandate or an emergency situation, the College shall notify the Union as soon as possible. In situations involving legislative or executive mandates, the College may implement a change even if negotiations do not yield mutual agreement.

Article 5. Scope of Agreement- The Relationship of the MOU to BCCC Policies

The parties agree that the terms of this MOU shall apply to the wages, hours and other terms and conditions of employment of exempt bargaining unit employees and shall supersede and replace all College policies and procedures which pertain to matters covered by this MOU.

Article 6. Employee Rights

The College will not decrease existing employee rights and benefits unless required by the State or negotiated by collective bargaining.

Article 7. Union Rights- Access, Communication, Meeting space, Information, Job Stewards, etc

Section 1. Access to Campus by Union Representatives

Union representatives shall be granted access to the campus to conduct union business, upon reasonable advance notice to the Executive Director of Human Resources or his or her designee. The activities of the union representative will not interfere with the operations of the Department or prevent employees from performing their work.

Section 2. Meeting Space

Union representatives may request the use of college facilities to hold union meetings by contacting the Administrative Assistant to the Vice President of Administration, or his or her designee, at least 24 hours prior to the meeting. Upon prior notification, the College will provide meeting space where feasible. Such meetings will not interrupt the business of the College and will not involve employees who are on working time, unless approved in writing by their supervisor. The College shall make space available for Union representatives to have confidential discussions with employees on an as-needed basis subject to availability and provided that the Union has made prior arrangements with the Executive Director of Human Resources or his designee to schedule such meetings.

Section 3. Other Electronic Means of Communications

The Union may communicate with bargaining unit employees through the use of bulletin boards and/or electronic means consistent with the policies of the College. The Union shall provide a copy of general bargaining unit communications sent to the entire bargaining unit or a specific portion of the bargaining unit to the Executive Director of Human Resources and the Director of Human Resources prior to dissemination.

Section 4. Information Provided to the Union

The College will provide a semi-annual report to the Union containing the following information on bargaining unit employees:

A. The name, date of hire, job title, and assigned salary grade. In addition, the College will provide a monthly report showing all new employees who were added to the payroll since the prior month's report and will include the employee's name, job title, assigned salary grade, office and department.

B. Date of termination, resignation, or retirement for any employees who left the College's payroll since the prior report.

Upon request by the Union, the College will provide other necessary and relevant information to the extent not prohibited by applicable law.

Information may be provided to the Union on a floppy disk, CD ROM or paper copy format. The Union will treat all information provided by the College as confidential information.

Section 5. Right to Union Representation

Except as otherwise set forth in the provisions of this MOU (e.g. Grievance and Arbitration Articles), an employee shall have the right to union representation if requested by the employee, only as provided below.

A. In any investigatory interview or discussion with an employee who is the subject of the investigation.

B. At any disciplinary hearing or discussion with the employee who is the subject of the disciplinary hearing.

An employee shall not have the right to a union representative in attendance during a discussion solely related to performance or during a performance review unless the performance review could lead to termination or demotion without immediate improvement on the part of the employee.

All employees are expected to give prompt and truthful responses and to otherwise fully cooperate with the College's investigation.

The role of the union representative is to advocate for and to assist the employee including consulting with the employee in advance of the meeting with management, clarifying the employee's statement concerning the facts and suggesting possible witnesses. The Union shall not interfere with the College's investigating process. The employee shall speak on his or her own behalf.

Section 6. New Employee Orientation

A new employee and a union officer or job steward, as designated by the Union, shall be granted twenty minutes without loss of pay to meet and discuss rights, benefits and obligations under the MOU

Section 7. Job Stewards

The Union will appoint or elect certain employees to serve as job stewards, not to exceed six (6) job stewards and two (2) alternate job stewards. The Union will provide to the College a listing of its current job stewards, including all alternative job stewards. Such list shall be updated and provided to the College whenever there is a change.

The College will permit a job steward (or alternative job steward in the absence of the job steward) to have a reasonable amount of release time, without loss of compensation, not to exceed 600 hours per calendar year for all job stewards and alternate job stewards combined, to investigate and present grievances to the College on behalf of employees. If 600 hours is not an appropriate amount of time for the job stewards to responsibly represent employees, the parties shall meet to discuss the amount of time required.

Job Stewards must obtain authorization from their supervisor for release time to conduct representational duties during working time. Approval of release time will not be unreasonably denied.

Article 8. Management Rights

Except as otherwise modified by this MOU, the College retains the right to:

1. determine its mission, budget, financial management, organization, number of employees and number of employees assigned to work projects, academic endeavors, method and means and personnel by which its operations are conducted, technology needed, internal security practices, location or relocation of its facilities, and types and grades of employees assigned and personnel by

which its operations are conducted, including the right to subcontract operations, general level of wages, wage patterns, fringe benefits;

2. maintain and improve the efficiency and effectiveness of operations
3. determine the services to be rendered and the operations to be performed , classify duties and assign duties to employees and determine the technology to be used;
4. determine the overall processes, means and classes of work or personnel to conduct operations;
5. determine hours of operation and schedules-tours of duty
6. hire, direct, supervise and assign employees
7. discipline, discharge and lay off employees;
8. terminate employment because of lack of funds, lack of work, under conditions where the College determines there is insufficiency or non-productiveness or for any other legitimate reason;
9. set the qualifications of employees for appointment and set standards of conduct;
10. promulgate policies and procedures,
11. take actions not otherwise delineated to carry out the mission of the College

Article 9. Seniority Defined

“Seniority” in this MOU means seniority based upon total State service.

The seniority of a contractual employee whose employment has been converted to a regular position shall be calculated based upon the initial date of service as a contractual employee prior to the conversion.

Article 10. Compensation- MOU Salaries Re-Opener

During the month of June, the College agrees to reopen the MOU for the limited purpose of negotiating with the Union over the College’s request for bargaining unit salaries to be included in the BCCC asking budget that will be submitted to the Department of Budget and Management and/or the Governor for approval by the General Assembly.

Article 11. Compensation- Rates of Compensation

Section 1. Generally

The standard wage rates associated with College positions shall be no less than the wage rates associated with positions in the State Personnel Management System that are of the same classification or, if the classification system is not the same, of the same requisite education, background and experience and with the same duties and responsibilities.

Section 2. Skilled Service Employees

The College's Non-Exempt, skilled service employees who are in the State Personnel Management System shall be compensated in accordance with the State's pay plans, regulations, and guidelines promulgated by the Secretary of the Department of Budget and Management.

Section 3. Increases Associated with the State's Annual Budget

The College shall provide its employees with cost of living adjustments and raises in accordance with requirements established in the State's Annual Budget.

Section 4. Pay Increases Upon Reclassification, Promotion, Acting Capacity, Lead Worker, Bilingual Situations

The College's method of determining the minimum increase that will be given to an employee, following a reclassification, promotion, acting capacity, lead worker status or in bilingual pay situations will be consistent across the Exempt, Non Exempt, and Sworn Police Officer MOUs.

Article 12. Compensation: Bonuses

An award made under this section is a bonus provided by the College in addition to the regular compensation of the recipient.

Section 1. BCCC College Excellence Award

Nominations will be accepted by the Excellence Committee continuously throughout the year until the Call for Nominations terminates on December 15 of each year.

Winners of the College Excellence Award receive recognition, \$500, a framed certificate, Campus Communicator publicity, an award letter for their personnel files, a campus posting. Award benefits may change due to a change in policy or funding.

Section 2. Innovative Ideas

A. The Program Generally

The College may award an Innovative Idea Award for an innovative idea, including an invention or suggestion, that, if implemented, would:

1. increase revenue to the College;
2. save money for the College;
3. improve the quality of services delivered to the public; or
4. otherwise significantly benefit the College.

Except under exceptional circumstances, an award may not be made for an innovative idea that is under active study or continual review by a unit of State government.

B. Review of Innovative Ideas Submitted to the College.

To the extent possible, within 60 days after an innovative idea is submitted to the President or his or her designee, the College shall decide whether to give an innovative idea award.

C. Award for Innovative Idea

The College may give an employee a cash award of not more than:

1. \$1,000 for an innovative idea with a reasonably ascertainable monetary savings or gain to the College; or
2. \$300 for any other innovative idea.

Section 3. Incentive Performance Awards Program for employees.

A. Awards for Performance that Exceeds Expectations

The College shall grant an employee who receives an overall annual performance rating of Exceeds Expectations one day of Award Leave.

B. Awards for Performance that is Outstanding

The College shall grant an employee who receives an overall annual performance rating of Outstanding two days of Award Leave.

C. Award Leave Terms

1. Award Leave is not accrued leave.
2. Leave taken shall not be charged against an employee's accrued leave balance.
3. Award leave shall be taken within six months of the date of the performance rating.
4. This leave shall not be paid out in lieu of taking leave.
5. This leave shall not be paid out upon termination of employment.

Article 13. Payroll, Hours of Work and Overtime

Section 1. Workweek

College Policy – 14.7.1 – Forty Hour Work Week

Typically, all offices shall be covered at least between the hours of 8:00 a.m. and 5:00 p.m. due to the nature of the College's business. Nothing in this article should be interpreted as to limit the authority of the individual Division or Offices to determine office hours as necessary based on that office's needs or the business of the College. Supervisors, consistent with their departmental needs, may allow employees the following flexible schedule where appropriate:

Half Hour Lunch

7:30 a.m. – 4:00 p.m.
8:00 a.m. – 4:30 p.m.
8:30 a.m. – 5:00 p.m.

One Hour Lunch

7:30 a.m. – 4:30 p.m.
8:00 a.m. – 5:00 p.m.
8:30 a.m. – 5:30 p.m.

The College agrees to count as work time all time that COMAR and the Fair Labor Standards Act indicate should be counted as work time.

Section 2. Copy of Job Description Bargaining Unit Assignment

Upon initial employment and upon any change in job classification thereafter, each full-time or part-time bargaining unit employee shall be furnished a copy of his/her job description, applicable salary, assigned work, location, daily work schedule, and prescribed standard workweek.

Section 3. Compensatory Time Off

With the prior authorization of their supervisor or in emergencies, Exempt employees may receive compensatory time on an hour for hour basis for work that exceeds the 40 hours per week. The 40 hours is defined as 40 hours actually worked per week and time on paid leave.

During an emergency closing of the College and when Administrative Leave is granted, Compensatory Time shall be authorized to essential personnel. Compensatory Time shall be granted for each hour worked that the College is closed. If an employee is required to work on a holiday, the employee shall be granted compensatory time at the rate of an hour for an hour basis. Compensatory time must be used within twelve (12) months of the date it is earned and can be accumulated to a maximum of 40 hours per calendar year. Unused Compensatory Time may not be carried over and will not be paid.

Article 14. Shift Differential

Not Applicable

Article 15. Tuition

In recognition of the importance of tuition benefits for employees of the College and their dependents, the College and AFSCME agree to continue, during the duration of the MOU, the current tuition waiver for employees and their eligible dependents attending BCCC and the current reimbursement policy for employees. Tuition remission will be maintained subject to the reciprocal agreement with the University System.

Should there be any changes to the tuition remission benefits provided under the reciprocal agreement with the University System, such changes would not be implemented for bargaining unit members prior to negotiating with the Union.

Article 16. Insurance

Health and Other Insurance Benefits.

Bargaining unit employees may participate in health and other insurance benefit plans offered by the State pursuant to the terms of those plans.

Article 17. Pension

Section 1. Retirement Benefits.

Bargaining unit employees may participate in the State's retirement plans in accordance with the plans' eligibility requirements.

Article 18. Parking

The parking fee at the Harbor Campus shall remain at \$40 for the duration of this MOU. The parking fees at the Liberty campus shall remain at the current levels for the duration of the MOU.

Article 19. Labor Management Committee

Section 1. Purpose

The College and the Union share a belief that many concerns can be resolved through a mutually constructive, cooperative and participative approach. The College and the Union encourage administrators, supervisors, and employees to resolve concerns in a manner which emphasizes shared communication, including respect for different viewpoints and professional interaction.

To help promote a constructive and cooperative relationship, the College and the Union agree to create a Labor Management Committee as an organized forum for the discussion of issues associated with the implementation of this MOU. Among the specific objectives of the Committee are:

- A. Foster productive communication between the parties;
- B. Provide a forum to discuss issues of mutual concern;
- C. Work to build consensus for joint problem solving and planning;
- D. Communicate and share the activities of the Committee with the College community; and
- F. Make recommendations or reports to the appropriate College divisions, departments or administrators.

Section 2. Authority

The Committees shall have no authority to modify the terms of the parties' MOU, nor bargain for a successor MOU or in any re-opener circumstance.

The Committee shall have no authority to hear or determine grievances. Disputes over alleged contract violations should be pursued through the Grievance Article.

When a recommendation is reached by the committees, it shall be forwarded to the Executive Director of Human Resources and any appropriate department and the relevant Vice President for consideration. The College shall respond to any recommendation made by the Committee.

Section 3. Membership

The committee shall be composed of (6) six bargaining unit employees and (6) six representatives from the College. The committee shall not exceed 12 members. Either party can substitute an alternate for a representative when necessary.

Section 4. Meetings

Bargaining unit employees shall be granted 3 hours of release time per month for meetings. Committee members may attend meetings during regular business hours after providing reasonable notification to their supervisors. Supervisors shall not unreasonably deny an employee's request to attend the meeting. Time spent in doing Committee work is work time.

Article 20. Holidays

Section 1. Holidays

All regular full-time employees shall be paid for nine (9) official State Holidays. The annual Holiday schedule shall be distributed by the Human Resources Department. BCCC shall observe the following Holidays:

- New Year's Day
- Dr. Martin L. King Day
- Good Friday
- Independence Day
- Labor Day
- Thanksgiving Day
- Thanksgiving Friday
- Memorial Day
- Christmas Day

If a Holiday falls on a Saturday, it shall be observed on the preceding Friday; if it falls on a Sunday, it shall be observed on the following Monday.

The College shall observe the Statewide General Election day Holiday closure when designated by the Governor of Maryland.

All regular full-time employees shall receive one floating holiday at the beginning of the first pay period of the calendar year. An unused floating holiday may not be carried over to the next calendar year. An employee shall not receive or use a floating holiday during his or her probationary period.

Section 2. Holiday Pay

Employees shall receive compensation at their regular rate of pay for any holiday that they are required to work. Employees required to work on a holiday shall receive one hour of compensatory time for each hour worked.

Article 21. Leave

Section 1. Annual Leave

A. Rate of Earning Annual

1. Employees in the State Employees Personnel Management System

- A. Employees may not use leave from the first day of employment through the completion of the employee's probationary period. Leave is not available for payment upon termination of employment until the employee has completed the probationary period. Upon the completion of the probationary period, an employee shall be credited for one (1) hour of leave for each twenty-six (26) hours worked during the probationary period.
- B. From the beginning of the first year through the completion of the fifth year of employment, an employee shall be credited with annual leave at the rate of one (1) hour of leave for each twenty-six (26) hours worked. Therefore, an employee who works forty hours per week shall earn 3.08 hours of leave per pay period/ten (10) days per year. An employee may not earn more than eighty (80) hours of annual leave per year.
- C. From the beginning of the sixth year through the completion of the tenth year of service, an employee shall be credited with annual leave at a rate of one-and-a-half (1-1/2) hours of leave for each twenty-six (26) hours worked. Therefore, an employee who works forty hours per week shall earn 4.62 hours of leave per pay period/15 days per year. An employee may not be credited with more than one hundred and twenty (120) hours of annual leave per year.

- D. From the beginning of the eleventh year through the completion of the twentieth year of service, an employee shall be credited with two (2) hours of leave for each twenty-six (26) hours worked. Therefore, an employee who works forty hours per week shall earn 6.15 hours per pay period/twenty (20) days per year. An employee may not earn more than one-hundred-and-sixty (160) hours of annual leave per year.
- E. From the beginning of the twenty-first year of service and continuing thereafter, an employee shall be credited with two-and-a-half (2-1/2) hours of leave for each twenty-six (26) hours worked. Therefore, an employee who works forty hours per week shall earn 7.69 hours per pay period/twenty-five (25) days per year. An employee may not earn more than two hundred (200) hours of annual leave per year.
- F. An employee does not earn annual leave for hours worked in excess of the employee's regular workweek.
- G. If, during the duration of this MOU, skilled service employees are excluded from the State Personnel Management System and become part of the College's personnel system they shall accrue leave in accordance with subsection 2 below beginning on the effective date of the legislation making the change.

