

Table of Contents

ARTICLE 1 PARTIES, RECOGNITION, AND REPRESENTATION.....	14
Section 1: Parties to the Agreement.....	14
Section 2: Recognition of Unit	14
Section 3: Unit of Recognition	14
Section 4: New Positions	14
Section 5: Recognition of Representatives.....	14
ARTICLE 2 PRECEDENCE OF LAW, REGULATION, AND OTHER MATERIAL.....	16
Section 1: Relationship of Law and Regulations.....	16
Section 2: Department of Commerce Regulations and Policies	16
Section 3: Titles, Tools, and Forms	16
ARTICLE 3 DEFINITION AND ACRONYMS.....	17
ARTICLE 4 MANAGEMENT RIGHTS AND OBLIGATIONS.....	19
Section 1: Reserved Rights.....	19
Section 2: Response to Association Requests.....	19
Section 3: Policies.....	19
Section 4: Employee Information Breaches	20
Section 5: Notification of Formal Discussions.....	20
Section 6: Communication with the Association.....	20
Section 7: Notification of Rights to Representation in Investigatory Discussions.....	20
Section 8: List of POPA Bargaining Unit Employees.....	21
ARTICLE 5 (old 6) EMPLOYEE RIGHTS	22
Section 1: Right to Form, Join, or Assist Labor Organizations.....	22
Section 2: Matters of Personal Concern.....	22
Section 3: Right to Choose a Representative.....	22
Section 4: Personnel Records	22
Section 5: Fair and Equitable Treatment	22
Section 6: Weingarten Investigatory Meetings.....	23
Section 7: Position Descriptions.....	23
Section 8: Desk Audits.....	24
Section 9: Whistleblower Protection	24
Section 10: Resignation.....	24

Section 11: Combined Federal Campaign.....	25
Section 12: Request for Personnel Actions	25
ARTICLE 6 (old 7) EMPLOYEE OBLIGATIONS.....	26
Section 1: Knowledge of Law and Policy.....	26
Section 2: Emergency Contact Information.....	26
ARTICLE 7 (old 8) ASSOCIATION RIGHTS	27
Section 1: Right to Bargain.....	27
Section 2: Newly Hired Unit Members.....	27
Section 3: New Employee Orientation	27
Section 4: Formal meetings.....	27
Section 5: Annual Association Meetings.....	27
Section 6: Electronic Communications/Union use of Agency Email at Headquarters and Regional Offices	28
Section 7: Professional Staffing Goals Meetings.....	28
ARTICLE 8 (old F) LABOR-MANAGEMENT COMMITTEES AND HEALTH AND SAFETY.....	29
Section 1: Purpose.....	29
Section 2: Composition of Discussion Groups	29
Section 3: Discussion Groups.....	29
Section 4: Observers.....	30
Section 5: Additional Attendees.....	30
Section 6: Composition of Joint Labor Management Committee.....	30
Section 7: Meetings	30
Section 8: Facilitation.....	31
Section 9: Health and Safety Committee.....	32
Section 10: Labor Management Forum.....	32
ARTICLE 9 OFFICIAL TIME	33
Section 1: Association Authorization to Use Official Time	33
Section 2: Time Accounting.....	33
Section 3: Bank Time.....	34
Section 4: Additional Official Time	34
Section 5: Activities for Which Official Time is not Available.....	35
Section 6: Nondiscrimination Based on Association Activity.....	35
ARTICLE 10 ASSOCIATION USE OF AGENCY FACILITIES AND EQUIPMENT.....	36

Section 1: Association Office Space	36
Section 2: Use of Other Facilities	36
Section 3: Contractor Access.....	36
Section 4: Equipment	37
ARTICLE 11 DUES WITHHOLDING	38
Section 1: Eligibility.....	38
Section 2: Association Responsibilities.....	38
Section 3: Management Responsibilities.....	38
Section 4: Procedures for Withholding	39
Section 5: Changes in Dues Amount.....	39
Section 6: Revocation.....	39
ARTICLE 12 (old 23) EARNINGS AND LEAVE STATEMENTS.....	40
Section 1: Report Improper Pay and Other Monetary Issues.....	40
Section 2: Investigation and Response.....	40
Section 3: Other Documents	40
Section 4: Pay and Leave Issues	40
ARTICLE 13 (old 12) GRIEVANCE PROCEDURE.....	41
Section 1: Introduction.....	41
Section 2 Overview	41
Section 3 Election of Forum	42
Section 4: General Provisions	42
Section 5 Procedural Requirements and Process for Filing an Employee Grievance	44
Section 6: Association and Agency Grievance Procedure.....	46
ARTICLE 14 (old 13) ARBITRATION.....	47
Section 1: Invocation	47
Section 2: Selection of Arbitrator.....	47
Section 3: Scheduling	48
Section 4: Arbitration Procedures	48
ARTICLE 15 (old D) EQUAL EMPLOYMENT OPPORTUNITY.....	51
Section 1: Support for Equal Employment Opportunity	51
Section 2: Non-Discrimination Provision	51
Section 3: Formal Meeting Requirement.....	51
Section 4: Support for DEIA.....	51

Section 5: Affirmative Action Plan and EEO Complaint Process.....	51
Section 6: Posting EEO Complaint Procedures.....	51
Section 7: Information to POPA	52
Section 8: Availability of EEO Counseling.....	52
Section 9: EEO Counselors	52
Section 10: Informal Counseling	52
Section 11: Requesting an EEO Counselor	52
Section 12: Reasonable Time for EEO Counseling.....	52
Section 13: Confidential Setting for Counseling.....	53
Section 14: Confidentiality.....	53
Section 15: No Coercion	53
Section 16: Providing Data to EEO Counselors	53
Section 17: Information to Employees.....	53
Section 18: Meetings on EEO Related Topics	53
Section 19: Make Whole Provision	53
Section 20: Election of Forum.....	54
ARTICLE 16 (old 14) MIDTERM BARGAINING	55
Section 1: General.....	55
Section 2: Substantive Bargaining	55
Section 3: Bargaining Pursuant to 5 U.S.C. §7106(b)(2) and §7106(b)(3) Notice and Submission of Proposals.....	55
Section 4: Rules Applicable to All Bargaining.....	56
Section 5: Conduct of Bargaining	56
Section 6: Mediation, Negotiability and Impasse.....	57
Section 7: Agency Head Review	57
Section 8: Predecisional Involvement (PDI).....	57
Section 9: Emergency or Overriding Exigency	58
ARTICLE 17 (old 16) AUTOMATION.....	59
Section 1: Product Definition.....	59
Section 2: Priorities for IT Development.....	59
Section 3: Annual Automation Briefing	59
Section 4: Product Engagement.....	60
Section 5: Track 1 Engagement Process	61

Section 6: Track 2 Engagement Process	62
Section 7: Additional User Input	63
Section 8: New Hardware	64
Section 9: Hardware Return or Exchange	64
Section 10: Software or Hardware Deployment and Training	65
Section 11: IT Deployment Timing.....	65
Section 12: IT Notification Management	66
ARTICLE 18 (old H) NEW HIRES.....	67
Section 1: Fingerprinting	67
Section 2: Patent Training Academy Work schedules	67
ARTICLE 19 (old 24) WORK SCHEDULES	68
Section 1: Definitions	68
Section 2: Provisions Applicable to all Work Schedules.....	68
Section 3: Full Time Work Schedules	71
Section 4: Flexible 8 Hour Schedule.....	71
Section 5: Increased Flextime Program (IFP).....	71
Section 6: Fixed 8-Hour Work Schedule	73
Section 7: Compressed Work Schedules (CWS)	73
Section 8: Selecting and Changing Work Schedules.....	75
Section 9: Restrictions on Work Schedules	76
Section 10: Part-time Work Schedules.....	77
ARTICLE 20 (old 25) OVERTIME	78
Section 1: Availability of Overtime	78
Section 2: Overtime Hours and Pay Limitations.....	78
Section 3: When Overtime Hours May Be Performed.....	79
Section 4: Temporary Prohibition on Working Overtime.....	79
Section 5: Overtime Eligibility for Patent Examiners.....	79
ARTICLE 21 (old 26) COMPENSATORY TIME	82
Section 1: General Provisions	82
Section 2: Use of Regular Compensatory Time.....	84
Section 3: Maternity/Paternity Compensatory Time.....	84
Section 4: Religious Compensatory Time.....	84
Section 5: Travel Compensatory Time.....	86

ARTICLE 22 (old 27) REGULAR CREDIT HOURS	87
Section 1: General Usage.....	87
Section 2: Regular Credit Hours (i.e., non-IFP Credit Hours)	87
Section 3: Other Credit Hours.....	88
ARTICLE 23 (old 28) ANNUAL LEAVE.....	89
Section 1: Right to Annual Leave.....	89
Section 2: Procedures for Requesting Scheduled Annual Leave	89
Section 3: Procedures for Requesting Unscheduled Annual Leave.....	89
Section 4: Conflicting Requests for Annual Leave	89
Section 5: Change in Leave Plans.....	90
Section 6: Forfeiture of Annual Leave	90
Section 7: Denial of Requests for Annual Leave.....	90
Section 8: Substituting Sick Leave for Annual Leave.....	90
Section 9: Advanced Annual Leave.....	91
ARTICLE 24 (old 29) SICK LEAVE.....	92
Section 1: General.....	92
Section 2: Requesting Sick Leave	92
Section 3: Medical Documentation	93
Section 4: Leave Restriction	93
Section 5: Substituting Annual Leave for Sick Leave.....	94
Section 6: Advanced Sick Leave	94
Section 7: Limits on the Amounts of Sick Leave.....	95
Section 8: Voluntary Leave Bank Program (VLBP)	95
Section 9: Voluntary Leave Transfer Program (VLTP).....	95
ARTICLE 25 (old 30) MATERNITY/PATERNITY LEAVE	96
Section 1: USPTO Policy for Non-Probationary Employees	96
Section 2: For Probationary and Trial Period Employees with no FMLA Rights	96
Section 3: For Probationary and Trial Period with FMLA Rights.....	96
Section 4: Sick Leave Related to the Birth of a Child.....	97
Section 5: Sick Leave to Care for a Family Member.....	97
Section 6: Sick Leave for Adoption of a Child	97
Section 7: Family and Medical Leave Act (FMLA).....	98
Section 8: Paid Parental Leave (PPL).....	98

Section 9: Voluntary Leave Bank Program (VLBP)	98
Section 10: Voluntary Leave Transfer Program (VLTP).....	99
Section 11: Notice to Supervisor	99
Section 12: Maternity/Paternity Compensatory Time	99
Section 13: Rest Periods.....	100
ARTICLE 26 (old 31) ADMINISTRATIVE LEAVE AND OTHER LEAVE	101
Section 1: Weather and Safety Leave	101
Section 2: Absence for Voting and Registration.....	101
Section 3: Court Leave	101
Section 4: Blood Donations	101
Section 5: Medical Rest Periods.....	102
Section 6: Parental Bereavement Leave.....	102
ARTICLE 27 (old 32) LEAVE WITHOUT PAY AND FAMILY MEDICAL LEAVE ACT.....	104
Section 1: General.....	104
Section 2: Purpose.....	104
Section 3: Requesting Leave Without Pay.....	104
Section 4: Requests for Leave Without Pay for 30 Days or More.....	105
Section 5: Family and Medical Leave Act (FMLA).....	105
Section 6: Voluntary Leave Bank Program (VLBP)	105
Section 7: Voluntary Leave Transfer Program (VLTP).....	106
ARTICLE 28 (old P) WITHIN-GRADE INCREASE.....	107
ARTICLE 29 (old E) AWARDS	108
Preamble	108
Section 1: Negotiation of Awards.....	108
Section 2: Maintaining the Status Quo.....	108
Section 3: Renegotiations Provision	109
Section 4: Posting of Awards MOUs and Agreements.....	109
ARTICLE 30 (old O) CHANGE IN ART	110
Section 1: Dockets.....	110
Section 2: Changes in Area of Examination for Examiners.....	110
ARTICLE 31 (old B) ADVERSE ACTIONS BASED ON PERFORMANCE.....	111
Section 1: Overview	111
Section 2: Documentary Evidence.....	111

Section 3: Procedures for Proposed Adverse Actions	111
Section 4: Reduction-in-Grade, Resignation, or Retirement	112
Section 5: Grievances and Appeals of Adverse Actions.....	112
Section 6: Information to the Union	113
ARTICLE 32 (old C) PERFORMANCE MANAGEMENT.....	114
ARTICLE 33 (old A) DISCIPLINARY AND ADVERSE ACTIONS BASED ON CONDUCT	115
Section 1: Overview	115
Section 2: Documentary Evidence for all Proposed Actions.....	115
Section 3: Procedures for Proposed Suspensions of 14 days or less.....	116
Section 4: Procedures for Proposed Adverse Actions	117
Section 5: Procedures for Proposed actions Related to Crimes.....	118
Section 6: Resignation or Retirement	118
Section 7: Grievances and Appeals of Disciplinary and Adverse Actions.....	118
Section 8: Information to the Union	118
Section 9: Agency Facility and Network Access Restrictions	119
Section 10: Employee Responsibilities.....	120
ARTICLE 34 (old I) VOLUNTARY INTRA-AGENCY TRANSFERS.....	121
Section 1: Requesting Transfer to an Art Unit	121
Section 2: No Derogatory Connotations from Transfer Request.....	121
Section 3: Necessary Information	121
Section 4: Decision Factors	121
Section 5: Submitting a Request	121
Section 6: Performance Improvement Period.....	122
Section 7: Probationary Period or Trial Period for New Employees.....	122
Section 8: Decision Timeframe.....	122
ARTICLE 35 (old 17) COMPETITIVE STAFFING.....	123
Section 1: General Principles.....	123
Section 2: Employee Responsibilities.....	123
Section 3: Scope of Article	123
Section 4: Impact of Details	124
Section 5: Vacancy Announcements.....	125
Section 6: Referral of Applicants.....	125
Section 7: Rating of Record.....	125

Section 8: Rating and Ranking	125
Section 9: Selection	126
Section 10: Post Selection.....	126
Section 11: Documentation.....	126
Section 12: Corrective Action and Priority Consideration.....	127
Section 13: Retroactive Pay.....	127
ARTICLE 36 (old 18) NONCOMPETITIVE PROMOTIONS.....	128
Section 1: Career Ladder Promotions	128
Section 2: Accelerated Career Ladder Promotions for "newly hired" Patent Examiners	128
Section 3: Career Ladder Promotions for Part-Time Employees.....	129
Section 4: Impact of Detail.....	129
Section 5: Timing of Promotion	129
ARTICLE 37 (old 33) REORGANIZATION AND REALIGNMENTS	131
Section 1: Definitions	131
Section 2: Association Notification.....	131
Section 3: Art Unit Realignments within a Technology Center	131
Section 4: Hardship.....	132
Section 5: Physical Relocations.....	132
Section 6: Changes to Performance Appraisal Plan.....	132
Section 7: Unresolved Impacts	132
Section 8: Employee Initiated Realignments	132
Section 9: Learning Curves.....	133
ARTICLE 38 (old 34) REASSIGNMENTS.....	134
Section 1: Definitions and Scope of Article	134
Section 2: Hardship.....	134
Section 3: Avoidance of Reductions-in-Force	134
Section 4: Reducing Impact Due to Reassignment	134
Section 5: Notification to Employees	134
Section 6: Employee Requested Reassignments.....	134
Section 7: AgencyInitiated Reassignments Due to Staffing or Workload Needs	135
Section 8: Other AgencyInitiated Reassignments.....	136
ARTICLE 39 (old 35) REDUCTION-IN-FORCE.....	137
Section 1: Definition	137

Section 2: VERA and VSIP Authority Request	137
Section 3: If OPM Grants VERA/VSIP Authority.....	137
Section 4: Pre-RIF Meeting with the Association	138
Section 5: Pre-RIF Meeting with Employees.....	139
Section 6: Additional Provisions	139
ARTICLE 40 (old K) CONTRACTING OUT	140
Section 1: Contracting Out Defined.....	140
Section 2: Information to The Association.....	140
Section 3: Assistance to Affected Employees	140
Section 4: Reduction-In-Force (RIF)	140
ARTICLE 41 (old 19) DETAILS.....	141
Section 1: Definition of a Detail	141
Section 2: Career Development Details.....	141
Section 3: Information Sharing	142
Section 4: Vacancy Announcements for Career Development Details.....	142
Section 5: Crediting Time While on Detail for Awards	142
Section 6: Notification Requirements	143
Section 7: Detail Documentation and Rating Process	144
Section 8: Management Assigned Details.....	144
Section 9: External Details	144
ARTICLE 42 (old 20) PROFESSIONAL TRAINING AND DEVELOPMENT	145
Section 1: Training Introduction.....	145
Section 2: Technical Reading.....	145
Section 3: Outside Conferences, Seminars, Meetings, and Classes	145
Section 4: Professional Training Program.....	146
Section 5: Site Experience Education (SEE) Program	146
Section 6: Professional Credentials Reimbursement	146
ARTICLE 43 (old 21) NON-DUTY HOURS LEGAL STUDIES PROGRAM	147
Section 1: Overview	147
Section 2: Eligibility.....	147
Section 3: Funding for the Program.....	148
Section 4: Timing of Reimbursement.....	149
Section 5: Procedures	150

Section 6: Credits and Monetary Expenses.....	151
Section 7: Approval of Courses	151
Section 8: Continuing Service Agreement (CSA)	151
Section 9: Non-Loan Financial Aid	152
Section 10: Administrative Leave for Bar Exam.....	153
Section 11: Approval of Courses	153
Section 12: Reduction, Suspension, or Termination of Funding.....	153
Section 13: Appendices	153
ARTICLE 44 (old 22) NON-DUTY HOURS TECHNICAL TRAINING PROGRAM.....	154
Section 1: Overview.....	154
Section 2: Eligibility.....	154
Section 3: Procedures	155
Section 4: Credits and Monetary Limits.....	156
Section 5: Approval of Courses	156
Section 6: Continuing Service Agreement (CSA)	156
Section 7: Reduction, Suspension or Termination of Funding	157
ARTICLE 45 (old 36) OFFICE SPACE AT ALEXANDRIA HEADQUARTERS.....	158
Section 1: Office Size.....	158
Section 2: Physical Facilities	158
Section 3: Moving between Offices.....	159
Section 4: Office Selection	160
Section 5: Move to Exterior Office	160
Section 6: Organizational Boundaries.....	160
Section 7: Amenities.....	161
Section 8: Prohibited Items in Personal Offices.....	161
Section 9: Office Safety and Maintenance.....	162
Section 10: Ergonomic Equipment	162
Section 11: Office Decoration.....	162
Section 12: Building Access.....	163
ARTICLE 46 (old 37) REGIONAL OFFICES.....	164
Section 1: Consistency of Working Conditions.....	164
Section 2: Time Zones and HVAC Hours	164
Section 3: Site Accessibility and Security	164

Section 4: Operating Status of Regional Offices.....	165
Section 5: Facilities Issues.....	165
Section 6: Amenities.....	165
Section 7: Health and Safety Issues.....	166
Section 8: Automated Systems and Collaboration Tools.....	166
Section 9: Association Arrangements.....	166
Section 10: Travel by Employees Assigned to a Regional Office.....	167
Section 11: Visits from Employees not Stationed at a Regional Office.....	167
Section 12: Relocating Between Regional Offices and the Alexandria Headquarters.....	168
Section 13: Closure of a Regional Office.....	168
ARTICLE 47 (old J) RETIREMENT PLANNING.....	169
Section 1: General.....	169
Section 2: Retirement Classes.....	169
Section 3: Information about Training.....	169
Section 4: Individual Retirement Counseling.....	169
Section 5: Phased Retirement.....	170
ARTICLE 48 (old G) HEALTH SERVICES.....	171
Section 1: Regional Offices.....	171
Section 2: USPTO Headquarters.....	171
Section 3: Test and Examination Results.....	171
ARTICLE 49 (old L) CHILD CARE CENTERS.....	172
Section 1: Child Care Centers.....	172
Section 2: Priority.....	172
Section 3: Subsidies.....	172
ARTICLE 50 (old M) ADDITIONAL PROVISIONS.....	173
Section 1: Future Discussion of Employee Feedback.....	173
Section 2: Assessments Upon Return to Examining.....	173
ARTICLE 51 (old N) INFORMATION TO THE ASSOCIATION.....	174
ARTICLE 52 (old 39) REPRODUCTION AND DISTRIBUTION OF THE AGREEMENT.....	175
ARTICLE 53 (old 40) TRANSITION AND DURATION.....	176
Section 1: Transition to This Agreement.....	176
Section 2: Duration.....	176
Section 3: Limited Midterm Reopening.....	176

Section 4: Reopening177
APPENDIX..... **Error! Bookmark not defined.**

DRAFT

ARTICLE 1 PARTIES, RECOGNITION, AND REPRESENTATION

Section 1: Parties to the Agreement

The parties to this Agreement are the United States Patent and Trademark Office (hereinafter "Agency", "PTO", or "USPTO") and the Patent Office Professional Association, (hereinafter "Union", "Association", or "POPA").

Section 2: Recognition of Unit

The Agency recognizes the Association as the exclusive representative of all employees included in the bargaining unit as described in Section 3 below.

Section 3: Unit of Recognition

The unit of recognition covered by this Agreement is:

Included: All professional employees at USPTO other than Trademark professionals.

Excluded: Management officials, employees engaged in Federal personnel work in other than a purely clerical capacity, confidential employees, Trademark professionals, non-professionals and supervisors.

This definition is set out in "Department of Commerce, U.S. Patent and Trademark Office and Patent Office Professional Association, Nationwide Unit Description," dated August 6, 1996. Other relevant documents have clarified the unit.

Section 4: New Positions

- A. The Agency shall notify the Association in writing of all new positions no later than the time the position is posted or, in the case of non-posted positions, simultaneous with the filling of such positions, and shall indicate the Agency's view as to which of these positions are included in the Association's bargaining unit.
- B. If the Association has questions concerning the bargaining unit status of the position, the Association shall request a meeting within two weeks of being notified. If the Association requests a meeting, the parties will meet within two weeks following the request to discuss the issue.

Section 5: Recognition of Representatives

The USPTO will recognize as representatives and officers, individuals who have been designated by the Association in writing. On or before December 15 of each year, the Association must submit a list of all representatives and officers to the Chief of the Labor Relations Division (LRD). The Association may make changes to the list, but any changes

will not be effective until the Agency has been notified in writing. The list must include the name, phone number, and Association position or title if applicable, for each representative.

DRAFT

ARTICLE 2 PRECEDENCE OF LAW, REGULATION, AND OTHER MATERIAL

Section 1: Relationship of Law and Regulations

In the administration of all matters covered by this Agreement, the Agency, the Association, and bargaining unit employees are governed by:

- A. Existing and future laws;
- B. Government-wide rules and regulations in effect on the effective date of this Agreement, and those Government-wide rules and regulations issued after the effective date of this Agreement that do not conflict with this Agreement;
- C. USPTO rules and regulations that do not conflict with this Agreement; and
- D. As explained in Section 2 below, any Department of Commerce (DOC) rules and regulations applicable to USPTO employees that do not conflict with this Agreement.

Section 2: Department of Commerce Regulations and Policies

The American Inventors Protection Act of 1999 established the USPTO as an agency within the Department of Commerce and granted the USPTO control over budget and personnel matters. In areas where the USPTO has issued policy or regulations, those policies and regulations govern USPTO employees. Where the USPTO has not issued regulations or policy and where the USPTO follows (or participates in) a Department of Commerce program or policy, the terms of the DOC policy or program govern USPTO employees.

Section 3: Titles, Tools, and Forms

Any reference to a particular title of a form, tool, position, official, or organizational unit in this Agreement is intended to refer to the current form, tool, position, official, or organizational unit, and to any successor title of the current form, tool, position, official, or organizational unit.

ARTICLE 3 DEFINITION AND ACRONYMS

Section 1: Definitions

A. Time-related

1. **Annually** – One time per calendar year, unless otherwise noted in this Agreement.
2. **Biweek** – production time period that normally is a 2week time period except for the beginning and end of the fiscal year.
3. **Business day** – Unless otherwise noted in this Agreement, “business day” is any weekday, Monday-Friday, excluding Federal holidays or days when the Agency is closed for any reason.
4. **Business hours** – Unless otherwise specified, 8:30 a.m. – 5:00 p.m., Monday-Friday.
5. **Days** - Unless the context of a provision indicates otherwise, means calendar days. In computing any period of time prescribed or allowed in this Agreement, the day of the act, event or occurrence from which the designated period of time begins to run shall not be included. When the last day for taking an action falls on a Saturday, Sunday, or Federal holiday, the action may be taken on the next succeeding regular work day. For example, if the last day for an action falls on Friday, July 4 (Federal Holiday), the action may be taken on Monday, July 7.
6. **ET** – Eastern time, whether daylight savings time or standard time depending on the time of year.
7. **Fiscal year** – October 1 – September 30.
8. **Pay period** – financial two-week time period (WebTA pay period).
9. **Week** – 7 calendar days, unless otherwise noted.
10. **Year** – calendar year, unless otherwise noted.

B. Additional terms

11. **Association, POPA, Union, Unit** – These terms used interchangeably and describe the Patent Office Professional Association.
12. **Association Official, Officer, Union representative, Delegate**- These terms are used interchangeably and describe an elected Association representative or representatives designated by the Association President.
13. **Basic Work Requirement, BWR** – These terms are used interchangeably and refer to the number of hours (excluding overtime hours) that an employee is required to work or is required to account for by leave or otherwise. For a full-time employee, this is 80 hours in a biweekly pay period.
14. **Collective Bargaining Agreement, CBA, Agreement, contract** – These terms interchangeably and refer to this document as a whole.
15. **Duty hours, duty status, duty time** – These terms are used interchangeably and refer to hours when working.
16. **Employee, bargaining unit member, bargaining unit employee, patent professional, -** These terms are used interchangeably and refer to POPA bargaining unit employees covered by this Agreement, unless the provision otherwise notes.
17. **Headquarters, USPTO Headquarters, Alexandria Headquarters, Alexandria campus** – These terms are used interchangeably and refer to the USPTO Alexandria location.

18. **Month** – Not dependent on the number of days. For example, March 3 to April 3 is one month.
19. **Statute** - as referenced in this Agreement, means the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71.
20. **USPTO, Office, Agency, management** - These terms are used interchangeably and refer to the United States Patent and Trademark Office.
21. **Written, in writing, written response** - These words are used interchangeably and include documentation that can be in electronic form and that can be conveyed via electronic means (e.g., email), unless otherwise specified.

Section 2: Acronyms

1. AWOL - Absent without official leave
2. DM - Docket Management
3. EEO - Equal Employment Opportunity
4. EIC - Electronic Information Center
5. EOD – Entry on Duty
6. ER – Employee Relations
7. ERD – Employee Relations Division
8. eOPF – Electronic Official Personnel Folder
9. FLRA - Federal Labor Relations Authority
10. FMCS – Federal Mediation and Conciliation Service
11. FMLA - Family Medical Leave Act
12. FSIP - Federal Service Impasses Panel
13. FY – Fiscal Year
14. GS – General Schedule
15. GSA – General Services Administration
16. IT – Information Technology
17. ITRP - Information Technology Resource Provider
18. LR or LRD - Labor Relations Division
19. LWOP - Leave without pay
20. MSPB - Merit Systems Protection Board
21. OHR – Office of Human Resources
22. OSHA – Occupational Safety and Health Administration
23. PAP – Performance Appraisal Plan
24. PTAB – Patent Trial & Appeal Board
25. SPE - Supervisory Patent Examiner
26. STIC – Scientific & Technical Information Center
27. TEAP - Telework Enhancement Act Program
28. TC - Technology Center
29. Within Grade Increase (WGI)

ARTICLE 4 MANAGEMENT RIGHTS AND OBLIGATIONS

Section 1: Reserved Rights

Management officials of the Agency shall retain the right:

- A. To determine the mission, budget, organization, number of employees, and the internal security practices of the Agency;
- B. To hire, assign, direct, layoff and retain employees, or to suspend, remove, reduce-in-grade or pay, or take other disciplinary action against employees;
- C. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which operations shall be conducted;
- D. With respect to filling positions, to make selections for appointments from:
 - 1. Among properly ranked and certified candidates for promotions, or
 - 2. Any other appropriate source; and,
- E. To take whatever actions may be necessary to carry out the mission during emergencies.

Section 2: Response to Association Requests

The Agency shall respond in writing to written requests from the Association. Where reasonably possible, the response shall be substantively responsive to the request and provided to the Association within two weeks from the date the request was received.

Section 3: Policies

The Agency will establish a library on the Intranet for Agency Administrative Orders and other USPTO policies covering employees. All identified existing policies will be included, including Department of Commerce policies and Administrative Orders that apply to USPTO employees.

- A. The Agency will issue a notice to employees once the policy library is established. Hyperlinks to policies implemented after the effective date of this Agreement that affect bargaining unit members will be sent to affected bargaining unit members.
- B. If the Agency is considering a policy that it recognizes will have a bargaining obligation, it will engage the Union as set out in Article 16 of this Agreement.
 - 1. Once the process above is completed, or the Agency determines that it is not necessary, the Agency will provide POPA a final draft of any policy affecting bargaining unit members, prepared after the effective date of this Agreement. This will also include revisions to existing Administrative Orders or other policy documents. The Union will have two weeks to submit comments on the draft policy. Changes to policy revisions will be noted in the draft copy or in accompanying communication to the Union.

2. Once management has considered the comments and issued a final version, the Association will be provided a final version of the issuance and informed of what changes were made as suggested by the Association. Notice of and a link to the new issuance will be emailed to all affected employees.
3. The Agency will maintain the policy library to keep it current.

Section 4: Employee Information Breaches

In the event of a breach of sensitive personally identifiable information of employees, if the Agency has determined it will notify individuals, it will also notify the Union.

- A. The Agency will maintain "" (SORN), which outlines systems of records maintained by the Agency, with a link to the Department of Commerce list.
- B. Agency management will notify employees via email during the first quarter of each fiscal year regarding the existence of the list in paragraph A above and provide a link to the document.

Section 5: Notification of Formal Discussions

In order to implement the Association's rights under 5 U.S.C. § 7114(a)(2)(A) to participate in formal meetings, the Agency shall provide the Association with at least 1 business day's advance notice for such meetings. In any event, such advance notice shall be reasonable under the circumstances and sufficient to allow the Association time to arrange for representation at the formal meeting. The Association shall have the right to 1 representative at such formal discussions on non-bank time.

Section 6: Communication with the Association

- A. Any communication to the Association from the Agency shall be delivered electronically to the Association President and the Association Vice President, or any person previously designated by the Association President to receive such communication.
- B. The Agency is exempt from the procedure set forth in subsection 6A when a neutral third party (e.g., arbitrator) specifically requires the communication be filed in a different manner.
- C. Any communication to the Association from the Agency that is subject to a response time period started by the serving of the communication, shall be delivered electronically on the date of service to the Association.

Section 7: Notification of Rights to Representation in Investigatory Discussions

Annually, the Agency will notify bargaining unit members of their right to representation at discussions during an investigation of alleged misconduct when the employee has a reasonable belief that participating in the discussion will result in a disciplinary action

against the employee directed to participate in the discussion. The notice will be posted electronically.

Section 8: List of POPA Bargaining Unit Employees

Not later than 1 calendar month after the effective date of this Agreement, and by October 31 of each year thereafter, the Agency will provide the Association with a list of all POPA Bargaining Unit employees as of September 30. This list shall set forth for each employee:

- A. Their name,
- B. Pay plan/series/grade,
- C. Bargaining unit code, and
- D. Organization/cost center.