2. Employees in the Baltimore City Community College Personnel System

- A. From the beginning of the first year of service through the completion of the twentieth year of employment, an employee who works forty hours per week shall be credited with annual leave at a rate of 6.77 hours per pay period / 22 days per year. An employee may not earn more than one-hundred seventy-six (176) hours of annual leave per year.
- B. From the beginning of the twenty-first year of service and continuing thereafter, an employee who works forty hours per week shall be credited with annual leave at a rate of 7.69 hours per pay period/25 days for year. An employee may not earn more than two hundred (200) hours of annual leave per year.
- C. An employee does not earn annual leave for hours worked in excess of the employee's regular workweek.

B. Use of Annual Leave

1. Generally

Except in emergency situations, an employee shall make a written request for time off for use of annual leave from his or her supervisor in advance of the date(s) that he or she wants to use annual leave. Supervisors shall grant or deny the request in writing within one week of the request. If the supervisor is on leave, the person taking the place of the

supervisor shall approve or deny the leave within one week of the request. Employees shall not use annual leave in excess of the hours they have accumulated.

2. Limitations

Employees working in the following departments shall not take Annual Leave in excess of two (2) consecutive days during the following periods:

- A. By employees in Students Affairs, Financial Aid, Bookstore and Cashier's Office, during the Fall and Spring Early and General Registration and add/drop week;
- B. By employees in General Accounting during July and August.
- C. By employees in CITS in August, September and January, except that a maximum of one programmer, one network engineer, and two computer information specialists may be permitted to take leave.
- D. By employees in the Library during the Spring and Fall semesters, except each semester at least one employee will be able to take one week of annual leave.
- E. By employees in Public Safety during Commencement
- F. By employees in BCEC during Fall and Spring General Registration and one week following General Registration.

The definitions of periods that are barred for more than two consecutive days of annual leave are as follows:

Registration (Includes Early and General)

Spring	Between 20 and 17 wks BTDCS	3 wks BTDCS	1 wk ATDCS
Fall	Between 20 and 17 wks BTDCS	3 wks BTDCS	1 wk ATDCS

BTDCS means before the date that classes start

ATDCS means after the date that classes start

3. Advance Requests for Use of Leave

During the months of February and September, employees shall submit written requests for leave to be used from August through January, and February through July, respectively. These written requests shall be submitted to the employee's supervisor by the last day of the month. When there is a conflict in scheduling leave, the conflict shall be resolved based upon continuously rotating seniority. Each unit shall maintain a continuously rotating seniority list for purposes of tracking advance leave requests. If one or more employees request any period of leave which the supervisor determines cannot be accommodated for all of the employees making the requests, the most senior employee or employees shall be granted leave. Those employee or employees who are granted leave in that circumstance will than be placed at the bottom of the seniority list

should another conflict occur. The list will rotate continuously and shall be used to resolve all conflicts for all subsequent leave periods.

The College encourages employees to take advantage of the advance leave request procedure in February and September, so that supervisors and employees can make appropriate plans. Employees may still make leave requests on other occasions. When leave requests are submitted outside of the February and September leave-scheduling process, the request shall be considered on a first come, first serve basis, rather than based upon continuously rotating seniority. No leave shall be cancelled if it has been approved 14 days or more in advance of the first day of the leave unless the employee agrees.

The College shall make an effort to schedule the break during the same time as the spring break for Baltimore City Public Schools.

C. Accrued Annual Leave

Employees who work a forty (40) hour workweek shall not accumulate or carry over more than 400 hours of accrued annual leave from one calendar year to the next. Part-time employees may accumulate and carry over a maximum number of hours determined on the basis of the percentage of a forty-hour workweek they work. Accumulated and unused leave shall be forfeited. Upon termination of employment, employees shall be paid for their unused accrued annual leave.

D. Contractual Conversion

Contractual employees who convert to regular employees shall accrue leave based upon their initial date of employment as a contractual employee as long as their service is continuous. Contractual employees shall not be credited with leave for the period of time that they were contractual employees.

E. Rate of Accrual Upon Return to Service

A non-temporary employee who returns to College service shall be credited for previous State or College service if the employee had satisfactory performance and at least 180 days of continuous service in an allocated position and returns to state service within a 3 year period.

The College shall consider an employee's performance to have been satisfactory unless the employee's most recent personnel evaluation before separation denotes unsatisfactory performance. An employee returning to College service shall accrue leave at the effective rate based upon years of actual service.

Section 2. Personal Leave

All full-time employees shall be granted three (3) days of personal leave at the beginning of the first full pay period of the calendar year. Unused leave days may not be carried over beyond the first full pay period in the next calendar year.

A supervisor may not deny an employee the right to use personal leave unless the supervisor is not notified prior to the start of the leave.

Section 3. Payout Upon Termination of Employment

An employee whose employment terminates after working for the College for at least six (6) months shall be paid his or her accumulated annual leave and compensatory time at a rate of compensation equal to the greater of: (1) the average regular rate received by the employee during the last three (3) years of employment or (2) the final regular rate. An employee who transfers to another State agency shall have his or her leave balances transferred from the College to the employee's new employing agency if the agency will accept the transfer.

Section 4. Religious Observance Leave

An employee may elect to work overtime to earn compensatory time for an absence for religious observance. An employee's request to earn compensatory time for use for religious observance shall not be denied if the modification to the employee's schedule does not interfere with the efficient operation of the College. An employee's supervisor shall reasonably accommodate an employee's request to use leave for religious observance when the employee is scheduled to work on a College holiday if accommodations can be made without serious interference with the efficiency of the College. If a reasonable accommodation cannot be made, the supervisor may deny the leave request.

Section 5. Winter Break

The President shall designate five (5) days for a paid Winter Break.

An employee required to work during the Winter Break shall receive 1 hour of compensatory-time for each hour worked.

Section 6. Administrative Leave

Administrative Leave may be granted at the sole-discretion of the President

Section 7. Jury Service and Legal Actions Leave

An employee who is selected for jury service shall notify his or her supervisor without delay. An employee who serves as a member of a jury is entitled to leave with pay so long as the employee's jury service occurs on a regularly scheduled workday and the employee provides documentation.

Leave of absence with pay shall be granted to employees for time spent in jury duty, appears before or is a member of a grand jury or if the employee is subpoenaed to appear in a court proceeding, before an administrative agency, or for a deposition, and is neither a party to the action nor a paid witness.

If an employee is dismissed from jury duty or released from his or her appearance in court, before an agency or at a deposition, and if after being released an employee has more than two hours left in the normal shift for that day, then the employee shall return to work for the balance of the scheduled workday. An employee on a non-standard shift with hours outside of the 8 a.m. to 5 p.m. range shall not be required to report to work on the day that they have jury duty.

Section 8. Definition of a Child for Purposes of Sections Bereavement Leave, Sick Leave and FMLA

For purposes of the College's leave policies on Family and Medical leave (used for the care of a sick child), Sick Leave and Bereavement Leave, a child is the person who is the son or daughter of an otherwise eligible employee and who is under eighteen (18) years of age, or who is eighteen (18) years of age or older and incapable of self care because of a mental or physical disability during the period of serious illness. The child may be the biological, adopted, step or foster child of the eligible employee. The term child also includes someone who is the legal ward of the employee or someone for whom the eligible employee has provided sufficient, notarized affidavit(s) and proof of financial dependence that the employee is standing in loco parentis.

Section 9. Family and Medical Leave

A. Generally

The College shall provide an employee with a serious health condition or an employee whose spouse, child or parent has a serious health condition, with Family and Medical Leave in accordance with the Family and Medical Leave Act. An employee is eligible for twelve weeks of Family and Medical Leave during a rolling 12 month period. An employee must exhaust all available forms of paid leave, including sick, annual, personal and compensatory time, before taking unpaid leave. Available paid leave shall run concurrently with FMLA Leave.

B. Birth or Adoption.

An employee who has been employed by the College for a period of at least one year in a permanent full-time position and who is responsible for the care and nurturing of a child may use, with certification of the birth or adoption, up to thirty (30) days of accrued sick leave for the time period immediately following the birth of the employee's child or the placement of a child with the employee for adoption. If two College employees are responsible for the care and nurturing of a child, a maximum of 40 days may be shared, not to exceed 30 days for one employee.

Employees should notify their supervisors as far in advance as possible of their desire to use Leave after birth or adoption and must provide documentation of birth or adoption placement.

If the employees' absence qualifies as FMLA leave, the college shall provide the employee with written notice that the employees' leave is being designated as FMLA leave.

The College shall not discriminate against any employee who has exercised rights protected under the FMLA.

An employee must exhaust all available forms of paid leave, including sick, annual, personal and compensatory time, before taking unpaid leave.

C. Use of intermittent or short-term family medical leave allowed

Intermittent leave in intervals as short as a day or part of a day are allowed under Family Medical Leave. If a serious health condition flares up on sporadic or intermittent basis, an otherwise qualified employee has a right to use family medical leave if requested.

D. Reduced schedule must be granted

If a health care provider certifies the need for a reduced schedule (reduced hours in the day or reduced days in the week, etc.), then the request for a reduced schedule must be granted.

Section 10. Sick Leave

A. Accrual of Sick Leave

Employees shall be credited with one-and-a-half (1-1/2) hours of sick leave for each twenty-six (26) hours worked, up to a maximum of fifteen days (not to exceed one hundred and twenty hours) of sick leave per year. Sick leave is not earned for hours worked in excess of an employee's regular workweek, nor for hours an employee is on leave without pay. Sick leave may be accumulated without limitation.

B. Use of Sick Leave

Use of sick leave shall be limited to the following purposes:

1. for the illness, injury or disability of the employee;
2. for death, illness or disability of a member of the employee's family;
3. for a medical appointment of the employee or a member of the employee's immediate family;
4. following the birth of the employee's child; or
5. when a child is placed with the employee for adoption.

Employees do not receive payment for accrued sick leave upon the termination of employment. Unless an employee objects, accrued sick leave shall be placed in the Leave Bank, described in Section D below, upon the termination of employment. Upon retirement, employees are granted 1 month of creditable service for each 22 days of unused sick leave and their leave is not placed in the Leave Bank.

C. Certification of Illness or Disability

An original certificate authenticating the employee's illness or disability resulting in his or her unavailability for work shall be presented to the employee's immediate supervisor for leaves of five or more days. A supervisor or the Director of Human Resources may require a certificate for leaves of fewer than five days only when there has been a demonstrated abuse of sick leave and only after the employee has been warned about their leave usage.

D. Sick Leave Bank

An employee may be eligible to donate, and request for use of leave from the State's Sick Leave Bank, so long as the employee meets all of the State's criteria for participation and satisfies all of the State's procedural requirements. An employee requiring leave from the Sick Leave Bank shall submit the completed requisite form to Human Resources as far in advance of the need for the leave as possible.

E. Employee-to-Employee Sick Leave Donation

An employee may donate leave to another State employee, so long as the donor employee has at least two hundred forty (240) hours of sick leave remaining after the donation. An employee may donate and receive donated leave from another State employee if he or she meets all of the State's criteria for participation and satisfies all of the State's procedural requirements.

F. Advanced Sick Leave

The College may advance up to sixty (60) days of advanced sick leave to an employee in any twelve month period for the employee's own serious illness or disability if the employee had used all leave with pay which has been credited to the employee. The employee shall submit a request for advanced sick leave in writing to the College's Executive Director of Human Resources. The Executive Director of Human Resources shall provide written notice of the approval or disapproval of the request to the employee. The employee shall agree in writing that any advanced sick leave must be repaid in accord with this Article.

The use of advanced sick leave by an employee constitutes a debt for which payment shall be enforceable upon the employee's return to work, and shall continue to be enforceable upon the employee's transfer from one agency to another or upon termination. Reimbursement shall be made at the minimum rate of 1/2 of the rate of sick leave and annual leave earned, and at the employee's discretion by applying credited annual leave, personal leave, sick leave, compensatory leave or cash payments. Any leave accrued during the period of advanced leave will be applied to the leave.

G. Extended Sick Leave

An employee may qualify for extended sick leave with pay for their own illness or disability if the employee had been employed by the State for at least five years and has exhausted all paid leave that is available to him or her. An employee's continuous absence while using earned leave, advanced sick leave and extended sick leave shall not exceed a total of fifteen months.

The employee shall submit a request for extended sick leave in writing, together with supporting documentation to the College's Executive Director of Human Resources. The Executive Director of Human Resources, after consultation with the President shall provide written notice of the approval or disapproval of the request to the employee.

H. Abuse of Sick Leave

The College shall take appropriate action, which may include counseling and/or discipline, up to and including termination of employment, when an employee abuses sick leave and such abuse prevents the employee from performing the essential job functions.

I. Sick Leave Incentive Program

Should the State fund its Sick Leave Incentive Program or direct its agencies to fund it themselves, an employee may cash out forty (40) hours of unused sick leave per calendar year if the employee used no more than forty (40) hours of sick leave during the year and had a sick leave balance of at least 240 hours on December 31 of that year. An employee

may cash out fifty-six (56) hours of sick leave per calendar year if the employee used no more than twenty-four (24) hours of sick leave during the year and had a sick leave balance of at least 240 hours on December 31. For purposes of determining eligibility for cash out, sick leave that is donated or is used for a death in the family does not count as sick leave usage, but will affect an employee's balance.

Section 11. Bereavement Leave

A. A maximum of 3 bereavement leave days may be granted in the event of the death of any member of the employee's immediate family. An additional 2 days of sick leave may be used in the event of the death of any member of the employee's immediate family. Immediate family shall be defined as spouse, children, parents, stepparents, foster parents, legal guardians or others who took the place of parents of the employee or the employee's spouse, grandparents or grandchildren of the employee or the employee's spouse, brothers and sisters of the employee or the employee's spouse, or any relative living in the employee's household.

B. A maximum of one (1) working day may be charged to sick-leave in the event of the death of aunts and uncles of the employee or the employee's spouse, nephews and nieces of the employee or the employee's spouse, brothers-in-law or sisters-in-law of the employee or the employee's spouse, and sons-in-law and daughters-in-law.

C. If an employee requires additional time off, the employee's supervisor shall make reasonable efforts to arrange the employee's work so that the employee may use his or her accrued leave for this purpose.

D. If the State changes its leave policy to provide five bereavement days to employees under certain circumstances, the College will also provide five bereavement days in the same situations.

Section 12. Leaves of Absence Without Pay

A. An employee may request a leave of absence without pay:

1. For personal reasons not to exceed thirty (30) calendar days;
2. The amount of time permitted by the FMLA if the employee is eligible for leave under the FMLA;
3. Up to a maximum of six (6) months, for the employee's documented temporary personal illness or disability, when there is medical documentation that the employee can return to the employee's full range of duties.

An employee whose request for leave without pay is granted shall not be separated from the payroll. No leave is accrued during a period of leave without pay.

B. The College may approve an unpaid leave of absence for a greater period of time than specified in A. above. Such an extended leave without pay may not extend beyond two years, except for leave to enter the armed forces. In no case shall an unlawful leave extend beyond two years. An employee on an extended leave of absence without pay shall be separated from the payroll. If such leave is granted, that does not entitle the employee to return to the same position that the employee vacated or any other position in the College.

C. Except for leave of absence for military purposes, an employee granted leave of absence without pay for more than thirty (30) calendar days, and who is ready to return to duty at or prior to the expiration of the leave, shall notify the College of the employee's readiness to return.

D. The College shall mail an employee who is on leave a notice advising them that they will be separated from the College before the action is taken.