The Association will remind the Agency if the Agency forgets to provide the list.

DRAFT

ARTICLE 5 (old 6) EMPLOYEE RIGHTS

Section 1: Right to Form, Join, or Assist Labor Organizations

- A. Employees shall have the right, freely and without fear of penalty or reprisal, to join or assist the Association or to refrain from any such activity, and each employee shall be protected in the exercise of such right.
- B. Nothing in the Agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions.

Section 2: Matters of Personal Concern

Nothing in this Agreement shall preclude an employee from bringing matters of personal concern to the attention of appropriate Agency officials.

Section 3: Right to Choose a Representative

This Agreement shall not preclude an employee from choosing their own representative in disciplinary and adverse actions or statutory appellate action (e.g., Merit Systems Protection Board; Equal Employment Opportunity Commission; Office of Special Counsel). However, when presenting a grievance under this contract, the employee may only be represented by the Union unless the employee is representing themselves ("pro se").

Section 4: Personnel Records

- A. In all matters of or concerning personnel records, the Agency shall abide by applicable laws and regulations and this Agreement.
- B. Each POPA bargaining unit employee may inspect their personnel records. If the employee finds an error, the employee may request changes based on documentation demonstrating the inaccuracy. Such requests may be submitted to OHR, which would make the records correction as needed.

Section 5: Fair and Equitable Treatment

Employees will be treated equitably and fairly by management. Therefore, only employees who believe they have been personally subjected to disparate treatment or unreasonable acts by management shall have the right to contest such treatment by use of the negotiated grievance procedures set forth in Article 13.

Section 6: Weingarten Investigatory Meetings

- A. When a representative of management wishes to meet with an employee for the purpose of obtaining information from them that management intends to be used with respect to determining whether disciplinary action shall be taken against the employee, the management representative shall notify the employee in writing that the meeting is mandatory, the general nature of the meeting, and that the employee has a right to have a Union representative present. This paragraph does not apply to meetings conducted by the Office of the Inspector General.
- B. If an employee receives an instruction to attend a meeting that is not from someone in the employee's chain of command, the employee should contact their supervisor to determine whether attendance is mandatory.
- C. If the communication regarding the meeting is unclear whether attendance is required, the employee should confirm with their supervisor whether attendance is required.
- D. Nonproduction time for the meeting and the appropriate time code will be provided in writing. If the employee does not receive a time code by the time they are doing their time and attendance report, the employee should request a code from their supervisor.
- E. In addition to the provisions of 5 U.S.C. § 7114(a)(2)(B) allowing an employee to have a Union representative present at a meeting when the employee could reasonably believe that an investigation could lead to disciplinary action, as part of that meeting, the Agency representative conducting the meeting shall notify the employee of their right to a Union representative to attend such a meeting.
- F. If the employee requests a Union representative, the Agency may cancel the meeting or shall be obligated to wait a reasonable amount of time to allow the employee the opportunity to secure representation, before proceeding with the meeting.
- G. During an investigatory meeting, a reasonable number of caucuses shall be allowed per request.
- H. None of the preceding subsections shall apply to investigations, inquiries, or counselling sessions that apply solely to performance-based actions.

Section 7: Position Descriptions

- A. The Agency will notify the Association and the affected employees of a substantial change in a position description, such as a significant addition or reduction of duties or a change in grade level. The employees and the Association will be provided with a reasonable period for comment on the proposed language that will not unduly delay issuance of the position description. The opportunity to comment by itself does not create or acknowledge or waive a right to negotiate. Minor changes, such as clarifying language or a change in organization designation or position titles that are unassociated with other more important changes, will create the duty to notify the employee and the right of the employee to comment, but no such duty or right shall extend to the Association.

- B. The Agency will provide the employees with the final amended position description upon its issuance. The Agency will provide the Association with the final amended position description upon its issuance only when a substantial change is involved.
- C. The Agency will provide the Association with a copy of all new position descriptions for patent professionals.

Section 8: Desk Audits

When an employee requests a desk audit, the Agency shall conduct the audit within a reasonable time under the circumstances.

Section 9: Whistleblower Protection

- A. An employee covered by this Agreement may, without fear of penalty or reprisal, engage in the disclosure of information that the employee reasonably believes evidences:
 - 1. Violation of any law, rule, or regulation; or,
 - 2. Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- B. The language above in subsection A does not alter the employee obligations, rights, or liabilities created by existing statute or Executive Order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions are incorporated into this Agreement and are controlling.

Section 10: Resignation

- A. An employee may resign at any time. However, an employee should give reasonable notice of their resignation. The employee's reasons for resigning should be entered in their official records.
- B. Normally, resignations should be in writing or electronic (through HRConnect, for example). An employee may withdraw their resignation before its effective date unless management has a valid reason for refusing to permit the withdrawal (such as the hiring of or commitment to hire a replacement) and provides that reason to the employee.
- C. The Agency shall not secure any employee's resignation by coercive or deceptive means.

Section 11: Combined Federal Campaign

- A. The Agency and the Association jointly encourage employees to participate in the Combined Federal Campaign (CFC).
- B. Financial participation in CFC and other charitable campaigns shall be on a strictly voluntary basis.
- C. First line supervisors shall not be provided any information as to the fact of, or the amount of, contribution by their subordinates; however, actual individual payroll stubs shall be exempt from this requirement.
- D. (1) Solicitors for contributions shall be volunteers. (2) The Agency may relieve an employee from duties as a solicitor for cause directly related to solicitation activities. (3) No employee who reviews or directs the work of another shall solicit monies from the employees so reviewed or directed. (4) Solicitors shall be granted appropriate duty time to engage in the solicitation program.
- E. Employees shall not be asked to disclose the fact of, or the amount of, their contributions or allotments to persons who review or direct those employees.

Section 12: Request for Personnel Actions

Requests for personnel action will be processed promptly by the appropriate party (i.e., supervisor or OHR).

ARTICLE 6 (old 7) EMPLOYEE OBLIGATIONS

Section 1: Knowledge of Law and Policy

Each employee of the Unit is expected to comply with all laws, duly published regulations, and policies that relate to their employment. In accordance with MSPB and other relevant arbitral and case law, in proposing discipline, the Agency will consider whether notice was provided to an employee as to the law, regulation, or policy; and if not, whether it can be reasonably viewed as imposing a requirement or limitation that is obvious or involves a situation when a reasonable person should have inquired to ascertain whether there was a requirement or limitation.

Section 2: Emergency Contact Information

- A. Employees must provide a current mailing address.
- B. Employees are required to provide a personal telephone number and the name and number of an emergency contact person. This information must be kept up to date to make sure that the Agency has valid contact information. Employees not willing to provide emergency contact information may affirmatively opt out by indicating in writing as directed by management.

ARTICLE 7 (old 8) ASSOCIATION RIGHTS

Section 1: Right to Bargain

The Association shall have the right to act for and to negotiate agreements covering all employees of the Unit and also shall be responsible for representing the interests of any employee or group of employees within the Unit without discriminating and without regard to employee organization membership, except as provided for in 5 U.S.C. §7114(a)(5) and 5 U.S.C. §7121(b)(3)(B).

Section 2: Newly Hired Unit Members

Management shall furnish the Association with the name of every newly-hired Unit member and their initial Art Unit, or equivalent assignment, during the member's initial 4 weeks of employment.

Section 3: New Employee Orientation

- A. The Association shall have the right to speak to all new Unit employees at an orientation session. The Association will be given adequate notice of the schedule for its presentation. The Association's presentation will not exceed fifteen (15) minutes (including time for answering questions) and shall not include any direct solicitation for membership.
- B. The Association shall have the right to speak to all new Patent Examiners during the initial training (Patent Training Academy). The Association will be given adequate notice of the schedule for its presentation. The Association's presentation will not exceed 1 hour, including time for answering questions.

Section 4: Formal meetings

For formal meetings, the Agency will provide the following information with the meeting notice:

- A. the time and place of the meeting;
- B. the expected Unit employees and the Agency representatives at the meeting; and
- C. the general nature and subject matter to be discussed, and a copy of any agenda prepared by the Agency in advance.

Section 5: Annual Association Meetings

The Association shall have the right to hold 1 meeting per year during duty hours to discuss working conditions and related subjects with its members.

The internal affairs of the Association shall not be discussed at this meeting. The Agency will grant 1 hour of administrative leave to all Unit members who attend.

Section 6: Electronic Communications/ Union use of Agency Email at Headquarters and Regional Offices

- A. The Union will be permitted to use the Agency email system for sending mass messages to all bargaining unit employees (i.e., Alexandria, Regional and Outreach offices) following these rules:
 - 1. Use blind cc addressees only, to prevent "reply all" responses, which could unduly clog the Agency email system;
 - 2. Send and receive messages related to representational activities;
 - 3. Send messages consisting only of text and links to sites related to representational issues- no attachments or images may be included; and,
 - 4. Designate up to five individuals who are authorized to send messages and use the Agency's distribution lists.
- B. The Agency will maintain TC-wide email lists that are updated regularly. POPA will be authorized to use these lists in accordance with the criteria set forth above. If no such list exists for the Regional Office, POPA will be provided with the email distribution list that management is using.
- C. An email list of Regional Office POPA bargaining unit employees will be provided to POPA and updated each time a new class enters on duty at the Regional Office.
- D. The Agency will provide to POPA, within two weeks of the effective date of this Agreement, an electronic, sortable list of all employees coded in the NFC database as POPA bargaining unit employees.
- E. Quarterly, the Agency will provide an electronic, sortable list of employees coded in the NFC database as POPA bargaining unit employees.
- F. The Association may recruit membership and distribute SF-1187 by Agency email provided that the sender does not do so on duty time.

Section 7: Professional Staffing Goals Meetings

Either party may request to meet quarterly to address general professional staffing goals and hiring plans.

ARTICLE 8 (old F) LABOR-MANAGEMENT COMMITTEES AND HEALTH AND SAFETY

Section 1: Purpose

- A. The parties, recognizing the importance of communication and understanding of each other's concerns, agree that a cooperative involvement must exist at all levels of the Agency and the Association to enhance labor-management relations. To this end, the parties agree to support a Joint Labor-Management (JLM) Committee System.
- B. The objectives of the JLM Committee System are to enhance the quality of work life in the Agency, and to improve the effectiveness of the Agency by providing for the discussion of each other's concerns, the open exchange of information, and the opportunity for joint problem-solving of issues and concerns that have an adverse impact on the work environment.
- C. The JLM Committee system is not intended to replace collective bargaining or the grievance procedure, but to provide a foundation to build and promote a cooperative attitude between the parties.

Section 2: Composition of Discussion Groups

- A. The Agency and the Association will each appoint up to the indicated number of persons from their organizations to serve as members of each of the following Discussion Groups (each person must work in the area the Discussion Group represents):
 - 1. Chemical Discussion Group (up to 3);
 - 2. Designs and Others Discussion Group (up to 3);
 - 3. Electrical Discussion Group (up to 4); and
 - 4. Mechanical Discussion Group (up to 3).
- B. The Agency shall not appoint managers above the level of first line supervisor to serve as members of the Discussion Groups.
- C. The Association shall not appoint Association Official/Representatives to serve as members of Discussion Groups.

Section 3: Discussion Groups

- A. Discussion Group meetings shall be held every 3 months and shall be limited to no more than 2 hours. A specific day and time shall be selected for the next meeting by mutual agreement.
- B. The Chair of each Discussion Group shall alternate every 6 months between Association and Agency Discussion Group members, unless the Discussion Group mutually decides to have another arrangement.

- C. The Discussion Group Chair is responsible for calling meetings, maintaining orderly meetings, obtaining agenda items from the members, and preparing the meeting agenda.
- D. Except for an agenda, Discussion Group meetings shall be informal.
- E. Except for grievances, Unfair Labor Practices and the like, Discussion Groups may discuss any topic related to the Agency work environment, despite the fact that such topic(s) may be outside of the scope of bargaining. However, the Discussion Groups have no authority to amend or delete any term of this Agreement or to compel action on any subject.
- F. The Discussion Groups shall make recommendations and/or reports to the JLM Committee.
- G. Unless the members of a Discussion Group mutually decide otherwise, the two Discussion Group Chairs shall report on the recommendations of the Discussion Group, or on whatever the Discussion Group deems appropriate.
- H. Discussion Group members shall be authorized non-bank official time to attend Discussion Group meetings.

Section 4: Observers

The Association may periodically send an Association official to a Discussion Group meeting as an observer. However, the Association official shall not participate in the Discussion Group meeting. The official's time at the meeting shall be charged to the Association's bank time.

Section 5: Additional Attendees

Each Discussion Group may invite appropriate people from the Agency or the Association to address issues unique to the Discussion Group.

Section 6: Composition of Joint Labor Management Committee

- A. The Association and the Agency shall each appoint 5 representatives from their respective organizations to serve on the parties' JLM Committee.
- B. All members of the Discussion Groups shall serve as members of the JLM Committee.

Section 7: Meetings

- A. JLM Committee meetings shall be held quarterly and shall be limited to up to 4 hours, unless the JLM Committee Chairs (see 7C) mutually agree to extend.
- B. Standing or Special Joint Subcommittee
 - 1. The JLM Committee may establish any Standing or Special Joint Subcommittee it deems appropriate.

2. Each Standing or Special Joint Sub-Committee shall operate in accordance with Section 3 above, excluding Subsection G. The Standing or Special Joint Sub-Committee shall report recommendations to the JLM Committee.
 3. The Standing Joint Sub-Committee on Health and Safety (per Section 9 below) shall be maintained. The Health and Safety Committee shall be composed of up to 6 members, up to 3 representatives appointed by the Agency and up to 3 appointed by the Association.
- C. The JLM Committee Chairs shall be held jointly by a representative of the Agency and a representative of the Association. Each party will determine whether it will have a permanent or a rotating co-chair at the JLM meetings.
 - D. JLM Committee meetings shall discuss, explore, and study the recommendations and reports of the Discussion Groups and the Standing and Special Joint Sub-Committees. By mutual agreement, the Committee shall make a recommendation or report to the Agency concerning those issues discussed, explored, and/or studied. However, the Committee has no authority to compel or preclude the Agency from action or implementing proposed actions. Proposed actions or suggestions may not be implemented without the Agency meeting its bargaining obligation with the Association to the extent required by law.
 - E. The Chairs shall have an agenda prepared and distributed to all JLM Committee members at least 2 business days prior to the meeting. The agenda shall include a brief description of each item to be discussed. Agendas should not be limited to Discussion Group and/or Standing or Special Joint Sub-Committee recommendations and/or reports, although such items shall have priority along with previously scheduled agenda topics. The Committee may add to the agenda any topic of interest to the Association, the employees, or the Agency, despite the fact that such topic(s) may be outside the scope of bargaining. Topics not on the agenda shall not be discussed but rather shall be placed on the agenda for the next meeting. Emergency items may be added to the agenda by mutual consent.
 - F. Every attempt shall be made to keep to the meeting schedule and agenda, and, where possible, the parties will avoid carrying agenda items over more than 2 meetings.
 - G. In order to have a frank and open discussion, the Committee shall have no authority to discuss grievances, unfair labor practices, or the like, or to amend or delete any of the terms of this Agreement or any other agreement between the Agency and the Union.
 - H. Appropriate representatives from the Agency and the Association may be invited to address the Committee. People from outside the Agency may also be invited, but the Chairs will need to work out any funding issues with the proper management officials before extending an invitation.

Section 8: Facilitation

If either party feels a facilitator would be helpful to the , the Committee Chairs may mutually agree to select a facilitator to assist the Committee as needed.

Section 9: Health and Safety Committee

- A. The Association may appoint Association Official/Representatives, or any other bargaining unit members, to serve as members of the JLM Health and Safety Committee.
- B. The JLM Health and Safety Committee will perform the following functions:
 - 1. Consult and advise the Agency concerning the health and safety conditions, practices (existing and proposed), programs, and regulations within USPTO;
 - 2. Promote employee health and safety education, which will consist of, but not be limited to, training for emergency evacuation of the buildings, training in first aid, training in the use of defibrillators, and training in the use of fire extinguishers for an appropriate number of employees for each floor; and,
 - 3. Provide a means for presentation and evaluation of employees' comments.
- C. The JLM Health and Safety Committee shall be furnished a copy of the annual report of occupational accidents and injuries.

Section 10: Labor Management Forum

The Agency will continue to hold a Labor-Management Forum.

ARTICLE 9 OFFICIAL TIME

Section 1: Association Authorization to Use Official Time

- A. Association Officials and Representatives shall be authorized official time during duty hours as outlined in this Article.
- B. Yearly, the Association will provide to the Labor Relations Division a list of employees who may use official time. Employees may be added and subtracted from the list at any time during the year. POPA will provide the initial list by December 31, of each year.
- C. There shall be no rules limiting the amount of official time used by any Association officer or representative. These employees may use the allotted bank time and non-bank time as both authorized by this Agreement and determined by the Association as long as the employee is engaged in appropriate representational activity.

Section 2: Time Accounting

- A. The following codes shall be used by Association officials when reporting use of official time. The program for all codes is ALPOPA, and the project code is 0000.

Activity Codes Drawing from the Association's Bank of Time (Activities set out in Article 9 § 3)

090203	Association Sponsored Training
090265	General Labor Relations Time
090266	Dispute Resolution
090267	Term Bargaining
090268	Midterm Bargaining

Activity Codes Not Drawing from the Association's Bank of Time (Activities set out in Article 9 § 4)

090275	General Labor Relations Time
090276	Dispute Resolution
090277	Term Bargaining
090278	Midterm Bargaining

- B. Each of the activities listed in sections 3 and 4 has one of the above activity codes in parentheses after the activity.
- C. Travel time incident to a particular activity shall be included with that activity.
- D. The Agency shall provide to the Association biweekly information on the official time codes used by employees under each category. The information shall include fiscal year-to-date totals.

Section 3: Bank Time

In any fiscal year, Association officials shall be authorized 15,000 hours for the following activities, provided the amount of time claimed is reasonable:

- A. To consult and counsel employees concerning personnel practices and policies, working conditions and employment related matters (activity code 090265);
- B. To prepare and investigate grievances (activity code 090266);
- C. To prepare and investigate matters other than grievances for the purpose of representing employees (activity code 090265);
- D. To prepare for any meeting and/or consultations with management officials, including preparation for pre-decisional involvement (activity code 090265);
- E. To prepare for joint committee meetings (activity code 090265);
- F. To prepare for all presentations before third parties (activity code 090266);
- G. To attend hearings or meetings in the capacity of an observer where an employee has elected to pursue a grievance without Association representation (activity code 090266);
- H. To conduct any legitimate representational activity not precluded by statute and not set forth in this Article (activity code 090265); and,
- I. Association sponsored training, limited to a maximum of 1400 hours (activity code 090203).

Section 4: Additional Official Time

In addition to the bank of hours set forth in Section 3, the Agency shall grant to Association officials reasonable time for:

- A. Presentations to any agent of the FLRA, FSIP, MSPB and/or arbitrators (activity code 090276);
- B. Presentations at any third party proceeding not included in Subsection 4A above, and ex parte presentation to other federal agencies (activity code 090275);
- C. Grievance presentations, including a representative at a pro se grievance presentation (activity code 090276);
- D. Joint committee meetings and authorized activities therefor (activity code 090275);
- E. Meetings and/or consultations with management officials (including formal discussions) not included in Subsections 4C and 4D above (activity code 090275);
- F. To review and respond to memoranda, letters, and requests from the Agency, as well as proposed new instructions, manuals, notices, etc., which affect personnel policies, practices, or working conditions (activity code 090275);
- G. Addressing new employees as provided in Article 7, Section 3 (activity code 090275);
- H. All activities for which official time is explicitly granted by statute, law, rule or regulation (activity code 090275);
- I. Participation and preparation for mid-term bargaining (activity code 090278); and

J. Participation in term bargaining (activity code 090277).

Section 5: Activities for Which Official Time is not Available

Any activities performed by an employee relating to the internal business of the Association, shall be performed at a time when an employee is not on duty or is on approved leave. Such activities include:

- A. membership meetings;
- B. soliciting Association membership;
- C. collecting Association dues or assessments;
- D. campaigning for Association office;
- E. distributing or posting Association literature, notices or authorization cards; and
- F. any activities pertaining to the internal management of the Association, including executive committee meetings.

Section 6: Nondiscrimination Based on Association Activity

Employees will not be discriminated against based on their Association activity nor based on the amount of time spent on representational activity.

ARTICLE 10 ASSOCIATION USE OF AGENCY FACILITIES AND EQUIPMENT

Section 1: Association Office Space

- A. The Association will be provided with approximately 450 square feet (sq. ft.) of office space to carry out its representational responsibilities. This office space will be divided into a large office with a connected smaller office. The large office will be approximately 300 sq. ft. and the smaller office will be approximately 150 sq. ft.
- B. The Association will also be provided with an additional approximately 450 sq. ft. of storage space, located proximate to the Association office. This storage space may comprise 3 offices of approximately 150 sq. ft. each.
- C. The Office of Administrative Services and the Office of the Chief Information Officer will have access to these areas for cleaning, safety, and security purposes. When unaccompanied by an Association official, the Agency is responsible for securing the offices upon their departure.
 1. If the Agency terminates its lease on the building where Association offices are located, the Agency will provide similar space in a building close to bargaining unit members working on campus.
 2. Each of the large and second private offices in section 1A above shall have a standard USPTO computer IT set up (2 monitors, docking station, speakerphone, keyboard, printer, mouse). Each of the large and second private offices shall have telephony.
 3. The Agency will not be responsible for Association property located within the office space provided to them.

Section 2: Use of Other Facilities

The Association shall be granted use of Agency-designated bulletin boards, physical space for meetings, and tools for virtual meetings, unless:

(1) such use is prohibited by:

a) applicable laws, rules, or regulations in accordance with Article 2; or

b) applicable Agency policy in effect on the effective date of this Agreement; or (2) such space or tools are not available. Notices posted by the Association on the bulletin boards designated for their use shall be reasonable in size and shall be identified as posted by the Association.

Section 3: Contractor Access

The Agency will provide "contractor or user passes" in accordance with "On-Site Employees or Contractors of POPA" agreement dated January 19, 2017. (See Appendix X)

Section 4: Equipment

- A. The Association may use the telephony, computer, printer, and other government equipment for representational activity. The Association will comply with all Agency computer security policies, software licensing agreements, and Agency policies governing employee computer use to the extent that such use is tied to Agency equipment or networks, or is consistent with this Agreement.
- B. The Association will not connect any Information Technology device (e.g., IT system, network device, mobile phone, removable media, or any other electronic or data storage device) to any Agency equipment without the specific advance written approval of the Agency's Chief Information Officer or designee, unless the use is already approved in Agency policy. Approval must be in writing and may be for a single use or standing authorization to use the device.

DRAFT

ARTICLE 11 DUES WITHHOLDING

Section 1: Eligibility

Any bargaining unit employee may have dues deducted through payroll deductions. Such deductions will be discontinued when the employee leaves the bargaining unit, ceases to be a member in good standing of the Association (as identified by the Association), or submits a timely revocation form under the procedures of this Article.

Section 2: Association Responsibilities

- A. The Association will inform management, in writing, of the following:
 - 1. Biweekly dues withholding amount(s) or changes in the dues withholding amount(s);
 - 2. The name(s) of the Association official(s) responsible for certifying each employee's authorization form, the amount of dues to be withheld; and,
 - 3. The name and address of the payee to whom the remittance should be made.
- B. The Association will forward completed and certified dues withholding form(s) to the appropriate administrative office, as designated by the Agency.

Section 3: Management Responsibilities

- A. It is the responsibility of the Agency to:
 - 1. Process voluntary allotments of dues in accordance with this Article and in amounts certified by the Association. The deduction will begin with the next pay period after the authorization form is received by the Labor Relations Division;
 - 2. Withhold employee dues on a biweekly basis;
 - 3. Transmit remittance to the official designated by the Association in accordance with this Article, as expeditiously as possible at the end of each pay period; and
 - 4. Process dues revocation forms in accordance with Section 6 of this Article.
- B. The Agency will provide to POPA each biweek:
 - 1. A list of all bargaining unit members including name, email address, employee ID, occupational series, and title. The Agency will indicate employees newly added to the list and will also indicate employees removed from the list. This biweekly list will not include patent examiners, but this information will be provided to the Association upon request.
 - 2. A list of dues-paying members, including name, email address, employee ID, business unit, bargaining unit, and dues paid. The list will also include an indication of newly added names and an indication of employees who have been removed from the list.
 - 3. A copy of any dues revocation forms collected during the previous biweek will be sent to the President and Vice President of the Association.

Section 4: Procedures for Withholding

Bargaining unit members wishing to have their dues withheld by payroll deduction will submit their completed and certified SF-1187s (or equivalent form) to the Agency's Office of Human Resources, Labor Relations Division. If the employee already has the maximum number of allotments that can be processed, the employee will inform the Agency which allotment to cancel in order to process the allotment for dues withholding. In the event a question exists concerning whether an employee is in the unit of recognition and eligible for payroll deduction of Association dues, the employee's dues will not be withheld until the issue is resolved.

Section 5: Changes in Dues Amount

When there is a change in dues structure, the Association will send a memorandum to the Agency's Human Resources Director, noting the amount of the change. The memorandum must be signed by one of the Association officials designated to certify dues withholding forms in Subsection 2.A.2. Such changes shall be limited to once per year. A copy of this memorandum must also be delivered to the Chief of Labor Relations Division.

Section 6: Revocation

Employees may revoke their dues withholding in accordance with FLRA rules and regulations by submitting the appropriate form to the Chief of Labor Relations Division.

ARTICLE 12 (old 23) EARNINGS AND LEAVE STATEMENTS

Section 1: Report Improper Pay and Other Monetary Issues

Employees who believe that they have not received the correct amount of pay or that their Earnings and Leave Statement is incorrect, should contact the Compensation and Benefits Division of the Office of Human Resources (OHR) as soon as possible.

Employees should provide as much relevant information as possible to expedite the investigation. Employees are encouraged to review their Earnings and Leave Statements, especially after any change such as: change in pay due to promotion or WGI, relocation affecting taxes, changes to allotments, leave categories, or benefits.

Section 2: Investigation and Response

The Office of Human Resources will investigate each claim and take corrective action, if inaccuracy is confirmed, in an expeditious manner. OHR will respond to the employee with the result of the investigation.

Section 3: Other Documents

Employees are responsible for updating their W-4 and other personal documents/information related to pay, taxes, and benefits, such as what is shown in the Employee Personal Page (e.g., mailing address, direct deposit, financial allotments, health savings account, state tax, Thrift Savings Plan).

Section 4: Pay and Leave Issues

- A. The Compensation and Benefits Division, when notified by an employee that their pay was lost, missing or not received, will expeditiously investigate the facts and circumstances and instruct the proper authorities to issue a replacement payment, if appropriate.
- B. Resolution Process
 - 1. Pay and leave related issues should first be discussed with your supervisor and/or timekeeper.
 - 2. If the issue cannot be resolved by your supervisor or timekeeper, contact the Compensation and Benefits Division of the OHR
 - 3. OHR will address and initiate correction, as appropriate, of payroll related errors (i.e., allotments, tax deductions, annual leave, sick leave, compensatory time, overtime compensation, etc.) normally within 2 pay periods after notification by an employee.
- C. OHR will notify POPA when it discovers a systemic error affecting multiple unit members. OHR will update the Association as solutions are developed.

ARTICLE 13 (old 12) GRIEVANCE PROCEDURE

Section 1: Introduction

- A. For purposes of this Grievance Procedure, the term grievance means any complaint:
1. by an employee against the Agency concerning any matter relating to the employment of the employee;
 2. by the Association against the Agency concerning any matter relating to the employment of any employee; or
 3. by an employee, the Association, or the Agency concerning:
 - a. the effect or interpretation, or a claim of breach, of this Agreement; or
 - b. any claimed violation, misinterpretation, or misapplication of any law or regulation affecting conditions of employment.
- B. The following matters are excluded from coverage under the provisions of this procedure:
1. Those matters excluded from coverage under 5 U.S.C. § 7121 (c) relating to:
 - a. any claimed violation of prohibited political activities;
 - b. retirement, life insurance, or health insurance;
 - c. suspension or removal in the interest of national security;
 - d. any examination, certification, or appointment; or
 - e. the classification of any position that does not result in the reduction-in-grade or pay of an employee.
 2. Nonselection for promotion from a group of properly ranked and certified candidates.
 3. Nonadoption of a suggestion, except when the grievance alleges that an employee's suggestion was adopted without appropriate recognition of the employee who made the suggestion.
 4. A preliminary oral warning or a written proposed notice of an action which, if effected, would be covered by this procedure or any statutory appeal procedure, provided that the written proposed notice of action is considered, after the employee is given an opportunity to reply to the proposed action, and a written decision issued at the earliest practical date, after the employee has made a reply or after the date for making a reply has passed.
 5. Actions to terminate trial or probationary employees serving probationary periods, or employees holding temporary appointments with definite time limits.
 6. Matters excluded by 5 U.S.C. § 5366 (termination of benefits after refusal to accept another job), and 5 U.S.C. § 8116(c) (compensation for work injuries).
 7. Filling of supervisory positions or other positions outside the bargaining unit.

Section 2 Overview

- A. The Agency and the Association recognize and endorse the importance of considering and resolving complaints and grievances promptly and, whenever possible, informally.

Nothing herein is intended to preclude employees or the Association from attempting to resolve employee dissatisfactions or potential grievances with supervisors or other management officials prior to or without resort to the formal grievance procedures set forth herein. The parties agree that this grievance procedure provides a mutually acceptable means of resolving complaints and grievances at the lowest level possible.

- B. The Agency and the Association shall afford and assure all employees freedom from restraint, interference, coercion, discrimination, or reprisal for filing or presenting a grievance, or for otherwise participating in the grievance procedure, including arbitration.
- C. [Insert language on counting days from Article 3 when finalized.]

Section 3

- A. The procedure described in this article shall constitute the sole and exclusive procedure available to bargaining unit members or the Association for resolving grievances under this or any other negotiated agreement between the parties.
- B. Matters covered under both this procedure and under an applicable statutory procedure may, at the discretion of the aggrieved employee, be raised under either procedure, but not under both. An employee is not precluded from filing a grievance over an EEO matter solely because they have first consulted with an EEO counselor. Only if the employee has filed a formal EEO complaint through the Agency's internal EEO complaint process are they precluded from filing a grievance over the same matter. The employee will be deemed to have exercised this option at such time as the employee timely initiates an action under the applicable statutory procedures or timely files a grievance in writing under this Article, whichever event occurs first. The matters for which this option exists are:
 - 1. discrimination based on race, color, religion, sex, national origin, age, physical or mental handicap, marital status, or political affiliation under 5 U.S.C. § 2302(b)(1);
 - 2. removal or reduction-in grade based on unacceptable performance under 5 U.S.C. § 4303;
 - 3. other adverse actions under 5 U.S.C. § 7121 (i.e., removal, suspension for more than 14 days, reduction-in-grade, reduction-in-pay and furlough of 30 days or less); and
 - 4. matters that may be raised as unfair labor practices under 5 U.S.C. § 7116.