E. If a vacancy exists, the employee shall be restored to his or her classification. If the employee cannot be restored, the employee may request that the College place the employee's name on the appropriate list as a reinstatement candidate. An employee who fails to notify the College in writing prior to the expiration of the leave without pay of the employee's desire to return to duty shall be considered resigned from the College.

Section 13. Military and War Leave

An employee who is a member of a Reserve Unit of the armed forces or National Guard Reserve shall be entitled to leave with pay for military training for a period of not more than 15 workdays annually with pay and without charge against leave.

Employees of the College are covered by the Uniformed Services Employee and Reemployment Rights Act (USERRA), 38 USC §§ 4301 through 4333. This law helps to preserve rights to leave afforded by the FMLA.

The College shall provide military administrative leave to eligible employees according to State law.

Section 14. Disaster Leave

Disaster service leave is leave with pay granted to an employee by the College to support the mission of the American Red Cross in giving aid to the citizens of the State of Maryland and neighboring states.

A. Requests for Disaster Service Leave

An employee may request disaster service leave with pay if the American Red Cross or similar organization:

1. Requests the services of the employee during a declared disaster;
2. Certifies that the employee is a disaster service volunteer; and
3. Designates the disaster as Level II or above, in the regulations and procedures of the National Office of the American Red Cross

B. Amount Allowed. An employee may use up to 15 days of disaster leave in a 12-month period, only with the approval of the Office of Human Resources. Disaster Service leave shall not be unreasonably denied.

C. Claim Status. For the purpose of workers' compensation and the Maryland Tort Claims Act, an employee is deemed not to be a State employee while on disaster service leave.

Section 15. Paid Leave Following a Positive Tuberculin Skin Test

An employee is entitled to receive appropriate health care to be provided by the College and leave with pay in accordance with subsection (b) of this section, if:

1. the employee has a positive tuberculin skin test result on a test taken by the employee at the direction of the College; and
2. the Secretary of the Department of Health and Mental Hygiene determines that, for public health reasons, the employee should not work for a given period of time

Period of leave- Leave granted to an employee under this subsection for public health reasons may not exceed 90 days. If it is determined that a longer absence is medically required, the employee may use other forms of leave to the extent authorized under this MOU.

Section 16. Organ Donation Leave

A. Leave Available for Organ Donation in Any Twelve Month Period

1. Length of time available.

In any twelve (12)-month period, an employee may use up to seven (7) days of organ donation leave to serve as a bone marrow donor and thirty (30) days of organ donation leave to serve as an organ donor.

2. When leave available.

Organ Donation Leave may be used only for the actual donation procedure, the preparation for the actual donation procedure and recovery from the actual donation procedure. It may be used in increments in one (1) hour or more.

B. Applications for Leave

An employee or his or her authorized representative may request Organ Donation Leave by submitting: (1) the appropriate request form and (2) the medical documentation required as indicated on the form, to the Executive Director of Human Resources. The College shall render its decision on the request for Organ Donation Leave within five (5) business days of the Executive Director of Human Resources' receipt of the request.

Leave shall be provided retroactively if the employee had to make his or her donation before receiving approval and the leave is otherwise approved in accordance with this Article.

If there is any question about medical documentation, it shall be forwarded to the State Medical Review Director for review.

Organ donation Leave shall be denied only if the employee fails to provide the medical documentation that is required to establish his or her status as a donor.

C. Confidentiality of Medical Documentation

Medical documentation submitted with the request for Organ Donation Leave shall be treated as confidential medical information and shall be disclosed only to those who need to know its contents as part of the review, evaluation and approval process. The failure to maintain the confidentiality of medical information shall subject an employee to disciplinary action up to and including termination of employment.

Section 17. Transfer of Leave Earnings

An employee who transfers to a position at the College from another unit of the State government, and vice versa, shall do so without loss of leave earned or credit for State employment. Personal leave will be adjusted according to the 24 hour limit granted by the College.

Section 18. Accidental Workplace Injury

A. Generally

Maryland State Worker's Compensation Insurance and the State Personnel and Pensions Laws cover employees sustaining injuries in the performance of their duties at a BCCC site during their scheduled work time. The College shall abide by those laws and the regulations related to them.

Leave benefits apply to employees who are unable to return to work as a result of workplace injuries. Within two years of the injury, employees may file a claim directly with the Workers' Compensation Commission.

B. Reporting

1. The employee, or an individual acting on the employees' behalf, shall provide oral or written notice of the accident to the college immediately after the accident occurs. Immediately shall be defined in this case as being within 2 work days after the injury unless the employee is incapacitated to the extent that they are unable to participate in providing a notice.

2. The employee or an individual acting on the employees' behalf and the employees' supervisor shall complete a first report of injury and provide this report and any available health care provider reports to the college within 3 working days after the incident occurs.

C. Medical treatment:

Emergency injuries are to be handled by 911 emergency response. For non life threatening injuries, the employee shall be referred to a college selected medical provider for evaluation and treatment.

D. Work-Related Accident Leave

1. Introduction

Eligibility for work-related accident leave shall be governed by Maryland's Worker's Compensation Law and State Personnel and Pensions Article, Title 9, Subtitle 7, Annotated Code of Maryland.

Work Related Accident Leave is not earned, accrued leave. It is governed by SPP §§ 9-701 to 705.

Accident leave shall equal two thirds of the employees' regular pay which may be excluded from federal adjusted gross income and therefore is not subject to either federal or state income tax.

An employee may be entitled to work-related accident leave if available prior to the determination of compensability made by the Workers' Compensation Commission.

2. Timing

A. An employee may use work-related accident leave beginning on the first day of disability that an employee can not work due to a work related injury and shall continue until the earlier of (1) the day that the employee is able to return to work as certified by a physician or (2) 6 months from the day of disability.

- B. After an employee returns to work, work-related accident leave may be granted for continuing treatment as certified by a physician selection by the appointing authority up to 6 months from the day of the original disability.
- C. Work-related accident leave may be granted for up to an additional 6 months if: (1) the employee is certified by a physician selected or accepted by the college or (2) no decision has been reached by the Workers' Compensation Commission on the employees' claim.

3. Non Compensable Injuries

If a Workers' Compensation Commission order determines that the injury is not compensable, the college shall correct the employees' leave record to reflect a conversion of the work-related accident leave which was granted in advance of the notification. The employee shall notify the College as to what category of the employees' accrued paid leave shall be used for the conversion. If the employee does not have accrued leave with pay then the conversion shall be for leave without pay.

E. Eligibility for Workers' Compensation

1. In addition to Accident leave, an employee has the right to file a claim with the Workers' Compensation Commission.
2. Within two years of the injury, employees may file a claim directly with the Workers' Compensation Commission.

F. Employee Medical Reports

The employee shall receive copies of all medical reports that the College obtains that are related to the employee's accident leave.

Section 19. Accrued Leave and Maintenance of benefits and Seniority During Periods of Leave

Employees continue to accrue leave during periods that they use paid leave. Leave shall not accrue when an employee is taking unpaid leave.

Employees maintain their seniority during periods of leave. Employees are also entitled to maintain benefits, subject to any of the requirements of the benefit plan(s) to which they subscribe.

Section 20. No Retaliation

The College shall not retaliate against any employee because he or she takes a leave of absence when he or she is entitled to and in accordance with this Article.

Article 22. Release Time- Training, Meetings, Interviews & Union Activity

Section 1. Release Time

- A. Release Time is paid work time for time spent by an employee participating in training, meetings, committees and interviews, as provided in this Article.
- B. Release Time is not earned accrued time. It does not come out of any earned leave balance.
- C. The parties recognize their respective obligations to grant and use Release Time in accordance with this MOU in an efficient and effective manner.
- D. Release time may be used in increments of one (1) hour or more.

Section 2. College Sponsored Committees

Employees shall be allowed to participate in College-sponsored, work-related committees and events with prior supervisory approval. Such approval shall not be unreasonably denied.

Section 3. Staff Development

- 1. The College encourages and supports its employees' pursuit of educational opportunities by authorizing release time for employees who participate in educational opportunities that are scheduled during the normal work day. An educational opportunity (program) may be a meeting, seminar, conference, workshop, training program, or course.
- 2. Each employee shall complete forty (40) hours of staff development per fiscal year. An employee shall be allowed Release Time to attend a Staff Development Program, as authorized by his or her supervisor or the Executive Director of Human Resources, for career development purposes. Authorization for release time to attend a staff development program shall not be unreasonably denied.
- 3. Release Time for staff development training purposes may be granted under the following conditions:
 - a. Release time must be pre-approved by the employee's immediate supervisor.
 - b. The College or the State Department of Personnel offers the program.
 - c. The Program does not affect employees in a discriminatory manner.

- d. Employee's absence does not unreasonably disrupt the normal operations of the College or the office in which the employee works.
- e. An equivalent program is not available during the employee's non-working hours.
- f. The Program is job-related or career enhancing. Job-related includes improvement in skills and knowledge currently used in his or her position, recommended by the employee's supervisor, or is in preparation for potential promotion.

Section 4. In-Service Training

If the College requires an employee to participate in an in-service training program, the employee shall use release time for time spent in the training and travel time in excess of the employee's regular commute time. An employee shall not normally be scheduled to work the shift immediately before or after the training. However, this scheduling shall be permitted if an employee volunteers for it or if the employee is assigned to a shift on an overtime basis to meet minimum staffing requirements.

Section 5. Job Interviews and Examinations

Employees shall be allowed up to 4 hours of release time to take examinations and to attend interviews for College and State positions.

Employees shall obtain prior approval from his or her supervisor of the interview or examination leave request and shall provide his or supervisor documentation from the interviewer verifying the employee took the examination or attended the interview. Release time to take an examination or to attend an interview shall not be unreasonably denied.

Section 6. Union-Related Activities

A. On July 1 of each year, the College shall credit the Union's release time account with one day of release time for each fifteen (15) bargaining unit members. Release time used in accordance with this section shall be charged to this release time account. No release time shall be granted in excess of the Union's account balance on July 1.

B. The Union may designate employees to use the Union's accrued time for Union business such as Union-sponsored labor relations training, State or area-wide committee meetings or State or International conventions. The employee shall be permitted to use release time when he or she provides his or her supervisor with notice and the time off will not otherwise be unreasonably denied.

C. Generally, reasonable notice for such meetings is at least thirty (30) calendar days. Supervisor shall grant or deny the employee's request to take Union-Related Activities leave within seven (7) calendar days. A request shall not be unreasonably denied.

Article 23. Acting Capacity

An employee assigned to perform the duties associated with a classification with a higher rate of pay than that of the employee's classification shall receive the hourly rate applicable to the higher classification. This higher rate of pay is Acting Capacity Pay. Prior to accepting the acting capacity appointment, the employee will be notified in writing of the duties expected.

Acting Capacity Pay shall be paid for the period in excess of five (5) continuous work days.

The initial period of Acting Capacity Pay shall be limited to six (6) months or less and may be extended for period up to six (6) months.

An employee in Acting Capacity shall not be relieved of such capacity prior to the completion of the five-day waiting period for the purpose of avoiding Acting Capacity Pay. The college shall not rotate employees in an acting capacity position to avoid acting capacity pay, nor shall employees be recurrently scheduled in an acting capacity position without compensation. An employee shall not be required to accept an acting capacity assignment if he/she would suffer a loss in pay.

Acting Capacity appointments are voluntary. No employee shall be disciplined or retaliated against for rejecting an opportunity to work in an acting capacity appointment.

Employees who do not satisfactorily perform the required elements of the higher classification shall be returned to their position instead of suffering formal disciplinary action.

Article 24. Job Classification and Reclassification

Section 1 Generally

Employees will be classified based on duties and knowledge, skills and abilities.

Section 2. Job Study

When the employee (and Union representative, if chosen. and supervisor believe a position is incorrectly classified. A request may be submitted to study the position. Such study shall be completed in a timely manner unless a study of the job in question has

been completed within the previous twelve months and the job duties have not changed. The employee (and the Union representative, if chosen will be provided with a copy of the Employer's findings upon request. The Employer will apply its established classification guidelines in a fair and equitable manner.

Section 3. Reclassification

A reclassification occurs when the duties assigned to a position fit better in a higher classification than they do in a lower classification.

When additional duties are assigned to a filled position that may warrant its reclassification and there is more than one qualified candidate in an organizational unit, documentation indicating the specific reasons for selecting the qualified candidate to whom the additional duties were assigned shall be retained for three years.

Article 25. Promotion, Transfer, Demotion

Section 1. Promotions

Employees may apply for any vacant positions at the College that may provide a promotional opportunity as long as they meet the minimum qualifications for the position. All qualified candidates in the applicant pool will complete a competitive process prior to a selection being made.

The College agrees to develop a selection plan that will (1) contain a job announcement for the vacant position; (2) list the minimum qualifications and (3) include job related selection criteria that assess the knowledge, skills and abilities required for the position. All College positions will be posted. In the event that skilled services employees are excluded from the State Personnel Management System (SPMS) and become part of the College's personnel system, all College positions will be posted for a minimum of (2) two weeks.. For the purposes of recruitment of positions within the State Personnel Management System, the College shall follow the policies of the Department of Budget and Management. The College shall make a selection from among the candidates who meet the minimum qualifications for the position. For positions within the SPMS, DBM certifies the eligible list of applicants.

Applicants shall be evaluated based upon position related:

- A. Experience (including length of State, College and contractual employee service, and where possible, allow for the substitution of experience for educational criteria.
- B. Education,
- C. Knowledge skills and abilities

In the event that any two or more applicants are equal, State, College and contractual service shall serve as the tie breaker.

If requested, the supervisor and a human resources representative shall meet with a College employee candidate who was not selected for the position to discuss the ways that the employee may be able to improve his/her chances for possible future promotional opportunities.

In the event that the College creates a new Police Officer I position or fills a Police Officer I vacancy, it shall conduct a position specific recruitment (internal) search. Building Guards (Building Security Officers) who are otherwise qualified shall be considered for the opportunity in accordance with Section A. The selected candidate shall be reclassified as a Police Officer Trainee and the College shall send the person to the MPTC approved training course. If the College must pay for the employee's training, the employee shall reimburse the College if he or she voluntarily leaves the College within 24 months from the date that the employee completes the training. Reimbursement shall occur at the time the employee leaves the College. If the employee fails to complete his or her training successfully, he or she may return to a vacant Building Guard (Building Security Officer) position if available, however, the College shall not send the employee to training again. If the employee leaves the College for any reason other than a medical disability (during the training), the employee shall reimburse the College for all training costs.

Section 2. Transfer.

A. Voluntary

An employee may apply for transfer to a vacant position of the same classification or another classification of the same grade for which the employee meets the minimum qualifications.

B. Involuntary Transfer

The College may reassign any employee from a position to another position for which the employee meets minimum qualifications, in accordance with any legal requirements. As a result of a departmental, divisional, or College-wide reorganization, the College reserves the right to re-align staff and positions to best serve the interests of the College, and to do so according to the MOU and the law.

Section 3. Demotion

A. A demotion is a change from a classification with one pay range to a classification with a pay range with a lower maximum rate of pay.

A demotion is a change from a classification with one pay range to a classification with a pay range with a lower maximum rate of pay.

B. A demotion may be made:

1. voluntarily;
2. as a form of discipline; or
- 3 when, upon promotion or reinstatement to a position in the non-exempt bargaining unit, the College determines that the employee is unable or unwilling to satisfactorily perform the duties of the position during the probationary trial period.

C. An employee who applies under B1 for a voluntary demotion shall be considered for the position along with other eligible applicants who have also applied for the same position.

D. If, a demotion is made under B 3 above, the College shall in accordance with the law during the probationary period:

1. return the employee to his or her former position if it is vacant; or
2. demote the employee to a position comparable to the employee's position within the appointing authority's jurisdiction.
3. if a comparable position does not exist, the employee shall be terminated.

E. If a demotion takes place, the wage in the lower pay range shall be the level or step that is closest to the employee's current rate of pay but not more than the employee's current salary.

Article 26. Probation or Trial Period Following a Promotion

Not Applicable

Article 27. Performance Evaluations

Section 1. Generally

Evaluations are performance management tools. Employee job performance shall be evaluated in accordance with this Article. To the extent that a particular provision of this Article conflicts with requirements promulgated by the Secretary of the Department of Budget and Management, governing the performance evaluation of skilled service employees in the State Personnel and Management System, the Secretary's requirements shall supersede this Article.

Nothing in this Article shall prohibit employees and supervisors from communicating about the employee's performance, the relationship between the employee and the supervisor, and the employee's goals for career development at the College, at times other than those specified in this Article. Regular communication feedback between the employee and his or her supervisor is an important component to the employee's performance and development and ultimately to the evaluation process.

Section 2. Performance Ratings

Performance ratings are:

- Outstanding
- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

Section 3. Performance Standards

Standards shall be specific, attainable, relevant, measurable and fully consistent with an employee's duties, responsibilities and grade as described in his/her job description. Standards and elements will be job and outcome related. Standards and elements shall be provided to an employee in writing at the outset of the rating period and changed during the period only after review with the employee.

If an employee does not have an opportunity to perform work described by a standard or element, that standard/element will not be considered in the performance appraisal process.

Standards/elements shall be applied fairly, objectively and equitably. The College shall take into account equipment and resource problems, lack of training, frequent interruptions, and other matters outside of an employee's control when applying standards/elements to performance. Pre-approved time away from the job including sick leave, personal days, annual leave and authorized duty time for union representational purposes and other authorized activities will not be considered negatively in the application of performance standards and behavioral elements. Evaluations shall fully take into account such approved absences in a measure of timeliness and quantity of work.

Section 4. Procedure

A. Frequency

Employees shall receive two written performance evaluations per year based upon the employee's entry-on-duty date: (1) a mid-year performance evaluation and (2) an end-of-year performance evaluation including an overall performance rating.

B. Preliminary Performance Evaluation

1. A supervisor shall prepare a preliminary performance evaluation for each employee for which the supervisor has primary direct responsibility.
 - a. If the employee's supervisor is unavailable, the highest ranking manager with the best knowledge of the employee's performance shall prepare the appraisal.
 - b. If an employee is transferred, demoted or promoted, he or she shall be given an exit appraisal, and it shall be used in conjunction with his or her new supervisor's year-end appraisal.
 - c. If the employee has been working under a new supervisor for at least six months, the employee and the College may mutually agree not to use the former supervisor's appraisal.
 - d. If two appraisals are used, they shall be averaged in accordance with the number of months in the performance period measured by each appraisal.
2. The College may review a preliminary evaluation before the supervisor presents it to the employee.

C. Employee self-assessment.

Each employee shall prepare a written self-assessment that includes the following:

A self-evaluation of the employee's own performance during the relevant rating period;
Suggestions for ways that the employee and the employee's supervisor can enhance the employee's contribution to the College's mission, goals, and objectives; and
Suggested training and/or other methods to promote the development of the employee's career objectives at the College.

D. Meeting for Review and Discussion

An employee and the employee's supervisor shall meet to review and discuss together the employee's self-assessment and the supervisor's assessment.

The employee shall be notified of the date of the meeting prior to the date of the review and the discussion.

The objective of the meeting is to provide an opportunity for the employee and his or her supervisor to:

1. Promote agreements and understanding about the assessments made by the employee and the supervisor and to aid the supervisor in determining the final ratings for the performance evaluation;
2. Develop appropriate modifications to the employee's position description, if needed;
3. Establish specific written tasks and indicators, based on measurable and objective standards that can be evaluated on outcome, that the employee needs to accomplish during the next rating period in order to meet the overall objectives of the position; and
4. Identify any area in which training is needed for the next rating. When a supervisor believes that helpful training opportunities are available that would assist an employee to lift his or her performance to at least a level that is meeting expectations, the supervisor shall identify them to the employee. If an employee does not avail himself or herself of an available opportunity, the supervisor may take this into account when evaluating future performance issues.

The supervisor shall note an employee's areas of strength and areas that need improvement. The supervisor shall examine areas of agreement and disagreement with the employee, and attempt to resolve any differences or misunderstandings so that both supervisor and employee can collectively work on maintaining good employee performance or improving weaker areas.

E. Procedure at the end of previous / beginning of new cycle

The College shall approve a written performance evaluation before it is final. The College may change an employee's end-of-cycle final evaluation only with written justification, which cites the employee's performance standards/behavioral elements and the employee's actual performance. The supervisor shall give employees a copy of the end-of-year appraisal at the time that it is initially presented and signed and at the time that it is finalized, and a copy will be placed in the employee's personnel file. A statement of an employee's objection to an appraisal or comment shall be attached and put in their personnel file.

1. Final written performance evaluations shall include:
 - A. Final performance ratings;
 - B. Specific tasks the employee is to achieve during the next rating period;
 - C. A list of modifications to the employee's position description, if any;
and
 - D. Any recommendations for training to enhance the employee's skills.

2. The supervisor shall:
 - A. Give the employee a copy of the final performance evaluation;
 - B. Retain a copy; and
 - C. Provide Human Resources with a copy to place in the employee's personnel file.

3. If there is a modification made to the position description:
 - A. The employee and the supervisor shall sign and date it to acknowledge that it has been reviewed by both;
 - B. The supervisor shall forward a copy of the modified position description to Human Resources for placement in the employee's personnel file; and
 - C. The employee shall receive a copy of the modified position description.
 - D. Nothing in this Article prohibits modifications to a position description or meetings between a supervisor and an employee to review performance expectations at any other time

4. This subsection shall also apply if any modification to a position description is made outside of the performance evaluation process.

5. Regardless of whether there is a modification to the employee's position description,
 - A. The supervisor shall give the employee a copy of the employee's position description and go over it with the employee. The position description shall be the basis for setting expectations for the employee.

 - B. The supervisor and the employee shall go over the supervisor's performance expectations. The supervisor shall be as clear and specific as possible.

 - C. The employee shall ask the supervisor to clarify anything that is confusing or nonsensical and shall ask any questions that he or she may have about the supervisor's expectations.

6. If a good faith effort has not been made to finalize the employee's rating within 30 days of the mid point or end of cycle, then the assumption must be that the employee was at minimum, meeting standards.

Section 5. Procedures When An Overall or Individual Performance Rating Is Below Meets Standards

A. Generally, an employee who receives a performance rating that of "Needs Improvement" or "Unsatisfactory"

1. has been notified by his or her supervisor of the performance or behavior issue during the evaluation period that is below meeting standard;
2. has received written notification of the performance or behavior problem and
3. has been counseled about how the performance or behavior must be improved, assisted in determining how to attain a meets standard rating and, has had an opportunity to improve performance or behavior

B. If an employee's annual performance evaluation indicates that his or her overall performance is unsatisfactory, in addition to following the procedures outlined in Section III above, the employee's supervisor shall:

1. if the employee's performance has been rated overall as "needs improvement," inform the employee that the employee has an opportunity period of 180 days from the date of the evaluation to improve his or her level of performance to a level that meet standards or his or her employment shall be terminated. Approximately midway through the 180-day opportunity period, the employee and the employee's supervisor shall meet to evaluate the employee's progress toward meeting standards. At this mid-point evaluation, the supervisor shall give the employee written notice of which areas of performance are still below meeting standards; the evidence of and in specifically in what way performance is still below standards; and specifically what has to be done to bring the performance up to meeting standards;

or

2. if the employee's performance has been rated overall as "unsatisfactory", the employee's supervisor shall inform the employee that the employee has an opportunity period of 90 days from the date of the evaluation to improve his or her level of performance to a level that meet standards or his or her employment shall be terminated. Approximately midway through the 90-day opportunity period, the employee and the employee's supervisor shall meet to evaluate the employee's progress toward meeting standards. At this mid-point evaluation, the supervisor shall give the employee written notice of which areas of performance

are still below meeting standards; the evidence of and specifically in what way performance is still below standards; and specifically what has to be done to bring the performance up to meeting standards

C. The employee shall be given a development plan including the following elements:

1. identification of the performance standards/behavioral elements for which performance is unacceptable;
2. a description of what the College will do to assist the employee and a description of what the employee must do to improve the unacceptable performance during the opportunity period; and
3. a statement as to when the employer and the employee decide to meet to evaluate the employee's performance within the opportunity period.

D. Failure to improve performance to the meet standards level by the end of the opportunity period shall result in a termination of the employee's employment.

No employee may receive an overall rating of "unsatisfactory" on an annual performance evaluation unless the employee already received an overall "unsatisfactory" rating on the employee's mid-year evaluation.

Termination under this subsection is a disciplinary action and the procedures in the Discipline Article shall be followed. An employee whose employment is terminated under this subsection shall be able to grieve the termination in accordance with the Discipline Article.

Section 6. Pay Increases Related to Performance-Based Criteria

An employee may not be denied a pay increase which is linked to performance-based criteria unless substantial reasons relating to work performance are cited on the relevant mid-year or final performance evaluation forms.

Section 7. Interim Conferences

The College may provide for interim conferences between an employee and the employee's supervisor to evaluate the employee's progress in meeting objectives established during the previous mandatory performance evaluation.

Section 8. Appraisals of Supervisors

Employees shall evaluate, anonymously, the performance of supervisors. The College shall insure that employees are given the opportunity to evaluate the supervisor prior to

the supervisor's year-end evaluation. The forms will be considered in the supervisor's evaluation.

Article 28. Health and Safety

Section 1. BCCC shall comply with the provisions of the Occupational Safety and Health Act and any applicable state, local and/or federal Health and Safety legislation. BCCC shall take all necessary steps to ensure the workplace health and safety of employees.

Section 2. Employees are responsible for working in a safe manner, complying with safe working practices on all assignments, as made known by the College, and adhering to the requirements set out in all of BCCC's safety policies.

Section 3. Employees who encounter hazards that they believe may constitute a health, safety hazard or potential threat to others shall immediately report such danger to Public Safety and their immediate supervisor.

Section 4. BCCC agrees that bargaining unit employees shall be allowed to move to another work area if it has been determined that construction, remodeling, painting or any other health and safety hazard impacts an employee's health or safety. The Risk Manager or his/her designee shall consult with other safety professionals when necessary to achieve the most accurate evaluation of the health or safety issues. The determination of whether or not the negative impact on employee health and safety requires that employees be moved to another work area shall be made as soon as practicable, without unreasonable delay. The determination of the Risk Manager or his/her designee may be grieved.

Section 5. An Occupational Health and Safety Committee ("Committee") shall be formed.

- A. The purposes for which the Committee shall be formed are:
1. Establishing a collaborative relationship to improve the health and safety of the College, its employees, students and visitors;
 2. Reviewing safety and health inspection reports issued by any state, local, or federal agency or BCCC's staff, to assist in correction of identified unsafe practices, procedures, situations or environments;
 3. Evaluating health and safety related investigations conducted since the last meeting to determine whether the causes of the unsafe acts or unsafe conditions that were properly identified and corrected;

4. Evaluating accident and illness prevention programs, including recommendations for policies and procedures to improve the programs;
5. Developing and maintaining a health and safety manual.
6. In the event of a workplace incident that involves College health and safety, the President or his designee will appoint staff or an outside consultant, depending upon the expertise desired for the appropriate investigation, to make an investigative report to present to the Committee. The Committee shall make recommendations regarding their findings relating to these matters to the Campus Safety Officer and/or to College Council.
7. Identifying and recommending training opportunities for the College community.
8. Members of the Occupational Health and Safety Committee shall survey the College's three locations (Liberty, Harbor and RPC) on a semiannual basis for the purpose of examining the physical conditions of the workplace and shall make recommendations regarding their findings to the Risk Manager and/or to College Council. The surveys shall be conducted in a reasonable manner as it relates to the location under review.

Section 6. The Committee shall be comprised of members of the College Community, including one representative from each of the following groups: Facilities, Public Safety, BCEC, Human Resources, Student Affairs, External Affairs, and Division of Learning. The President or his or her designee shall appoint the Facilities, Public Safety, Human Resources, Student Affairs, External Affairs, and Division of Learning members. There shall be two faculty and two student members on this Committee who will be appointed to the Committee by the respective faculty and student governing bodies. The Union shall have the right to appoint and be represented by seven employee representatives. The Union shall determine how the bargaining unit members shall be appointed. Each Committee Member shall serve for a period of one year, unless reappointed by the President or by the Union.

There shall be Committee Co-Chairs (one for the College and one for the Union) who will manage the Committee, its meetings, and the Committee's work. The President or his or her designee will select the College Co-Chair. The Union shall select the Union Co-Chair. The Committee Co-Chairs shall ensure that the Committee performs its duties set forth under this Article in a manner that ensures the purposes of this Article are effectuated in keeping with College committee practices. The Committee Co-Chairs shall ensure that minutes of any Committee meetings are created and maintained.

Any member of the Committee shall have a workplace safety-related matter discussed at a Committee meeting by so informing a Committee Co-Chair in writing in advance of the meeting.

Meetings of the Committee shall be conducted when ten (10) or more Committee members are in attendance.

During the first six months, the Committee shall meet not less than once per month and then not less than quarterly thereafter. Meetings shall be limited to two hours in length, unless there is mutual agreement otherwise. BCCC shall appoint campus-wide representatives to represent all of the stakeholders in the College's health and safety, in an effort to promote a safe work environment.

Section 7. BCCC shall be responsible for informing College employees of any procedures or policies established by BCCC and associated with the safe handling of materials or equipment; require them to use any protective devices, clothing, or equipment, and to follow such procedures; and advise such persons of the existence of hazards of which BCCC is aware or ought reasonably to be aware, associated with the employee's employment duties. BCCC shall provide reasonable advance notice of any known potential hazardous or unsafe conditions associated with new construction, renovation, or restoration projects at all worksites, including off campus locations.

Section 8. Critical incident situation shall be handled pursuant to the College's Critical Incident Management Plan.

Section 9. Nothing under the Health and Safety Article of this MOU shall be construed as to preclude an employee from filing any complaint with any appropriate authority. The parties agree that it is in both parties' best interest that the processes set forth in this MOU be utilized appropriately.

Article 29. Uniforms and Equipment

Section 1. Uniforms

This article shall apply to the facilities and public safety departments.

When the College requires employees to wear a uniform, the College shall provide those employees with five (5) sets of the required uniform trousers and shirts (both short- and long- sleeved)

New employees shall receive three (3) sets of uniforms and an additional two (2) additional sets after the completion of the employee's probationary, providing them with their 5 sets of uniform trousers and shirts. The College shall also provide employees with safety shoes and/or non-prescription safety glasses or goggles if the employee is required to wear them.

New public safety department employees shall receive five (5) sets of uniforms.

Employee shall be fully responsible for the safe keep basic upkeep and cleaning of uniforms issued to him or her. Employees shall report immediately to his or her supervisor when any uniform becomes damaged or is lost.

The College shall provide a uniform replacement for a damaged or worn-out pair of pants or shirt, so that the employee may be able to maintain five (5) sets of serviceable uniforms. An employee shall return the pair of pants or shirt to his or her supervisor when a replacement will be made. Replacement(s) will be approved by the employee's supervisor or his or her designee on a case-by-case basis.

If the College is permitted by law to use a rental uniform service, the facilities department shall do so.

The College reserves the right to make decisions on the types, color, prints and style of uniforms. Employees may be required to submit to sizing or provide his or her measurement for new uniforms.

Employees who do not comply with this policy shall be subject to disciplinary action up to and including immediate termination of employment. If an employee reports to work wearing street clothes, the employee shall not be permitted to work. The time spent by the employee to travel home, change into his or her required uniform and travel back to the College is not work time and shall not be compensated.

The Employer will ordinarily furnish and maintain in good condition the equipment needed by employees to perform their jobs.

Section 2. Equipment

A. General

The College will ordinarily furnish and maintain in good condition the equipment needed by employees to perform their jobs.

College property is not for personal use.

B. College Property

1. Removal of College Property from College Property

With the exception of cell phones, pagers, laptops and PDAs taken off College property for business purposes, equipment and tools furnished by the College shall not be removed from College property.