Section 4: General Provisions

- A. The parties agree that the expeditious processing of grievances is beneficial to the Agency and the employees of the bargaining unit. Thus, the parties agree to limit the extensions requested and granted. The parties may, by mutual agreement only, extend any time frame contained within this procedure, upon the requestor demonstrating good cause for an extension. The refusal to agree to an extension of the time frames set forth in this Agreement will not form the basis of any grievance

under this Agreement. All requests for extensions must be made in writing and state the reasons for the request for the extension prior to the initial deadline.

- B. In accordance with 5 U.S.C. § 7121(b), employees may present grievances on their own behalf. The Association has the right to be present at any meetings that are held during the processing of a grievance presented by an employee on their own behalf.
- C. An employee processing a grievance under this Agreement shall be limited to Association representation or self-representation.
- D. The parties (i.e., grievant, Association, and Agency) have the following rights in all grievances under this Agreement:
 - 1. To be present during any grievance discussion conducted pursuant to this Article, including any settlement discussions. The right of the Association to be present, however, may not impair the right of the grievant independently to handle the grievance.
 - 2. To be furnished with a complete copy of any documents presented or generated in the grievance. This copy shall be furnished by the person presenting or generating the paper at the same time that it is furnished to any other concerned official or party, except as provided in Subsection 5.B.5.
 - 3. If the grievance is prosecuted by a grievant pro se, the Association shall have the right to state its position on the grievance orally and in writing.
- E. When two or more employees file individual grievances involving the same facts, events, and issues arising out of the same incident, the grievances may be consolidated and processed through the grievance and arbitration procedure if the Association and the Agency agree. Any agreement to consolidate grievances based on particular facts, events, or issues is not precedential with respect to any other grievance(s).
- F. A grievant shall be granted up to 8 hours of non-production time per grievance for preparation of all grievance steps and will also be granted non-production time for grievance meeting(s). The Association representative(s) will be on non-bank official time for grievance meetings. The Association representative(s)' official time for preparation of the grievances is covered by bank time provided for in Article 9.
- G. Failure of the grievant or the Association to observe the time limits contained in this procedure, where no extension has been granted, will result in the termination of the grievance.
- H. In the event that the Agency fails to abide by the time limits contained in this procedure where no extension has been granted, the grievant, or the Association (where the Association has filed the grievance or is representing the grievant), is entitled to elevate the grievance to the next level.
- I. Any meetings held pursuant to this Article will be held during business hours. Meetings will be held virtually unless all parties agree to meet at a location of the Agency's choosing at the Alexandria Headquarters.
- J. Participants in the grievance process may participate remotely through collaboration tools if they are not working at the Alexandria Headquarters on the day of the grievance meeting.

- K. Issues not raised by either party during the grievance process may not be raised at arbitration except by written agreement of the parties.
- L. Performance-based grievances over “lesser included” disputes will be merged into any arbitration over a later related grievance; e.g., a grievance over a written warning will merge into the arbitration over the subsequent performance-based removal for failure to overcome the written warning.
- M. Other grievances concerning a specific individual may also have overlapping issues. In these instances, the parties will consider merging the grievances into one arbitration.
- N. A final decision issued in a removal action may be submitted directly to arbitration with the consent of the Association, or the employee may file an appeal with the Merit Systems Protection Board.

Section 5 Procedural Requirements and Process for Filing an Employee Grievance

A. Introduction

1. All initial grievances by employees filed at either the first or second step must be filed in writing with the Agency’s Chief, Labor Relations Division’s electronic filing process (currently at lrgrievance@uspto.gov or successor email box), and with a copy presented to the employee’s immediate supervisor.
2. Grievances over adverse actions, other than removals, shall be filed at Step Two of the Grievance procedure.

B. STEP ONE:

1. The Step One grievance shall contain the following information:
 - a. Identification of the grievant (or grievants if represented by the Association);
 - b. Nature of the grievance and relevant dates;
 - c. Corrective actions requested and reasons; and
 - d. The fact that the Association has been designated as representative, if the grievant has so designated.
2. Process
 - a. A grievance must be filed within thirty (30) days of the incident giving rise to the grievance, or thirty (30) days after the aggrieved employee knew or should have known of the incident giving rise to the grievance. The thirty (30) day time period to file a grievance shall not bar a grievance based on an alleged "continuing violation" (as that term has been construed by the courts in labor relations matters) or an alleged pattern of conduct, provided that the grievance is filed within thirty (30) days after the date when awareness of the alleged pattern occurred.
 - b. Employees are encouraged to informally discuss with their supervisors issues of concern to them at any time. However, any such discussions, including any requests that a supervisor reconsider a decision, will not toll the time period in which employees must file a grievance.

3. The Agency retains the exclusive right to designate the management official to decide the grievance at the Step One.
4. The grievant, the Association representative or representatives, the Step One deciding official, a representative from labor relations, and any other management representative(s) determined helpful by the Agency shall strive to meet within 7 days of the filing of the grievance to discuss the matter. The Association is entitled to as many representatives as there are Agency representatives participating in this meeting. The Step One meeting will be held without the Association if the Association declines to send a representative. The Step One grievance meeting may be waived by mutual agreement. If it is a pro se grievance, the Union may have one representative present, and may request to have an additional representative present for training purposes.
5. The Step One deciding official shall issue a written decision on the grievance within twenty-one (21) days of the filing of the grievance or fourteen (14) days after a meeting, if one is held. In the event that the Association filed the grievance or the Association represents the grievant, then the decision will be delivered to the Association only. If the Association does not represent the grievant, then the Step One decision will be delivered to the grievant and the Association.

C. STEP TWO:

1. In the event that the grievant is not satisfied with the decision of the Step One deciding official, or the adverse action decision as set out in Section 4.N above, the grievant may appeal the decision in writing within twenty-one (21) days of the delivery of the Step One decision or delivery of the adverse action decision as set out in Section 4.N above. If the Association has filed the grievance or is representing the grievant, then the Association may appeal either type of decision in accordance with the procedures established in this section.
2. The appeal must be filed with the Chief, Labor Relations Division's electronic filing process (Irgrievance@uspto.gov, or successor email address).
3. The appeal will set forth the basis of the appeal and the remedy sought. If the grievant or the Association wishes to have a Step Two meeting, then the appeal shall so state.
4. The Agency retains the exclusive right to designate a higher-level management official to serve as the Step Two deciding official.
5. If both parties agree that a meeting would be beneficial to the resolution of the grievance, then the grievant, the Association representative or representatives, the Step Two deciding official, a labor relations representative, and any other management representative(s) of its own choosing shall strive to meet within 7 days of the filing of the grievance to discuss the matter. The Association is entitled to as many representatives as there are Agency representatives participating in this meeting. If the Association fails or declines to designate a representative, then the meeting will be held without the Association.

6. The Step Two deciding official shall issue a written decision on the grievance within twenty-one (21) days of the filing of the appeal, or twenty-one (21) days after a meeting, if one is held. In the event that the Association filed the appeal or the Association represents the grievant(s), then the decision will be delivered to the Association only. If the Association does not represent the grievant, then the Step Two decision will be delivered to the grievant and the Association.

Section 6: Association and Agency Grievance Procedure

- A. The procedure contained in this section is limited to grievances filed by either the Association or the Agency.
- B. Process
 1. Association grievances will be filed with the Agency's Chief, Labor Relations Division's electronic filing process (lrgrivance@uspto.gov or successor email address).
 2. Agency grievances will be filed with the Association's President or their designee, and a copy shall also be sent to the Association's Vice President.
- C. A grievance must be filed within thirty (30) days of the incident giving rise to the grievance, or thirty (30) days after the aggrieved party knew or should have known of the incident giving rise to the grievance. The thirty (30) day time period to file a grievance shall not bar a grievance based on an alleged "continuing violation" (as that term has been construed by the courts in labor relations matters) or an alleged pattern of conduct provided that the grievance is filed within thirty (30) days after the date when awareness of the alleged pattern occurred.
- D. Association and Agency grievances should include the following information:
 1. Nature of the grievance and relevant dates;
 2. Any contract provision, law, rule, regulation, or past practice known to have been violated;
 3. The identity of any employee or employees who may have been affected by the grievance (either by name, if known, or description of class);
 4. Corrective actions requested and reasons; and
 5. The Association's or the Agency's representative in the particular matter.

This information may be supplemented by the responses to any information requests submitted by the Association under Section 7114(b)(4) of the Statute.
- E. Within ten (10) days of filing the grievance, a meeting will be held between representatives of the parties to address the grievance, unless both parties agree not to hold a meeting. The parties will be limited to 4 representatives per side.
- F. The Agency or the Association will issue a written decision on the grievance within twenty-one (21) days of the filing of the grievance or twenty-one (21) days after a meeting, if one is held.

ARTICLE 14 (old 13) ARBITRATION

Section 1: Invocation

- A. The Agency and the Association shall each have the right to invoke arbitration within twenty-one (21) days of a final performance or conduct removal decision, or after a final decision has been issued under the applicable section of the negotiated grievance procedure. In accordance with 5 U.S.C. § 7121(b)(1)(C)(iii), an employee does not have the right to invoke arbitration.
- B. In order to invoke arbitration, the Association shall submit the invocation by email to the Labor Relations Division's electronic inbox (currently at lrgrievances@uspto.gov, or successor email box).
- C. In order to invoke arbitration, the Agency shall submit the invocation in writing to the Association President, and a copy to the Association Vice President.

Section 2: Selection of Arbitrator

- A. Within fourteen (14) days after invoking arbitration, the Party invoking arbitration shall request the Federal Mediation and Conciliation Service (FMCS) to provide the parties a list of 7 impartial arbitrators from the Washington, DC metropolitan area. The invoking party shall pay the fee for this request. If the arbitration will be held virtually, the request must state that the arbitrators are willing to conduct a virtual hearing. The request must also state that the arbitrators have Federal sector arbitration experience.
- B. The parties shall confer within fourteen (14) days of the receipt of the list of qualified arbitrators from FMCS to select an arbitrator to hear the grievance. The parties will each strike 1 arbitrator's name from the list of 7 and will then repeat this procedure until 1 name remains; that person shall be the duly selected arbitrator. The party to make the first strike shall be determined by the toss of a coin.
- C. Within 3 working days after the selection of the arbitrator, the parties shall notify, in writing, the source supplying the list of arbitrators of the arbitrator selected.
- D. Where an arbitrator has not been selected within twenty (20) calendar days after the date of receipt of the FMCS list of arbitrators, due to either party refusing to participate in the selection of an arbitrator, the procedures of the American Arbitration Association (AAA), i.e., its Labor Arbitration Rules, may be invoked by the non-refusing party. Once these procedures are properly invoked, the AAA shall have jurisdiction over the arbitration. However, the AAA procedures must be invoked within ninety (90) calendar days after the date of the receipt of the FMCS list of arbitrators. The parties shall not maintain their arbitration rights if the procedures are not invoked within the ninety (90) day period.

Section 3: Scheduling

- A. Once an arbitrator has been selected, if the arbitrator has not yet reached out, the parties shall jointly contact the arbitrator within fourteen (14) days of the arbitrator selection, to inform the arbitrator of their appointment and request the arbitrator's availability.
- B. If necessary, the Association and the Agency shall have a telephonic conference with the Arbitrator within twenty-one (21) days from the date of the selection of the Arbitrator. The parties agree to cooperate in good faith in the scheduling of arbitration dates. If either party refuses to participate in good faith in the scheduling of arbitration, then the arbitrator shall set the date for arbitration.
- C. Arbitration will generally include a hearing, but the parties may agree to a process that involves only written submissions.
- D. Absent agreement otherwise, any fee for postponement will be borne by the party seeking the postponement.
- E. In the event that the grievance settles, the parties shall equally bear any cancellation fees imposed by the arbitrator, unless the parties agree otherwise. The hearing shall not be cancelled until the settlement agreement is signed, unless the parties agree otherwise.
- F. The parties shall attempt to agree in advance to the anticipated number of hearing days. All anticipated dates shall be scheduled prior to the start of the hearing.

Section 4: Arbitration Procedures

- A. In the event that the defending party asserts that a grievance is procedurally defective or not arbitrable for any reason, the party may request that the arbitrator determine the issue first. If the arbitrator agrees to render the threshold decision first and determines that the grievance is defective or not arbitrable, that will end the grievance in its entirety. If the arbitrator determines that the grievance is not procedurally defective and is arbitrable, and thereafter the underlying grievance on the merits proceeds to arbitration, that same arbitrator will hear the grievance on the merits, unless the parties agree otherwise.
- B. The issues at arbitration shall be limited to those issues raised by either party in the grievance procedure.
- C. The parties shall make their best efforts to jointly agree on the issue(s) presented to the arbitrator. If the parties are unable to reach agreement on the issues(s) presented to the arbitrator, then each party will submit their issues presented to the arbitrator in writing prior to the start of the hearing.
- D. The parties shall discuss potential joint exhibits prior to the hearing or written submission.
- E. The parties agree to expeditiously present their case, and the Arbitrator will ensure that the hearing is conducted in a fair but expeditious manner.

- F. The parties shall exchange the following items at least fourteen (14) days prior to the first date of the arbitration:
1. Witnesses. Proposed witness lists, including whether the witness is expected to testify virtually or in person.
 2. Proposed joint exhibits and proposed stipulations, as applicable. The parties may agree to exchange other documents as appropriate.
 3. Representatives/Attendees. A list of representatives and any other proposed attendees for the arbitration may be shared as a courtesy.
 4. The advance notice requirement above does not apply to any documents or witnesses necessary for rebuttal or impeachment.
- G. Both parties shall be entitled to call witnesses before the arbitrator. Witnesses shall be limited to a reasonable number and must have personal knowledge of facts relevant to the matter being arbitrated. Cross-examination will be permitted of all witnesses. All testimony shall be made under oath or affirmation. Only 1 representative per party may question each witness, and only 1 representative per party will be permitted to object to the questioning of each witness. In the event an arbitration is conducted by written submissions only, each party shall be entitled to respond to evidence and arguments introduced by the other party. The parties shall agree to a schedule for responses and replies, if any, and if they cannot agree, the arbitrator shall set a briefing schedule, which should generally be initiated and completed within no more than sixty (60) days.
- H. The salary for a USPTO employee, while participating in the presentation of testimony, shall be borne by the Agency, if that employee would otherwise be in a duty status. The Agency will not pay overtime or travel costs for witnesses called by the Association. Expenses for witnesses who are not employees will be borne by the party calling that witness.
- I. The arbitration hearing shall not be open to the public or the press. Attendance at the hearing, other than individual witnesses, shall be limited to representatives of each party and any mutually agreed observers, subject to the approval of the arbitrator. All witnesses, except the grievant or party representative, shall be sequestered prior to their testimony. Arbitration hearings may be held virtually upon mutual agreement of the parties, and the chosen option shall be put on the record by the arbitrator when the parties schedule the date(s) of the hearing. If the parties do not mutually agree to conduct a virtual hearing, the arbitration will be held in person. If an arbitration hearing is held in person, it will be held at the Alexandria Headquarters. Each party shall be permitted to present witnesses virtually by video at any arbitration hearing. Hearings will not be postponed because a witness who could testify remotely has been asked to testify in person.
- J. The grievant shall be granted a reasonable amount of non-production time, up to 8 hours, for preparation for arbitration. The grievant and all employees called as witnesses shall be granted non-production time for appearance at any arbitration hearing.

- K. The arbitrator shall have no authority to add to, subtract from, alter, amend or modify any provisions of this or any other agreement between the parties.
- L. The parties have a right to exchange a post-hearing brief, but they may mutually agree to eliminate them on a case-by-case basis. The arbitrator shall set a date, not more than sixty (60) days from the close of the hearing, for the submission of post-hearing briefs. Either party may request an extension, but any extension granted will be provided to both parties. The parties may mutually agree to an extension.
- M. Parties will request that the arbitrator email their decision to the parties no later than sixty (60) days after the conclusion of the hearing or receipt of the post-hearing briefs, whichever is later.
- N. Unless otherwise established in this Agreement, the arbitrator's fee and any other expenses (including court reporting fees) will be borne equally by the parties.

DRAFT

ARTICLE 15 (old D) EQUAL EMPLOYMENT OPPORTUNITY

Section 1: Support for Equal Employment Opportunity

The Agency and the Association agree to fully support Equal Employment Opportunity (EEO), the Federal Equal Employment Opportunity Program, and the terms of this Article.

Section 2: Non-Discrimination Provision

The parties shall not discriminate against any employee on the basis of race, color, religion, sex (including pregnancy), age, national origin, disability (physical or mental), genetics, sexual orientation, gender identity, parental status (which is not covered by the EEO complaint process, but may be the subject of an Article 13 Grievance Procedure) or any other characteristic protected by federal laws.

Section 3: Formal Meeting Requirement

Any meeting conducted after a formal complaint of discrimination has been filed, for the purpose of reaching a final settlement of a discrimination complaint involving a bargaining unit member, shall be treated as a formal meeting and, therefore, shall be subject to the statutory and contractual provisions applicable to formal meetings.

Section 4: Support for DEIA

The parties agree to support efforts to improve diversity, equity, inclusion and accessibility (DEIA), including efforts to increase the diversity of the applicant pool and the USPTO workforce.

Section 5: Affirmative Action Plan and EEO Complaint Process

The Agency agrees, at such times as the Affirmative Action Plan (AAP) is revised, to provide the Association with a draft copy of the revised plan, prior to the proposed implementation. The Association shall review the revised plan and provide appropriate comments thereto and/or provide negotiation proposals. Written reasons will be given to the Association regarding any rejected comments. The parties will negotiate to the extent required by law over any proposal(s) submitted by the Association in accordance with Article 16 on Midterm bargaining.

Section 6: Posting EEO Complaint Procedures

EEO Complaint procedures will be posted on the Office of Equal Employment Opportunity and Diversity (OEEOD) website and otherwise available as required by law.

Section 7: Information to POPA

The Agency shall annually provide the Association with the following annual information, upon request:

- A. Workforce composition by race, sex, disclosed disability and grade level;
- B. Composition of each major occupation (job series) by race, sex, disclosed disability and grade level;
- C. Numbers and bases of discrimination complaints filed; and
- D. Numbers and outcomes of reasonable accommodation requests filed by bargaining unit members.

Section 8: Availability of EEO Counseling

The Agency will maintain an EEO counselor system to provide counseling to any aggrieved employee who believes that they have been discriminated against because of race, color, religion, sex (including pregnancy), age, national origin, disability (physical or mental), genetics, sexual orientation, or gender identity.

Section 9: EEO Counselors

The Agency will select and train all EEO counselors.

Section 10: Informal Counseling

In an attempt to resolve discrimination charges as early as possible, EEO counseling will be provided to an aggrieved employee on an informal basis, before a formal EEO complaint is filed.

Section 11: Requesting an EEO Counselor

An employee seeking counseling may request a specific EEO counselor. The Agency will consider this request.

Section 12: Reasonable Time for EEO Counseling

An aggrieved employee, if in a duty status, shall be granted a reasonable amount of time to contact and explain their complaint to an EEO counselor.

Section 13: Confidential Setting for Counseling

Meetings between employees and counselors will be held in a setting that promotes confidentiality such as a private office or, when the discussion is telephonic, the counselor will not be overheard by other employees.

Section 14: Confidentiality

An employee seeking counseling will be anonymous unless the employee waives this right.

Section 15: No Coercion

No EEO counselor will coerce or pressure an aggrieved employee to accept a proposed resolution. An EEO counselor shall not use pressure or coercion of any form to prevent an aggrieved person from filing a formal complaint.

Section 16: Providing Data to EEO Counselors

The Agency will, upon request, promptly provide any EEO counselor with pertinent data and information necessary to assist the counselor in resolving a complaint. If the employee files a formal complaint of discrimination, the aggrieved employee will be provided with a copy of the EEO counselor's report.

Section 17: Information to Employees

When contact is made with the aggrieved employee, the EEO counselor shall inform said employee of information concerning the availability of applicable EEO Statutes, Regulations, Departmental Orders and Agency (USPTO) Orders and Guidelines. Upon request, copies of information may be provided to employees.

Section 18: Meetings on EEO Related Topics

Upon request of either party, the parties will meet at least twice per year to discuss EEO matters of mutual interest.

Section 19: Make Whole Provision

Consistent with law and government-wide regulation, the Agency shall make whole any unit member when there has been a finding of discrimination.

Section 20: Election of Forum

An employee may seek EEO counseling without giving up the right to file a grievance pursuant to this Agreement. When the employee files a formal complaint or a grievance, the filing will constitute an election of forum that will preclude use of the other process. For more information, see Grievance Procedure Article 13 Subsection 3.B.

DRAFT

ARTICLE 16 (old 14) MIDTERM BARGAINING

Section 1: General

This Article applies to bargaining during the term of the Agreement, including any rollover term. All of these rules apply unless the parties expressly agree in writing to the contrary.

Section 2: Substantive Bargaining

- A. The Agency agrees that it will bargain in good faith over proposals that constitute permissive subjects of negotiation under 5 U.S.C. §7106(b)(1) so long as Executive Order No. 14003, or an Executive Order that directs agencies to bargain over permissive subjects, remains in effect.
- B. In addition to paragraph A above, the Agency will bargain over any matters not covered by this Agreement to the extent required by law.

Section 3: Bargaining Pursuant to 5 U.S.C. §7106(b)(2) and §7106(b)(3) Notice and Submission of Proposals

Unless the parties agree otherwise, the following procedure shall be used for preparing mid-term bargaining proposals:

- A. The party proposing a change in conditions of employment shall present its proposed action to the other party in writing and shall include the reasons for the action and hyperlinks to relevant statutes, regulations and other relevant supporting background materials.
- B. Within 2 weeks thereafter, the parties shall meet to explain and clarify the proposals and answer questions regarding the proposals.
- C. The Agency will allow up to fifty (50) employees (or 100 employees if they are only Patent Examiners) to claim up to 1 hour of duty time for each notice to POPA to meet with affected employees. The time may be used within 1 week following the clarification meeting, if one is held, or within a week following the expiration of the time for the meeting if there is no clarification meeting.
- D. Within 2 weeks after the meeting with affected employees, the party not initiating the procedure shall present its counterproposals. If no meeting is held, the counterproposals are due within 4 weeks of receiving the notice of change. Counterproposals must be limited to the scope of the initial proposal. Bargaining shall begin as soon as practical (normally the first full week after the counterproposals are presented). Initial proposals, which should endeavor to cover all issues to be raised in negotiations, should be submitted at one time, in writing.
- E. Either party may request an extension of these deadlines. Requests for extensions will be considered on a case-by-case basis and will not be unreasonably denied.

Section 4: Rules Applicable to All Bargaining

- A. A party does not need to put forward a counterproposal for each issue. Failure to present a counterproposal shall not be construed as agreement to the proposal.
- B. Electronic Exchange of Documents: Notification and any other documents required in these rules will be by electronic means. All proposals prepared during a negotiation session will be shared electronically by the end of the next business day following the session in which they are presented. A party not receiving an electronic version of the proposals shall request the document and the other party has 1 business day to respond. Documents shared electronically will be of the file type associated with the document preparation software officially used by the Agency.
- C. Document Delivery: All documents provided to the Agency from the Association will be addressed and delivered electronically to the Chief of the Labor Relations Division or their designee. Agency documents shall be sent electronically to the Association President or their designee. Once chief negotiators have been appointed, documents will be exchanged through the chief negotiators.
- D. Tentative Nature of Agreement to a Proposal: Agreements on any proposals are tentative until agreement is reached on all issues.
- E. Bargaining will be held virtually unless the parties mutually agree otherwise. However, either party may require in-person bargaining for at least 2 bargaining team members per party for no more than 1 week per quarter.
If either party determines that its own team will be hybrid, the Agency will provide a suitable room and teleconferencing equipment upon reasonable notice.
- F. Even for in-person bargaining, subject matter experts and notetakers may participate virtually/hybrid.

Section 5: Conduct of Bargaining

- A. The Association shall have the right to the same number of representatives at mid-term bargaining as the Agency, but not less than 2 representatives. Either party may, however, bring an observer who may not participate in the session, but may take notes.
- B. For comprehensive negotiations involving performance appraisals, signatory authority or automation, each party shall be allowed to bring at least four representatives. The parties may mutually agree to allow larger numbers of representatives, but the Association shall be allowed to bring at least as many representatives as the Agency is allowed to bring.
- C. Chief Negotiators: The parties agree to have at least one person authorized to speak for their party at every bargaining session. This authority includes the ability to sign off on proposals on which tentative agreement has been reached.
- D. Timing of Negotiations: Bargaining will be conducted 3 days a week from 9:30 a.m. to 4:00 p.m. ET, including a 1-hour lunch break.

Section 6: Mediation, Negotiability and Impasse

- A. Requesting Assistance and Participation with FMCS: Either party may invoke mediation through the FMCS once the party deems the negotiations to be at impasse or when the party believes a mediator's assistance will assist the parties in reaching agreement. The party invoking impasse must notify the other party of the decision and request mediation within 3 days of providing the notice.
- B. Official Time: Association representatives may use official time as covered in Article 9 of this Agreement.
- C. Negotiability Disputes: The parties will attempt to resolve negotiability disputes informally during bargaining sessions. The Association may appeal a declaration of non-negotiability to the Federal Labor Relations Authority (FLRA). Negotiations over other unrelated issues shall continue. Negotiations on matters containing at least one proposal subject to a negotiability appeal shall not be considered as having been concluded until a decision is rendered by the FLRA on the negotiability appeal and any subsequent negotiations of the language that was the subject of the appeal, or alternative language, are complete. Once the FLRA issues a decision, negotiations will continue and agreed upon or imposed provisions will be included with other provisions prior to Association ratification of the agreement.

Section 7: Agency Head Review

In the event that the head of the Agency disapproves an agreement, no portion of the agreement will be implemented if the parties resume negotiations within fifteen (15) days of the Agency disapproval or until any negotiability appeal is resolved by the FLRA, unless otherwise agreed. If neither party requests bargaining over the agreement within fifteen (15) days of the disapproval and there is no negotiability appeal pending before the FLRA, the provisions of the agreement that were not disapproved will be implemented by the parties.

Section 8: Predecisional Involvement (PDI)

- A. Predecisional involvement by the Association in matters that are traditionally considered an exercise of management rights that are subject only to impact and implementation negotiation may obviate the necessity of formal impact bargaining before implementation. Accordingly, whenever management contemplates changing conditions of employment through the exercise of management rights that would result in the need to bargain, it will first engage the Association in predecisional discussions before making a final determination of whether and how to make the contemplated change. The Agency will consider the views of the Association in deciding how to move forward. If the parties have engaged in other processes allowing the Association to share its views, such as under the Automation Article (Article 17) or through participation in the Labor Management Forum, the Agency may provide notice and

move directly to bargaining. Engaging in PDI on a topic over which the Agency is not required to negotiate creates no right to formally negotiate.

- B. PDI may be more successful for some issues than others. To that end, if a party feels no progress is being made, the party may withdraw from the PDI process after two meetings and trigger traditional bargaining pursuant to this Article.
- C. The Agency and Association may use collaborative approaches, such as interest-based problem-solving, including a thorough and detailed discussion of each party's interests, brainstorming solutions, and analyzing the extent to which various options meet the interests.
- D. The parties acknowledge that the exchange of information is important to the success of this process. Either party may raise information that they feel would be helpful in resolving issues surrounding the contemplated change. The parties will consider the time and effort in obtaining the information as well as its value to the process before agreeing that the information is required for further discussions.
- E. If the parties intend for their consensus in PDI to fulfill their Statutory bargaining obligations, the Statute requires that, upon request of either party, they execute a written document embodying the agreed terms. This option is used when the parties agree that negotiable issues have been addressed and further bargaining is not required. This process may save the parties both time and resources. Once this process is complete, the parties may proceed to implement workplace changes.
- F. Neither party waives its rights under the Statute by engaging in PDI. However, successful PDI may obviate the need for other bargaining under the Statute or may facilitate any bargaining that is required at the conclusion of the PDI process. If PDI has been partially successful, statutory bargaining will be limited to the few areas that were unresolved to both parties' satisfaction, or where additional impact and implementation issues appear that were not addressed during PDI.

Section 9: Emergency or Overriding Exigency

When the Agency is required to implement pursuant to 5.U.S.C. § 7106 (A)(2)(d) or as an overriding exigency, it shall give written notification, including justification, to the Association as early as possible. If bargaining is not complete by the implementation date, the parties will continue to bargain until the issues are resolved.

ARTICLE 17 (old 16) AUTOMATION

Section 1: Product Definition

A product as used herein is defined as a stand-alone tool (e.g., eMPEP, IFW Backup tool), or a product (e.g., PE2E SEARCH, PE2E OC) within a product family (e.g., PE2E).

Section 2: Priorities for IT Development

- A. Each fiscal year during November, absent mutual agreement on another time:
 - 1. The Patents IT management will coordinate a meeting with the Association and the appropriate IT Leads to obtain IT priorities.
 - 2. The management of OCIO and other support business unit IT Leads will conduct a meeting with the Association and ask the OCIO and business unit IT Leads for products that will be routinely used by Association bargaining unit members to attend. If the Trademark product line includes any products that will be significantly used by Association bargaining unit members, the Trademarks IT Leads will also be included.
- B. The two meetings mentioned in subsection 2.A above provide the Association with an opportunity to present priorities they have identified that would fall in the respective product lines.
 - 1. A list of priorities will be provided by the Association at least one week before the meeting.
 - 2. Management may ask questions about the priorities to help ensure a thorough understanding of the priority and the need for the priority.
- C. Following the meetings discussed above, and during the same quarter, each IT Lead with a product routinely used by Association bargaining unit members will meet with the Association to respond to the list of priorities involved with the product line overseen by the IT Lead.
- D. Annually, the Agency will provide the Association a list of contacts for an Association representative to contact in the event of an outage or slowdown. If the Agency fails to provide the list, the Association will ask the LR Division Chief for the list.
- E. Association representatives participating in the Patents and OCIO Briefing will be on non-bank time for the meeting. Any authorized preparation time will be from the Association's bank.

Section 3: Annual Automation Briefing

- A. The Agency shall hold an Annual Automation Briefing which should be held in the second quarter of each fiscal year or any other mutually agreeable time.
- B. The Annual Automation Briefing will consist of a high-level discussion of Agency priorities for IT development for the next fiscal year (as well as discovery and concepts

for future years) for products that will be routinely used by Association bargaining unit members.

1. Each IT Lead will provide a current draft roadmap for the products included.
 2. The Association representatives may ask questions about the roadmap and present their views or provide opinions on the Agency priorities.
 3. The Deputy Commissioner responsible for Patents automation (or a designee) will attend the meeting.
 4. Up to twelve Association representatives may attend the Annual Automation Briefing.
- C. Within 1 week following the Annual Automation Briefing, the parties will meet to discuss any Association considerations. The meeting with the Association shall be at least 3 business days following the Annual Automation Briefing. The Association may present any feedback it has regarding the Agency priorities for IT development or other considerations they think would be more beneficial.
- D. Once the roadmaps are finalized, the Agency will provide a follow-up meeting to highlight changes to the roadmap based on Association considerations raised in, or after, the Annual Automation Briefing. The Agency will provide reasons for any Association recommendations it has not adopted.
- E. Changes to the finalized roadmap as a result of Congressional or front office priorities shall be discussed with the Association as soon as practicable. Removal or deprioritization of priorities from the roadmap may be raised by the Association at the next meeting or meetings for reprioritization.
- F. Association representatives participating in the Annual Automation Briefing will be on non-bank time for the meeting. Any authorized preparation time will be from the Association's bank.