2. Employee Responsibility

Employees are responsible for the safekeeping of tools and equipment assigned to them. Employees shall sign an Acknowledgment they have been assigned College property or equipment. Employees may be held personally liable for loss or damage to College property. The Acknowledgment shall include this acknowledgment.

All equipment assigned to an employee shall be returned to the College immediately upon demand and upon separation of employment. Failure to do so shall result in deduction from the employee's last wages of the value of the unreturned property, in accordance with the law. The Acknowledgment shall include an employee authorization for such a deduction. The College may take legal action against an employee who fails to return College property upon demand.

C. Cell Phones

The College follows the State's Cell Phone Policy. Employees who receive cell phones from the College shall also abide by this Policy. The College shall provide the Policy to any employee who is given a cell phone.

Employees are responsible for the cost of all personal calls. While the College anticipates that some incidental personal use of cell phones, it is also expected that such use is infrequent.

Article 30. Personnel Files

Section 1. Official Personnel File

There shall be one official personnel file and that file shall be kept in the College's Human Resources Office.

The Official Personnel File shall include, but may not be limited to, the following:

- A. Applications and/or Resumes
- B. Position description of the position held by the employee
- C. Classification studies of the position held by the employee
- D. Performance Evaluations
- E. Documents reflecting changes in pay compensation
- F. Documents reflecting conversion from contractual to regular status
- G. Discipline
- H. Documents relating to credentials
- I. Documents that the employee is obligated to provide to the College or that the College has otherwise requested from the employee

- J. Work-related commendations, awards and training certificates that the employee or the employee's supervisor gives to Human Resources.

If an employee believes that a document or documents are missing from his or her official personnel file, the employee shall immediately notify the Executive Director of Human Resources in writing of the specific document(s) he or she believes is/are missing. The Executive Director of Human Resources or his or her designee shall conduct a good faith search to locate the document(s). The employee will be notified whether the document was found and placed into the file or whether it could not be located.

Grievance-related documents, immigration matters, medical information, and investigatory materials shall be kept in separate files. An employee shall have access to: (1) his or her own I-9 or other immigration-related documents that he or she has provided to the College; (2) any grievance that the employee has filed and its related documented decision(s); and (3) his or her own file containing medical information.

The College shall not provide an employee representative access to an employee's medical information file until the employee has signed a Release and the College has received a Release with the employee's original signature. The Release form shall be provided by the College and shall comply with the federal Health Information Privacy and Administration Act of 1997 (HIPAA) and other relevant privacy laws. The Release form shall include a statement that if the employee signs the release, he/she may have waived his/her rights under HIPAA or other relevant privacy laws. To the extent required by law, an employee may gain access to the investigative files or grievance related documents under established laws and regulations.

An employee shall not, in the ordinary course, have access to investigative files or grievance-related documents, except as provided above.

There is no grievable action based upon this Section.

Section 2. Anonymous Materials

Other than routine personnel forms, no anonymous materials shall be placed in an employee's official personnel file.

Section 3. Working Files

Supervisors may keep a working file, but records of previous discipline counseling and performance evaluations not found in the official personnel file cannot be used against an employee in any future disciplinary proceeding.

Section 4. Access

An employee, and, with the employee's written authorization, a representative(s) shall have the right to review his/her personnel file upon request, during normal business hours, with no loss of pay. An employee has the right to request and to receive copies of documents from his or her official personnel file. The employee may incur reasonable copying charges for all documents requested.

Section 5. Notification

Any negative material to be placed in an employee's personnel file will be initialed and dated by the employee and a copy provided to him/her. If the employee refuses to sign, material shall be placed in the file with a note of the employee's refusal. The employee's initials indicate simply that he/she has seen the material and is not to be viewed as agreement with its contents. The documentation of the disciplinary action shall also include the statement that the employee's initials indicate simply that he/she has seen the material and is not to be viewed as agreement with its content. Any negative material which is placed in an employee's personnel file without following this procedure will be removed from the file and destroyed.

Section 6. Requests to Correct or Amend Personnel Files

An employee shall have the right to request a correction or make an amendment to his or her personnel file. The request shall be: (1) made in writing; (2) filed with the Executive Director of Human Resources; and (3) filed within thirty (30) days of the date that the employee first knew or should have known of the allegedly inaccurate or incomplete information.

Each written request shall: (1) identify the personnel record that the employee is seeking to correct or amend; (2) state the precise correction or amendment requested; (3) state the reason that the correction or amendment is being sought; and (4) include a statement that the records are, in the employee's belief, currently inaccurate or incomplete. A request that does not reasonably comply with these requirements shall be returned to the employee with an explanation of the reason for the rejection and a statement that the employee may refile a corrected written request within fourteen (14) calendar days.

Within thirty (30) days after a compliant written request has been timely filed, the Executive Director of Human Resources or his or her designee shall: (1) make the requested correction or amendment and inform the employee in writing of that action; (2) inform the employee in writing of the College's refusal to make the requested correction or amendment and the reason for the refusal; or (3) inform the employee that the request will not be acted upon if there is a legal reason for the inaction.

Although not grievable, if the College's determination is a refusal to correct or amend, the employee may file a concise statement of disagreement concerning the College's refusal. The statement of disagreement shall: (1) include the reason for the requested correction or amendment; (2) include the reason for the disagreement with the College's refusal; and (3) contain a maximum of five (5) one-sided pages, with a maximum page size of 8-1/2 X 11 inches.

If the personnel file is disclosed to third parties, the statement of disagreement shall also be disclosed.

Article 31. Discipline

Section 1. Generally

The primary objective of disciplinary action is to counsel employees at an early stage in the disciplinary process, concentrating on helping the employee determine ways to prevent a problem from recurring.

Nothing in this Article shall alter the at-will status of employees in the exempt bargaining unit.

An employee shall have the right to Union representation if he or she requests it at a meeting that may lead to discipline or when a disciplinary action is taken.

The College shall consider any mitigating circumstances when determining the appropriate discipline. The College shall not consider mitigating factors in circumstances warranting immediate termination of employment.

The College may take disciplinary action because of an employee's unsatisfactory work performance or because of misconduct.

The College's burden of proof is by preponderance of the evidence in any proceeding under this Article, except in a case involving an employee on original probation. Employees on original probation bear the burden of proof in a disciplinary action. The sole issue is whether the College's action in disciplining an employee on original probation is illegal or unconstitutional.

After taking a disciplinary action against an employee, the College may not impose an additional disciplinary action against that employee for the same conduct unless additional information is made known to the College after the disciplinary action was taken.

Section 2. Disciplinary Actions Permitted

A. The College may impose any disciplinary action no later than 30 days after a supervisor or manager, including any chair or dean but excluding faculty, acquires knowledge of the misconduct for which the disciplinary action is imposed.

B. The College may take the following disciplinary actions against any employee:

1. give the employee a written reprimand;
2. direct the forfeiture of up to 15 work days of the employee's accrued annual leave;
3. suspend the employee without pay;
 - a. An employee may be suspended without pay, so long as his or her FLSA classification is not changed, no later than five (5) workdays following the close of the employee's next shift after the College acquires knowledge of the misconduct for which the disciplinary action is imposed. Saturdays, Sundays, legal holidays, and leave days of any kind are excluded in calculating the five (5) workday period.
4. deny the employee an annual pay increase;
5. demote the employee to a lower pay grade; or
6. with prior approval of the President:
 - a. terminate the employee's employment, without prejudice, or;
 - b. if the College finds that the employee's actions are egregious to the extent that the employee does not merit employment in any capacity with the College, terminate the employee's employment, with prejudice.
7. direct up to 3 workdays of emergency suspension of the employee, with pay, to immediately remove the employee from the workplace when the College believes that the employee:
 - a. poses a threat to self, another individual or College property; or
 - b. is incapable of properly performing the employee's duties because of extraordinary circumstances;
8. terminate the employee's employment immediately.

In determining the appropriate level of discipline, the College agrees to abide by the tenets of progressive discipline; however, that does not mean that the list of disciplinary actions above are listed to show a particular order of disciplinary action that must be followed in every circumstance, nor to indicate that each step listed needs to be taken prior to a heightened level of discipline, nor that the first time an employee is disciplined, that disciplinary action should be the type of discipline listed in item (a).

The College shall discipline an employee in the manner it determines to be appropriate given the reason for the discipline and other relevant circumstances, including the severity of the misconduct or performance issue leading to the discipline and the relevant history of discipline. Progressive discipline does not require supervisors to impose

harsher penalties than are necessary to inspire and move an employee to correct a problem. Similarly situated employees will be treated similarly regarding the application of disciplinary actions.

C. After two years, discipline relating to attendance and job performance shall not be used for purposes of a heightened level of progressive discipline, so long as the employee was not disciplined for engaging in similar conduct during the previous two years.

Records of previous counseling, discipline, and performance evaluations not found in the official personnel file cannot be used against an employee in any future disciplinary procedure.

After taking a disciplinary action against an employee, the College may not impose an additional disciplinary action against that employee for the same conduct unless additional information is made known to the College after the disciplinary action was taken.

D. An employee who is placed on leave without pay for an unapproved absence may be subject to disciplinary action for the unapproved absence, but placing the employee on leave without pay for the unapproved absence is not a disciplinary action.

E. Requiring an employee to make restitution to the College for loss or damage to College property due to an employee's negligence is not a disciplinary action, but an employee who makes restitution may be disciplined for his or her negligence. The College may not require an employee to pay restitution exceeding 3% of the employee's annual base pay. An employee who is ordered to make restitution may be subject to civil prosecution or criminal prosecution.

F. This Article does not preclude the College and an employee from agreeing to:

1. hold in abeyance a disciplinary action for a period not to exceed 18 months in order to permit the employee to improve conduct or performance;
2. impose of a lesser disciplinary action as a final and binding action.

Section 3. Counseling Memoranda:

- A. Issuing a counseling memorandum is an instructional communication and is not a disciplinary action.
- B. An employee may submit a written response to the memorandum to the College within 5 days after receiving a counseling memorandum. The employee's written response shall be placed in the employee's personnel file as an attachment to any record of the memorandum. An employee may not take any other action in response to a counseling memorandum.
- C. Counseling Memoranda may not be grieved.

Section 4. Automatic Termination of Employment

The following actions are just causes for automatic termination of employment:

- A. intentional conduct, without justification that:
 - 1. seriously injures another person,
 - 2. causes substantial damage to property, or
 - 3. seriously threatens the safety of the workplace;
- B. theft of College property of a value greater than \$300.00;
- C. illegal sale, use or possession of drugs on the job;
- D. conviction of a controlled dangerous substance offense by an employee in a designated sensitive classification;
- E. conviction of a felony;
- F. accepting for personal use any fee, gift or other valuable thing in connection with or during the course of College employment if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons;
- G. a violation of the Fair Election Practices Act; or
- H. using threatening, or attempting to use political influence or the influence of any College employee or officer in securing, promotion, transfer, leave of absence, or increased pay.

Though Section 1 provides for cause reasons to terminate an employee's employment, an employee's employment may be terminated with or without cause.

Section 5. Employee Misconduct

- A. The following actions are just causes for discipline:
 - 1. Being negligent in the performance of duties;
 - 2. Engaging in intentional misconduct, without justification, which injures another person, causes damages to property, or threatens the safety of the workplace;
 - 3. Being guilty of conduct that has brought or, if publicized, it would bring the College disrepute;
 - 4. Being unjustifiably offensive toward fellow employees or the public;
 - 5. Violating a provision of SP&P, Title 2, Subtitle 3, Title 15 or § 9-607.
 - 6. Stealing College property with a value of \$300 or less.
 - 7. After notification, continuing to engage in another business, trade, or occupation, which conflicts with the employee's position, or which prevents the employee from satisfactorily performing the duties of the employee's position;
 - 8. Engaging in conduct involving dishonesty, fraud, deceit, misrepresentation, or illegality;
 - 9. Causing damage to public property or wasting public supplies through negligence, recklessness, or willful conduct;
 - 10. Willfully making a false official statement or report;

11. Knowingly assisting another in conduct that is a violation of State Personnel and Pensions Article, Annotated Code of Maryland, the regulations in this chapter, or any other lawful College policy;
12. Violating a lawful order or failing to obey a lawful order given by a superior, or engaging in conduct, violating a lawful order, or failing to obey a lawful order which amounts to insubordination;
13. Engaging in discrimination prohibited by law;
14. Using leave contrary to law or policy, or
15. Committing another act, not previously specified, when there is a connection between the employee's activities and an identifiable detriment to the College.

B. Before an employee may be disciplined, the College shall:

1. notify the employee of the misconduct and provide an explanation of the College's evidence.
2. investigate the alleged misconduct;
3. meet with the employee;
4. consider any mitigating circumstances;
5. determine the appropriate disciplinary action, if any, to be imposed; and
6. give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights and inform the employee of the effective date of the disciplinary action.

Though Section A provides for examples of cause that support a decision to discipline an employee and Section B provides a procedure, an employee's employment may be terminated with or without cause.

C. Except when otherwise authorized by law, an employee may not be required to submit to a polygraph test.

Section 6. Performance-Related Discipline

- A. The College may discipline an employee for reasons relating to the employee's performance. These reasons include, but are not limited to:
1. that the employee is incompetent or inefficient in the performance of the employee's duty;
 2. that an employee with a disability does not or cannot perform the essential functions of his or her position with a reasonable accommodation; or
 3. that the employee currently is not qualified for the position.
- B. Excessive absenteeism, excessive tardiness, or abuse of sick leave constitutes just cause for the College to take corrective action, including discipline.

The following guidelines will be used to identify excessive tardiness:

1. An employee who is tardy without approval three (3) or more days within a twenty (20) day period shall be counseled in accordance with section 3 in this article.
2. If the employee is tardy without approval three (3) or more times within the following forty (40) day period, the employee shall receive a written reprimand.
3. If the employee is tardy without approval three (3) or more days within the following sixty (60) day period, the employee shall receive a suspension without pay of either one (1) day.
4. If the employee is tardy without approval three (3) or more days within the following forty (40) day period, the employee shall receive a suspension without pay for (3) three days.
5. If the employee is tardy without approval three (3) or more days within the following forty (40) day period, the employee shall receive a suspension of five days without pay.
6. Any further tardiness without approval three (3) or more days within the following forty (40) day period will subject the employee to more severe discipline up to and including termination.

C. The following guidelines will be used to identify excessive absenteeism:

1. An employee who is absent without approval three (3) or more days
 - a. within a twenty (20) day period shall be counseled in accordance with Section 3 in this article;
 - b. within the following forty (40) day period, the employee shall receive a written reprimand;
 - c. within the following sixty (60) day period, the employee shall receive a suspension without pay for two (2) days;
 - d. within the following eighty (80) day period will subject the employee to more severe discipline up to and including termination.
2. An employee that habitually takes unapproved leave on a specific day or when a pattern of unapproved absences has been established.
3. Any combination of a and b.

D. Before an employee may be disciplined for performance-related reasons, the College shall:

1. Investigate the employee's performance, including the employee's most recent performance appraisals.
2. Notify the employee in writing of the deficiency and provide an explanation of the College's position.
3. Meet with the employee to hear the employee's explanation, unless the employee is unavailable or unwilling to meet;
4. Together with the employee, discuss possible courses of action that make the performance goal attainable; and
5. After determining the appropriate discipline, give the employee written notice of the disciplinary action to be taken, and the employee's appeal rights, and inform the employee of the effective date of the disciplinary action.

E. Between the time the College notifies the employee of the disciplinary action and the time of the imposition of the discipline, the College may rescind the discipline.

F. Except in the case of an annual performance appraisal, within 30 days after the College acquires knowledge of performance-related reasons for which disciplinary action may be imposed, the appointing authority shall take each of the actions required in Section B of this article. The time period may be extended for any time that the employee is unavailable.

Section 7. Severance

An employee who is involuntarily terminated without cause shall be entitled to, in addition to the payout of any accrued leave and COBRA eligibility:

- A. One months' severance pay, at the employees' regular rate of pay at the time of termination and
- B. Job placement assistance.

Section 8. Time Limits

- A. An employee who fails to appeal a decision in accordance with this MOU has accepted the decision.
- B. If the College fails to abide by any of the time limits in this Article, then the discipline shall be rescinded and the employee shall be made whole for his or her losses.

C. The College and the Union may agree to waive or extend any time limits as stated in this Article.

Section 9. Appeals of Discipline

A. The appeal of a disciplinary action shall begin at Step I of the grievance procedure. An appeal shall be filed no later than 15 days from the date that the employee received a copy of the disciplinary action. The appeal shall be filed with the Dean or Director. The employee may appeal any decision makers' decision pursuant to the Grievance Article. An employee may appeal a Step III decision to non-binding arbitration.

If binding arbitration becomes permissible for the College during the duration of this MOU:

The appeal of a disciplinary action shall begin at Step I of the grievance process. An appeal shall be filed no later than 15 days from the date that the employee received a copy of the disciplinary action. The appeal shall be filed with the Dean or Director. The employee may appeal any decision makers' decision pursuant to the Grievance Procedure Article. An employee may appeal a Step III decision to binding arbitration.

B. Each party shall make every effort to resolve an appeal at the lowest level possible.

C. A failure to decide an appeal in accordance with this MOU is considered a denial from which an appeal may be made.

D. When appealing a disciplinary action, the employee or the employee's representative shall state to the extent possible and on a written form provided by the College the issues of fact, law and mitigating circumstances the employee believes would warrant rescinding or modifying the disciplinary action. Failure to state the issues of fact and law when it is possible to do so may be grounds for dismissing the appeal.

E. The at-will status of an exempt bargaining unit employee shall not prohibit an employee from grieving the termination of employment.

Article 32. Grievances

The purpose of this Article is to provide a mutually acceptable method for the prompt and equitable resolution of grievances filed by bargaining unit employee(s), the Union or the College. This is the exclusive procedure available to bargaining unit employees, the Union or the College for the resolution of grievances alleging a breach of the provisions of this MOU. No reprisal shall be taken against any employee for the filing and processing of any grievance.

Section 1. Definitions

Grievance: A dispute alleging a violation, misapplication, or misinterpretation of this MOU, or applicable College policies, rules, regulations, or procedures.

Working Day: A day in which the main Administrative Offices of the College are open for regular business (Monday-Friday).

Grievable: Where the matter in dispute involves an alleged violation, interpretation, or application of the terms of this MOU, or applicable College policies, rules, regulations or procedures.

Arbitrable: Where the grievance that has been referred for arbitration was processed in accordance with the terms of the Grievance Procedure Article and is within the scope of the definition a grievance.

Section 2. Resolution of Grievances

The Union and the College agree that grievances should be processed in an orderly, prompt, and equitable manner so that the efficiency of the College and the morale of employees shall be maintained. Every effort will be made by the parties to resolve grievances at the earliest possible step of this procedure. In this regard, the parties commit to fully discussing their positions and the facts and evidence supporting such position so that each party can make an informed decision on the appropriate resolution of the grievance under consideration.

Section 3. Grievability/Arbitrability Issues

In the event either party should declare a grievance nongrievable or nonarbitrable, the original grievance shall be considered amended to include this issue. The parties agree to raise any question of grievability or arbitrability of a grievance prior to the time limit for the written answer in the final step of this procedure.

Section 4. Exceptions

The negotiated grievance procedure will not be available to resolve a dispute concerning:

- A. Any examination, certification, or training requirement.
The reclassification of any position, which does not result in the reduction in grade or basic pay of an employee.
- C. The removal of an employee serving a probationary period.
- D. Decisions on incentive awards.
- E. Performance evaluations that do not impose a work improvement plan.
- F. Any policy or regulation over which management does not have control.

Section 5. Procedure for Employee Grievances

Informal Procedure

A. Within fifteen (15) calendar days of the action involved, or within fifteen (15) calendar days of the employee having knowledge of such act, an informal meeting should take place with his/her immediate supervisor for the purpose of resolving the problem. The supervisor will issue an oral decision within three (3) working days from the date the employee presented the issue.

In the absence of the first level supervisor, the grievance may be submitted to his or her designee.

If the decision is not received within 3 working days, or if the decision is not satisfactory to the employee, the employee may proceed to Step 1 of the grievance procedure.

Time limits can be extended for good cause and with the written consent of the parties.

Step I. Formal Procedure

If the grievance is not resolved at the informal meeting, the employee and/or his or her representative may submit the grievance, in writing on the approved grievance form, to the appropriate Dean or Director or his/her designee.

The Dean or Director or designee will, within five (5) working days of the receipt of the grievance, schedule a meeting with the job steward and the grievant, along with the Executive Director of Human Resources to attempt to resolve the grievance. The meeting will occur within fifteen (15) working days of the receipt of the grievance.

The Dean or Director or designee will render a written answer within ten (10) working days of the meeting. The answer will include the reasons for the decision. A copy of the written answer in a disciplinary grievance shall be provided to the appropriate Vice President(s).

In the event the Dean or Director or designee's answer is not satisfactory to the grievant, the grievance may be appealed to the Step 2 of this grievance procedure. Such appeal must be submitted in writing within five (5) working days of the Union's receipt of the first step answer.

Time limits can be extended for good cause and with the written consent of the parties.

Step II. Intermediate Decision

The Vice-President will make every effort to resolve the grievance.

The Vice-President will, within five (5) working days of the receipt of the grievance, hold a meeting with the grievant, the Union representative and the Executive Director of Human Resources to attempt to resolve the grievance.

The Vice-President shall, within ten (10) working days of the second step meeting, render a decision in writing containing the reason(s) for the decision.

Time limits can be extended for good cause and with the written consent of the parties.

If the decision is not deemed acceptable, the grievance may be appealed to Step 3 of this grievance procedure. Such appeal must be submitted in writing within five (5) working days of the Union's receipt of the second step answer.

Step III. Final Decision

The President or his or her designee will be the final step for any grievance.
The President or his or her designee will make every effort to resolve the grievance.

The President or his or her designee will within five (5) working days of the receipt of the grievance, hold a meeting with the grievant, Union representative and the Director of Human Resources to attempt to resolve the grievance.

The President or his or her designee shall, within ten (10) working days of the third step meeting, render a decision in writing containing the reason(s) for the decision.

Time limits can be extended for good cause and with the written consent of the parties.

If the decision is not deemed to be acceptable, the Union may refer the grievance to arbitration as provided for in Discipline Article.

Section 6. General Provisions

A. If a dispute arises from the action of an authority higher than the immediate supervisor, such dispute may be initiated at the appropriate step of this procedure.

B. When meetings, conferences or arbitration hearings are scheduled or held under this Article, employees who are required to attend or who are called as witnesses by one of the parties shall, with 48 hours advance notice, be excused from his duties. Grievance meetings shall be treated as work time.

C. A grievance may be withdrawn at any time. After withdrawal the grievant shall not file any subsequent grievance on the basis of the same event.

D. Upon the failure of the grievant, or his/her representative where appropriate, to file an appeal within the time limits provided in this Article, the grievance shall be deemed to have been resolved by the decision at the previous step.

E. Except for good cause shown as determined by the arbitrator selected for arbitration of the grievance, only those issues and sections of this MOU cited in the initial filing of the grievance may be considered at subsequent steps of the procedure.

F. Each party has an obligation to fully present its position and its evidence in support of its position at each step of the grievance procedure. No party may present evidence at an arbitration hearing if the party refused to present such evidence during the grievance procedure.

G. The decision to submit a case to arbitration shall be a waiver of all other remedies except as provided otherwise by statute.

Article 33. Arbitration

Until such time as the law may change to permit a State agency to engage in binding arbitration, any arbitration pursuant to this MOU shall be non-binding

A grievance processed under Grievance Article of this MOU, if unresolved may be referred to arbitration as provided for below:

Section 1. Invoking Arbitration

A referral to arbitration can be made only by the Union or the College and must be in writing. Such referral must be made within ten (10) working days from the date the final written decision was rendered under the Grievance Procedure. The arbitrator shall have no power to add to, subtract from, disregard, alter or modify any terms of this Agreement.

The parties will first attempt to mutually agree on an arbitrator and each side will offer the names of three (3) acceptable arbitrators. If the parties cannot mutually agree on one of these arbitrators, the moving party will request a list of five (5) names until one (1) name remains. This person will be selected to hear the case. The parties will flip a coin to determine who will make the first strike.

Section 2. Procedures

The arbitrator shall determine the procedures used to conduct the arbitration hearing. Each party is entitled to have one (1) representative and one (1) technical advisor at each hearing. The parties agree to keep the number of witnesses to a reasonable number.

Section 3. Effect of the Arbitrator's Award

The arbitrator's decision shall be final and binding on both parties. The arbitrator's award shall be based solely upon evidence, testimony and arguments appropriately presented by the parties in the hearing and any post hearing briefs.

Section 4. Time Frames

The arbitrator will be requested to render the decision as quickly as possible, but not more than thirty (30) calendar days after the conclusion of the hearing, unless the parties mutually agree to extend the time limit.

Section 5. Costs

Each party shall be responsible for paying its witnesses in an arbitration hearing, except that BCCC agrees to pay for the grievant and one Union Steward to attend an arbitration hearing conducted during the working day. Both parties shall share the cost of arbitration equally. The cost of a court reporter shall be borne by the party requesting that the proceeding be transcribed. Any fee(s) resulting from withdrawal, postponement or cancellation shall be borne by the requesting party.

Article 34. Drugs and Alcohol Abuse

Section 1. Generally

The College is committed to having a community free of drugs and alcohol. The College and the Union recognize the societal damage of substance abuse. The parties agree that the College must show the way towards achieving a drug- and alcohol-free workplace and academic community by recognizing the benefit of rehabilitation, and, at the same time, demonstrating to substance abusers and potential abusers that substance use will not be tolerated at the College. Permitting employees to work under the influence of drugs and alcohol is inconsistent with the special trust placed in the College's employees as servants of the public.

The possession, use, consumption, sale, purchase or distribution, dispensation, or manufacture by any employee of alcohol, illegal drugs, or any illegally-obtained drugs on the College's premises or within its facilities, or in the conduct of College-related work off College premises, or at anytime during the course of the workday, is strictly prohibited.

The College recognizes that an individual with alcoholism has a disability which is protected under the ADA. While people with alcoholism may be individuals with disabilities, the ADA still allows employers to hold them to the same performance and conduct standards as all other employees. Current illegal use of drugs is not protected by

the ADA. The College does not need to employ someone who is currently engaging in the illegal use of drugs.

The College encourages employees who are experiencing substance abuse problems to seek treatment through the College, the State's Employee Assistance Program, or self-referral to a certified rehabilitation program. Employees are encouraged to voluntarily do so in advance of, and ideally to avert, any adverse impact on work-related performance and behavior issues that substance use may lead to. The College will not terminate the employment of an employee who, in advance of any workplace incident, accident, injury or performance issue leading to discipline, voluntarily seeks assistance for a substance abuse program.

Section 2. Drug And Alcohol Use Or Abuse

A. Reporting to work or performing work duties after having ingested illegal drugs or unprescribed prescription drugs, or while under the influence of alcohol, is strictly prohibited. Under the influence of alcohol means having more than a trace of alcohol in the system.

B. An employee shall not report to work or perform his or her duties while taking prescribed drugs or over-the-counter medications which the employee knows or reasonably should know adversely affect the employee's ability to safely and effectively perform his or her job duties.

C. An employee who notifies his or her supervisors that he or she may not be able to safely and effectively perform his or her job because of his or her therapeutic drug use may take paid leave or leave without pay as permitted by the Leave Article of this MOU.

D. An employee who is called to report to work during an unscheduled time shall immediately inform his or her supervisor if he or she should not report to work. Employees should not report to work if doing so would violate this Article. An employee should consider his or her consumption of alcohol within the previous four (4) hours, and any drug or over the counter medication that would interfere with his or her ability to travel safely to work and/or perform safely and efficiently his or her job duties.

E. A referral to an Employee Assistance Program and/or a substance abuse rehabilitation program is not discipline. The College may discipline an employee based upon actions or inactions leading to the referral, and the employment of an employee who fails to participate successfully in such a Program when referred to it may be terminated, pursuant to Article on Discipline in this MOU.

Continued unacceptable job performance, attendance and/or behavioral problems shall result in disciplinary action, up to and including termination of employment in accordance with the Article on Discipline in this MOU.

An employee who is found guilty, accepts a plea of nolo contendere, or receives probation before judgment of an alcohol driving offense or a controlled dangerous substance offense shall report as such to the Executive Director of Human Resources within five (5) work days.

F. Violations of the aforementioned prohibitions will be subject to discipline up to and including termination in accordance with Article on Discipline in this MOU.

Section 3. Testing

A. Types

The College may require testing for illegal use of drugs, or alcohol level. The College will not ask that the samples provided for this purpose be used for other purposes.

Testing may take place only under the following circumstances:

1. Pre-Employment -- Applicants for employment who have received an offer of a job contingent on passing the substance abuse test.
2. Behavior Indicated (Reasonable Suspicion) Testing -- When the Executive Director of Human Resources has reasonable and specific grounds to believe that the actions, appearance and/or conduct of an employee are indicative of using alcohol or drugs, other than authorized and reported prescription or non-prescription drugs and that a test of the employee shall produce evidence of the illegal use of drugs or evidence of use of alcohol.
3. Post-Accident Testing -- An employee who was involved in an accident, or incident that resulted in injury to the employee or to another employee, student or visitor, shall be tested as soon as possible after the accident or injury. An employee, who is unable to submit to testing at the time of an accident due to the seriousness of his/her injuries, is required to provide the necessary authorization for obtaining hospital reports and other documentation that would indicate whether there were any drugs or alcohol in his/her body system.
4. Periodic Testing -- A sensitive employee may be required to submit to drug/alcohol testing during a fixed time frame, such as a return from leave.
5. Random Testing -- A sensitive employee will be required to submit to unannounced drug/alcohol testing when selected pursuant to a random selection process. Random testing requires that statistically significant samples of employees in sensitive classifications or in sensitive positions be tested on a periodic basis

If, during the duration of this MOU, the College becomes the administrator of its drug and alcohol testing program the College shall have a written system for random testing which shall include an identification of the specific system used to

arrive at who will be tested, what the statistically significant numbers are, what random sampling techniques are going to be used, etc. The College shall provide the union with a copy of this written system and any revisions of it at the time that it is developed.

6. The College may arrange for testing of an employee in a position or classification that has been designated as sensitive when the employee's participation in a Substance Abuse Rehabilitation-Program is not the result of having tested positive for drugs or alcohol. Such testing may be administered at any time during the employee's participation in the Program and the one-year period following the employee's successful completion of the program.

B. Certified Laboratory; Chain of Custody

When drug or alcohol testing in any of the above circumstances is required, all testing will be conducted by a College-designated, State-certified medical testing laboratory with appropriate chain of custody procedures in place to ensure accuracy and continuity in specimen collection, handling, transfer, and storage, as required by applicable law and regulation.

C. Cooperation In Testing

Employees are expected to cooperate fully in order to properly complete the testing procedure, including providing the necessary consent, written authorization, information and specimens for testing. Failure to provide specimens, any attempt to contaminate a specimen, or any other interference with the collection procedures are grounds for disciplinary action, up to and including discharge, pursuant to the Article on Discipline in this MOU.

D. Positive Test Results

1. All specimens identified as positive on the initial test will be verified by a confirmatory test. Gas chromatography/mass spectrometry (GC/MS) or an equivalent or better confirmation test shall be used in urine samples.

2. There shall be a split sample. In the event of a positive test result, the employee may request independent testing at his/her own expense, of a portion of the tested specimen for verification of the test results. If the independent test result is negative, the College will re-test the original sample.

3. Any sensitive employee whose test results are confirmed positive for illegal drugs or use of alcohol shall be subject to disciplinary action up to and including termination.

4. The College recognizes that there is a possibility of a false positive result. If the employee's retest and the College's re-test show that the original positive result was false, then the employee shall not be disciplined on the basis of the false positive test result, and shall not experience any loss in pay or benefits.