Section 4: Product Engagement

- A. For each new automation product identified at the Annual Automation Briefing, the parties will discuss the development of the product as "Track 1" or "Track 2". Existing products will continue development under Track 1 or Track 2 and need not be redesignated every year.
- B. Similarly, if there are any products that arise following the Annual Automation Briefing, the Agency will notify the Association of the change and discuss the appropriate track for the product.
- C. Track 1 engagement includes deployment of commercial off the shelf (COTS) software or services, enterprise Wi-Fi and products that do not require extensive end-user requirements gathering, such as software replacements, upgrades, or patches. Track 1 engagement occurs when changes have more than de minimis end-user impacts and are sufficiently understood such that the Agency can provide the Association with a detailed description of the change and of the foreseeable adverse impacts of the change, which may include a demonstration of the product or service.

- D. Track 2 engagement occurs when a proposed product is expected to have more than de minimis impact, but the product cannot be demonstrated or described with sufficient clarity to determine likely impacts, or it is anticipated that the change will require extensive end-user requirements gathering. Track 2 products include products such as PE2E Search, PE2E DAV, PE2E OC, and CAT, and next generation replacements.

Section 5: Track 1 Engagement Process

- A. After the product or component is identified as Track 1, the Agency will provide a demonstration or description of the product to the Association.
 - 1. The demonstration or description shall provide the Association specifics of the automation change, the appropriate test results for a bargaining unit production tool, and any available deployment and training documentation. The Agency shall provide the proposed deployment date.
 - 2. Management will meet with the Association to discuss amelioration of any foreseeable adverse impacts of product deployment. In the event of an extended deployment, meetings should be on a recurring basis in order to quickly address any unforeseen adverse impacts.
 - 3. Prior to the proposed deployment date, the Agency shall ameliorate both the Agency and Association identified reasonably foreseeable adverse impacts that prevent or substantially reduce the ability of an employee to do the functions of their job. Management may delay the proposed deployment date in order to address the adverse impacts. If the parties fail to reach an agreement within one month of the meeting as set out in Subsection 5.A.2. above, the Agency may implement the tool and agree to post-implementation bargaining. If the deployment causes unforeseen adverse impacts, the parties will meet in order to quickly discuss solutions, which may include an alternative to an IT solution.
- B. Beta Testers
 - 1. When the Agency determines to do beta testing, in addition to any beta testers from the user community for a given tool, the Agency shall provide beta testing capability to an appropriate number of end users suggested by the Association in conjunction with the training resources provided pursuant to Subsection 10.B. below at least 10 business days prior to planned deployment. Beta testers will have a specified period of not less than 8 days to provide feedback. If a defect identified is determined to make the tool's functionality inoperable, it will be mitigated prior to deployment. If the defect is determined to be minor in nature, it will be placed in the development backlog for appropriate prioritization in a future development cycle for the respective product.
 - 2. Beta testers will use the new product to perform their normal job functions. In the event that the tester cannot reasonably perform a normal job function using the new product due to limitation or impact of the new product, the Agency shall roll the tester back to the prior product. When it is either impossible or impractical to

roll a beta tester back, the Agency will discuss the issue with the Association to identify any reasonably foreseeable or actual adverse impacts. The Agency will provide appropriate mitigation of the impacts.

- C. Association representatives participating in the engagement process will be on non-bank time for the meeting. Any authorized preparation time will be from the Association's bank.

Section 6: Track 2 Engagement Process

- A. For each product identified as appropriate for Track 2 Engagement, the Association will appoint an appropriate number of Association representative(s) to be contributing members of the respective product team. As members of the product team, these representatives may be required to attend product meetings such as, but not limited to: requirements gathering, feature development, planning, and demos, to the extent permitted by the procurement process. Generally, there will be two Association representatives assigned to any product. The Association representatives' primary roles are to ensure that user input is considered during planning, testing and preparation of training materials to minimize negative impact on end users. For each product identified, the Association will designate representative(s) who is/are authorized by the Association to speak on its behalf. Any other representatives attending a product meeting who are not authorized decision makers will identify themselves as notetakers and/or observers.
- B. The Association representatives appointed to a product will meet in quarterly engagement sessions (QES) with officials designated by management. Potential topics for discussion at QES may include changes to priorities discussed at the Annual Automation Briefing (as described above), more in-depth discussions of specific Patents product features, or other topics or recommendations that need to be escalated to Patents leadership.
- C. For a new product that is being discussed in Track 2, the Agency will notify the Association of the initial deployment date. Dates for significant updates of any Track 2 product will be discussed as part of the Track 2 process set forth in Subsection 6B above.
- D. Upon notification to the Association of a planned implementation date for an initial product deployment, the Association shall provide the Deputy Commissioner overseeing Information Technology or designee (for Patents products) and the LR Division Chief (or designee) for all other products with a list of unresolved development, priority, or impact and implementation issues. The LR Division Chief, or designee, will meet with the appropriate Agency and Association leadership for discussion to help resolve the issues. In the event the issues cannot be resolved, or two months prior to the planned implementation date, unresolved development issues will be placed in the development backlog for appropriate prioritization in a future development cycle for the product. Training will be resolved in accordance with Section 10 below.

- E. If other issues arise after the initial product deployment that have more than a de minimis impact, the parties will discuss them and, if not resolved, they will be prioritized appropriately for future development, or, the parties will discuss other alternatives to ameliorate the impact.
- F. The Association and management shall meet periodically to discuss development updates and communicate unforeseen adverse impacts of a deployment that may require resolution.
- G. Association representatives participating in the engagement process will be on non-bank time for the QES. Any authorized preparation time will be from the Association's bank.
- H. Detailees
 1. In addition to the Association representatives discussed in Subsection 6A above, the Association may raise the need for and number of detailees to help with product development (either for new tools or to replace detailees whose details have expired). If the Agency decides to use detailees, the Association may nominate detailees to help with product development. These detailees will be on duty time (as opposed to official time) and are not authorized to speak for the Association. Detailees may be authorized duty time to communicate with the Association on the progress of tool development.
 2. To the extent possible, the Association will nominate bargaining unit members who are among those who will be impacted by a particular product, and who have particular knowledge or skills which would be valuable to the product. Normally, duration of the detail will not exceed 2 years. In many products, work will be less than full time. In both full time and part-time instances, time spent by the Association-nominated team members on the Product Team will be considered as creditable hours or examining related time for the purpose of award calculations.
 3. Association nominated detailees should be invited as observers to the QES in Subsection 6B above.

Section 7: Additional User Input

- A. In addition to the opportunities listed above, users may be asked for input via a variety of evaluation vehicles such as focus sessions, surveys, round-table discussions, and beta-tests. Users shall be selected to participate in order to sufficiently provide a representative sample of the entire bargaining unit membership using the product, to the extent possible.
- B. The Association will be invited to participate in the development of focus sessions, surveys, and roundtable discussions. The Association will be invited to observe at meetings with employees for these activities. If invited as an employee, the Association representative may participate in their role as an employee in these activities.
- C. With respect to beta-tests, each beta-tester will be provided with guidelines for participation prior to providing any input. These guidelines will include, at a minimum,

the specific goals, expectations, and objectives of the beta-test, details for providing feedback, training as appropriate, and the mechanism to report system bugs and problems. The training may include training on the tool being tested, and beta testing procedures. Authorized time spent during beta testing will be considered examining related time for award purposes.

- D. The Association and appropriate representatives from the OCIO service desk shall meet periodically to discuss IT issues raised by employees.

Section 8: New Hardware

- A. When selecting new hardware such as laptops, printers, and monitors for bargaining unit members as end users, the Agency will consult with the Association as part of the decision-making process to determine a list of equipment requirements, to the extent allowed by the procurement process.
- B. Once the selection of new hardware has been finalized, the Agency will allow the Association to test the hardware product(s) for a two-week period. If the Association sees any impacts during the two-week period, they will alert both the product line lead and another management representative designated by the Agency at the time of the test.
- C. If the Association identifies any issues during the two-week period above, the parties will meet weekly, if necessary, to discuss any issues with the operation of the hardware and ways to resolve them or ameliorate the impact of the issues prior to deployment. Notwithstanding these bilateral meetings, the Association will continue to participate in any multi-party hardware selection process involving one or more of the other unions. After 2 months of discussion, the Agency may deploy the new hardware and complete any necessary bargaining post implementation.
- D. The Agency will meet with the Association to discuss amelioration of the reasonably foreseeable adverse impacts of hardware deployment. In the event of an extended deployment, meetings should be on request of either party in order to quickly address any unforeseen adverse impacts.

Section 9: Hardware Return or Exchange

- A. For all employees with no telework agreement, the delivery, exchange, or return of non-disposable hardware shall occur at their USPTO designated office.
- B. Employees participating in a Patents telework program that is less than full time may pick up or exchange equipment at the telework depot or equipment may be shipped to an address of record in the Enterprise Telework Information System (ETIS). at the participant's option. Equipment may be returned by an Agency determined commercial shipping means or to the telework depot, at the participant's option.
- C. Employees participating in a Patents full time telework program will have equipment shipped to an address of record in ETIS. It is the responsibility of the teleworker to

promptly confirm the shipping address with the supervisor, telework coordinator, or shipping contractor when asked.

- D. For non-patents bargaining unit employees with a telework agreement, return and exchange of equipment is governed by their telework agreement.
- E. Employees will return Agency issued equipment that is replaced in an end user deployment to the Agency within five business days of receipt of the replacement equipment. Extensions or exceptions may be granted on a case-by-case basis by the employee's immediate supervisor or designee, for a longer return time frame.

Section 10: Software or Hardware Deployment and Training

- A. Prior to deployment of new or modified software with more than a de minimis impact on bargaining unit members, the Agency and the Association shall discuss the need for initial or updated training of affected employees. The discussion shall include both training time and practice time amounts, as appropriate.
- B. The Agency shall provide any training resources for review and comment by the Association at least ten (10) business days prior to planned deployment. The Association shall have 8 business days to provide comments.
- C. All training documents developed by the Agency for mandatory training shall be made available to bargaining unit members before the training commences. Evaluation materials (e.g., quizzes, surveys, solution sets, workshops, etc.) are excluded from this requirement.
- D. All up-to-date Agency-developed finalized formal training documents on current IT systems shall be available on an Agency Intranet site. All training documents on the site must be downloadable to Agency-provided equipment or uploadable to Agency provided cloud-storage designated for use by the employee.
- E. Live training, if recorded, shall be made available for later review, unless the Agency determines that material in the training is not suitable for posting. If posted, the material may be removed at the Agency's discretion.

Section 11: IT Deployment Timing

- A. Planned System Outages
 - 1. Planned System Outages are governed by Work Schedules Article 19 Subsections 2.E. and 2.F.
 - 2. For IT deployment requests originating from individual users, the Agency may deploy changes at any time coordinated with the user, including during business hours, in order to fulfill and accommodate the individual need.
- B. Emergency and Unplanned Outages
 - 1. During non-maintenance hours, the Agency will endeavor to notify employees of system outages/unavailability of major operational production-level tools or Agency network services.

2. The Agency will endeavor to provide periodic updates of the system outages/unavailability in Subsection 11.B.1.

Section 12: IT Notification Management

The Agency shall provide quick reference guides (QRGs) on how to manage notifications, including sounds and pop-ups, on at least MS Outlook/TEAMS or successor on the USPTO Intranet site.

DRAFT

ARTICLE 18 (old H) NEW HIRES

Section 1: Fingerprinting

Before beginning employment with the Agency, individuals who have accepted offers of employment will need to be fingerprinted.

Individuals will be provided with information on the process and location of where to have their fingerprints taken.

If the individual is not able to obtain fingerprinting at the locations listed in the information provided by the USPTO and a fee is required, the Agency will provide reimbursement for the fee only if the individual contacts the staffing specialist in advance and gets approval from the Agency.

Section 2: Patent Training Academy Work schedules

Patent Training Academy work schedules are covered by the “Patent Training Academy Work Schedules Memorandum of Understanding” dated August 1, 2024.

ARTICLE 19 (old 24) WORK SCHEDULES

Section 1: Definitions

- A. Basic Work Requirement (BWR) - The number of hours (excluding overtime hours, compensatory time earned, and credit hours earned) an employee is required to work or otherwise account for by use of approved leave, credit hours off, holiday hours, excused absence, compensatory time off, leave without pay, or time off earned as an award. The BWR for full time employees is eighty (80) hours per two-week pay period (biweek). For part-time schedules, see Section 10 below and the POPA Part-Time Program Agreement, dated August 24, 2021.
- B. Tour of Duty - The limits within which an employee must complete the employee's basic work requirement, as determined by the work schedule the employee selects.
- C. Alternate Work Schedules (AWS) - Schedules other than a Fixed Eight-Hour Work Schedule. AWSs include the compressed work schedules (CWS) comprised of the "4/10" and "5-4/9", and flexible work schedules (FWS) comprised of the Flexible 8 Hour Schedule, and Increased Flextime Program (IFP).
- D. Time Band - The specific hours of the work day within which employees participating in an FWS may complete their BWR.
- E. Mid-Day Flex - Time periods during which employees who participate in an FWS stop working on a day without being charged leave, and subsequently return and work additional hours on that day within the Time Band allowed for the employee's work schedule. The employee may "flex" (stop and start working) more than once each day.
- F. Core Hours - The time periods within the tour of duty that an employee must be present for work (including on approved leave, using compensatory time or credit hours, or in a travel status). (See 5 U.S.C. § 6122(a)(1)).
- G. IFP Credit Hours – Hours used to vary the length of days worked within the same pay period. These hours cannot be carried over to another pay period. IFP credit hours can only be earned if an employee participates in the IFP work schedule.
- H. Regular Credit Hours - see Article 22.
- I. A workweek consists of 7 consecutive days, beginning Sunday and ending Saturday.

Section 2: Provisions Applicable to all Work Schedules

- A. All employees must meet the BWR as defined in Section 1.A. of this Article.
- B. Employees may work approved credit hours, compensatory time, and overtime from 4:30 a.m. to 11:59 p.m., Monday through Sunday, employee's local time. See individual work schedules for specific information on regular work hours.
- C. The core hour for POPA bargaining unit employees on a full time schedule is from 1:00 p.m. to 2:00 p.m. (local time) each Thursday. Exceptions: the core hours for POPA bargaining unit employees in the Office of Policy and International Affairs is each Wednesday, from 2:00 p.m. to 3:00 p.m. Eastern Time; and, in the Offices of the Chief Financial Officer and Chief Information Office, is each Tuesday from 1:00 to 2:00

p.m. Eastern Time. For the core hour for part-time schedules see the POPA Part-Time Program Agreement, dated August 24, 2021. To the extent any telework agreement provision specifies that the core hour is to be worked at Eastern Time, this provision supersedes.

- D. In addition to the work schedule requirements discussed in this Article, employees in CFO and CIO will follow "IFP/S Work Schedule Operating Parameters for the USPTO Office of the Chief Financial Officer and Office of the Chief Information Officer", dated March 3, 2022.
- E. Automated Tools and IT Support during some Duty Hours: Due to the broad range of hours and locations in different time zones available to bargaining unit employees, automated systems may not be available during some or all of an employee's tour of duty. Generally, service for all systems is available from 5:30 a.m. through 11:59 p.m. Eastern Time, Monday through Thursday; from 5:30 a.m. to 10:00 p.m. Eastern Time Friday; and, from 9:00 a.m. to 10:00 p.m. Eastern Time, Saturday and Sunday and holidays. Employees working outside of these hours must plan for and have alternate work available, if the automated systems are unavailable.
- F. Planned system outages are generally scheduled during maintenance hours. USPTO maintenance hours are Monday-Thursday 12 a.m. to 5:30 a.m.; Friday 10 p.m. to Saturday 9 a.m.; Saturday 10 p.m. to Sunday 9 a.m. and Sunday 10 p.m. to Monday 5:30 a.m. (all Eastern Time). Planned system outages will be announced as far in advance as practicable via email or similar means. Employees may check the USPTO Intranet to see whether any of the systems are expected to be unavailable during duty hours. Occasionally, planned system outages may occur outside the planned outage hours, primarily during evenings and weekends. Employees may need to arrange their work or their work schedules (if on a flexible schedule) to accommodate these outages.
- G. Twelve (12) Hour Work Limitation: Employees, regardless of work schedule or whether the time is recorded as regular time, paid overtime, compensatory time earned/used, credit hours earned/used, annual leave, sick leave or LWOP, are precluded from recording more than twelve (12) hours in a day, excluding any unpaid breaks. However, supervisors may approve an employee to work more than twelve (12) hours in emergency or other rare situations such as a Computer Scientist working on a system outage, or an employee engaged in international or Association negotiations.
- H. Exceptions to Work Hour Requirements: Some employees may be required or asked to volunteer to work outside of the established work schedule hours for mission-related reasons. Employees must be in a position that supports these exceptions, such as IT engineers working on an automated information system that requires work outside the Time Band, or employees in OPIA, OIPC, or other areas of the Agency who are working outside of the normal time bands to interact with foreign stakeholders. Employees must discuss with their supervisors whether they perform any tasks that would support an exception to the established time bands before working hours outside of the time bands.

- I. Meetings with employees
 - 1. When scheduling meetings and training, management will be reasonable in taking into account employee schedules and employees working in different time zones.
 - 2. As long as reasonable advance notice is given, employees who are working are required to attend meetings and training scheduled by the Agency, managers, or supervisors.
 - 3. As long as reasonable advance notice is given, employees on flexible schedules will need to arrange their schedule to attend or seek supervisory approval ahead of time to miss the meeting or training, unless otherwise excused by the supervisor.
 - 4. Employees who are unable to attend a meeting or training must communicate with their supervisor as soon as possible.
- J. Employees will periodically check that their work schedule is correctly documented in the time and attendance system, (currently under "tour of duty" in WebTA). Employees on a part-time schedule will check that they are listed as part-time and that the number of duty hours is accurate. If the work schedule is not correctly documented, the employee will inform their supervisor.
- K. Employees are responsible for accurately recording their time, to the best of their knowledge, in the time and attendance system.
- L. Work Schedule Notification: Employees will communicate, and update as needed, their work schedule in the collaboration tool as outlined in the Time and Attendance Tools, Communication, and Collaboration Policy April 30, 2017 .
- M. The smallest period of time worked for which employees may receive credit is a quarter of an hour (fifteen (15) minutes).
- N. Holiday Pay: See the Holiday Leave and Working on a Holiday Guidance, dated November 2019.
- O. Leave, including credit hours and compensatory time, may not be used to consistently avoid working during the core hour.
- P. Employees on telework agreements should consult their telework agreements for issues related to weather and safety leave.
- Q. Meal Breaks
 - 1. All meal breaks are unpaid.
 - 2. Meal breaks are not mandatory.
 - 3. For flexible schedules (set out in Sections 4 and 5 below), the time taken for a meal break at the beginning or end of a work day should not be recorded as time worked.
 - 4. For fixed Schedules (set out in Sections 6 and 7 below)
 - a. A 30-minute unpaid meal break is optional for these schedules. If the employee wants a meal break on all or some days, the break must be scheduled as part of determining the fixed beginning and end times. This must be communicated to the supervisor when setting the hours for this schedule. For example, if an employee selects to work a 4/10 Schedule pursuant to Section 7 below, the employee may work an additional period to provide an unpaid meal break on some or all days. Thus, the employee could work ten hours from 6:00 a.m. to 4:00 p.m. and not have a meal break. On some or all days, the employee could work from 6:00 a.m. to 4:30 p.m. and take a thirty (30) minute meal break.

- b. Meal breaks may not be taken at the beginning or end of a work day.

Section 3: Full Time Work Schedules

- A. Full time employees may work any of the following schedules unless a schedule is restricted by management pursuant to other provisions of this article (see Section 9):
 1. Flexible 8-Hour Schedule;
 2. Increased Flextime Program (IFP);
 3. Fixed 8 Hour Schedule; or,
 4. 5-4/9 or 4/10 Compressed Work Schedule (CWS).
- B. Each of these work schedules will be discussed in the sections immediately below.

Section 4: Flexible 8 Hour Schedule

- A. Employees on this schedule are required to work a total of 8 hours on each day, Monday through Friday, during the time band of 4:30 a.m. to 11:59 p.m. local time. Arrival and departure times may vary day to day.
- B. Employees may use mid-day flex and return to complete the eight hours later on that same work day as long as the work day is completed during the time band.
- C. Government closure and no telework agreement: Employees on a Flexible 8 Hour Schedule who report to the Alexandria, VA headquarters, and who do not have a telework agreement, may be excused up to 8 hours from the Agency when the Office of Personnel Management (OPM) closes government offices in the DC area. If the employee has arrived at Headquarters and has worked less than 8 hours, the employee may claim weather and safety leave up to an eight-hour total. An employee may claim weather and safety leave in fifteen (15) minute increments, up to 8 hours, minus the time worked. For example, if an employee has worked six hours and then OPM closes the government, the employee may claim two hours of weather and safety leave. Employees on previously approved leave will remain in their leave status and may not substitute weather and safety leave. Employees may not claim overtime, regular credit hours, or compensatory time on a day if they have claimed weather and safety leave. If the employee has not arrived at Headquarters, the employee may claim a total of 8 hours. Notice regarding Regional Office closures will be provided separately to Regional Office employees.

Section 5: Increased Flextime Program (IFP)

- A. This is the default schedule for employees if an alternate schedule is not selected and approved under this Article.
- B. The IFP allows a full time employee to complete the BWR by varying the number of days and the number of hours worked each day during the time bands of 4:30 a.m. to 11:59 p.m. local time, Monday through Saturday. Exceptions are described in Subsection 2.G. above and Section 9 below.
- C. Regular hours may not be worked on a Sunday. The tour of duty for IFP shall include Sunday, 4:30 a.m. to 11:59 p.m. local time, for the purpose of permitting employees to work IFP credit hours.

- D. IFP Credit Hours
1. Advance approval to work IFP credit hours is not required, except for regular credit hours worked on a holiday.
 2. Since Sunday is not a regular work day, IFP credit hours used may not be claimed for any hours on Sunday.
 3. IFP credit hours earned do not count toward the BWR; only IFP credit hours used during the biweek can be applied toward the BWR.
 4. IFP credit hours must be earned before they are used.
- E. An employee may not work IFP credit hours or regular hours (or both) on both Sunday and Saturday of the same workweek.
- F. Employees must work or take leave for a minimum of 4 days per workweek. At least fifteen (15) minutes of work or leave taken in a day is considered a day for this requirement. Only one of the minimally 4 days per workweek may be a weekend day (Saturday or Sunday), the core hour must be accounted for.
- G. If the employee does not meet the eighty (80)-hour requirement, overtime, compensatory time, or regular credit hours worked will be credited as regular time.
- H. Since the IFP schedule permits flexible hours and work days, it is important for employees to track their work time to ensure the employee meets the BWR.
- I. An employee may choose to vary the number of hours and minutes worked each work day as long as eighty (80) hours is accrued by the end of the pay period inclusive of the core hour requirements. For example, an employee might work: 8 hours on Monday; 8 hours on Tuesday; 4 hours on Wednesday; 9 hours on Thursday; eleven (11) hours on Friday; and twelve (12) hours on Monday; twelve (12) hours on Tuesday; 12 hours on Wednesday; 2 hours on Thursday; 2 hours on Friday, for a total of eighty (80) hours.
- J. Employees must notify their supervisor if they will be flexing for an entire weekday, prior to the absence. Employees must contact their supervisor or designee orally, by phone, by email or by instant messaging prior to the employee's scheduled start time, if they will be flexing on a weekday when the employee had previously indicated that they would be at work. In the case of emergencies, the employee must notify their supervisor as soon as practicable.
- K. Government closure and no telework agreement: Employees on IFP who report to the Alexandria, VA headquarters, and who do not have a telework agreement may be excused up to 8 hours from the Agency when the Office of Personnel Management (OPM) closes government offices in the DC area. If the employee has arrived at Headquarters and has worked less than 8 hours, the employee may claim weather and safety leave up to an 8-hour total. An employee may claim weather and safety leave in fifteen (15) minute increments, up to 8 hours, minus the hours worked. For example, if an employee has worked 6 hours and then OPM closes the government, the employee may claim 2 hours of weather and safety leave. Employees on previously approved leave will remain in their leave status and may not substitute weather and safety leave. Employees may not claim overtime or compensatory time on a day if they have claimed weather and safety administrative leave. If the employee has not arrived at Headquarters, the employee may claim a total of 8 hours. Notice regarding Regional Office closures will be provided separately to Regional Office Employees.

Section 6: Fixed 8-Hour Work Schedule

- A. The Fixed 8-Hour Work Schedule requires the employee to work 8 hours per day Monday through Friday with fixed arrival and departure times. The fixed hours must be set between 5:30 a.m. and 10 p.m., local time. The fixed hours need not be the same times every day.
- B. Beginning and Ending Times: Daily shifts will begin and end on quarter-hour increments for employees working a Fixed 8-Hour Work Schedule (Examples: 6:30 a.m. to 3:00 p.m. Monday through Friday (includes meal break); 9:15 a.m. to 5:15 p.m. Monday through Friday (no meal break); but not 6:50 a.m. to 3:20 p.m.).
- C. Because the beginning and end times and work days are fixed, the employee cannot earn and use credit hours or use mid-day flex.
- D. Government closure and no telework agreement: Employees on a Fixed 8 Hour Schedule who report to the Alexandria, VA headquarters, and who do not have a telework agreement may be excused up to 8 hours from the Agency when the Office of Personnel Management (OPM) closes government offices in the DC area. If the employee has arrived at Headquarters and has worked less than 8 hours, the employee may claim weather and safety leave up to an 8-hour total. An employee may claim weather and safety leave in fifteen (15) minute increments, up to 8 hours, minus the time worked. For example, if an employee has worked 6 hours and then OPM closes the government, the employee may claim 2 hours of weather and safety leave. Employees on previously approved leave will remain in their leave status and may not substitute weather and safety leave. Employees may not claim overtime, regular credit hours, or compensatory time on a day if they have claimed weather and safety leave. If the employee has not arrived at Headquarters, the employee may claim a total of 8 hours. Notice regarding Regional Office closures will be provided separately to Regional Office employees.
- E. Unless otherwise provided for in this Agreement, management may only direct employees to work this schedule when the nature of the job is such that major responsibilities can only be performed during specific hours. Management will generally determine the hours but will consult with the employee when appropriate.

Section 7: Compressed Work Schedules (CWS)

- A. Compressed Work Schedules are fixed schedules that allow employees to complete the BWR in fewer than ten days in a pay period. Arrival and departure times must be specified in advance and consistent each biweek, but they need not be the same each day or week. Work must be completed during the hours of 4:30 a.m. to 11:59 p.m., Monday through Friday local time.
- B. There are two options under this work schedule:
 - 1. 4/10 Plan: an employee fulfills the BWR in 8 ten (10)-hour days. Participants work 4 days each week with 1 scheduled day off per week. The employee must have fixed start and end times within the time bands established by this Article. Employees participating in the 4/10 schedule, must select the same day off each week absent specific approval from the supervisor.

2. 5-4/9 Plan: an employee fulfills the BWR in 9 work days: 8 9-hour days and 1 8-hour day. Participants work 5 days in 1 week, and 4 days the other week, with 1 scheduled day off per biweekly pay period. The 8-hour day is always worked on the last work day of the pay period. The employee must have fixed start and end times within the time bands established by this Article.
- C. An employee will arrange their work schedule with their supervisor in advance. For the 4/10 plan, identify the day of the week that will be the employee's non-work day. For the 5-4/9 plan, identify the day of the biweek that will be the non-work day. Subject to supervisory approval prior to the employee beginning the work schedule, the employee may select Monday, Wednesday or Friday (for OPIA, Monday or Friday) as the non-work day. Tuesday and Thursday will be considered required work days (for OPIA, Tuesday, Wednesday, and Thursday are required work days). Note the holiday leave exception in Subsection E below.
 - D. Employees who work on a holiday are entitled to holiday premium pay at their rate of basic pay, up to the number of hours of the CWS that fall on a holiday. Holiday premium pay is subject to the biweekly premium pay cap. (See 5 C.F.R. § 550.105). See the Holiday Leave and Working on a Holiday Guidance, dated November 2019.
 - E. Holiday Leave: An employee who is relieved or prevented from working on a day designated as a holiday is entitled to pay with respect to that day for the number of work hours scheduled. The following rules apply when a holiday falls on a scheduled non-work day:
 1. If a holiday falls on a non-work day of an employee on a compressed work schedule - except for holidays falling on a Sunday non-work day - the employee's preceding work day is the designated "in lieu of" holiday. (See 5 U.S.C. § 6103(b)) If a holiday falls on a Sunday non-work day of an employee on a compressed work schedule, the employee's subsequent work day is the designated "in lieu of" holiday.

In Lieu of Holiday for Compressed Work Schedule

Holiday (Observed or Calendar)	If CWS Day Off Falls On	The In Lieu of Holiday Moves To
Monday	Monday	Friday note: in lieu of holiday may fall in prior pay period
Wednesday	Wednesday	Tuesday
Friday	Friday	Thursday

2. The head of the Agency may prescribe a different "in lieu of" holiday for full time employees on a CWS when it is deemed that a different "in lieu of" holiday is necessary to prevent an "adverse agency impact." (See 5 U.S.C. § 6103(d)). This will be conveyed to affected employees at least one biweek in advance, when possible.
 3. Employees on established CWS schedules on the effective date of this agreement may continue to work the same schedule without the need to request approval from their supervisor for the "in lieu of" day.
- F. Credit hours cannot be earned or used.
 - G. Mid-day flex does not apply to this schedule.

- H. With advance supervisory approval, an employee may switch the employee's day(s) off to another day within the same pay period, including Tuesdays and Thursdays, however the employee may not routinely change their schedule.
- I. Authorized work performed outside an employee's work schedule (i.e., in excess of 10 hours, 9 hours or 8 hours, depending upon the schedule) or in excess of eighty (80) hours per pay period or on any non-work day, is overtime work. Employees are entitled to overtime compensation or compensatory leave as appropriate for overtime work in accordance with applicable provisions of law and this Agreement.
- J. Government closure and no telework agreement: Employees on a CWS who report to the Alexandria, VA headquarters, and who do not have a telework agreement may be excused from the Agency up to the number of hours they are scheduled to work when the Office of Personnel Management (OPM) closes government offices in the DC area. If the employee has arrived at Headquarters and has worked less than the scheduled number of hours, the employee may claim weather and safety leave up to the scheduled total. An employee may claim weather and safety leave in fifteen (15) minute increments, up to the number of scheduled hours, minus the time worked. For example, if an employee on a 4/10 CWS has worked 6 hours and then OPM closes the government, the employee may claim 4 hours of weather and safety leave. If the employee has not arrived at Headquarters, the employee may claim a total of ten (10) hours. An employee on a 5-4/9 CWS may be granted up to either 8 or 9 hours, depending on the number of hours they were scheduled to work on the day of the closure, minus the time worked. Employees on previously approved leave will remain in their leave status and may not substitute weather and safety leave. Employees may not claim overtime or compensatory time on a day if they have claimed weather and safety administrative leave. Notice regarding Regional Office closures will be provided separately to Regional Office employees.

Section 8: Selecting and Changing Work Schedules

- A. Employees may change work schedules once during any quarter by notifying their supervisor of the intended schedule, including fixed arrival and departure times and non-work days as appropriate). Notification should be given one pay period in advance. If required, in accordance with the other provisions of this Article, supervisory approval must be gained before changing schedules.
- B. Upon request of the employee, TC Directors or equivalent may allow an employee to change work schedules at other times, based on unforeseen circumstances, but changes may be delayed until the beginning of the next biweek.
- C. Employees working a compressed work schedule may withdraw at any time by notifying the supervisor with one biweek's advanced notice, unless exigent circumstances exist. Employees who withdraw outside of the quarterly change period will be placed on IFP and will not be allowed to work a compressed work schedule for 2 years from the date they are placed on IFP.
- D. Denial of a work schedule as well as restrictions to the work schedule shall be based on one of the reasons set out in Section 9 below.
- E. Except in unusual circumstances, an employee may not claim overtime, compensatory time (excluding compensatory time for travel), or regular credit hours for training. If an

employee is scheduled for at least a full day of training, changing work schedules may allow the employee more flexibility and allow a schedule that will be more appropriate for the biweek(s) of training. Employees in this situation may change work schedules prior to the training but will revert back to the prior work schedule with the beginning of the next biweek after the completion of training.

Section 9: Restrictions on Work Schedules

- A. All employees may request any of the full time work schedules.
- B. Work schedule restrictions (including imposition of an fixed 8-hour schedule) shall be based on one of the following:
 - 1. Operational considerations, related to the work situation only (not related to job performance);
 - 2. Abuse of a particular work schedule, meaning misconduct of a serious nature related to the work schedule, that would be more easily monitored by a fixed schedule; or
 - 3. Requirements for close supervision or guidance during an initial training period to understand and perform the duties of the position, for example new hires in the patent training academy.
- C. Where operational considerations do not permit an employee to work an identified flexible schedule, the employee will be permitted to work a modified flexible schedule approved by their supervisor.
- D. Newly hired examiners are subject to a modified work schedule as described in Article 18 (New Hires).
- E. Employees transferring from one division to another will be required to obtain approval, from the new supervisor, of their previous election or make a new election at the time of the transfer. Upon supervisory approval, the employee can begin participation in the approved work schedule at the beginning of the next pay period. It is recognized that it is possible that the new position may be such that the employee must be denied the opportunity to participate or have their participation restricted.
- F. All disapprovals, or restrictions, shall be in writing, and they shall clearly describe the basis used to justify the decision to deny or restrict participation in the work schedule selected. Electronic copies of the disapproval, or restriction, and justification therefore, shall be furnished to each employee affected at least 2 weeks prior to the time when the denial or restriction is to take effect. The schedule may be denied or restricted when the nature of a business unit's work requires the presence of the employee. Justification for restriction or denial shall be reviewed at the request of the employee. The appropriate supervisory official shall review the request and issue a written decision thereon within ten (10) working days. A favorable decision shall entitle the employee to begin participation in the requested work schedule the following work day, or, if it is a different type of work schedule (e.g., employee selects a compressed schedule after working an alternate schedule), at the beginning of the next pay period. An employee's existing schedule may be temporarily restricted by a supervisor due to an emergency situation when the nature of a business unit's work is such that the need for the presence, for short periods of time, of one or more specific employees cannot be anticipated, in which case the employee will be given prior oral

notice and written justification. Restriction of an employee's schedule in this situation shall be of a short temporary duration. An employee's prior nonrestricted schedule shall resume at the earlier of the resolution of the emergency or 2 biweeks.

Section 10: Part-time Work Schedules

- A. For POPA bargaining unit employees working in patents, please see the POPA Part-Time Program Agreement, dated August 24, 2021, with the following changes:
1. Work schedule hours are 4:30 a.m. to 11:59 p.m. Monday through Saturday, local time.
 2. Part-time employees can earn credit hours as follows:
 - a. Part-time employees' yearly allotment of credit hours is prorated in the same manner as for compensatory time.
 - b. A part-time employee may carry over credit hours from one pay period to a subsequent pay period in an amount equal to one-fourth of their biweekly work requirement.
 - c. Part-time employees may earn credit hours after their scheduled work day or on unscheduled work days. A part-time employee's unscheduled Monday to Friday work days are part of the part-time employee's tour of duty for the purpose of earning credit hours. Part-time employees may not earn credit hours on the weekends or on holidays.
 - d. Credit hours earned do not count toward the BWR; only credit hours used during the biweek can be applied toward the BWR.
 - e. Credit hours can be earned or used as a minimum of fifteen (15) minutes to a maximum of twelve (12) hours per day.
 - f. Credit hours must be earned before they are used.
 - g. Credit hours may be worked at the election of the employee when the employee has been approved to work compensatory time.
- B. Requests for Part-time schedule in other business units will be handled on a case-by-case basis based on the needs of the business unit and the employee's circumstances.
- C. The Agency shall provide the Association with a cumulative list of employees requesting part-time employment and the disposition of each on a yearly basis. This list will include employees on the part-time program and any denials during that year.

ARTICLE 20 (old 25) OVERTIME

Section 1: Availability of Overtime

When the Agency deems there is a specific need for compensated overtime or that such is a proper and fit manner to expend funds, then overtime shall be authorized for each employee in accordance with the following criteria:

- A. the amount of work to be done;
- B. the funds available to do the work;
- C. the ability of the employee to satisfy the specific need;
- D. the ability of the employee to perform the work to be done in an independent manner during the period of overtime;
- E. demonstrated effectiveness in producing the required quality and quantity of the work product involved;
- F. employee performance is at least fully successful at the time overtime is approved (see Section 5 for patent examiners);
- G. employees are limited to a maximum number of overtime hours (including compensatory time and regular credit hours), as determined by the Agency, however the statutory pay cap may prevent certain employees from working the biweekly total of hours allowed by management;
- H. Technology Center directors or equivalent in business units may authorize individual exceptions to the set hour limit to meet specific needs of the Agency, but individual exceptions may not be made in violation of the statutory pay cap;
- I. for positions other than patent examiners, management may authorize exceptions to performance criteria in the event there is an unusual emergency or time-sensitive issues requiring specific employee(s) to perform necessary work for the Agency;
- J. the criteria in A-I shall be uniformly applied in any business unit for which overtime is authorized. Insofar as practicable, overtime will be on a voluntary basis, (e.g., employees responsible for critical infrastructure may be required to work paid overtime in emergency situations); and
- K. justification for restricting or denying overtime shall be provided in writing, not more than once per biweek, if requested by the affected employee.

Section 2: Overtime Hours and Pay Limitations

Overtime pay is pay for hours of work officially authorized by the Agency and approved in advance for the employee. Each Business Unit Head or designee is responsible for ensuring that these procedures are enforced:

- A. Business units may determine a maximum number of overtime hours, unless otherwise limited by law, rule, or regulation. The Agency reserves the right to further reduce the amount of overtime hours and pay due to budget limitations or in the event that workload reduces the need for overtime.

- B. For patent examiners, on a biweekly basis and in advance, each Technology Center Director or designee will approve an overtime authorization list identifying those employees authorized to work overtime hours for that pay period and the maximum number of hours authorized for each individual.

Section 3: When Overtime Hours May Be Performed

- A. Overtime hours may be worked on any day of the week including Saturdays, Sundays, and holidays. Holiday work must comply with the Agency's policy on working on a holiday, "Holiday Leave and Working on a Holiday Guidance", dated November 2019.
- B. A maximum of twelve (12) hours, including the regular duty hours on a work day (or hours counting toward the eighty (80)-hour biweekly requirement for IFP) and overtime hours, may be worked on any day.
- C. Overtime hours may not begin before 4:30 a.m. and must be completed by 11:59 p.m.
- D. Overtime may be worked in fifteen (15) minute increments.
- E. First-year employees will be required to demonstrate effectiveness in producing the required quality, pendency, and quantity of the work product in an independent manner in order to be authorized to work overtime. The Agency may grant exceptions to authorize overtime for first-year employees, other than patent examiners, when there are time-sensitive issues, such as budget preparation or IT systems program launch/update, and a supervisor or senior colleague is available to the employee.

Section 4: Temporary Prohibition on Working Overtime

- A. An employee will be prohibited from working overtime hours during any pay period in which the employee serves a suspension.
- B. If the employee is under active investigation or proposal for disciplinary or adverse action for time and attendance, work schedule, or work credit abuse, an employee may be temporarily prohibited from working overtime hours. This temporary prohibition of working overtime hours will last no longer than 100 days from the date notified of the investigation or proposal, unless the issue is referred to the Inspector General or the Department of Justice.
- C. On a day when an employee has requested to use sick leave due to the employee's own illness, the employee must obtain prior approval from their supervisor in order to work overtime hours.

Section 5: Overtime Eligibility for Patent Examiners

- A. An employee must be performing at least at the fully successful level in all critical elements of their performance appraisal plan (PAP) before management authorizes overtime hours.
- B. Biweekly authorization may be granted during the first quarter of the fiscal year based on at least fully successful performance in all critical PAP elements during the

previous fiscal year, unless an employee fails to achieve the fully successful level in any critical element during the fourth quarter of the previous fiscal year. Furthermore, an authorization granted for the first quarter of the fiscal year may be rescinded during that period if the employee's performance warrants removal of authorization to work overtime hours.

- C. In the event an employee fails to achieve the fully successful level in any critical PAP element for any given quarter, they will be prohibited from working overtime hours for the following quarter.
- D. On a biweekly basis during the second, third, and fourth quarters of the fiscal year, if an employee's year-to-date productivity or year-to-date docket management achievement falls below the fully successful level, they will be prohibited from working overtime hours. Once the year-to-date achievement is brought up to the fully successful level, on a biweekly basis, the employee will again be authorized to work overtime hours.
- E. Overtime Authorization:
 - 1. For patent examiners and supervisors to know with certainty whether the examiner will be authorized to work paid overtime, CD-81 authorization (CD-81) for the upcoming pay period will be based on an examiner's performance from the previous pay period rather than on the examiner's performance at the end of the pay period in which the CD-81 is being prepared.
 - 2. For example, in order to approve a CD-81 authorizing overtime for pay period 15, the supervisor, during pay period 14, will base the decision on the final production and docket management reports for pay period 13.
 - a. During pay period 14, when a supervisor is determining overtime eligibility for pay period 15, if a junior examiner has a case submitted in pay period 13 that has not been returned, it will be considered as though it was approved for purposes of overtime eligibility only.
 - 3. Exceptions:
 - a. In the first pay period of a new fiscal year, the CD-81 will initially be based upon an examiner's performance in pay period 25 of the previous fiscal year. Supervisors will re-evaluate overtime eligibility after final end-of-fiscal year reports are issued to determine if the examiner has met the overtime eligibility requirements for the current fiscal year and complete any CD-81 corrections consistent with those reports.
 - b. The CD-81 will be based on an examiner's performance in the next-to-the-last pay period of each of quarters 1, 2, and 3 to determine overtime eligibility for the first pay period of quarters 2, 3 and 4. Supervisors will then reevaluate overtime eligibility after the end-of-quarter performance reports are available and complete any necessary CD-81 corrections.
 - c. If the reevaluation period results in an examiner being no longer authorized to work overtime based on the previous pay period at the end of the fiscal year or at the end of quarters 1, 2, or 3, the Agency will notify the examiner. The Agency will pay for overtime worked prior to or on the day the examiner is

notified that they may not work any additional hours of overtime. The examiner may not work any additional hours until the employee is authorized to work overtime pursuant to a new CD-81.

DRAFT

ARTICLE 21 (old 26) COMPENSATORY TIME

Section 1: General Provisions

Eligible bargaining unit members may earn four types of compensatory (comp) time: regular compensatory time (Section 2), maternity/paternity compensatory time (Section 3), religious compensatory time (Section 4), and travel compensatory time (Section 5).

- A. Eligible bargaining unit members may earn compensatory time with advance supervisory approval.
- B. Compensatory time must be used within twenty-six (26) pay periods after it is earned, except for religious compensatory time. Compensatory time not used during this period will be forfeited without pay unless the employee is covered under the Fair Labor Standards Act, in which case the forfeited compensatory time will be paid at the rate it was earned.
- C. To meet the eligibility requirement for working compensatory time, employees must be performing at least at the fully successful level in all critical elements of their performance appraisal plan before being authorized to work compensatory time. Fully successful performance for patent examiners will be based on an employee's most recent full four quarters of work.
- D. If the Agency determines it is necessary to limit the earning of compensatory time in a specific technology due to lack of available work, the Agency will notify the Association and affected employees in advance. Any limitations will be maintained only as long as necessary to ensure sufficient work is available to employees.
- E. For positions other than patent examiners, management may authorize exceptions to performance criteria in the event there is an unusual emergency or a time sensitive issue requiring specific employee(s) to perform necessary work for the Agency.
- F. First-year employees will be required to demonstrate effectiveness in producing the required quality, pendency, and quantity of the work product in an independent manner in order to be authorized to work compensatory time. The Agency may grant exceptions to authorize compensatory time for first-year employees, other than patent examiners, when there are time sensitive issues such as budget preparation or IT systems program launch/update, and a supervisor or senior colleague is available to the employee.
- G. Employees are limited to a maximum number of hours (including overtime hours worked for pay and regular credit hours) of compensatory time each biweekly pay period, as determined by the Agency. However, the statutory pay cap may prevent certain employees from working the biweekly total of hours allowed by the Agency.
- H. Each year, the Agency will provide a chart with each grade and step showing the maximum number of hours of overtime and compensatory time that can be worked for each locality and the patent special pay rate (based on the Alexandria Headquarters). The Agency will identify the locality pay areas where that salary exceeds the patent special pay rate. This will include the grade and step at which the examiner would

move from the patent special pay rate to the locality rate. The Agency will provide this information to the Association in Excel.

- I. Technology Center Directors or equivalent managers may authorize individual exceptions to the set hour limit, but individual exceptions may not be made in violation of the statutory pay cap.
- J. The combined total of regular credit hours and regular compensatory time hours carried forward from one pay period to the next may not exceed eighty (80). Of the eighty (80) hours, the number of regular credit hours carried forward may not exceed twenty-four (24).
- K. The combined total of regular credit hours and regular compensatory time hours earned may not exceed 400 in a fiscal year.
- L. For production employees: Compensatory time off hours will be deducted from a bargaining unit member's production time for the biweekly period in which the time off was taken. The compensatory time hours worked will be added to the employee's production time for the biweekly period in which the time was worked.
- M. Compensatory time must be earned in advance of being used, except for religious compensatory time.
- N. On a day when an employee has requested to use sick leave due to the employee's own illness, the employee must obtain prior approval from their supervisor in order to work compensatory time.
- O. Compensatory time may be worked Sunday-Saturday between 4:30 a.m. and 11:59 p.m.
- P. The amount of compensatory time that may be earned on Saturdays and Sundays during any one pay period is twenty-four (24) hours, but the TC director or similar level manager may authorize up to thirty-two (32) hours on a case-by-case basis.
- Q. Employees may work compensatory time before or after their regularly scheduled hours. If an employee fails to meet the BWR, earned comp time will be converted to regular time worked.
- R. First-year examiners, to be authorized compensatory time, will be required to reach and maintain a fully successful performance level as established by the Technology Center Director.
- S. Compensatory time may not be earned during an employee's regularly scheduled hours on a holiday. Compensatory time may, however, be earned for hours worked outside of the regularly scheduled hours on a holiday (see Holiday Leave and Working on a Holiday Guidance policy, dated November 2019). Compensatory time may be authorized as an alternate to regular overtime but does not authorize compensatory time as an alternate to holiday premium pay. If on a flexible schedule on a holiday, the employee must complete 8 hours of holiday work before the employee may claim compensatory time.
- T. The earning and use of compensatory time contains no waiver of due dates. The employee is responsible for making arrangements to meet established due dates or obtaining adjustments as allowed by their supervisor. Upon returning to work, an employee is responsible for responding to voicemail messages promptly.

- U. This Article covers full time and part-time employees in the bargaining unit.
- V. Part-time employees may earn regular compensatory time only for hours of work in excess of their normal tour of duty, or 8 hours, whichever is greater. Further, a part-time employee cannot carry forward more than a pro-rata share of eighty (80) hours of regular compensatory time and regular credit hours from one pay period to the next. Part-time employees will be limited to earning a pro-rata share of 400 hours of regular compensatory time and regular credit hours per fiscal year. The pro-rata share will be equal to the biweekly tour of duty and the annual limit will be five times the biweekly tour of duty.

Section 2: Use of Regular Compensatory Time

- A. Compensatory time must be requested in advance except when the government is on unscheduled leave.
- B. Consistent with the needs of the Agency, requests to use compensatory time earned will be granted if, at the time of the request, the employee makes appropriate arrangements (in conjunction with the supervisor, if needed) for interviews, meetings, Agency coverage, and/or communications.
- C. Compensatory time (except religious and travel) may not be used in the pay period in which that compensatory time is earned. Employees may earn additional compensatory time in the same pay period that they use compensatory time that was earned in a prior pay period. For example, an employee has a ten (10) hour compensatory time balance prior to pay period 2. In pay period 2, the employee can use up to ten (10) hours of compensatory time and earn additional compensatory time.
- D. The Agency has the discretion and authority to ease any of the restrictions set forth above on a case-by-case basis or for purposes of operational needs.
- E. The Agency will notify employees at least 2 pay periods before the expiration of any compensatory time hour(s). Notification may occur by automated system; however, if automated notice is not provided, then the Agency shall provide manual notice at least 2 pay periods before expiration of any compensatory time hour(s). This will allow time for employees to schedule earned compensatory time before it expires.
- F. Requests for using compensatory time will follow the same request procedures for scheduled and unscheduled annual leave. Compensatory hours must be approved in advance except when the Government is on unscheduled leave.

Section 3: Maternity/Paternity Compensatory Time

Maternity/Compensatory Time is covered in Article 25.

Section 4: Religious Compensatory Time

- A. Consistent with the needs of the Agency, and in accordance with relevant law and regulations, an employee may be advanced compensatory time when their personal

religious beliefs require abstention from work for certain periods of the work day or work week.

- B. The employee must submit a request for religious compensatory time off in writing in advance of the religious observance. This will be done using the automated time and attendance system and/or by email to the employee's first line supervisor. The request should include the following information (if using the time and attendance system, include it in the remarks block):
 1. The name and/or description of the religious observance for which the employee's personal religious beliefs require them to be absent from work;
 2. The date(s) and time(s) the employee plans to be absent to participate in the religious observance; and
 3. The date(s) and time(s) the employee plans to earn religious compensatory time off to make up for the absence per Subsection 4C. The employee may adjust these dates and times by notification to their first line supervisor in writing, as long as the time is worked during the thirteen (13) pay periods described in Subsection 4C.
- C. Religious compensatory time may be earned either before or after the absence from work. If religious compensatory time off is to be earned before the absence, it must be earned within the thirteen (13) pay periods preceding the pay period in which the targeted religious observance commences and must be linked to specific dates and times for future use. If religious compensatory time off is to be earned after the absence, it must be earned within thirteen (13) pay periods after the pay period in which the employee used the religious compensatory time off. The thirteen (13) pay periods are calculated beginning with the first pay period beginning after the date on which the employee used the religious compensatory time off.
- D. An employee's request for religious compensatory time off will not be granted unless the employee simultaneously schedules the hours they intend to work to earn the compensatory time.
- E. The employee shall accurately record religious compensatory time off earned and used on their time sheet(s) in the automated time and attendance system.
- F. An employee may only accumulate the amount of religious compensatory time off needed to cover the specific dates and times for which the employee has submitted a request for religious compensatory time off.
- G. If the employee fails to earn religious compensatory time off within thirteen (13) pay periods after taking religious compensatory time off, the Agency may take corrective action to eliminate or reduce the negative balance by making a corresponding reduction in the employee's balance of compensatory time off for travel, compensatory time off in lieu of regular overtime pay, time off awards, credit hours, and annual leave. The balance may also be adjusted by converting the religious compensatory time off to leave without pay, which may result in a bill to the employee.
- H. If an employee does not use their earned religious compensatory time off as planned, the balance of unused religious compensatory time off may be redirected toward an approved future religious observance; however, the employee may not earn any

additional religious compensatory time off until the retained amount of religious compensatory time off has been used or the need to earn additional religious compensatory time off has been properly established and documented.

- I. Accumulated religious compensatory time off that is not used as planned is not subject to forfeiture; unused religious compensatory time off hours remain to the employee's credit until used, or the employee's separation or transfer. Upon separation or transfer, unused religious compensatory time off hours will be paid out at the employee's pay rate in effect when the time was earned.
- J. An employee with a negative religious compensatory time balance may be billed for the hours upon separation or transfer from the Agency.
- K. The statutory pay cap, which applies to overtime and earning regular compensatory time, does not apply to earning religious compensatory time.

Section 5: Travel Compensatory Time

- A. Eligible bargaining unit members may earn travel compensatory time consistent with the Agency's Compensatory Time Off for Travel policy, dated March 2012.
- B. When consistent with statutory and regulatory requirements, the Agency will plan travel itineraries that minimize layovers that would exceed the "usual waiting time" creditable as travel compensatory time.
- C. Prior to beginning travel, if an employee believes that a trip has an overly long layover, the employee may contact the travel coordinator for their business unit and request the coordinator to see if there is an allowable flight with a shorter layover.

ARTICLE 22 (old 27) REGULAR CREDIT HOURS

Section 1: General Usage

Regular credit hours are available to POPA bargaining unit full time employees on a flexible work schedule, who are limited or barred from earning compensatory time due to the overtime pay cap, subject to the conditions below. Employees covered under this section would be all those who cannot work the maximum amount of overtime allowed by their business unit in a pay period because of pay cap regulations.

Section 2: Regular Credit Hours (i.e., non-IFP Credit Hours)

- A. Regular credit hours do not have to be used within the same pay period they are earned, with a maximum of twenty-four (24) credit hours that may be carried over from one pay period to the next for a fulltime schedule.
- B. Regular credit hours earned do not count toward the basic work requirement; only regular credit hours used during the biweek can be applied toward the basic work requirement.
- C. Regular credit hours can be earned or used at a minimum of fifteen (15) minutes to a maximum of twelve (12) hours per day.
- D. The number of credit hours that can be earned on Saturdays and Sundays during any one pay period is a maximum of sixteen (16) hours.
- E. Since Sunday is not a regular work day, regular credit hours used may not be claimed for any hours on Sunday.
- F. An employee eligible to work regular credit hours must work the maximum available compensatory or overtime hours due to pay cap restrictions before they may work regular credit hours.
- G. Employees may work regular credit hours Sunday through Saturday between the hours of 4:30 a.m. and 11:59 p.m., local time.
- H. For rules concerning working regular credit hours on a holiday, please see [Holiday Leave and Working on a Holiday Guidance](#), dated November 2019.
- I. Regular credit hours must be earned before they are used.
- J. Regular credit hours may be worked at the election of the employee when the employee has been approved to work compensatory time, or when the employee would have been approved to work compensatory time but for the statutory pay cap.
- K. Employees using regular credit hours are responsible for making arrangements to complete work assignments when due.
- L. The combined total of regular credit hours and regular compensatory time hours carried forward from one pay period to the next may not exceed eighty (80). Of the eighty (80) hours, the number of regular credit hours carried forward may not exceed twenty-four (24).
- M. The combined total of regular credit hours and regular compensatory time hours earned may not exceed 400 in a fiscal year.

- N. The use of regular credit hours will follow the same guidelines as annual leave in that the use of these hours must be approved in advance except when the Government is on unscheduled leave.
- O. On a day when an employee has requested to use sick leave due to the employee's own illness, the employee must obtain prior approval from their supervisor in order to work regular credit hours.
- P. All regular credit hours must be used before starting a compressed work schedule or before starting a fixed eight-hour work schedule.
- Q. Regular credit hours may not be earned while attending training or completing activities assigned during training.

Section 3: Other Credit Hours

- A. Credit hours for part-time employees are covered in Article 19, Section 10.
- B. IFP credit hours worked under the IFP work schedule (i.e., used in the same biweek they are earned) are covered in Article 19, Section 5.

ARTICLE 23 (old 28) ANNUAL LEAVE

Section 1: Right to Annual Leave

The earning of annual leave, as provided by applicable law, is a right; however, the use of annual leave is granted subject to the needs of the Agency.

Section 2: Procedures for Requesting Scheduled Annual Leave

- A. Consistent with the needs of the Agency, employees and supervisors will schedule annual leave as far in advance as is necessary and reasonable.
- B. Leave requests may be initiated verbally or in writing. Verbal requests must be memorialized in writing in an Agency system (government email, instant message, or time and attendance system) no later than the end of the biweek or 3 days after returning, whichever is later.
- C. The employee shall request annual leave of their immediate supervisor or designee.
- D. Consistent with the needs of the Agency, annual leave will be granted if, at the time of the request, the employee makes appropriate arrangements (in conjunction with the supervisor, if needed) for interviews, meetings, Agency coverage and/or communications.
- E. Requests for annual leave, compensatory time, or regular credit hours to attend a funeral will normally be granted.

Section 3: Procedures for Requesting Unscheduled Annual Leave

- A. There may be situations where an employee is unable to request annual leave in advance. When this happens, employees must contact their supervisor as soon as possible in order to obtain approval for their use of annual leave. Messages left for the supervisor do not ensure that the leave has been approved. If the leave is denied, see Section 7 below.
 - 1. Requests in these situations may be made by email, phone call, voicemail, instant message, the time and attendance system, or verbally.
 - 2. The leave request must be memorialized in writing upon the employee's return to work if the original request was done verbally to document the unscheduled annual leave, even if the time sheet has already been certified.
- B. Verbal requests that are denied under this section shall be memorialized in writing and communicated via email to the requesting employee as soon as practical .

Section 4: Conflicting Requests for Annual Leave

- A. For non-patents employees: For annual leave requests for the end of the leave year, the deadline is November 1. In the event of conflicting annual leave requests or a problem with office coverage, the supervisor will endeavor to get an agreement among the affected employees.

- B. If these efforts fail, the most senior employee will be granted the leave unless the employee took annual leave for the same time last year, workload permitting.
- C. If the November 1 deadline passes without any requests made, annual leave requests will be granted on a first come, first served basis.
- D. An employee's approved annual leave will not be disapproved if a more senior employee subsequently requests leave for the same period.

Section 5: Change in Leave Plans

An employee who is approved annual leave for an entire day or more, but does not use the approved leave, should inform their supervisor when they begin work. This does not apply to minor differences, such as 4 hours approved leave, but the employee uses only 2 hours.

Section 6: Forfeiture of Annual Leave

- A. To avoid forfeiture of annual leave, the employee is responsible for using or scheduling the use or lose annual leave by the date set by the Agency, usually in November.
- B. Employees in areas that have office coverage needs are encouraged to discuss their unscheduled use or lose leave with their supervisors.

Section 7: Denial of Requests for Annual Leave

When the supervisor denies an employee's request for annual leave, the employee is expected to report to work as scheduled or at a time agreed to by the employee and supervisor. Upon request, the supervisor will provide reasons for the denial in writing.

Section 8: Substituting Sick Leave for Annual Leave

- A. Whenever circumstances within a period of annual leave would justify the granting of sick leave rather than annual leave, the leave-approving official may grant substitution of sick leave. Substitutions may also occur for maternity/paternity and bereavement purposes.
- B. When substituting leave, the employee must work with the timekeeper and supervisor to ensure time is recorded properly.
- C. Substitutions need to be made by the employee as soon as possible after returning to duty, but not later than 3 business days or the end of the biweek, whichever is longer.
- D. Such requests must be supported by evidence, if required, for a request for use of Sick Leave as set forth in Article 24, Section 2.

Section 9: Advanced Annual Leave

- A. An employee may request advanced annual leave in an amount not to exceed the amount of annual leave the employee would accrue in the remainder of the leave year. An employee is not required to exhaust their existing annual leave balance before advanced annual leave is granted. For example, an employee with an annual leave balance of twenty (20) hours but needing a total of forty (40) hours leave may request twenty (20) hours of annual leave and twenty (20) hours of advanced leave, and does not need to wait until their leave balance is 0 hours to request twenty (20) hours of advanced annual leave. Advanced annual leave may be substituted for leave without pay under Family Medical Leave Act (FMLA).
- B. Requests for advanced annual leave must specifically note that the employee is requesting advanced annual leave. Simply requesting approval of more annual leave than an employee's accrued balance is not a request for advanced annual leave.

DRAFT

ARTICLE 24 (old 29) SICK LEAVE

Section 1: General

An employee shall earn and use sick leave in accordance with applicable laws, regulations, and this Article. An employee may use sick leave for absences due to medical, dental, optical examinations or treatment, incapacitation and serious health conditions due to physical or mental illness, injury, pregnancy, childbirth, adoption of a child, or certain circumstances involving communicable diseases. Sick leave may be used to care for a family member who is incapacitated by a medical or mental condition, or to attend to a family member receiving medical, dental, optical examination, or treatment, as well as to care for a family member with a serious health condition, or to arrange and attend funeral services for a family member.

Section 2: Requesting Sick Leave

- A. **Scheduled Leave:** Requests for and approval of sick leave shall be made as far in advance as practicable.
 - 1. Leave requests may be initiated verbally or in writing. Verbal requests must be memorialized in writing in an agency system (government email, instant message, or time and attendance system) no later than the end of the biweek or 3 days after returning, whichever is later.
 - 2. The employee shall request leave of their immediate supervisor or designee.
- B. **Unscheduled Leave:** There may be situations where an employee is unable to request sick leave in advance. When this happens, employees must contact their supervisor or authorized designee as soon as possible in order to obtain approval for their use of sick leave. Requests in this situation may be made by email, phone call, voicemail, instant message, WebTA (or equivalent time sheet) or verbally. If a phone call is made without reaching the supervisor (or designee), the employee shall leave a voicemail, including their best contact number, for the supervisor or the supervisor's designees.
- C. The leave request must be memorialized in writing upon the employee's return to work if the original request was done verbally to document the unscheduled sick leave, even if the time sheet has already been certified.
- D. Sick leave requests shall be granted for purposes approved by law and government-wide regulations, unless the employee fails to provide administratively acceptable medical documentation when required, as noted below.
- E. Employees are required to request additional sick leave on each day they are absent, unless the leave for a continued sickness has been previously approved.
- F. Verbal requests that are denied under this section shall be memorialized in writing and communicated via email to the requesting employee as soon as practical .
- G. Employees who get sick after the work day begins and need to use sick leave shall request sick leave directly from their immediate supervisor or the supervisor's designees as soon as practical. (Employees on flexible schedules have the option to

flex per the Work Schedule Article 19.) Sick leave requests in this situation may be made by email, phone call, voicemail, instant message, WebTA (or equivalent time sheet) or verbally. If a phone call is made without reaching the supervisor (or designee), the employee shall leave a voicemail, including their best contact number, for the supervisor or the supervisor's designee. Once the request is made, the employee may leave the worksite.

1. Sick leave requests in this situation may be made by email, phone call, voicemail, instant message, time and attendance system, or verbally.
2. If a phone call is made without reaching the supervisor, the employee shall leave a voicemail.
3. Once the request is made, the employee may leave the worksite.
4. The leave request must be memorialized in writing upon the employee's return to work if the original request was done verbally to document the unscheduled sick leave, even if the time sheet has already been certified.

Section 3: Medical Documentation

- A. Acceptable medical documentation is administratively acceptable evidence for the need for sick leave. An employee's self-certification as to the reason for their absence may be considered administratively acceptable medical documentation. Documentation from a health care provider may be considered administratively acceptable medical documentation.
- B. Employees may be required to furnish acceptable medical documentation to substantiate requests for approval of sick leave in excess of 5 business days, or if the employee is on a sick leave restriction (defined in Section 4). However, the Technology Center (TC) Director or equivalent may authorize the supervisor to require medical documentation for sick leave of more than 3 consecutive business days if the TC Director and supervisor agree there is good cause to believe the employee is abusing the use of sick leave. Upon request, the Agency will promptly provide the affected employee the reason for requiring the medical documentation.
- C. Where the nature of the illness was such that an employee did not or could not see a health care provider, the Agency may waive the requirement for medical documentation.