Section 4. Searches

The College retains the right to conduct reasonable searches and inspections of that employee while the employee is on College property, including its building, grounds and parking lot, or garage. Such searches will be conducted with respect for the employee and if the employee requests, with the presence of a job steward. Such searches may be of their lockers, desks, College-provided tool boxes, and College vehicles. The College may also request that an employee permit inspection of his or her baggage, brief case, or person. Any employee who refuses to submit to a search and/or inspection may be subject to disciplinary action up to and including termination of employment.

Section 5. Rehabilitation Required for Continued Employment

A. An employee's continued employment may be conditioned on the employee's enrollment in and satisfactory completion of a substance abuse rehabilitation program. If an employee is, in lieu of termination, required to enroll in a substance abuse rehabilitation program, the employee shall participate in a Program appropriate, length given the employee's circumstances that is at least six (6) months in duration. The employee shall be subject to periodic testing throughout the Program's duration. If an employee fails to enroll in the Program or does not successfully participate in and complete the Program or if the employee tests positive during the program or the one year following completion of the Program, the employee shall be terminated.

B. A current employee who applies for a sensitive position and tests positive on a drug test for illegal use of drugs shall be suspended without pay for fifteen (15) days. As a condition of returning to work, the employee shall enroll in a treatment program of at least six (6) months, be subject to periodic testing throughout this time, and submit a certification from an attending physician or other licensed professional associated with the rehabilitation program. The certification shall be made under oath to confirm that the employee has successfully participated in the program for at least six (6) months and has not tested positive.

C. At the conclusion of a Rehabilitation Program, the employee shall be required to submit to the Executive Director of Human Resources a certification from the attending physician, certified chemical dependency counselor, licensed certified social worker or licensed psychologist associated with the Program, certifying under oath that the employee has successfully participated in the Program and has not tested positive for use of illegal drugs or alcohol use at any point during the Program.

D. An employee who fails to enroll in a substance abuse rehabilitation program during the suspension period or who fails to successfully participate in a program for at least six (6) months shall be terminated. An employee who submits the proper certification and remains drug-free for 18 months may reapply for a sensitive position.

Section 6. Sensitive Employees

A. The College may designate certain positions as “sensitive”. Applicants for sensitive positions shall be tested for the illegal use of drugs as part of the selection process. The College shall provide the Union a list of classifications and positions designated as sensitive.

B. A refusal to submit to testing required as part of the selection process for a sensitive position shall result in disqualification and removal from list maintained to track eligible candidates.

C. A sensitive employee:

1. convicted of any controlled dangerous substance offense while employed by the College shall be terminated;
2. who tests positive for a controlled dangerous substance as a result of a random drug test shall be suspended for fifteen (15) work days and shall be required to successfully participate in a drug treatment program designated by an Employee Assistance Program;
3. who abuses prescription drugs provided to the employee or an over-the-counter drug shall, on a first offense, be suspended for five (5) workdays and be required to participate in a drug treatment program designated by the Employee Assistance Program.
4. who for the first time, is convicted of alcohol driving offense based upon activity that occurred during the employee’s work time or is found to be under the influence of alcohol while at work shall be suspended for fifteen (15) days and shall be required to successfully participate in an alcohol treatment program designated by the Employee Assistance Program.

Section 7. Alcohol Driving Offenses

A sensitive employee convicted of an off-duty alcohol driving offense, and a non-sensitive employee convicted of any alcohol driving offense shall:

- A. on the first conviction, be referred to an Employee Assistance Program and, in addition, be subject to appropriate discipline;

- B. on the second conviction, be suspended for a minimum of five (5) days, be referred to an Employee Assistance Program, be required to participate successfully in the designated treatment program, and be subject to any appropriate disciplinary action, up to and including termination;
- C. on the third conviction, be terminated.

Section 8. Records

Testing records shall be treated as confidential and shall be kept in employees' separate medical files.

Article 35. Employee Assistance Program

Section 1. Employee Assistance Program (EAP)

The College and the Union recognize the value of counseling and assistance programs to those employees whose personal problems affect the performance of their job duties and responsibilities. Employees may participate in the State's Employee Assistance Program in accordance with the Program's eligibility requirements. Participation in an EAP program is purely voluntary. Except as provided in Section 3, job security and promotional opportunities will not be jeopardized by an employee's participation in the EAP. The College shall treat documents received from the Program as confidential and shall not release them without the express written consent of the employee or as otherwise provided by law.

Section 2. Limited Waiver of Confidentiality

If the College and an employee enter into an agreement which includes the College's agreement to defer or reduce an otherwise immediate disciplinary action contingent upon the employee's successful participation in a treatment program, the employee shall be required to waive confidentiality in order to permit the College to verify the employee's successful participation in a treatment program. The employee shall be required to sign a release so that the program will provide the College with reports regarding the employee's successful participation (but without details on the employee's medical condition or history)., and, if appropriate, the employee's ability to perform his or her job safely and effectively and/or whether the employee needs to continue to participate in a program beyond the time period initially indicated.

These reports shall be submitted to and maintained by Human Resources. The reports shall be treated as confidential and shall not be maintained in the employee's regular personnel file.

Section 3. Adherence and Accountability

If an employee does not comply with all of the requirements contained in his or her Employee Assistance Program Participation Agreement (an agreement to participate in an EAP Program in order to defer or reduce an otherwise immediate disciplinary action), the College may take the level of disciplinary action that is appropriate under the circumstances and in line with the provisions of the MOU article on discipline.

Section 4. Referrals to EAP

If a supervisor or the College refers an employee to an Employee Assistance Program, then the College shall simultaneously give the employee a copy of the referral form and documents submitted with the referral.

Article 36. Essential Employees

The end-result of bargaining over this Proposal will be contained in the College's Procedures for Delayed Opening, Early Dismissal and Closing Due to Inclement Weather.

1. An Essential Employee is an employee of who has been designated as being vital to the College's operation, whose presence is required regardless of the existence of an emergency condition, and whose absence from duty could endanger the safety and well being of the campus population and/or physical plant. Examples of such employees are police, stationary engineers or other heating plant and maintenance personnel and snow removal employees.
2. Employees deemed "essential" may be required to report to work even though a decision has been made to close the College or delay its opening.
3. Each department is responsible for establishing and notifying which employees or class(es) of employees are considered essential and for establishing the conditions under which employees must report.

Article 37. College Delayed Opening, Early Dismissal or Closing

Section 1. Use of Release Time or Leave

- A. Whenever the college closes or delays opening, the period specified during which non-essential staff are not required to report will be recorded as emergency release (code 72). This is paid release time that is not charged to any employee leave balance.
- B. Liberal leave will be granted to non-essential staff who cannot comply with announced operations schedule.

- C. Essential employees who do not report as required may be subject to disciplinary action.
- D. If a non-essential employee does not have any accrued leave available, the employee may take leave without pay for liberal leave.
- E. Liberal leave means that employees may use available annual, compensatory or personal leave without advance approval of a supervisor. This does not apply to essential personnel.

Section 2. Compensation for Essential Employees

- A. Essential, Non-Exempt Skilled Service Employees who report in accordance with their departmental plan for two hours for each hour worked. If, at the end of the pay period in which an emergency closing occurred, the employee had worked more than 40 hours, the employee will be paid at time and one-half for each hour over forty or receive compensatory leave, whichever the employee chooses.
- B. Essential, Exempt Employees who report in accordance with their departmental plan will be credited with compensatory leave of one hour for each hour worked.

Section 3. Compensation for Non-Essential Employees in Special Circumstances

This Section shall become effective only if skilled service employees are removed from SPMS.

During special situations, an employee who has not been designated as an Essential Employee for a particular type of situation may be eligible to be paid in accordance with Section 2 above, subject to these requirements:

- A. In the event a supervisor determines that he or she has a specific project which requires work that may not be able to be completed by non-essential employees during a time when there may be a delayed opening, early closing or closing that results in an announcement that non-essential employees are not required to work, the supervisor will provide advance notice that he or she is seeking volunteers to work on a specific project.
- B. The number of volunteers solicited shall be selected based upon the number of employees the supervisor elects to schedule.
- C. No employee who previously volunteered to work pursuant to this Article but who failed to report to work shall be selected to work in this circumstance.

Article 38. Layoffs

The procedures in this article shall apply in the event that the College determines that layoffs of exempt bargaining unit employees are required. A layoff involves reallocating, consolidating or terminating program functions when the College confronts decreasing enrollment patterns, changing program priorities or fiscal crisis.

Section 1. Notice to the Union

The College will notify the Union at least ten (10) calendar days prior to the implementation of a layoff. The notice of the layoff shall include the number of bargaining unit employees and the reasons for the layoff. The College shall meet with the Union at its request within the ten (10) day period preceding the layoff to discuss the situation and the reasons for the layoff, the departments that will be affected, the total number of bargaining unit employees, and the expected duration of the layoff. The Union may provide and the College will consider alternatives to the announced layoff at this meeting or at a later meeting, if so requested by the Union. If requested, management will meet with the Union to discuss and consider alternatives to layoffs within one week of the request; however, this request shall not delay the effective date of the layoff.

Section 2. Notice to Affected Employees

Only after consultation with the Executive Director of Human Resources, the Department Head shall notify those employees who are to be laid off at least 60 calendar days before the effective date of the layoff. Employees shall be paid and shall not report to work during the notice period. During this period, the employee shall continue to have the status of being employed by the College.

The notice to the employees shall state:

1. The fact that the College has made a decision that circumstances require that the employee be laid off;
2. The reason or reasons for the layoff;
3. The effective date of the layoff;
4. The right to receive pay and not have to work for the sixty (60) day notice period;
5. Recall rights after layoff;
6. Reinstatement rights after layoff.

During the sixty (60) day period, the employee shall continue to have the status of being employed by the College.

Section 3. Displacement

There is no right for an employee affected by a layoff to displace another College employee.

Section 4. Outplacement Services

The College will provide off-campus outplacement services for all laid off employees when in the College's judgment the layoff will be for more than ninety days. Each eligible employee may request information about the types of counseling available for both the employee and his/her family. Free and confidential short-term counseling (max six sessions) and assessments and referrals for all affected employees will be provided covering the following and related topics:

- Job search skills
- Resume writing
- Stress and crisis management
- Grief and loss counseling
- Financial and adjustment planning/budgeting
- Family counseling

Section 5. Tuition

A. Waiver

The College shall continue to provide tuition waiver for those employees, their spouses and their dependent children enrolled in a class and using tuition waiver at the time that they receive notice of layoff until the end of the academic year that the layoff occurs, and the one immediately following semester.

B. Reimbursement

The College shall continue to provide tuition reimbursement for those employees enrolled in a class and using tuition reimbursement at the time that they receive notice of layoff until the end of the semester that the layoff occurs.

C. Remission

The College shall continue to provide tuition remission for those employees and their dependent children enrolled in a class and using tuition remission at the time that they receive notice of layoff until the end of the semester that the lay off occurred.

Section 6. Medical and Dental Benefits Continuation

In consideration of the hardships caused by layoff to employees and their families, the College shall pay the entire COBRA premium for those employees enrolled in the College's medical and dental plan at the time they receive notice of the layoff and who elect COBRA for two (2) months after the effective date of the layoff.

Section 7. Recall Rights

Employees who are laid off will be eligible for recall to their former position, or to another position requiring the same or substantially similar duties and the same qualifications as their former position for a period of up to one year. A qualified employee who has been laid off shall be offered the opportunity to fill a vacancy or contractual position prior to an internal candidate or other applicant. If employees are offered an opportunity for recall, they must accept the offer within seven (7) calendar days and report to work within fourteen (14) calendar days or they shall lose their recall rights.

Employees on the recall list shall be offered non-PIN opportunities that become available within the College within one year of layoff and that are within the job classification that the employee held prior to layoff. If an employee accepts a non-PIN position, this shall not affect his or her recall rights.

Section 8. Reinstatement Rights

If an employee who has been laid off returns to College service within three (3) years of the effective date of his or her layoff, the employee will have all unused sick leave restored to his or her sick leave balance. Reinstated employees shall receive service credit for all time periods of State and College employment. This credit shall determine the step in pay grade and rate of annual leave accrual.

Article 39- Termination of Employment of Grant and Contract Funded Employees Upon Termination of the Grant or Contract

At least thirty (30) calendar days before the effective date of termination, and only after consultation with the Executive Director of Human Resources, the Department Head shall notify those employees whose employment is terminated because funding from the grantor or the contractor ends. The notice period may be shortened if the College receives less than thirty (30) days notice from the grantor or contractor. Affected employees shall be entitled to Recall Rights, Outplacement Services and Tuition Waiver, as defined in Exempt Unit, Layoff Article.

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Article 40. Contracting Out/Outsourcing

Section 1. Generally

The College recognizes the integrity of positions comprising the bargaining unit. It shall act consistently with the State's current statutory policy to use State employees to perform State functions in State-operated facilities in preference to contracting with the private sector, unless otherwise permitted by law. The College shall adhere to the State Personnel and Pension Article Title 13 and this law is hereby incorporated in this Agreement as if fully set forth herein.

Section 2. Procedure

A. Notice

If the College proposes to displace employees in the bargaining unit by outsourcing to the private sector a function currently performed by employees in the bargaining unit, the College shall provide the Union with a written Notice at its earliest opportunity, but normally no later than sixty (60) days in advance of the publication of the RFP, unless circumstances require a shorter notice.

This Notice shall contain: (1) an explanation of the College's reason(s) for its outsourcing proposal, (2) a listing of the number of employees, department(s), location(s), position(s), and names of employees that the College anticipates its outsourcing proposal would affect upon implementation and (3) an accounting of the projected cost of the service contract as opposed to the cost of using College employees.

The College shall send a copy of the RFP prior to publication.

B. Meeting to Discuss the Union's Proposal

The Union may make a written Request to the Director of Human Resources to meet to discuss the reasons for outsourcing. If the Union elects to meet with the College in order to discuss the reasons for outsourcing it shall, within seven (7) calendar days of its receipt of the Notice described in Section A, make a request to meet with the College to discuss the decision with the Vice President of the affected department or his or her designee.

Following that meeting, the Union may request a meeting with the College to present a written Proposal to the College detailing the specific benefits associated with the continued employment of the current College employees rather than outsourcing, improvements that could be realized by changing existing practices or methods, and the Union's and the affected employees' commitment to demonstrating the benefits and putting into practice these improvements cited in the Union's proposal. If the Union

requests such a meeting, it shall occur within three weeks of the meeting referred to in the above paragraph.

C. College Response.

If the Union presents the College with a written Proposal in accordance with subsection B. above, the College shall consider the Proposal.

If the College determines that it will not at that time outsource and displace current employees, the College shall notify the Union within thirty (30) days of the date of its meeting with and receipt of the Union's proposal.

If the College's decision results in the displacement of current employees, the College shall proceed in accordance with the Layoff Article. A meeting requested by the Union and held pursuant to Section B is not a substitute for a meeting held pursuant to the Layoffs Policy to discuss alternatives to layoffs. However, the Union shall not present the College with the same proposal it presented pursuant to this Article as its proposal for an alternative to a layoff.

Nothing in this Article restricts the College's authority to determine whether to continue to employ current employees or to outsource.

The College shall provide the Union with a copy of the successful bid for all contracted work, the extent provided by law.

Article 41. Nepotism Prohibited

Section 1. General

A Family Relationship to another College employee is not an automatic bar to employment by the College.

An employee of the College shall not hire, supervise, line-manage, set conditions of employment or promote or evaluate subordinate employees with whom a family relationship exists.

Section 2. Definitions

A Family Relationship exists where an employee is related to another employee or spouse of an employee of the College by blood, marriage, or adoption and extends, to the following relationships: spouses, parents, children, siblings, in-laws, step-family members, aunts, uncles, nieces, nephews, cousins, and grandparents. This policy applies to all employees of the College, including support staff, administrative/professional staff, faculty and contractual employees.

A Supervisor or Line Manager includes anyone having the authority to make decisions, assign work or give orders to subordinates in the chain of command.