Section 4: Leave Restriction

- A. A person shall be placed on sick leave restriction only if there is evidence of sick leave abuse and the restriction is justified in writing. The mere amount of leave used for illness does not constitute abuse.
 1. In individual cases, if there is evidence showing that an employee is abusing sick leave privileges, ordinarily the employee shall first be counseled. If there is no improvement, the employee will be notified in writing that an acceptable medical

documentation will be required for each subsequent absence for sick leave purposes.

2. Cases requiring an acceptable medical documentation for each sick leave absence shall be reviewed by a supervisor, for the purpose of determining whether there is a need to continue the restriction. Such review shall take place at the end of 6 months from the date of the notice to the employee requiring an acceptable medical documentation. When it has been determined that there is a need to continue the restriction, the employee shall be notified in writing.

Section 5: Substituting Annual Leave for Sick Leave

- A. Consistent with applicable laws and regulations and this Agreement, an approved absence, which would otherwise be chargeable to sick leave, may be changed to annual leave the pay period when used or no later than the following pay period, at the option of the employee. Employees may not retroactively substitute annual for sick leave for sole purpose of avoiding forfeiture.
- B. When substituting leave, the employee must work with the timekeeper and supervisor to ensure time is recorded properly.

Section 6: Advanced Sick Leave

A. Amounts of Advanced Sick Leave

An employee may request a maximum of up to 240 hours of advanced sick leave (prorated for part-time employees) for: an employee who is incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth; the serious health condition of the employee or family member; adoption of a child; care for service member with serious injury, as provided in 5 U.S.C. § 6382(a)(3); or certain circumstances involving communicable diseases.

- B. Of the 240 hours mentioned in subsection A above, an employee may request up to 104 hours (prorated for part-time):
 1. When they receive medical, dental or optical examination or treatment;
 2. To provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment (including purposes provided for in the Agency Maternity/Paternity Policy, dated April 20, 2021);
 3. To provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or
 4. To make arrangements necessitated by the death of a family member or to attend the funeral of a family member.
- C. The Agency considers the following criteria when reviewing advanced sick leave requests:
 1. Whether the employee is expected to return to duty for a period sufficient to repay the leave.

2. Whether the employee has provided acceptable medical documentation.
 3. Whether the employee is subject to leave restriction as described in Section 4.
- D. Requests for advanced sick leave must specifically note that the employee is requesting advanced sick leave. Simply requesting approval of more sick leave than an employee's accrued balance is not a request for advanced sick leave.

Section 7: Limits on the Amounts of Sick Leave

- A. For one's own medical needs: No limit on use of accrued sick leave for own medical needs.
- B. For general family care and bereavement: Available sick leave: 104 hours (prorated for part-time) per leave year.
- C. For care of a family member with a serious health condition: Available sick leave: 480 hours (prorated for part-time) per leave year. Any leave taken for general family care or bereavement must be subtracted from this amount.

Section 8: Voluntary Leave Bank Program (VLBP)

Employees may be eligible for the VLBP if they are a current leave bank member and have exhausted accrued sick leave and annual leave, and they expect to be on LWOP for at least twenty-four (24) hours. Donated leave from the VLBP may be used during a medical emergency.

Section 9: Voluntary Leave Transfer Program (VLTP)

Employees may be eligible for the VLTP if they have exhausted all accrued sick leave and annual leave, and they expect to be on LWOP for at least twenty-four (24) hours. Employees may only receive leave voluntarily donated by other employees under the VLTP during a medical emergency.

ARTICLE 25 (old 30) MATERNITY/PATERNITY LEAVE

Section 1: USPTO Policy for Non-Probationary Employees

Generally, the USPTO allows for absences of up to 6 months for maternity/paternity purposes (i.e., for pregnancy, childbirth, adoption, and foster care) for non-probationary, non-trial employees. In accordance with applicable laws, regulations, Agency policy, and this Agreement, employees may use any combination of available paid parental leave under Family Medical Leave Act (FMLA), sick leave, annual leave, advanced sick and/or annual leave, donated leave from the voluntary leave bank or transfer programs, compensatory time, credit hours (if applicable), or leave without pay (LWOP) for maternity/paternity purposes. The use of FMLA when combined with other leave in this section may result in a total of 9 months off or a flexible schedule for the first year after the birth, adoption, or placement of a child.

Section 2: For Probationary and Trial Period Employees with no FMLA Rights

USPTO maternity/paternity policy for probationary and trial period employees with no FMLA rights (less than twelve (12) months of federal service) allows a parent to take off up to 8 weeks after the birth or placement (adoption or foster care) of a child. This time can be accrued sick leave, annual leave, compensatory time or LWOP. Employees who are eligible to work compensatory time may earn and use up to 160 hours of compensatory time. Probationary employees are not normally granted advanced leave (sick or annual). However, requests will be considered on a case-by-case basis. Requests for additional LWOP will be considered on a case-by-case basis depending on how far along the probationary period is, required training remaining, how the employee is progressing, and/or the likelihood of retention.

Section 3: For Probationary and Trial Period with FMLA Rights

USPTO maternity/paternity policy for probationary and trial period employees who have worked in the Federal Service for at least twelve (12) months (not required to be consecutive and not required to be at the same agency) allows a parent to take off up to twelve weeks (480 hours for a full time employee) after the birth or placement (adoption or foster care). This time can be accrued sick leave, annual leave, compensatory time, LWOP or Paid Parental Leave (PPL) under FMLA. Probationary employees are not normally granted advanced leave (sick or annual). Requests will be considered on a case-by-case basis. Requests for additional LWOP will be considered on a case-by-case basis considering how far along the probationary period is, required training remaining, how the employee is progressing and/or the likelihood of retention.

Section 4: Sick Leave Related to the Birth of a Child

- A. In accordance with applicable laws and regulations, a birth parent is entitled to use accrued sick leave for their own medical appointments, hospitalization, their period of incapacitation following childbirth, and medical appointments or illness of the infant. Sick leave may be used by the birth parent for the time after birth needed for recovery – usually 6 weeks for a normal vaginal delivery and 8 weeks for a C-section. Depending upon available sick leave balances, a family member is entitled to use sick leave up to a maximum of twelve (12) work weeks (480 hours for a full time employee) to accompany the birth parent to prenatal appointments, to be with them during their period of hospitalization, and/or to care for them during their incapacitation period. Supervisors may request administratively acceptable medical documentation of the mother's period of medical incapacitation for the use of sick leave. Employees may not use sick leave to bond with or care for a healthy baby.
- B. For purposes of this section, a Family Member is an individual with any of the following relationships to the birth parent: (1) spouse, and parents thereof; (2) sons and daughters, and spouses thereof; (3) parents, and spouses thereof; (4) brothers and sisters, and spouses thereof; (5) grandparents and grandchildren, and spouses thereof; (6) domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and (7) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Section 5: Sick Leave to Care for a Family Member

An employee is entitled to use a total of twelve (12) weeks of sick leave each leave year to care for a family member with a serious health condition. An employee is entitled to use up to thirteen (13) days of the twelve (12) weeks of sick leave for general family care purposes (e.g., to care for a child who has a routine illness, to take a child to medical, dental, or optical appointments or well-baby doctor visits). An employee is entitled to no more than a combined total of twelve (12) weeks of sick leave each leave year for all family care purposes.

Section 6: Sick Leave for Adoption of a Child

In accordance with applicable laws and regulations, an employee may use accrued sick leave for purposes relating to the adoption of a child. An adoptive parent may use sick leave for any purpose that would allow the adoption to proceed, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and for any other activities necessary to allow the adoption to proceed. Adoptive parents who voluntarily choose to be absent from work to bond with an adopted child may not use sick leave for this purpose. Parents may use paid parental leave (see Section 8), annual leave, compensatory time, credit hours, or leave without pay for these purposes.

Section 7: Family and Medical Leave Act (FMLA)

In accordance with the provisions of the FMLA, eligible employees on a full time or part-time schedule who have worked in the Federal Service for at least twelve (12) months (not required to be consecutive and not required to be at the same agency) are entitled to use up to twelve (12) work weeks (480 hours for a full time employee) of leave without pay for maternity/paternity purposes, to include bonding with the child. Paid parental, annual or sick leave, as appropriate, may be substituted for leave without pay in accordance with Agency policy and this Agreement. An employee's entitlement to leave under FMLA for maternity/paternity purposes expires twelve (12) months following the date of birth of a child or placement of a child. Employees must invoke their entitlement to leave under FMLA (i.e., a supervisor or manager may not place an employee on leave under FMLA). Unless the employee is incapacitated at the time, an employee may not ordinarily retroactively invoke FMLA. Paid Parental Leave which is part of FMLA is covered in Section 8.

Section 8: Paid Parental Leave (PPL)

In accordance with applicable laws and regulations and Agency policy, full time and part-time employees who are eligible for FMLA leave are eligible for PPL, which is triggered by the occurrence of a birth or new placement (for adoption or foster care) of a child. PPL is limited to twelve (12) weeks and may only be used during the twelve (12) month period beginning on the date of the birth or placement of the child. An employee will be able to use the full amount of PPL (12 weeks) only to the extent that there are twelve (12) weeks of available FMLA unpaid leave granted for a birth or placement of a child during the twelve (12) month period commencing on the date of birth or placement of the child. Employees are not required to use or exhaust annual leave or sick leave before requesting PPL. Prior to using PPL, employees are required to enter into a written agreement to work for the USPTO for twelve (12) weeks after the use of PPL concludes. Employees requesting PPL are required to complete and submit the Parental Leave Request Form and the Agreement to Complete twelve (12) Week Work Obligation. Failure to complete the twelve (12) week work obligation will result in an employee being required to reimburse the USPTO contributions paid to maintain the employee's health insurance coverage under the Federal Employees Health Benefits (FEHB) Program during the period that PPL was used. An employee may work paid overtime while also taking PPL, consistent with the provisions of Article 20 Overtime.

Section 9: Voluntary Leave Bank Program (VLBP)

Employees may be eligible for the VLBP if they are a current leave bank member and have exhausted accrued sick leave and annual leave, and they expect to be on LWOP for at least twenty-four (24) hours. Donated leave from the VLBP may be used during a medical emergency, such as complications during pregnancy, incapacitation after

delivery, or to care for a child with a medical emergency. Donated leave may not be used to bond with or care for a healthy baby.

Section 10: Voluntary Leave Transfer Program (VLTP)

Employees may be eligible for the VLTP if they have exhausted all accrued sick leave and annual leave, and they expect to be on LWOP for at least twenty-four (24) hours. Employees may only receive leave voluntarily donated by other employees under the VLTP during a medical emergency, such as complications during pregnancy, incapacitation after delivery, or to care for a child with a medical emergency. Donated leave may not be used to bond with or care for a healthy baby.

Section 11: Notice to Supervisor

Employees must request leave, in writing, when possible, for maternity/paternity reasons, indicating the type of leave and the probable duration, normally at least thirty (30) days in advance or when practical. It is understood that unanticipated medical circumstances and issues may arise during pregnancy that will require an employee to alter their request and not allow thirty (30) day advance notice.

Section 12: Maternity/Paternity Compensatory Time

- A. Maternity/paternity compensatory time allows employees compensatory time, in addition to regular compensatory time (Article 21), that may be earned and used during pregnancy, to prepare to adopt or foster a child, and after the birth or placement of a child. All requests are subject to supervisory approval.
 - 1. An employee may earn maternity/paternity compensatory time and carry a balance of up to eighty (80) hours of maternity/paternity compensatory time during a pregnancy or in preparation for fostering or adopting a child.
 - 2. An employee may continue to earn maternity/paternity compensatory time through the first thirteen (13) full pay periods after the birth or placement of a child as long as the maternity/paternity compensatory time does not exceed a balance of eighty (80) hours at the end of any biweek.
 - 3. No additional maternity/paternity compensatory time can be earned after the thirteen (13) full pay periods following the birth or placement of a child, but an employee may carry a balance of up to eighty (80) hours of maternity/paternity compensatory time until it expires.
 - 4. Maternity/paternity compensatory time earned may be used until it expires.
 - 5. The total of maternity/paternity compensatory time and regular compensatory time cannot exceed a balance of 160 hours at the end of any biweek.
- B. Maternity/paternity compensatory time must be used within 26 pay periods of being earned in accordance with Article 21, and is subject to the statutory pay caps.

Section 13: Rest Periods

Rest periods may be available during pregnancy. See Administrative Leave, Article 26, Section 5 for details.

DRAFT

ARTICLE 26 (old 31) ADMINISTRATIVE LEAVE AND OTHER LEAVE

Section 1: Weather and Safety Leave

Weather and Safety leave is covered in Article 19 Work Schedules and in an employee's telework agreement.

Section 2: Absence for Voting and Registration

Employees may claim up to 4 hours of administrative leave for:

- A. Voting in connection with each Federal general election day. This includes voting on election day or early voting, including by mail.
- B. Each election event at the Federal, State, local (i.e., county and municipal), Tribal and territorial level that does not coincide with a federal election day. This includes general elections, primary elections and caucuses. Elections at more than one level on the same day will be considered a single election event.
- C. Voting for Federal special Congressional elections not held on the date of a Federal general election.
- D. Serving as a non-partisan poll worker or participating in non-partisan observer activities at the Federal, State, local, Tribal, or territorial level. An employee is limited to 4 hours of administrative leave per leave year for serving as a non-partisan poll worker or observer.

Section 3: Court Leave

- A. Employees may claim administrative leave for jury duty or for testifying as a witness when summoned to testify in a non-official capacity on behalf of a state or local government, or on behalf of any party in connection with a proceeding to which the United States, District of Columbia, or a state or local government is a party.
- B. If an employee is summoned as a witness in an official capacity on behalf of the Federal Government, the employee is on official duty, not court leave.

Section 4: Blood Donations

- A. The Agency and the Association jointly encourage employees to donate blood (including whole blood and platelet donation). Participation shall be strictly voluntary.
- B. An employee's supervisor should grant an employee up to 4 hours administrative time to make a blood donation during duty hours, including recuperation and travel time. The administrative time shall be taken consecutively, beginning at the time the employee departs to make the blood donation. The donation may be made at a USPTO or other facility. The supervisor needs to be made aware that the employee is making the blood donation before the employee leaves the workplace.

Section 5: Medical Rest Periods

Medical rest periods may be taken when prescribed by a healthcare provider. The medical documentation must require the rest period for a medical condition (including pregnancy), not just recommend the rest period. These periods can be recurring, brief absences of up to 1 hour per day and are charged to administrative leave. An employee may not work overtime or compensatory time on any day in which administrative leave is used for this purpose. The rest may be taken in the employee's office or at the Health Center or, if a full time teleworker, at the alternate work site. The 1 hour per day may be split into a plurality of shorter rest periods, if consistent with the prescription.

Section 6: Parental Bereavement Leave

Eligible employees may claim up to eighty (80) hours (prorated for part-time employees) of parental bereavement leave following the death of a qualifying child (a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is under age eighteen (18) or, if eighteen (18) or older, incapable of self-support because of a disability). To be eligible, an employee must have served under a permanent or term appointment for at least twelve (12) months prior to the qualifying child's death and provide a self-certification or other documentation (e.g., death certificate) to verify that the leave is being used for bereavement purposes. Parental bereavement leave must be used within twelve (12) months of the date of the child's death and may be taken intermittently.

Section 7: Administrative Leave to Take the Bar Examination

- A. For one time only, Patents and PTAB bargaining unit employees may be granted up to 3 days (twenty-four (24) hours) of administrative leave to take the bar examination and necessary travel. Request for administrative leave must be submitted to the employee's supervisor for approval.
- B. Additionally, up to two days (sixteen (16) hours) of administrative leave may also be authorized for any required interviews before Admissions Committees of the bar involved and the like, and the time so spent may include travel time as in the above cases.
- C. Administrative leave may be authorized only for necessary travel time and for the days during which the examination is administered.
Administrative leave will not be authorized for time taken for personal purposes on the way to or returning from taking the bar examination. Annual leave, compensatory time, credit hours, or leave without pay must be used for such purposes.
- D. No administrative leave is authorized for studying for the examination or for taking preparatory courses. Nor is any administrative leave permitted for admission to a bar when the employee is already a member of another bar, nor, for admission to any other courts such as the Court of Claims.

- E. No travel orders will be issued by the Agency while the employee is on administrative leave as listed above.

Section 8: Administrative Leave for Employee Assistance Program (EAP)

- A. A supervisor may grant administrative leave of up to 6 hours in a fiscal year for EAP counseling.
- B. The employee is required to provide confirmation to their supervisor that they attended the EAP appointment.

Section 9: Bone Marrow or Organ Donor Leave

An employee may use up to 7 days of paid leave each calendar year to serve as a bone marrow donor. An employee also may use up to thirty (30) days of paid leave each calendar year to serve as an organ donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

ARTICLE 27 (old 32) LEAVE WITHOUT PAY AND FAMILY MEDICAL LEAVE ACT

Section 1: General

In most circumstances, Leave Without Pay (LWOP) is not an entitlement, however, an employee who desires leave but does not have an adequate leave balance in the appropriate leave category may request leave without pay. All employees may be considered for LWOP on a case-by-case basis. LWOP and Family and Medical Leave Act (FMLA) for Maternity/Paternity purposes is covered in Article 25.

Section 2: Purpose

LWOP is a temporary, non-pay status and absence from duty. LWOP will only be granted at management discretion, except where provided by law.

- A. LWOP may affect entitlement or eligibility for certain Federal benefits.
- B. LWOP will only be implemented at an employee's request, or unless it is imposed consistent with applicable law and regulation.
- C. LWOP will be administered in accordance with applicable laws and regulations.

Section 3: Requesting Leave Without Pay

- A. Consistent with applicable regulations and this Agreement, an employee who desires to take leave but does not have enough leave in the appropriate leave category to cover the absence may request LWOP. Note, however, that an employee may be approved for LWOP even if they have a small leave balance in the category for which LWOP is being requested, in addition to available non-religious compensatory time or credit hours. The reason for the request must be included in the leave request. LWOP requested in lieu of sick leave is subject to the medical documentation requirements in Article 24, Section 3. LWOP will not be granted merely for the personal convenience of the employee.
- B. Requests for and approval of LWOP shall be made as far in advance as possible and shall be made directly to the employee's immediate supervisor. Requests may be made by email, phone call, voicemail, instant message, verbally, or WebTA (or equivalent time sheet).
- C. The leave request must be memorialized in writing upon the employee's return to work if the original request was done verbally to document the LWOP, even if the time sheet has already been certified.

Section 4: Requests for Leave Without Pay for 30 Days or More

If the employee requests LWOP for thirty (30) days or more, it must be requested in writing and the employee's supervisor must initiate a personnel action request. The request must include a written statement fully explaining the reasons for the request, and, if the request is made for medical reasons, a statement from the physician indicating the need for the absence and the prognosis of the employee's ability to return to work at the end of the period of LWOP. Such requests will not be routinely granted.

Section 5: Family and Medical Leave Act (FMLA)

- A. The Family Medical Leave Act (FMLA) created an entitlement that allows eligible employees to use up to a total of twelve (12) weeks (480 hours for a full time employee) of leave without pay and/or accrued sick or annual leave for their own serious health condition, for the birth of a child, new adoption or fostering of a child, or the care of a spouse, son, daughter, or parent who has a serious health condition. A serious health condition includes such conditions as cancer, heart attack, stroke, diabetes, clinical depression, severe injury, Alzheimer's disease, pregnancy, and childbirth. The Agency would need medical documentation in order to determine whether the employee, or a family member as listed above, has a serious medical condition that qualifies under FMLA.
- B. If the employee is eligible for FMLA (i.e., has one year of federal service) and wishes to invoke their entitlements under FMLA, the Agency can provisionally approve a request for leave under FMLA for up to twelve (12) weeks (480 hours) in a twelve (12)-month period of time, pending the employee's submission of medical documentation that supports either their incapacitation for duty for the period(s) of leave, or their family member's serious health condition. Provisional approval allows the employee to use the leave immediately. If the employee invokes FMLA, they are required to provide their supervisor with administratively acceptable medical documentation within fifteen (15) days of their invocation and first use of leave under FMLA. Upon notification that the initial documentation is insufficient, the employee will be given an additional fifteen (15) day period to submit sufficient documentation.
- C. The reference to 480 hours is for a full-time employee; the amount is prorated for employees working a part-time schedule.
- D. See Article 25 on maternity and paternity leave for information on paid parental leave.

Section 6: Voluntary Leave Bank Program (VLBP)

Employees may be eligible for the VLBP if they are a current leave bank member and have exhausted accrued sick leave and annual leave, and they expect to be on LWOP for at least twenty (24) hours. Donated leave from the VLBP may be used during a medical emergency.

Section 7: Voluntary Leave Transfer Program (VLTP)

Employees may be eligible for the VLTP if they have exhausted all accrued sick leave and annual leave, and they expect to be on LWOP for at least twenty (24) hours. Employees may only receive leave voluntarily donated by other employees under the VLTP during a medical emergency.

DRAFT

ARTICLE 28 (old P) WITHIN-GRADE INCREASE

The Agency shall continue to process within-grade increases (WGIs) for patent examiners in accordance with the "Within-Grade Increases (WGIs)" memo issued on June 24, 2016.

Instructions for how a patent examiner can ascertain their WGI step date are contained therein.

DRAFT

ARTICLE 29 (old E) AWARDS

Preamble

The USPTO acknowledges its desire to maintain a robust awards program. The parties agree their interests align to discuss awards outside negotiation of the term collective bargaining agreement (“CBA”). As such, the parties agree on the following regarding awards:

Section 1: Negotiation of Awards

- A. The parties agree to negotiate all awards topics, including, but not limited to: Quality Step Increases, the Gainsharing Award, the Special Achievement Award (“SAA”), and the Examiner Pendency Award, as well as any successor award programs in negotiations separate and apart from term CBA negotiations.
- B. Within 2 months following the effective date of the term CBA, either party may initiate discussions on awards by providing notice to the other party. Once a party has submitted in writing its proposals, the other party shall have 4 calendar weeks to submit its proposals and/or counterproposals. Negotiations for awards shall begin no later than 4 weeks thereafter. The awards agreement(s), as produced or modified by such negotiations, may have, but need not have, the same term as CBA.

The USPTO agrees to maintain the current POPA award programs including, but not limited to the Gainsharing Award, SAA Award, and the Examiner Pendency Award, until the sooner of: (1) five years from the execution of this MOU; (2) the end of the successor CBA’s term; or (3) the effective date of any new award agreement, or separate award agreements. If neither party initiates bargaining pursuant to paragraph B above, or if no agreement is reached as a result of the negotiation, either party may initiate bargaining at the end of the five-year period or as part of a new term agreement, and the awards will stay in place until a replacement award agreement is reached.

Section 2: Maintaining the Status Quo

With respect to maintaining the status quo pursuant to Section 1, C above, the parties acknowledge the existence of a pilot that modifies the gainsharing award running during FY 2024. At the end of this pilot, the status quo will revert to the Gainsharing Award agreements (1988), as modified by the Count System Initiative Package and made permanent in the July 2, 2019, agreement between the parties titled “2019 Agreement on Count System Initiatives.” The parties will meet to discuss the outcome of the pilot and whether to continue the pilot, modify the pilot, make it a permanent part of the gainsharing award, or end it. The parties agree to negotiate if they cannot otherwise reach agreement.

With respect to maintaining the status quo pursuant to Subsection 1.C. above, the Examiner Pendency Award, executed by the parties on June 12, 2023, either party may initiate bargaining on the Award at any time after the end of Fiscal Year (FY) 2025.

Section 3: Renegotiations Provision

Notwithstanding any intervening agreements on awards, either party may propose changes to any award during negotiations pursuant to Subsection 1.C(1). or 1.C(2). above.

Section 4: Posting of Awards MOUs and Agreements

Any award agreements or MOUs will be posted on the Agency Intranet pages with a link proximate to the link for the term agreement.

DRAFT

ARTICLE 30 (old O) CHANGE IN ART

Section 1: Dockets

The parties recognize the benefits of maintaining a consistent scope of the art for examiners. Therefore, to the extent consistent with the interests of the Agency, every reasonable effort will be made to allow examiners GS-13 and above to maintain their assigned dockets.

Section 2: Changes in Area of Examination for Examiners

- A. The Association will be informed when the Agency initiates voluntary or involuntary changes to the art examined by multiple examiners in the same art. The information will include the names of the affected examiners as well as the art the employees currently examine and the art they will be examining.
- B. Notwithstanding the natural migration in evolving technology, or modifications more clearly defining scope such as those necessitated by reclassification or revisions, when there is a change to an examiner's assigned art, an assessment of training and learning curve needs will be made. Art appropriate training and refresher training may be provided based on the assessment and will not count against the examiner's bank of hours for employee selected training.
- C. When management has determined that a group of employees are equally qualified for a change in assigned art, management will ask for volunteers from these employees.

ARTICLE 31 (old B) ADVERSE ACTIONS BASED ON PERFORMANCE

Section 1: Overview

- A. The parties agree that primary emphasis should be placed on preventing situations that may result in adverse actions based on performance, and that an employee may be more effectively helped through counseling than through an adverse action.
- B. This article covers removals and involuntary reductions in grade of non-probationary employees based on performance taken pursuant to Chapter 43 of Title 5 of the U.S. Code. Article 33 covers removals and reductions-in-grade for performance that are taken pursuant to Chapter 75 of Title 5.

Section 2: Documentary Evidence

The documentary evidence on which the notice of proposed adverse action is based will be given to the employee at the time the notice is delivered. If the Agency submits or supplements documentary evidence at a date later than the notice, the latter date will be used as the trigger date for determining timeliness of the employee's response.

Section 3: Procedures for Proposed Adverse Actions

When the Agency proposes an adverse action against an employee, the following procedures will apply:

- A. The decision on the proposed adverse action will be issued no sooner than thirty (30) days after the issuance of the notice of proposed adverse action.
- B. The notice of proposed adverse action shall include all the reasons for the proposed action, a statement that the employee has a right to a representative, identification of the person who will decide on the proposed action (i.e., the deciding official), contact information for the Union, and the right to respond orally and/or in writing within fifteen (15) days from the date the employee received the notice of proposed adverse action. A request for an oral reply must be made in writing to the Performance Management and Awards Division Representative identified in the notice. A reasonable request for an extension will be granted.
- C. Where an employee chooses to make an oral reply, the reply will be heard by a higher-level management official than the official who issued the notice of proposed adverse action. The Agency will prepare a summary of the oral reply and provide a copy of the summary to the employee and, if represented, to their representative. The employee may make corrections to the summary within one week after receiving the summary.
- D. The oral reply affords the employee a forum to present an uninhibited oral defense, including denial of reasons for the proposed action, a presentation of any mitigating circumstances, and a request for less severe action. The employee may make any

truthful representation they believe may influence the final decision. Although questions may be asked for clarification, there is no cross examination. The oral reply is not a hearing. There is no presentation of witnesses. The oral or written reply shall be made a permanent part of the documentary evidence upon which the proposed action is based and shall be submitted to the deciding official.

- E. A letter of final decision containing the Agency's detailed findings with respect to each reason upon which the proposed action was based, and the appropriate appeal rights, will be issued and delivered to the employee at the earliest date possible after the oral reply or the receipt of the written reply.

Section 4: Reduction-in-Grade, Resignation, or Retirement

- A. When appropriate, the Agency may consider a reduction-in-grade of an employee who does not successfully complete a performance improvement period (PIP) or maintenance period.
- B. Before a decision is effective regarding a proposed action to reduce-in-grade or remove, the employee has the ability to resign or, if eligible, to retire. The employee will be able to submit a resignation or retirement until 5:00 p.m. Eastern Time on the effective date stated in the decision. The employee must submit an email or other written statement to their supervisor by 5:00 p.m. Eastern Time and indicate that the resignation or retirement is effective at 5:00 p.m. Eastern Time.
- C. If an action for removal is canceled or rescinded, all official documents related to the action that are contained in the employee's eOPF will be removed.

Section 5: Grievances and Appeals of Adverse Actions

- A. Removal actions may be appealed either directly to the Merit Systems Protection Board (MSPB) or, with the consent of the Association, to arbitration, but not both. The Association must invoke arbitration within twenty-one (21) days of the delivery of the decision letter to the employee. See Article 14 for information on arbitration. Employees shall be warned in the decision letter that once an election of a forum is made, it is final and irrevocable.
- B. Involuntary reductions-in-grade may be appealed either directly to the MSPB or to Step Two of the grievance process, but not both. Any such grievance must be filed within twenty-one (21) days of the delivery of the decision letter. See Article 13 for more information on the grievance process. Employees shall be warned in the decision letter that once an election of a forum is made, it is final and irrevocable.
- C. Performance improvement periods may be grieved in accordance with Article 13 of this Agreement.

Section 6: Information to the Union

The Association will be provided annual data for each Technology Center and business area. The data will include the number of:

- performance improvement periods (based on PAP element)
- proposed removals (based on PAP element)
- failed maintenance period(s)
- reductions-in-grade
- decisions on proposed removal (termination, rescission, abeyance agreement)

DRAFT

ARTICLE 32 (old C) PERFORMANCE MANAGEMENT

When completed, a memorandum of understanding concerning performance management will be incorporated into this Agreement.

DRAFT

ARTICLE 33 (old A) DISCIPLINARY AND ADVERSE ACTIONS BASED ON CONDUCT

Section 1: Overview

- A. The parties agree that disciplinary and adverse actions will be taken for just cause, meaning that they will be consistently applied and promote the efficiency of the Federal Service.
- B. The parties agree that primary emphasis should be placed on preventing situations that may result in disciplinary or adverse actions and that an employee may be more effectively helped through counseling than through a disciplinary or adverse action.
- C. This article covers:
 - 1. Disciplinary and Adverse actions based on conduct;
 - 2. Furloughs of thirty (30) days or less; and
 - 3. Involuntary down-grades and removals based on performance that are taken pursuant to 5 U.S.C. Chapter 75.
- D. Article 31 covers removals and reductions in grade for performance that are taken pursuant to Chapter 43 of Title 5.
- E. This Article does not apply to discharges during probationary or trial periods, or termination of temporary appointments.
- F. As used in this Article, "disciplinary action" means a letter of reprimand or a suspension of fourteen (14) days or less.
- G. As used in this Article, "adverse action" means a removal, a suspension for more than fourteen (14) days, a reduction-in-grade, a reduction in pay, or a furlough of less than thirty (30) days.

Section 2: Documentary Evidence for all Proposed Actions

The documentary evidence on which the notice of proposed disciplinary or adverse action is based will be given to the employee at the time the notice is delivered. If the Agency submits or supplements documentary evidence at a date later than the notice, the latter date will be used as the trigger date for determining timeliness of the employee's response.

- A. For proposed AWOL specifications, this includes all data relied upon by the Agency related to user activity (e.g., login/logout records, badge-in/badge-out records) for the full timeframe covered within the proposal.
- B. For other proposed actions based on conduct, upon request, the Agency shall provide exculpatory evidence to the employee that is related to the reasons for the proposed action and uncovered during the investigation.

Section 3: Procedures for Proposed Suspensions of 14 days or less

When the Agency proposes to suspend an employee for fourteen (14) days or less, the following procedures will apply:

- A. The decision will be issued no sooner than fifteen (15) days after the issuance of the notice of proposed suspension of fourteen (14) days or less.
- B. The notice of proposed disciplinary action shall include all the reasons for the proposed action, a statement that the employee has a right to a representative, identification of the person who will decide on the proposed action (i.e., the deciding official), contact information for the Union, and the right to respond orally and/or in writing within ten (10) days from the date the employee received the notice of proposed disciplinary action. A request for an oral reply must be made in writing to the Employee Relations Representative identified in the notice. A reasonable request for an extension will be granted.
 1. The employee may be represented by an attorney or POPA at the oral reply. If either an attorney or POPA is representing the employee, the attorney or POPA will notify the Agency in writing. However, the availability of a particular attorney or POPA representative is not justification for extending the reply period.
 2. The employee may arrange in advance with their supervisor a reasonable amount of non-production time to review the material relied on to support the action, to prepare the reply, and to secure affidavits and other applicable documentation. The time code for this time will be provided to the employee in writing.
- C. When an employee chooses to make an oral reply, the reply will be heard by a higher-level management official than the official who issued the notice of proposed disciplinary action. The Agency will prepare a summary and provide a copy of the summary to the employee and, if represented, to their representative. The employee may make corrections to the summary within one week after receiving the summary.
- D. The oral reply affords the employee a forum to present an uninhibited oral defense, including denial of reasons for the proposed action, a presentation of any mitigating circumstances and a request for less severe action. The employee may make any truthful representation they believe may influence the final decision. Although questions may be asked for clarification, there is no cross examination. The oral reply is not a hearing. There is no presentation of witnesses. The oral or written reply shall be made a permanent part of the documentary evidence upon which the proposed action is based and shall be submitted to the deciding official.
- E. A letter of final decision containing the Agency's detailed findings with respect to each reason upon which the proposed action was based, and the appropriate appeal rights, will be issued and delivered to the employee at the earliest date possible after the oral reply or the receipt of the written reply.

Section 4: Procedures for Proposed Adverse Actions

When the Agency proposes an adverse action against an employee, the following procedures will apply (note the exception in Section 5):

- A. The decision on the proposed adverse action will be issued no sooner than thirty (30) days after the issuance of the notice of proposed adverse action.
- B. The notice of proposed adverse action shall include all the reasons for the proposed action, a statement that the employee has a right to a representative, identification of the person who will decide on the proposed action (i.e., the deciding official), contact information for the Union, and the right to respond orally and/or in writing within fifteen (15) days from the date the employee received the notice of proposed adverse action. A request for an oral reply must be made in writing to the Employee Relations Representative identified in the notice. A reasonable request for an extension will be granted.
 1. The employee may be represented by an attorney or POPA at the oral reply. If either an attorney or POPA is representing the employee, the attorney or POPA will notify the Agency in writing. However, the availability of a particular attorney or POPA representative is not justification for extending the reply period.
 2. The employee may arrange in advance with their supervisor a reasonable amount of non-production time to review the material relied on to support the action, to prepare the reply, and to secure affidavits and other applicable documentation. The time code for this time will be provided to the employee in writing.
- C. When an employee chooses to make an oral reply, the reply will be heard by a higher-level management official than the official who issued the notice of proposed adverse action. The Agency will prepare a summary of the oral reply and provide a copy of the summary to the employee and, if represented, to their representative. The employee may make corrections to the summary within one week after receiving the summary.
- D. The oral reply affords the employee a forum to present an uninhibited oral defense, including denial of reasons for the proposed action, a presentation of any mitigating circumstances and a request for less severe action. The employee may make any truthful representation they believe may influence the final decision. Although questions may be asked for clarification, there is no cross examination. The oral reply is not a hearing. There is no presentation of witnesses. The oral or written reply shall be made a permanent part of the documentary evidence upon which the proposed action is based and shall be submitted to the deciding official.
- E. A letter of final decision containing the Agency's detailed findings with respect to each reason upon which the proposed action was based, and the appropriate appeal rights, will be issued and delivered to the employee at the earliest date possible after the oral reply or the receipt of the written reply.

Section 5: Procedures for Proposed actions Related to Crimes

In proposing disciplinary or adverse actions on matters for which there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, the Agency will follow appropriate procedures as permitted by law, which may include placing the employee on an indefinite suspension, curtailing the notice period, and/or limiting the period to reply to a proposed action.

Section 6: Resignation or Retirement

- A. Before a decision regarding a proposed action to reduce-in-grade or remove is effective, the employee has the ability to resign or, if eligible, to retire. The employee will be able to submit a resignation or retirement until 5:00 p.m. Eastern Time on the effective date stated in the decision. The employee must submit an email or other written statement to their supervisor by 5:00 p.m. Eastern time and indicate that the resignation or retirement is effective at 5:00 p.m. Eastern Time.
- B. If an action for removal is canceled or rescinded, all official documents related to the action that are contained in the employee's eOPF will be removed.

Section 7: Grievances and Appeals of Disciplinary and Adverse Actions

- A. A suspension of fourteen (14) days or less, as well as letters of reprimand, may be grieved at Step One of the grievance procedure in Article 13.
- B. Adverse actions other than removals may be appealed either directly to the Merit Systems Protection Board (MSPB) or to Step Two of the grievance process, but not both. Any such grievance must be filed within twenty-one days of the delivery of the decision letter. See Article 13 for more information on the grievance process. Employees shall be warned in the decision letter that once an election of a forum in which to appeal is made, it is final and irrevocable.
- C. Removal actions may be appealed either directly to the MSPB or, with the consent of the Association, to arbitration, but not both. The Association must invoke arbitration within twenty-one days of the delivery of the decision letter to the employee. See Article 14 for information on arbitration. Employees shall be warned in the decision letter that once an election of a forum in which to appeal is made, it is final and irrevocable.

Section 8: Information to the Union

Information: The Association will be provided semi-annual data regarding the number of actions/proposals issued in each Technology Center and business area:

- removals based on conduct
- suspensions of 1-14 days
- suspensions of 14+ days

- letters of reprimand

Section 9: Agency Facility and Network Access Restrictions

Agency facility and network access restrictions are actions taken by the Agency that would bar or prevent an employee from entering and/or gaining access to a specific Agency building or an Agency facility or network generally to ensure employees are safe from potential violence and threats in the workplace.

- A. When an employee is issued a notice that restricts the employee from accessing an Agency facility or network or both, the employee will be provided written notification. The written notification will be emailed/delivered to the employee. If written notification is not possible, the restriction can be provided verbally, followed by written notification being mailed to the employee's listed address. The restriction will remain in effect until the employee is notified in writing that the restriction has been lifted or amended.
- B. If a USPTO employee or contractor is restricted from communicating, contacting, or coming within a certain distance of a specific employee and the specific employee has made a related allegation against the USPTO employee or contractor receiving the directive, or if the Agency believes there is an increased potential of physical harm to a specific employee, the specific employee will be notified of the restriction.
- C. The written notification will specifically describe the restriction and the basis for the restriction. The written notification will include contact information for the Agency designated official with whom the employee will communicate.
- D. The employee should be placed in a paid investigative (administrative) leave status, until further notice, unless:
 1. The employee has an existing telework agreement and telework does not present a risk of harm to the employee or others, risk destruction of evidence, risk loss or damage to USPTO property, or otherwise jeopardize the interests of the Agency. If so, the employee can be required to telework during this period. 5 U.S.C. § 6502(c); or
 2. The employee is not available or willing to work during the period of the building restriction, e.g., because they are hospitalized or detained, suspended, or already on leave when the restriction is issued.
- E. If an employee is restricted from Agency resources to complete a work duty, that work duty will be excused, or the Agency will provide an alternative until the restriction is lifted.
- F. The employee will be notified when the restriction is lifted. The employee is expected to report back to work within a reasonable time or request leave.
- G. The resolution of the investigation during the restriction will be communicated, by appropriate means, to the employee as soon as possible. For example, if an employee has been restricted from using agency equipment, work email would not be an appropriate, exclusive means of communicating to the employee.

- H. If an employee has been notified of a restriction pursuant to Section 9.B., the employee will be notified if and when the restriction is lifted.
- I. The Employee will be notified when the restriction is rescinded or otherwise resolved by appropriate means. For example, if an employee has been banned from using agency equipment, work email would not be an appropriate means of communicating the resolution of the restriction notice.

Section 10: Employee Responsibilities

Employees served with a notice of building/network restriction must provide the Agency a personal telephone number. This information must be kept up to date during the restriction period.

DRAFT

ARTICLE 34 (old I) VOLUNTARY INTRA-AGENCY TRANSFERS

Section 1: Requesting Transfer to an Art Unit

- A. At any time, a patent examiner may submit a written request for a voluntary transfer from one Art Unit to another using the examiner transfer request form. (See appendix X).
- B. At any time, a Search and Classification Examiner (SCE) may submit a written request for a voluntary return to patent examining using the examiner transfer request form. (See appendix X). This is a one-way reassignment, and a patent examiner who wishes to return to an SCE position must reapply through a future vacancy announcement. All other reassignments from one bargaining unit position to a different bargaining unit position are covered in Article 38.

Section 2: No Derogatory Connotations from Transfer Request

Nothing derogatory shall be connoted in any request for transfer or any response to the request, and the individual so requesting shall be free of discrimination or reprisal.

Section 3: Necessary Information

When requesting a transfer under section 1 above, the employee must include information regarding their technological background (e.g., degree, coursework, prior work experience, technology preference) and any other relevant information.

Section 4: Decision Factors

- A. In evaluating a transfer request, the decision maker will consider the following factors:
 - 1. Reason(s) for the request
 - 2. Education and work experience
 - 3. Recent performance in all PAP elements
 - 4. Office workload/business need
 - 5. Conduct (Positive or negative)
 - 6. Current performance/performance issues
 - 7. Retention
 - 8. Personality conflicts
- B. Patent examiners requesting a transfer may be asked to work on applications on a trial basis in the requested area.

Section 5: Submitting a Request

Requests for transfer will be made to the examinertransferrequest@uspto.gov, or successor, email mailbox.

Section 6: Performance Improvement Period

Employees under a performance improvement period may be considered for transfer.

Section 7: Probationary Period or Trial Period for New Employees

Examiners in their probationary or trial period may request and be considered for a transfer. Transfers do not change the duration of the probationary or trial period.

Section 8: Decision Timeframe

Decisions on transfer requests will be communicated back to the employee, normally within 3 weeks of the request submission date. If a transfer is denied, the employee may request reason(s) for denial, and the Agency will provide the reason(s) in response to the request.

Appendix: Transfer Request Form

ARTICLE 35 (old 17) COMPETITIVE STAFFING

Section 1: General Principles

All career vacancies shall be filled from among qualified candidates available on the basis of merit, fitness and qualifications; and without regard to race, color, religion, national origin, age, marital status, sex, physical or mental disability, sexual orientation, gender identity and/or expression (including nonbinary), genetic information, political or employee organization affiliation, or pregnancy (including lactation) and pregnancy related medical conditions, except as may be authorized or required by law (see for example, Schedule A Hiring Authority). Personnel actions shall not be based on criteria that are not job related, including nepotism or close personal relationships.

Section 2: Employee Responsibilities

Applicants must meet all qualification requirements by the closing date of the vacancy announcement to be eligible for consideration for that vacancy, except that patent examiners need to graduate before they start, and attorneys should check with the OHR Specialist regarding the requirement to pass a bar examination. Applicants must provide all information requested on the vacancy announcement by the closing date. Information not included will not be considered.

Note: If a hardship exists preventing the employee from applying online (e.g., extended absence such as medical leave, military service, compensable job-related injury, etc.), the Agency may, on a case-by-case basis, consider other methods of applying. In such situations, the employee should contact OHR for guidance and assistance with regards to the submission of an application. The employee must contact OHR in advance of the closing date of the announcement and the application must be received by the closing date of the announcement.

Section 3: Scope of Article

- A. Actions Covered: This Article covers the following actions within the bargaining unit:
1. Competitive promotions;
 2. A temporary promotion of 120 days or more. All prior service at the higher-grade-level during the preceding twelve (12) months, including details to higher graded positions or temporary promotions, must be counted as part of the 120 days. A temporary promotion may only be made permanent without further competition if the fact that it might lead to a permanent promotion was originally made known to all potential applicants, and the temporary promotion resulted from a competitive process;
 3. Reinstatements to temporary or permanent positions of higher grades than last held, or to ones having potential for advancing to higher grades;

4. Transfers to higher graded positions with known promotion potential;
 5. Reassignments or demotions to positions with known promotion potential higher than the employee's current position;
 6. Selection for training required for promotion;
 7. Selection from among severely disabled employees for promotion or training of severely disabled employees under Title 5 Code of Federal Regulations (5 C.F.R. 213.3102(u) and 335.103); and
 8. Details of more than thirty (30) calendar days to a position with a greater-known promotion potential.
- B. Actions Excluded: This Article does not apply to the following actions:
1. Promotion to a target or full performance level position from an apprentice, trainee, or understudy position;
 2. Noncompetitive conversion actions on employees in a Student Career Experience Program (formerly Cooperative Education Program), Federal Junior Fellowship, Presidential Management Intern, and other authorized programs, and their subsequent promotions in career ladder positions;
 3. Promotion to an intermediate or full performance level in a career ladder position when competition has previously taken place, or the selection was made from a civil service register and the management intent to promote is a matter of record;
 4. Promotion of an employee who satisfactorily completes training under a formal training agreement when competition was involved in the selection for training;
 5. Promotion of an employee whose position is reclassified at a higher grade because of the assignment of additional duties and responsibilities;
 6. Position change from a position having known promotion potential to a position having no higher potential;
 7. A temporary promotion of less than 120 days; and
 8. Re-promotion up to a grade or position from which an employee was demoted without personal cause and not at their request.

Section 4: Impact of Details

The fact that an employee is on detail will not prevent an employee who is otherwise qualified from being considered for a competitive promotion. For the purposes of meeting a time-in-grade requirement, appropriate experience gained while on detail will be credited as an extension of the work the employee was doing immediately prior to the detail, or on its own merits, whichever is more beneficial to the employee.

The Agency shall grant temporary promotions to members of the bargaining unit who have served in a higher-grade position for more than 45 days.

Section 5: Vacancy Announcements

Announcements will be posted electronically for a minimum of ten (10) days or a set number of applicants (not lower than 100) and will remain open and posted for this period, unless cancelled.

At a minimum, the vacancy announcement will contain:

1. Announcement number;
2. Opening and closing dates, including whether an announcement is for an “open continuous” position;
3. Position title, series, grade;
4. Organizational location and duty station;
5. Full promotion potential and/or career ladder status where appropriate;
6. Principal duties, including the amount of travel;
7. Minimum qualifications required;
8. Selective placement factors, if any;
9. Evaluation methods to be used;
10. Statement of equal employment opportunity;
11. Whether there is one or multiple positions to be filled from the announcement;
12. Information on how to apply; and,
13. Whether a position is telework-eligible.

Section 6: Referral of Applicants

- A. Applicants who do not meet the minimal qualifications will not be referred to the hiring official.
- B. In some instances, fewer than all qualified applicants may be referred.

Section 7: Rating of Record

The applicant’s most recent rating of record will be used for vacancies covered by this Article. The applicant must provide this document if required as part of the application process.

Section 8: Rating and Ranking

- A. The criteria for, and method of, rating and ranking applicants for vacancies will be documented in the vacancy announcement case file. The criteria for rating must:
 1. Be related to the job to be filled;
 2. Provide adequate measure of the qualifications needed for the job to be filled;
 3. Make meaningful distinctions among the applicants, i.e., indicate those who are the best qualified from the group of applicants; and

4. Distinguish between the knowledge, skills, abilities, and competencies an employee must possess at the time of promotion and those that can be quickly and easily acquired after promotion through experience or training.
- B. Within thirty (30) days after the vacancy announcement has closed, the candidates will be evaluated as "Qualified" or "Not Qualified."
- C. All qualified applicants will be included on certificate(s).
- D. The Agency may decide to appoint an evaluation panel to evaluate and rank the candidates for a vacancy. The panel will consist of subject matter experts (SMEs) who are at the same grade or higher than the highest grade assignable to the vacancy.
- E. All eligible candidates will be evaluated and ranked in a fair and objective fashion.

Section 9: Selection

- A. The selecting official's decision to select a particular applicant is subject to final review by OHR and to such other approvals as may be required by law, regulation, or policy. Approvals are primarily concerned with compliance with legal requirements and not the substance of the selection, which is a prerogative of the selecting official.
- B. OHR will arrange for the release of the selected applicant from the current Federal employing organization, as applicable. Employees will be released from the losing organization/business unit within one full pay period of receipt of the request for promotion release. Under unusual circumstances (e.g., to permit completion of essential assignments or for other acceptable reasons), the release date may be extended. If mutual agreement for release cannot be reached, OHR may negotiate the release date.

Section 10: Post Selection

- A. After a selection has been made from a group of qualified applicants and documented by the selecting official, an employee may request feedback from an appropriate agency official to obtain information on what areas, if any, require improvement in order to increase their future prospects of advancement.
- B. The Agency shall notify all candidates as to whether they were selected or not.

Section 11: Documentation

- A. Each personnel action taken under this Article will be documented and records will be maintained in accordance with the requirements contained in 5 C.F.R., Part 335, and this Article.
- B. When requested by a competing applicant, the Agency shall furnish the following information after the action has been completed:
 1. The name of the individual(s) selected;
 2. Whether the applicant was found to be qualified; and

3. Whether the applicant was on the list from which selection to fill the position was made.

Section 12: Corrective Action and Priority Consideration

- A. When there is a failure to adhere strictly to the provisions of 5 C.F.R. or this Agreement, corrective measures shall be applied in accordance with guidance set forth in 5 C.F.R., Part 550.
- B. If, as a result of a grievance being filed under this Agreement, either the Agency agrees or an arbitration decision finally holds that an employee was improperly excluded from the certificate of eligible applicants list(s), they will receive priority consideration for the next appropriate vacancy for which they are qualified.
 1. An equivalent or identical vacancy is one at the same grade level, in the same area of consideration, and which has comparable promotion opportunities as the position for which the employee received improper consideration.
 2. Priority consideration means that the selecting official must give the employee alone bona fide consideration before any other applicant is referred for the position to be filled. The employee is not to be considered in competition with other applicants and is not to be compared with other applicants.
- C. If multiple applicants deserve priority consideration based on improper exclusions within the same promotion action, all deserving applicants shall be referred simultaneously for the next comparable promotion opportunity.
- D. In the event that improper exclusions are made in separate promotion actions, all applicants deserving priority consideration from the first action will be referred before the applicants deserving priority consideration from subsequent promotion actions.

Section 13: Retroactive Pay

An employee will be entitled to retroactive pay in connection with an improper personnel action in accordance with applicable law, rules, regulations and/or this Agreement.

ARTICLE 36 (old 18) NONCOMPETITIVE PROMOTIONS

Section 1: Career Ladder Promotions

Employees of the Federal Government may be selected through competitive or merit procedures for an entry level developmental position that progresses over a period of time, and usually through a series of grade levels, to a pre-established full performance level. These positions are referred to as career ladder positions. A promotion after assignment to a career ladder position is referred to as a career ladder promotion and is noncompetitive, up to the full performance level.

- A. Assignment to a career ladder position does not guarantee future advancement. Eligibility for promotion is dependent on meeting the following requirements:
 1. A full time employee becomes minimally eligible to be promoted to the next grade level after fifty-two (52) weeks (2080 hours for a part-time employee) in the current grade (time-in-grade requirement), and fifty-two (52) weeks (2080 hours for a part-time employee) of specialized experience.
 2. The employee has demonstrated the potential for at least fully successful performance at the next higher grade level, and sufficient work exists at the next higher-grade level; and
 3. The employee's last rating of record and current performance level must be fully successful or better.
- B. In addition to the requirements above, the criteria for the Signatory Authority Program shall apply to examiners who are on the utility or design examiner Signatory Authority Program.
- C. Career Ladder promotions for Patent Examiners up to and Including GS-13 (GS-12 for Design Examiners) will be considered in accordance with "Promotion Timing and Processing", dated February 1, 2022.
- D. Bargaining unit employees are entitled to timely consideration and decisions concerning the granting or denial of a career ladder promotion.

Section 2: Accelerated Career Ladder Promotions for "newly hired" Patent Examiners

- A. Patent Examiners at the GS-05, GS-07, and GS-09 grade levels in all disciplines and specializations who are on an Individual Development Plan (IDP) are eligible for promotion to the next higher grade after 6 months in their current grade, provided that they meet all the requirements in Section 1.A above. Utility and Plant examiners hired at the GS-05 or GS-07 level may be granted up to 2 accelerated promotions during their first 2 years. Design examiners at the GS-05, GS-07, and GS-09 grade levels may be eligible for one 1 promotion to the next higher grade after 6 months in their current grade. All promotions after the end of the second year of employment must meet the full one 1-year time-in-grade requirement.

- B. Accelerated promotions are subject to the recommendation and approval by the SPE and TC Director. The SPE's evaluation will be based upon successful completion of at least 6 months of formal and on-the-job training, and the demonstrated ability to work at the next higher grade. The supervisor should carefully consider the examiner's ability to handle the added workload requirements for the examiner at the next level.

Section 3: Career Ladder Promotions for Part-Time Employees

- A. A part-time employee (an employee who works an approved, pre-arranged work schedule each biweek of between thirty-two (32) and sixty-four (64) hours) may receive a career ladder promotion when all qualifications discussed above are met, including time-in-grade and specialized experience requirements.
- B. Credit for specialized experience is determined based upon the actual time a part-time employee spends in pay status. The computation of hours in pay status shall include all regular duty time, administrative leave, holidays, annual leave, sick leave, and other paid leave but will not include overtime or continuation of pay under Workers Compensation. One year of general or specialized experience will be credited for each 2080 hours in pay status.
- C. Any employee who is not promoted after completion of the minimum time-in-grade shall have the right to meet with their supervisor to discuss the reasons for withholding the promotion, as well as how the employee's performance can be improved to qualify for promotion, including when the promotion may be next considered. The employee and/or their supervisor may memorialize this discussion in writing.
- D. Time in Non-pay Status and Promotion Requirements: Time spent in a non-pay status, including AWOL, LWOP, and suspension, may not count toward meeting the specialized experience requirement. The Office of Human Resources is available to answer questions regarding this issue.

Section 4: Impact of Detail

The fact that an employee is on detail will not prevent an employee who is otherwise qualified from being considered for a noncompetitive promotion. For the purposes of meeting a time-in-grade requirement, appropriate experience gained while on detail will be credited as an extension of the work the employee was doing immediately prior to the detail, or on its own merits, whichever is more beneficial to the employee.

Section 5: Timing of Promotion

- A. The promotion of an employee shall not be delayed only because the employee's supervisor has been newly appointed to that position and is unfamiliar with the employee's work.
- B. An employee who does not want to be considered for a career ladder promotion must inform their supervisor in writing at least one biweek before they meet time in grade

requirements for a promotion. (See HRConnect and Production and Award Calculator for Examiners).

- C. An employee may inform their supervisor at any time if they later decide to be promoted, and the supervisor will process the promotion as soon as practicable if the employee is otherwise eligible.

DRAFT

ARTICLE 37 (old 33) REORGANIZATION AND REALIGNMENTS

Section 1: Definitions

- A. Reorganization means the planned change in, or redistribution of, functions or duties in an organization. Individual job functions or duties do not necessarily change.
- B. Realignment is the movement of an employee and employee's position when: an organization change (such as reorganization or transfer of function) occurs, the employee stays in the same agency, and there is no change in the employee's position, grade or pay. For example, as long as a patent examiner stays within the same discipline (chemical, electrical, mechanical), a patent examiner transferring from one Art Unit to another, is a realignment.

Section 2: Association Notification

- A. Before implementing a reorganization and/or realignment of more than 3 employees pursuant to this Article, the Agency will notify, brief, and consult with the Association on the scope of the reorganization and/or realignment and effective date. The notice shall be given at least 4 weeks prior to the effective date. The Agency shall notify affected employees at least 1 week prior to the effective date.
- B. The Association may request a briefing within 7 days of the notice from the Agency. The briefing must take place within 7 days of the request. Upon request, the parties will consult on the reorganization and/or realignment over the next 2 weeks. If the Association determines that it does not need a briefing, the Association may request consultation within 1 week of receiving the notice. The Agency will consider issues and suggestions raised by the Association and will inform the Association of the disposition of these issues before reorganizing and/or realigning.
- C. This section does not cover the routine movement of newly hired employees from the Patent Training Academy to the Technology Centers.

Section 3: Art Unit Realignments within a Technology Center

- A. Notwithstanding any other provision of this Article, the Agency may realign patent examiners within each TC to address staffing imbalances. This includes the ability to create, combine, or abolish Art Units.
- B. Realignments of Patent Examiners within a Technology Center should be based upon consideration of the examiners' art qualifications, education and work experience, seniority, grade level, or other appropriate factors (including, at least, reporting relationships and any known prior transfers to mitigate employee and supervisor conflicts).

The Agency will provide the Association a list of all art units and associated changes to personnel as a result of this process.

Section 4: Hardship

Any employee who believes a hardship will be created by a realignment may request and shall be granted a prompt meeting with (at the employee's election) their current or newly assigned supervisor or TC Director (or equivalent), who will give fair consideration to the employee's concerns.

Section 5: Physical Relocations

Any physical relocation that will occur as a result of a realignment or reorganization will be handled in accordance with Article 45: Office Space at Alexandria Headquarters.

Section 6: Changes to Performance Appraisal Plan

If a reorganization or realignment leads to the need to change the elements, major activities, or performance standards of a performance appraisal plan, the changes shall be negotiated to the extent that negotiations are required by law, prior to the reorganization and/or realignment.

Section 7: Unresolved Impacts

If there is an adverse impact not addressed in this Article, the Agency will authorize a reasonable period for employees to adjust to any changes following a reorganization or realignment. If this adjustment period does not mitigate the adverse impact, the parties will discuss the issue and, if necessary, negotiate post implementation.

Section 8: Employee Initiated Realignment

- A. Patent examiner voluntary realignments and Search and Classification Expert reassignments are covered by Article 34.
- B. Central Reexamination Specialists requesting to return to a Patent Examiner position should consult Article 30.
- C. Other employees may submit a written request for realignment that expresses their desire for voluntary movement to a new supervisor at any time. The request may be submitted either to their first or second line supervisor.
- D. In making the decision on the request in Subsection 8.C. the Agency will consider at least the following, if provided: the reasons for the request, and education and work experience of the employee. The Agency will also consider the business need for the employee in both the losing organization and the gaining organization, and the current performance of the employee.
- E. Decisions on realignment requests will be communicated back to the employee, normally within 3 weeks of the request submission date. If a realignment is denied, the

employee may request reason(s) for denial, and the Agency will provide the reason(s) in response to the request.

- F. Nothing derogatory shall be connoted in any request for realignment or any response to the request and the individual so requesting shall be free of discrimination or reprisal.

Section 9: Learning Curves

Learning curves for patent examiners will be authorized in accordance with Article 30.

DRAFT

ARTICLE 38 (old 34) REASSIGNMENTS

Section 1: Definitions and Scope of Article

- A. A reassignment is a permanent change in an employee's position to another without promotion, demotion, or break in service. This Article covers reassignments from one bargaining unit position to another position within the bargaining unit.
- B. Decisions concerning reassignments may, among other things, take into account the goals of increasing career-related flexibility, mobility, minimizing the need for involuntary reassignment, efficient and effective administration of programs, and staffing levels.
- C. Involuntary reassignments may only be made when based upon bona fide management considerations.

Section 2: Hardship

Any employee who believes a hardship will be created by a reassignment may request and shall be granted a prompt meeting with (at the employee's election) their current or newly assigned supervisor or TC Director (or equivalent), who will give fair consideration to the employee's concerns.

Section 3: Avoidance of Reductions-in-Force

Nothing in this Article shall preclude reassignments in lieu of reductions-in-force (RIF). The Agency will strive to reassign employees to appropriate positions if they are adversely affected by reductions-in-force, downsizing, or other types of displacement.

Section 4: Reducing Impact Due to Reassignment

The Agency agrees to minimize the impact of the reassignment on an individual employee caused by the introduction of new equipment, processes, and workload changes. Minimizing the impact includes, when necessary, retraining of individual employees adversely affected.

Section 5: Notification to Employees

Normally, the Agency will inform an employee of an involuntary reassignment at least one biweek in advance of the effective date.

Section 6: Employee Requested Reassignments

- A. Patent examiner voluntary realignments and Search and Classification Expert reassignments are covered by Article 34.

- B. Central Reexamination Specialists requesting to return to a Patent Examiner position should consult Article 30.
- C. Other employees may submit a written request for reassignment that expresses their desire for voluntary movement to a new position at any time. The request may be submitted either to their first or second line supervisor.
- D. In making the decision on the request in Subsection 6.C. the Agency will consider at least the following, if provided: the reasons for the request, and education and work experience of the employee. The Agency will also consider the business need for the employee in both the losing organization and the gaining organization, and the current performance of the employee.
- E. Decisions on reassignment requests will be communicated back to the employee, normally within 3 weeks of the request submission date. If a reassignment is denied, the employee may request reason(s) for denial, and the Agency will provide the reason(s) in response to the request.
- F. Any employee that is reassigned under this provision shall receive an explanation of their new Performance Appraisal Plan elements and what is required to meet them, and a reasonable adaptation period, including training, to acclimate to the new position and duties.

Section 7: Agency Initiated Reassignments Due to Staffing or Workload Needs

When the Agency determines that a staffing or workload imbalance or other work-related need exists, the Agency may reassign bargaining unit employees from one position to another.

- A. The Agency will identify the position(s) and organization(s), as opposed to employees, from which the employees to be reassigned will come.
- B. In some instances, management may need to reassign the entire group of employees.
- C. In other instances, management may need to reassign one employee or a portion of the group. In these instances, the Agency will:
 - 1. Designate the grade and (if relevant) time-in-grade of the employees to be reassigned if there is a need to balance experienced employees versus more junior employees.
 - 2. Assign employee(s) to the appropriate position(s) based on employee qualifications and business needs.
 - 3. Consider whether an employee has recently been reassigned, and whether reassignment will return the employee to a known conflict (personal or financial) from which the employee was removed. If reassignment occurs in this situation, the employee has the right to request another reassignment. (For example, if an examiner was transferred away from a supervisor due to a personality conflict, returning that employee to that same supervisor could again create the prior conflict.)

4. When management has determined that a group of employees are equally qualified for a reassignment, management will ask this group of employees for volunteers. In making the decision on whom to reassign, management will consider whether the employee volunteered, grade level, seniority, or other appropriate factors.
5. Any employee who is reassigned under this provision shall receive explanation of their new Performance Appraisal Plan elements and what is required to meet them, and a reasonable adaptation period, including training, to acclimate to the new position and duties.

Section 8: Other Agency Initiated Reassignments

- A. Based on issues specific to an employee, the Agency may reassign employees for reasons such as reducing the likelihood of interaction between employees or avoiding the appearance of impropriety. These reassignments may be made immediately, without prior notice.
- B. Any employee who is reassigned under this provision shall receive explanation of their new Performance Appraisal Plan elements and what is required to meet them and a reasonable adaptation period, including training, to acclimate to the new position and duties.