Section 3. Employee Obligations

If a supervisor/subordinate relationship develops between employees with a Family Relationship during employment, the employees shall immediately notify Human Resources. Human Resources shall recommend options for eliminating the supervisor/subordinate relationship including, but not limited to, transfer, reassignment or removal of one or more of the employees involved. Employees may come up with other alternatives. Once Human Resources has presented alternatives, the employees shall determine which alternative to take.

All employees and applicants for employment are required to disclose to the Executive Director of Human Resources the identity of any family member(s) employed by the College who work in the same chain of command and are in a supervisor/subordinate relationship.

Article 42. Child Care

Employees shall continue to have access to child care at BCCC for as long as child care is provided at BCCC and under the terms and conditions as exist at the present time.

Article 43. Time Clock

Facilities employees shall no longer punch the time clock effective as of August 31, 2004. All bargaining unit employees will use the same means to record their time.

Article 44. Social Security Numbers

The College shall not print or have printed a College employee's Social Security number on any type of identification card.

Article 45. Strikes and Lockouts

The parties agree to abide by the law prohibiting strikes and lockouts.

Article 46. Reinstatement

Not Applicable

Article 47. Savings and Effectiveness

Should any part of this MOU be declared invalid by operation of law or by a tribunal of competent jurisdiction, the remainder of the MOU shall not be affected but shall remain in full force and effect. In the event that any provision is thus rendered invalid, upon written request of either party, the parties shall meet promptly to negotiate a substitute for the invalid portion of the MOU.

If there are terms and conditions that can not be legally implemented at the point that the MOU is signed, and if a law changes that will make it legal to implement that term or condition, then the term or condition shall become effective on the earliest date possible by law.

Appendix A. Classification/Position List

ABE Facilitator
Academic Advisor
Academic Budget Analyst
Academic Computer Lab Coordinator
Academic Coordinator
Academic Learning Center Coordinator
Accountant
ACE Facilitator
Accountant (Procurement Card)
Administrative Assistant
Admissions Recruiter
Admissions Specialist
Advisor
Announcer/Producer, WBJC
Asst. Coordinator Federal Work Study
Asst Coordinator State-Funded Work Study
Asst Coordinator Math Learning Center
Asst Coordinator Test Center
Asst Dean Student Learning & Retention
Asst Director, Library & Media Services
Asst to Graduation/Registration Coordinator
Asst. General Manager, WBJC
Bi-Lingual Counselor
Budget Associate
Case Manager
Case Management Specialist
Chief Budget Officer
Chief Engineer, WBJC
Circulation Services Librarian
Catalog Management Specialist
Management Specialist
Computer Information Specialist/Webmaster
Computer Operations Manager
Computer Operations Specialist
Computer and Telecommunications Trainer/Cir. Specialist
Conference Planner
Coordinator, Academic Operations
Coordinator School Counts Program
Coordinator Academic Computer Lab
Coordinator Administrative Services
Coordinator Adult Community Education
Coordinator Grants & Contract Administration
Coordinator Math Learning Lab

Coordinator Novel Programs
Coordinator of COOP Education
Coordinator Help Desk
Coordinator Housing/Site Development
Coordinator of School Counts Program
Coordinator Registration Grad
Coordinator Veterans and International Students
Coordinator Administrative Services
Coordinator Publication Designs
Coordinator Credit Programs
Coordinator Records Data Management
Coordinator Reference Librarian
Coordinator Reference and Instructional Service
Coordinator Retention Specialist
Coordinator Writing Lab
Coordinator Academic Operations
Coordinator English Computer Lab
Coordinator Outreach
Coordinator Talent Search
Coordinator Science Resource & Learning
Coordinator Special Events
Counselor
Data Security Specialist
Desktop Publishing Specialist
Development Associate
Development Director, WBJC
Disability Support Services Counselor
Diagnostician
DP Programmer
Education Coordinator
ESL Instructor
ESL Language Lab Instructor
ESL Student Advisor
ESL Instructional Specialist
Facilitator
Financial Aid Outreach Coordinator
Financial Aid Program Officer
Financial Aid Counselor
Financial Aid Specialist
Graduation/Registration Coordinator
Grants Specialist
Grants Writer
Help Desk Analyst
Instructional Specialist
Inventory Control Specialist

Job Developer
Job Readiness Instructor
Lead Recruiter
Learning Community Mentor
Learning Disabilities Specialist
Library Technician
Library Technician, Circulation
Manager Off-Campus Credit Programs
Manager Quality Assurance
Manager Workforce Development
Marketing Associate
Nursing Lab Manager
Membership Coordinator, WBJC
Membership Director
Membership Operations Assistant
Mentor
Office Manager
Operations Director, WBJC
Procurement Specialist
Program Analyst
Programmer
Programmer Analyst
Program Counselor
Program Director, WBJC
Program Guide Editor, WBJC
Public Service/Electronic Reference Librarian
Recruiter
Research Analyst
Restricted Fund Accountant
Retention Specialist
Retention Technician
Scholarship Program Advisor
Senior Financial Aid Specialist
Student Affairs Advisor
Success Specialist
Systems Analyst
Systems Tech Services Librarian
Training Coordinator
Transfer Counselor SSS
Transfer Counselor/Retention Specialist SSS
Transfer Specialist
Webmaster
Weekend College Coordinator

Appendix B. List of Essential Employee Positions

(This is a list of essential employee positions established at ratification and subject to change, alteration, and modification by the College)

#	Department or Unit	Title	Day of Week	Code (see Chart – Section F)	Essential	Bargaining Unit Employees	Coverage/Assignment
1.	Payroll Office	Payroll Department Manager	Tuesday, Wednesday and Thursday – Preparation of Payroll (Tuesday, if payroll advanced due to Holiday)	Red, Blue	X		Prepare payroll for submission to Annapolis
2.	Payroll Office	Payroll Office Supervisor	Tuesday, Wednesday and Thursday – Preparation of Payroll (Tuesday, if payroll advanced due to Holiday)	Red, Blue	X		Prepare payroll for submission to Annapolis
3.	Payroll Office	Contract Processing Supervisor	Wednesday (Tuesday, if payroll advanced due to Holiday)	Red, Blue	X		Prepare payroll for submission to Annapolis
4.	Central Receiving Department	Central Receiving Supervisor	Tuesday (Monday, if payroll advanced due to Holiday)	Red, Blue	X	X	Pick-up posted paychecks from mailroom and deliver to the post office
5.	Cashier's Office	Cashier Supervisor	Tuesday	Red, Blue	X		Sort and stuff payroll checks; contact mailroom supervisor one hour prior to checks being ready to mail. Deliver to mailroom
6.	Cashier's Office	Cashier	Tuesday	Red, Blue	X	X	Sort and stuff payroll checks; contact mailroom supervisor one hour prior to checks being ready to mail. Deliver to mailroom
7.	Mailroom	Team Leader	Tuesday	Red, Blue	X	X	Post payroll checks
8.	Plant Operations	Fleet Manager	Tuesday (Monday, if payroll advanced due to Holiday)	Red, Blue	X		Pick-up paychecks from Preston Street and deliver to Cashier's Office;
9.	Plant Operations	Electrician	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow, fire, bomb and electrical emergencies.

#	Department or Unit	Title	Day of Week	Code (see Chart – Section F)	Essential	Bargaining Unit Employees	Coverage/Assignment
10.	Plant Operations	Grounds Keeper	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and flood emergencies.
11.	Plant Operations	Maintenance Chief I	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and HVC emergencies.
12.	Plant Operations	Maintenance Mechanic	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and Plumbing emergencies
13.	Plant Operations	Painter	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and flood emergencies
14.	Plant Operations	Plumber	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow, flood and plumbing emergencies.
15.	Plant Operations	Stationary Engineer	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and HVAC emergencies.
16.	Plant Operations	Carpenter	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and flood emergencies.
17.	Plant Operations	Carpenter (Trim)	Sunday-Saturday	Red, Blue, Yellow	X	X	Snow and flood emergencies.
18.	CITS	Executive Director	Sunday-Saturday	Blue	X		According to departmental guidelines established by Executive Director of CITS
19.	CITS	Assistant Director	Sunday-Saturday	Blue	X		According to departmental guidelines established by Executive Director of CITS
20.	CITS	Operations Supervisor	Sunday-Saturday	Blue	X		According to departmental guidelines established by Executive Director of CITS
21.	CITS	Network Infrastructure Supv.	Sunday-Saturday	Blue	X	X	According to departmental guidelines established by Executive Director of CITS
22.	CITS	PC Supervisor	Sunday-Saturday	Blue	X		According to departmental guidelines established by Executive Director of CITS
23.	CITS	Network Engineer	Sunday-Saturday	Blue	X	X	According to departmental guidelines established by Executive Director of CITS
24.	CITS	Programmers/System Analyst	Sunday-Saturday	Blue	X	X	According to departmental guidelines established by Executive Director of CITS
25.	Public Safety	Police Officer I,II,III, Trainee	Sunday-Saturday	Red, Blue, Yellow	X	X	According to departmental guidelines established by the Director of Public Safety
26.	Public Safety	Building Guard I,II	Sunday-Saturday	Red, Blue, Yellow	X	X	According to departmental guidelines established by the Director of Public Safety

Appendix C. Accident Leave- Law and Regulation

SPP Title 9, Subtitle 7. Work-Related Accident Leave.

§ 9-701. Work-related accident leave authorized.

(a) In general.- Each employee in the State Personnel Management System, except a temporary employee, is entitled to work-related accident leave with sick pay if:

(1) the employee sustains a disabling personal injury that would be compensable under the Maryland Workers' Compensation Act; and

(2) a physician examines the employee and certifies that the employee is disabled because of the injury.

(b) Right to file Workers' Compensation claim.- The appointing authority of an employee entitled to work-related accident leave shall notify the employee of the employee's right to file a claim with the Workers' Compensation Commission.

[An. Code 1957, art. 64A, § 37; 1993, ch. 10, § 2; 1995, ch. 540; 1996, ch. 347, § 1.]

§ 9-702. Period of leave; leave for continuing treatment; additional 6 month leave.

(a) Period of leave- An employee may use work-related accident leave:

(1) beginning on the first day of disability; and

(2) continuing until the earlier of:

(i) the day that the employee is able to return to work, as certified by a physician; or

(ii) 6 months from the day of disability.

(b) Leave for continuing treatment- After an employee returns to work, work-related accident leave may be granted for continuing treatment as certified by a physician selected by the appointing authority up to 6 months from the day of the original disability.

(c) Additional 6-month leave- Work-related accident leave may be granted for up to an additional 6 months if:

(1) the employee is certified by a physician selected or accepted by the appointing authority; and

(2) no decision has been reached by the Workers' Compensation Commission on the employee's claim.

[An. Code 1957, art. 64A, § 37; 1993, ch. 10, § 2; 1995, ch. 540; 1996, ch. 347, § 1.]

§ 9-703. Periodic examination.

The appointing authority may require an employee on work-related accident leave to be examined periodically by a physician selected or accepted by the appointing authority to determine the employee's progress and the length of time necessary for the employee's recovery.

[An. Code 1957, art. 64A, § 37; 1993, ch. 10, § 2; 1996, ch. 347, § 1.]

§ 9-704. Sick pay.

(a) Basis of pay.- Payment to an employee for work-related accident leave taken under this subtitle shall be based on two-thirds of the employee's regular pay.

(b) As separate benefit.- Payment for work-related accident leave taken under this subtitle constitutes a separate benefit on account of accidental disability and is not a continuation of salary.

(c) Other benefits- Notwithstanding the reduced rate that an employee is paid while using work-related accident leave, the employee:

(1) continues seniority and leave accruals based on the employee's regular pay; and

(2) does not lose health care benefits with the subsidy allowed in Title 2, Subtitle 6 of this article solely because of use of the work-related accident leave.

(d) Effect of receiving payment- An employee may not receive temporary total disability benefits under the Maryland Workers' Compensation Act while the employee is receiving payment under this subtitle.

[An. Code 1957, art. 64A, § 37; 1993, ch. 10, § 2; ch. 616, § 2; 1994, ch. 471, § 3; 1996, ch. 347, § 1.]

§ 9-705. Subrogation.

(a) State as subrogee- If someone other than the employee or the State causes an injury for which work-related accident leave is taken under this subtitle, the State, as employer, after giving written notice to the employee, is subrogated to the rights of the employee to the extent of any compensation paid or owed under this subtitle.

(b) State may bring action.- The State, in its own name and for its own benefit, may bring an action or join in an action if:

(1) within 90 days after the employee receives notice from the State under subsection (a) of this section, the employee fails to:

(i) enforce the claim against the person causing the injury; or

(ii) give written notice to the State of an intent to do so; or

(2) within a reasonable time after giving the State notice of an intent to enforce the claim against the person causing the injury, the employee fails to take action to enforce the claim.

(c) Other claims not barred.- An action brought by the State under this section is not a bar to any other claim related to the injury.

[An. Code 1957, art. 64A, § 37; 1993, ch. 10, § 2; 1996, ch. 347, § 1.]

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.07 Work-Related Accident Leave.

A. Eligibility for work-related accident leave is governed by State Personnel and Pensions Article, Title 9, Subtitle 7, Annotated Code of Maryland.

B. Notice of Right to File Workers' Compensation Claim. Within 14 days of receiving notice that an employee has been disabled by a work-related injury, the appointing authority shall notify the employee, in writing, of the employee's right to file a claim with the Maryland Workers' Compensation Commission.

C. Employee's Notice of Accident; Appointing Authorities Reports.

(1) The employee, or an individual acting on the employee's behalf, shall provide oral or written notice of the accident to the employee's appointing authority immediately after the accident occurs.

(2) The employee, or an individual acting on the employee's behalf, and the employee's supervisor, shall complete a report of injury, and provide this report and any available health care provider reports to the employee's appointing authority, within 3 working days after the accident occurs.

(3) The employee's appointing authority shall file an employer's first report of injury with the Injured Workers' Insurance Fund immediately after receipt of the report of injury specified in §C(2) of this regulation.

D. Employee's Claim; Medical Examinations. The Injured Workers' Insurance Fund or the employee's appointing authority, or both, may refer an employee to a health care provider for examination to determine the nature and extent of the injury, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work. An appointing authority who refers an employee to a health care provider shall file with the Injured Workers' Insurance Fund a report stating the circumstances of the referral and the health care provider's prognosis.

E. Granting of Work-Related Accident Leave; Notification of Compensability or Noncompensability by Workers' Compensation Commission.

(1) The appointing authority shall grant work-related accident leave to an employee in accordance with State Personnel and Pensions Article, §9-702, Annotated Code of Maryland.

(2) If a Workers' Compensation Commission order determines that the injury is not compensable, the appointing authority shall correct the employee's leave record to reflect a conversion of the work-related accident leave which was granted in advance of the notification under §F(1) of this regulation, to leave with pay, or, if the employee does not have leave with pay, to leave of absence without pay.

(3) The employee shall reimburse the State for any leave advanced under this section for an injury which is subsequently determined to be noncompensable.

(4) If a compensable injury is caused by a third person, the State, after written notice to the injured employee, shall be subrogated to the rights of the employee to the extent of any compensation paid or owed. If the employee fails to enforce a claim against the third person, the State may bring an action in its own name, in accordance with State Personnel and Pensions Article, §9-705, Annotated Code of Maryland.

F. Temporary Total Benefits; Medical and Hospital Expenses.

(1) An injured employee may be entitled to temporary total benefits for loss of wages according to the Maryland Workers' Compensation Act only after all available work-related accident leave has been used.

(2) Medical and hospital expenses may be paid on behalf of an injured employee in accordance with the Maryland Workers' Compensation Act.

G. After an employee has used work-related accident leave for an injury for 6 continuous months and the employee continues to use work-related accident leave immediately following that 6-month period, the work-related accident leave shall be recorded as work-related accident leave with sick pay, which is exempt by federal law from Social Security taxes, on all time-keeping records beginning on the first day of that month that follows the last day of the 6-month period.