ARTICLE 39 (old 35) REDUCTION-IN-FORCE

Section 1: Definition

- A. Reduction-In-Force (RIF) shall be governed by 5 C.F.R. Part 351 and the provisions of this Article.
- B. A RIF occurs when the Agency releases an employee from their competitive level via separation, demotion, furlough for more than thirty (30) days, or reassignment requiring displacement, when lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising reemployment or restoration rights requires the Agency release the employee. RIF procedures do not apply to the return of an employee to their regular position following a temporary promotion or to the release of a reemployed annuitant. RIF procedures do not include reclassification of a position, other than as provided in 5 C.F.R. § 351, resulting in a downgrade even though RIF procedures may be used in those situations.
- C. The Agency, whenever practical, shall avoid RIF actions by utilizing attrition and/or other means that will not interfere with the accomplishment of the Agency's mission. The Agency shall make every effort to use a RIF as a last resort.

Section 2: VERA and VSIP Authority Request

- A. If the Agency notices a decline in workload or other factor that could lead to a potential RIF, the Agency will request Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payment (VSIP) authority for the employees affected by the potential RIF.
- B. The Agency will provide a copy of the VERA and VSIP request, including all supporting documents, to the Association. The Association and Agency will then meet to discuss the issues leading to the request(s). The Agency will keep the Association informed of the progress, including the disposition of the request.
- C. The Association will keep this information confidential until the Office of Personal Management (OPM) provides a final decision and until the parties meet with the employees pursuant to either Section 3 or Section 5 below.

Section 3: If OPM Grants VERA/VSIP Authority

- A. If OPM approves the request:
 - 1. The parties shall meet within 1 week of the approval to discuss the results. The Agency shall provide the Association with information on the limitations of the availability of the VERA/VSIP based upon non-personal and objective factors including: one or more organizational unit(s); one or more occupational series or grade(s); one or more geographic area(s); skill, knowledge, or other factors related

- to a position; specific time periods during which eligible employees may elect to accept a VERA/VSIP offer; or any combination of these factors.
2. The Agency shall provide the Association with any copies of any presentation materials or information to be provided to affected employees regarding the VERA/VSIP process, the selection procedure, the number of slots available, the proposed amount of the VSIP incentive payment, the application time period, and separation time period.
- B. Within 1 week following the meeting noted in Subsection 3.A.1. above, the parties shall meet with the affected employees to discuss the issues leading to the VERA/VSIP request and OPM's disposition of the request, and to provide information to employees regarding the processes and time period for application, notification by Agency, and employee separation.
1. The Agency will provide the maximum VSIP incentive payment allowed by law unless the Chief Financial Officer determines that the Agency cannot make these payments without significant harm to the operations of the Agency. In this event, the Agency will provide the maximum amount consistent with the operating needs of the Agency.
 2. In order to help an employee make an informed decision on whether or not an employee should apply for a VSIP, the Agency shall provide the amount of the incentive payment at the time of the meeting with employees. In the event that the amount of the payment cannot be presented to employees at the meeting, it will be provided to the employees at least 2 weeks prior to any deadline for employees to apply for VSIP.
 3. Unless the Agency has a business-related reason for treating employees differently, the Agency will allow all interested affected employees to apply for VERA and VSIP. If the number of applicants exceeds the available number of slots, applications will be accepted based on the employee's length of service at the USPTO, with the applications from the most senior employees being accepted first.

Section 4: Pre-RIF Meeting with the Association

If OPM denies the request for VERA/VSIP authority, or if there are not enough volunteers for VERA/VSIP, and the Agency cannot place enough interested employees within the Agency, the Agency agrees to notify the Association when a final determination has been made to undergo a RIF affecting POPA bargaining unit employees. The information to be furnished to the Association will include the competitive level affected, the number of employees involved, and the effective date. The parties will meet within one week of management providing notice to the Association of the need for the RIF.

Section 5: Pre-RIF Meeting with Employees

Within 1 week after meeting with the Association pursuant to Section 4 above, management will meet with the affected employees to explain their rights under the Statute, regulations, and this Agreement. The meeting will also focus on the process of the RIF and the employees' role in it. The meeting will specifically include that:

- A. Employees will be given two weeks to review their electronic Official Personnel Folders (eOPF) to make sure that the information contained in the eOPF is accurate. This information will be used to produce the RIF register. If an employee is absent during the 2 week period, the employee must review their eOPF as soon as possible.
- B. Depending on the RIF register, employees who are subject to release will generally receive a sixty (60) day but no less than a thirty (30) day advance notice of their release from Federal Service (RIF Notice).
- C. Employees may have "bump" and "retreat" rights, which may allow them to move to other positions within the competitive area.
- D. Employees receiving a RIF Notice may use Agency equipment to conduct a job search.
- E. Employees receiving a RIF Notice may request up to sixteen (16) hours of administrative leave for interviews and job searches.
- F. Employees with a RIF Notice will be promptly notified if the Agency cancels their RIF notice.

Section 6: Additional Provisions

- A. The Agency will counsel and assist affected employees, for whom no acceptable position can be provided, regarding early retirement and/or preparing resumes, holding job interviews, and other techniques of gaining acceptable employment.
- B. Counseling and assistance shall be conducted on duty time.
- C. When more than fifteen (15) employees are to be released over a two-month period, the Agency will invite employers for a job fair in accordance with law and regulations.
- D. Upon notification to the Association that a final determination has been made to undergo a RIF, the Agency will impose a hiring freeze on candidates from outside the Agency for positions within the competitive level.
- E. Displaced employees may have Interagency Career Transition Assistance Plans (ICTAP) and Career Transition Assistance Plans (CTAP) placement rights with the Department of Commerce.
- F. The Agency shall maintain the records needed to accurately determine the retention standing of employees.
- G. A competitive level shall be consistent with the regulatory definition of competitive level.

ARTICLE 40 (old K) CONTRACTING OUT

Section 1: Contracting Out Defined

For the purposes of this Agreement, contracting out is defined as the transfer of any bargaining unit job or job function from USPTO to the private sector that adversely affects bargaining unit employees.

Section 2: Information to The Association

- A. The Agency will provide the Association with a copy of either a request for information or a solicitation within 7 days after publication.
- B. Within ten (10) work days after the contract has been awarded, the Association will be notified of the name of the awardee, the date of contract implementation, and of any foreseeable, adverse impact(s) on bargaining unit employees.

Section 3: Assistance to Affected Employees

- A. When appropriate, the Agency agrees to assist and counsel affected employees in obtaining employment with the contractor and/or other employers. The name and address of the awardee will be provided to all affected employees.
- B. When appropriate, the Agency will explain to the affected employees any programs for early retirement or buy-outs being offered.

Section 4: Reduction-In-Force (RIF)

If a reduction-in-force becomes necessary due to contracting out, the parties will follow the RIF procedures set forth in Article 39 of this Agreement.

ARTICLE 41 (old 19) DETAILS

Section 1: Definition of a Detail

- A. A detail is a temporary move from an employee's position of record to a different position for a specified period. The employee is expected to return to the employee's position of record at the end of the specified period. Employees on detail continue to hold their official position of record and keep the same status and pay.
- B. Under a detail, an employee performs duties other than those of the position the employee currently holds. There is no formal position change. Employees may also temporarily move to a new position serving on a split detail where they may perform the work of the newly assigned duties as well as the duties of their official position of record.

Section 2: Career Development Details

- A. The Agency shall designate certain recurring details within the USPTO as "career development details." Career development details are details that not only help in meeting work requirements, but also will provide employees an opportunity to develop their skills and interests. Finally, these details will improve efficiency in administrative and technical fields so that a reservoir of developed employees will be in existence for possible selection to higher level vacancies.
- B. The duration of development details will be determined by operational needs, providing opportunities for as many employees as possible, and the development of the employee. When operational needs allow, the Agency will endeavor to limit recurring details to no more than 120 days, to allow as many employees as possible to cycle through the detail and develop new skills.
- C. Assignments to career development details shall be made and administered in a fair and equitable manner among every qualified employee who submits a complete application for the detail in response to a posted vacancy announcement. The Agency and the Association encourage highly qualified individuals to participate in career development details. Detail announcements will generally be posted on the USPTO Intranet no less than 2 weeks before the announcement closes.
- D. Career development details, unless the creation of such a detail excessively interferes with management rights, shall include details to:
 - 1. Office of the Commissioner for Patents
 - 2. Office of a Deputy Commissioner for Patents
 - 3. Office of Policy and International Affairs
 - 4. Patent Trial and Appeals Board
 - 5. Office of the Chief Information Officer
 - 6. Office of the Solicitor
 - 7. Office of Enrollment and Discipline
 - 8. Outreach Programs in the Regional Offices

9. Any other detail:
 - a. for which credit (e.g., points) is given in merit promotion actions,
 - b. which is not normally assigned to the employee and is outside the employee's position description, and,
 - c. which requires at least 450 hours work time over a period of four months.
- E. Before selection, the skills and abilities of the employee and the specific needs of the Agency will be considered. Selection preference shall be given to those qualified applicants who have the least amount of service on career development details during the last 4 years, though it is not necessarily a deciding factor. Except in extraordinary circumstances, an employee shall not serve on a career development detail a second time in the same area.

Section 3: Information Sharing

Upon request, the Agency will provide the names of employees who have served on multiple details within the previous 4 years.

Section 4: Vacancy Announcements for Career Development Details

- A. Vacancy announcements for career development details will be posted on the USPTO Intranet. Employees may subscribe to receive emails when new detail vacancy announcements are posted.
- B. The Agency may announce multiple details simultaneously and establish a roster of eligible applicants that is valid for a period of up to twelve (12) months.
- C. The announcements shall include:
 1. Opening and closing dates,
 2. Organization,
 3. Location,
 4. Length of Detail,
 5. Duties,
 6. Qualifications (if applicable),
 7. Candidate Evaluation Criteria,
 8. Information on how to apply,
 9. OHR Contact Information,
 10. Detail Interest Form (required as part of the application process),
 11. Whether the position can be done remotely, with partial telework, or no telework and,
 12. If the detail is open to production employees, whether the hours on detail will be considered examining related for awards purposes.

Section 5: Crediting Time While on Detail for Awards

- A. For Patent Examiners

1. Any patent examination performed while on detail will be hours of production for performance and award purposes, just as it would count if the employee were not on detail.
 2. Generally, time spent performing the additional duties specific to the detail will be considered non-production time. The vacancy announcement for the detail will indicate whether the time will be considered examining related for award purposes. (See Section 4.C., above)
 3. In some instances, an examiner may spend significant hours in a fiscal year on detail and earn an award from the business unit of the detail position. In these instances, the business unit to which the employee is detailed will work with Patents and the OHR Performance and Award Division to determine the process for paying the award. For example, if an examiner qualifies for a gainsharing award in the business unit of the detail position as well as the gainsharing award in Patents, the examiner will receive the higher of the two awards.
- B. For Non-examiners:
1. Time spent on a detail normally will not be considered for award purposes. The Business Unit head or Deputy Business Unit head of the employee's position of record may agree to consider the time for award purposes at their discretion. If it is determined to count toward awards, that time will be added to time in the position of record for award purposes. Before beginning a detail, the employee and their supervisor should discuss whether the time spent on detail will be considered for award purposes.
 2. If an employee does not serve at least 120 days in their position of record during a fiscal year, the business unit to which the employee is detailed may determine that the employee has qualified for an award based solely on the performance of the employee while on detail. In these instances, both business units will work with the OHR Performance Management and Awards Division to determine the procedures for paying the award.

Section 6: Notification Requirements

- A. Employees must notify their first and second-line supervisors before applying for a detail.
- B. Within a reasonable time after an examiner notifies the supervisor of their intent to apply for a detail, the Agency should inform the examiner whether the backlog in their Technology Center or their area of examination will preclude the examiner from going onto the detail.
- C. Within a reasonable time after an employee outside the patent examining corps notifies the supervisor of their intent to apply for a detail, the Agency should inform the employee whether the workload in their work unit will preclude the employee from going onto the detail.

Section 7: Detail Documentation and Rating Process

- A. Details of thirty (30) days or more will be documented in HRConnect.
- B. Prior to beginning a detail, the employee and their supervisor will discuss how the employee's rating will be calculated at the end of the year.
- C. Details of 120 days or more require the employee to be placed on a Performance Appraisal Plan within thirty (30) days of beginning the detail.
- D. The supervisor (during the detail) must complete an interim rating within thirty (30) calendar days after the end of a detail that lasted for 120 calendar days or more in an appraisal year.
- E. An interim rating then must be considered by the employee's permanent supervisor as part of their final rating of record for the performance year, even if the detail will continue into the next performance year.

Section 8: Management Assigned Details

The Agency may assign employees to work details without regard to the provisions of this Article when workload requirements exist so as to make alternate assignments to details necessary to carry out the Agency mission.

Section 9: External Details

Employees may participate in details outside of the USPTO. Employees should first seek and receive their supervisor's approval before beginning any detail application or selection process. Employees must also comply with the USPTO External Details Policy dated May 2016. The outside agency will have control over the terms of the detail.

ARTICLE 42 (old 20) PROFESSIONAL TRAINING AND DEVELOPMENT

Section 1: Training Introduction

- A. Factors that shall be considered in determining which employees will be selected for training are:
 - 1. benefits to be derived by the USPTO;
 - 2. resource limitations;
 - 3. enhancement of the employee's performance;
 - 4. number and type of training sessions previously attended by the employee;
 - 5. length of employment at the Agency; and,
 - 6. maintenance of certifications required of the position.
- B. Mandatory training: If the Agency determines that it is in the best interest of the Agency and the employee, the employee may be required to attend training or to repeat all or selected portions of training previously given. Training will be on duty time and management shall pay all costs of such training.

Section 2: Technical Reading

The Agency recognizes that the reading of technical and legal publications is necessary to keep professionals abreast of recent developments related to their work assignments, and to keep searches up to date. Absent a budgetary emergency, the Agency will continue to supply professionals with articles, magazines and books written on legal and technical subjects pertinent to their assignments. In arts involving rapid technical advances, it is recognized that the reading of technical publications may require a substantial amount of time. Employees may request in advance a reasonable amount of non-production time, per biweek, for this purpose.

Section 3: Outside Conferences, Seminars, Meetings, and Classes

- A. The Agency recognizes that attendance at certain conferences, seminars, and meetings outside of the USPTO is necessary for full professional development of the members of the bargaining unit and is both desirable and in the best interest of the mission of the USPTO. Therefore, for patent examiners, the Agency shall annually publish and make readily available (e.g., the USPTO Intranet page) a list of such outside conferences, seminars, and meetings at which attendance was approved in the previous calendar year.
- B. To cover attendance at a conference or other training for which the Agency will not pay, a supervisor may authorize up to sixteen (16) hours of duty time for the employee to attend the training at their own expense. If an employee does not have sufficient hours remaining in the selected training bank (see Subsection 4.E. below), they may request approval for additional duty time from a designated manager in the chemical, electrical, mechanical, and design areas, respectively.

- C. To cover attendance at a conference or other training for which the Agency will not pay, a supervisor may authorize up to forty (40) hours of compensatory leave, to be earned in advance, in accordance with applicable law, rule and regulation. This time does not count against the regular compensatory time yearly maximum discussed in Article 21 (Compensatory Time).
- D. The opportunity provided in the subsections 3B and 3C above will be accorded to those members of the Unit who have demonstrated at least fully successful job performance and would most likely benefit the Agency mission by their attendance.

Section 4: Professional Training Program

The Agency intends to maintain a professional training program in Patents, under appropriate laws, rules, regulations, and funding constraints. The current program includes the following types of training for selected professionals:

- A. The Office of Patent Training - Intensive in-house training program primarily for all newly hired examiners (Patent Training Academy), and refresher training/master classes for others, to teach the basic legal and procedural skills of patent examining;
- B. Legal Training such as: In-house legal courses; non-duty time legal studies program (Article 43); attendance at PTAB hearings; and legal lectures;
- C. Technical Training such as: In-house technical training; non-duty time technical studies (see Article 44, tuition reimbursement for job related technical courses at colleges and universities);
- D. Specialty Training such as: the leadership development program (LDP) for any employee interested in improving skills in areas such as communication and interpersonal relationships;
- E. Employee Selected Training – a set bank of hours that members of the bargaining unit can use to participate in selected approved training; and
- F. Off-site Agency sponsored training.

Section 5: Site Experience Education (SEE) Program

When completed, a memorandum of understanding concerning implementation of revised SEE trip guidelines will be incorporated into this Agreement.

Section 6: Professional Credentials Reimbursement

Employees may be reimbursed for professional credentials required for their job position consistent with the Implementation of the Policy to Reimburse Employee Expenses to Maintain Required Professional Credentials MOU, dated September 30, 2013.

ARTICLE 43 (old 21) NON-DUTY HOURS LEGAL STUDIES PROGRAM

Section 1: Overview

- A. A voluntary Non-Duty Hours Legal Studies Program (Program) has been established for POPA bargaining unit employees to provide additional legal training to increase the depth of legal knowledge within the Patent Corps and other Agency areas, and provide a well-qualified applicant pool for positions requiring legal skills within the Agency.
- B. This Program reflects the Agency's concern for the continuing development of Patent professionals in the POPA bargaining unit and the Agency's desire to increase the professionalism of its employees.
- C. This Program is an optional segment of professional training and is not intended to supersede any mandatory training program or encompass all appropriate legal training. This Program is not intended to be the major source of legal training required to achieve the requisite legal competency for the job positions within the POPA bargaining unit.
- D. Only eligible courses that are being taken directly towards completing a Juris Doctor (JD) degree will be covered by this Program. Note Subsection 2.B.
- E. Management may reduce, suspend, or terminate funding for this Program when such action is necessary for the proper functioning of the Agency. In making such a determination, management will consider similar cutbacks in other non-duty hours training programs in an effort to equitably distribute reductions among all employees. Such determination will take into account the nature and purpose of the training and the adverse effect on the employees and the Agency.

Section 2: Eligibility

- A. This Program is available to any full time, permanent POPA bargaining unit employee with at least 2 years of continuous service at the Agency immediately prior to application to the Program, or an employee with at least two years of continuous service by the reimbursement application deadline of the term the employee enters the Program (identified in Subsection 4.A. below).
- B. An employee is eligible for participation if the legal training provided under this Program is mission-related. Courses provided at an American Bar Association (ABA) accredited law school that will increase the depth of legal knowledge within the Patent Corps and other Agency areas will be authorized. The Agency will make available lists of courses for which funding has historically been disapproved. These lists will be updated at least twice per year, prior to the funding request deadlines for the Spring and Fall terms set forth in Subsection 4.A.
- C. Acceptance at an ABA accredited law school is required. The legal courses for which the Agency provides tuition assistance under this Article must be taken for credit at an ABA accredited law school.

- D. Bargaining unit employees who took USPTO-sponsored non-accredited legal studies courses on non-duty time will not be prohibited from retaking the same or similar courses for credit in this Program and will be entitled to all tuition assistance and payment of expenses set forth in this Agreement in connection with those courses.
- E. The employee's most recent rating of record must be at least Fully Successful and the employee's current performance must be at least Fully Successful in all critical elements, as determined by the employee's cumulative most recent 4 full quarters of work immediately prior to the Program's application due date. Each request for tuition assistance will be considered as a new request with regard to the eligibility requirements set forth under this Section.
- F. The employee must not have served a suspension of 7 days or more in the 2 years prior to the beginning of the Program's application due date.
- G. The employee must obtain approval of their first and second line supervisors. Supervisory approval will be determined expeditiously.

Section 3: Funding for the Program

- A. Prior to the beginning of each fiscal year, the Agency will share with the Association the budget for the Program. The funding will be calculated to capture the estimated costs of the Program unless a lower amount of funding is determined per Subsection 1.E. The goal of the Program is to maximize reimbursement to participants within the allocated budget.
- B. The allocated funding will be divided into 3 pools, one pool for each term (Fall, Spring, and Summer), and the funding will be allocated as follows:
 - 1. 50% of the available funding for the Fall term;
 - 2. 50% of the available funding for the Spring term; and
 - 3. 0% of the available funding for the Summer term.
- C. Unused funding for the Fall term will be available for the Spring term. Unused funding for the Spring term will be available for the Summer term.
- D. At the request of either party, the parties will discuss, and if necessary, negotiate to the extent required by law, over the percentage of funding allocated to each pool described in paragraph B of this section. The renegotiated amounts would be effective at the beginning of the first fiscal year following the agreement.
- E. If requests exceed the allocated amount, or if funding is reduced below what is expected, reimbursements will be reduced based on the percentage that the allocated funding falls below actual costs. For example, if \$2.7 million is available for a term and the costs total \$3 million, each eligible participant will receive 90% of their total eligible requested funding.
- F. Requests for funding that are received after the deadlines in Section 4 will be paid on a first-come, first-served basis until the funding limit for the academic term is reached. Requests for reimbursement must be submitted before the first day of a class.

Section 4: Timing of Reimbursement

- A. Requests for funding must be made before the following reimbursement application deadlines:
 - 1. By 11:59 p.m. Eastern Time on August 15th for the upcoming Fall term;
 - 2. By 11:59 p.m. Eastern Time on January 15th for the upcoming Spring term; and
 - 3. By 11:59 p.m. Eastern Time on May 15th for the upcoming Summer term.
- B. Receipts for materials as provided in Subsection 6.C. must be submitted on or before the following deadlines:
 - 1. By 11:59 p.m. Eastern Time on September 15th for the upcoming Fall term;
 - 2. By 11:59 p.m. Eastern Time on February 15th for the upcoming Spring term; and
 - 3. By 11:59 p.m. Eastern Time on June 15th for the upcoming Summer term.
- C. Failure to submit a timely request as outlined in this Article, may result in the application being denied by the Program Administrator.
- D. If an employee is enrolled in a law school, but prefers to attend a law school for which the employee is waitlisted, the employee will submit an application based on the current enrollment and provide a comment on the application that they are waitlisted for a different law school. The employee must notify the Program Administrator at legalstudiesprogram@USPTO.GOV which law school the employee will attend prior to the first day of classes, along with the proper documentation. The number of credits covered may not exceed the initial number of credits submitted.
- E. The initial application will dictate the maximum number of credits that will be covered. Classes may be dropped or changed after the initial application, but no additional credits may be added. If employees incur fees for dropped courses, those courses are not eligible for reimbursement as explained in Subsection 6.E.
- F. Employees who attend a law school that operates on an alternative schedule, such as trimesters, and who are not permitted to register by the deadlines above, must submit a written estimate of the expenses for which they expect to request reimbursement by the closest reimbursement application deadline prior to the start of an academic term. These estimated amounts will be included in the totals to be funded in accordance with Subsection 3.B.
- G. At the close of each of the requesting periods identified above, the Agency will total the requests to determine if the amount allocated will cover the expenses.
- H. If the amount allocated does not cover the amount requested, the Agency will determine what percentage of the total requested funds can be covered by allocated funding (proration).
- I. Each request for funding will be reduced by the same percentage identified in paragraph Subsection 4.H.
- J. Reimbursements to the participants will be processed by the Agency through the National Finance Center as soon as this determination can be made. For the Fall term, this reimbursement will not occur prior to October 1 due to budget availability/processing.

Section 5: Procedures

- A. Applications for each semester will be submitted electronically via the Non-Duty Hours Legal Studies Program online system. Submit the completed application and supporting documents (see Subsection 5.B.) to the first line supervisor by the applicable semester deadline. The first line supervisor will review the application and verify eligibility. If the application is verified, the supervisor will approve the application and the system will forward the application to the second line supervisor for secondary approval of eligibility. After the second approval, the application will be placed in a queue to await processing, which will begin after the application deadline. Fall semester applications will not be processed until after the new fiscal year begins in October.
- B. Supporting documents must be uploaded into the system with each application by the deadlines set forth in Subsection 4.A.: proof of registration, course descriptions, invoice, school tuition & fees information (including cost per credit) and a signed continuing service agreement (CSA). If documents are not attainable, notify the Program Administrator at legalstudiesprogram@USPTO.GOV in advance of the applicable deadline.
- C. If corrections are necessary prior to the semester application deadline, such as altering the courses/credits, the applicant can open the application and enter a comment with the necessary information. If changes require new supporting documentation, new documents can be uploaded in the system or submitted to the Non-Duty Hours Legal Studies Program mailbox and the Program Administrator notified at legalstudiesprogram@USPTO.GOV. Corrections necessary after the application deadline, such as courses/credits, must be submitted electronically to the Non-Duty Hours Legal Studies Program email mailbox. Such correction cannot increase the overall number of credits.
- D. During the school's drop/add period, if the participant withdraws from a course(s), the employee will submit a notification of the course to the Non-Duty Hours Legal Studies Program mailbox. See Subsection 4.E.
- E. By signing the CSA, the employee is certifying that the employee has received and read the Program rules set forth in both this Article and the CSA and understands the employee's obligation to the Agency as a participant.
- F. The employee will submit grade(s) to the Program Administrator at legalstudiesprogram@USPTO.GOV within six (6) weeks after the semester ends. If the grades are not available, the employee will notify the Program Administrator within 6 weeks after the semester ends and will submit the grade(s) as soon as they are available. If an employee fails to provide grades for courses that the USPTO has funded, the employee will be required to repay the USPTO for tuition and course materials up to the amount reimbursed for the courses in accordance with Subsection 6.E. Upon repayment, the employee's CSA will be shortened accordingly.
- G. If the employee resigns from the Agency, the employee will notify the Program Administrator in writing (email notification is sufficient at

legalstudiesprogram@USPTO.GOV) ten (10) business days prior to separation so that repayment determination can be made. Failure to do so may result in a delay in processing of the employee's release papers.

- H. Failure to comply with the procedures set forth in this Article may result in a denial of reimbursement. Minor corrections or omissions will not be considered a failure to abide by the rules and procedures of this section.

Section 6: Credits and Monetary Expenses

- A. The Agency will reimburse employees for up to twenty-four (24) credits per fiscal year, not to exceed eighty-eight (88) total credits. Courses must be taken within a total 6 years, which need not be continuous.
- B. The Agency will not reimburse for the same class more than once. This includes the same class at 2 different schools, which will be determined based on the course title and description. A request for payment after repayment per Subsection 6.E. does not constitute as reimbursement for the same class more than once.
- C. For each approved course taken under this Program, the employee may request reimbursement for the actual cost up to \$300 per course to purchase or rent required books and course materials (collectively referred to as course materials).
- D. An employee may submit a request for reimbursement of the costs of course materials for courses being taken in a semester without requesting reimbursement of tuition for that course. The Program will cover course material costs for each course that would normally be approved under this Program, up to the \$300 per course limit.
- E. A participant who withdraws from or fails a course taken under this Program will be required to repay the Agency for tuition and course materials up to the amount reimbursed for the course.

Section 7: Approval of Courses

- A. Employees considering courses for an upcoming semester may contact the Program Administrator for review prior to requesting funding. An email to the Program Administrator at legalstudiesprogram@USPTO.GOV is preferred.
- B. The Agency will not reimburse for tuition or course materials for externships or internships (or similar courses that involve experiential work). In addition, the Agency will not cover any credits the employee receives for work done at the Agency.

Section 8: Continuing Service Agreement (CSA)

- A. Subject to 5 U.S.C. § 4108(b), an employee who participates in this Program is obligated to continue service with the Federal Government for thirty (30) days for each credit paid for by the Agency.

- B. If the employee leaves the Federal Government prior to completing the length of the continued service, they will be required to repay the Agency for reimbursements made under the Program on a pro rata basis (based on thirty (30) day increments).
- C. If the employee is reimbursed for only course materials, the employee will be obligated to continue service with the Federal Government for 1 day for every \$50 of course materials paid for by the Agency.
- D. If the employee separates from the Federal Government prior to completing the length of the continued service, the employee's required course materials repayment obligation will be for the class(es) for which the continuing service was not completed.
- E. Periods of absence (i.e., unapproved non-pay status, suspension, or non-FMLA LWOP) that occur during a covered Academic term will delay the start of the continued service by an equal amount of the time taken for the absence. Periods of absence that occur during service will not count towards the required continued service. For an accurate accounting of the required continued service, employees must notify the Program Administrator at legalstudiesprogram@uspto.gov of any hours during the absence.
- F. Continued service begins with the end of the term or prior service obligation period, whichever is later.
- G. The "end of the term" is defined as the day of the employee's last final examination or day the last final paper is due for that term.
- H. If reimbursement for credits is prorated, the continued service requirements for the affected credits will be prorated to the same extent as the funding on a whole day basis. For example, in the scenario set out in Subsection 3.E. above where employees are reimbursed 90% of total eligible requested funding, an employee seeking reimbursement for 10 credits would be responsible for 270 of the 300 days: 10 credits X 30 days = 300 days. 300 days X .9=270 days CSA for the prorated term.
- I. If an employee switches to a part-time schedule during the CSA period after any term, the employee must provide the part-time work schedule to the Program Administrator. If the part-time schedule is altered, either temporarily or permanently, then the altered schedule must be provided. During the part-time status, the CSA will be prorated based on the number of hours in their part-time biweekly schedule.
- J. For year-long courses that are graded at the end of the year, if the first half of the course is reimbursed and the second half is not reimbursed, the CSA will begin after the first half of the course. The employee must pass the course to be reimbursed for the first half of the year-long course. To ensure the employee has passed the year-long course, the employee must submit their grade at the end of the year per Subsection 5.F. above.

Section 9: Non-Loan Financial Aid

- A. If a participant in the Program receives a scholarship, grant, or other non-loan financial aid (collectively referred to as scholarship funds), the scholarship funds will first be used to pay for any course not eligible for reimbursement by the Agency. Any

remaining scholarship funds will be deducted from the amount of the total reimbursement for covered courses. The continuing service requirements will be adjusted to reflect only the portion of tuition expenses paid by the Agency. Participants who are charged a reduced tuition compared to the actual tuition charged by the law school will be reimbursed only for the reduced tuition amount.

- B. Participants who receive a scholarship, grant, or other non-loan financial aid are required to disclose the aid received to the Program Administrator at the time of the application for reimbursement or within 1 week of becoming aware of the scholarship, grant or other non-loan financial aid.

Section 10: Administrative Leave for Bar Exam

See Article 26 (Administrative Leave), Section 7 for administrative leave to take the Bar examination.

Section 11: Approval of Courses

For each fiscal year, the Agency will provide the Association with the number of participants in the Program and the total amount of reimbursements requested and approved by December 15. This data will be posted on the Non-Duty Hours Legal Studies Program page on the USPTO Intranet by December 15 after the data has been provided to the Association.

Section 12: Reduction, Suspension, or Termination of Funding

- A. In the event management determines to reduce, suspend, or terminate funding for this Program under Subsection 1.E. of this Article, management will discuss its plans and rationale with POPA at least thirty (30) days in advance or, in an emergency, as soon as possible in advance of any changes. This discussion will include an explanation of the circumstances leading to management's change and include what other actions are being taken by the Agency to address the budget problem. Information on cuts for each non-duty time training program at the USPTO will be provided to the Association.
- B. If the funding for the Program is reduced, suspended, or terminated as provided in Subsection 1.E., funding will be fully or partially reinstated when such action is no longer necessary for the proper functioning of the Agency.

Section 13: Appendices

1. Continued Service Agreement template
2. Examples of reimbursement calculations

ARTICLE 44 (old 22) NON-DUTY HOURS TECHNICAL TRAINING PROGRAM

Section 1: Overview

- A. A voluntary Non-Duty Hours Technical Training Program (Program) has been established to develop and maintain a highly skilled workforce, and to promote the development and retention of POPA bargaining unit members by enhancing the employees' knowledge, skills, and abilities.
- B. This Program is an optional segment of professional training and is not intended to supersede any mandatory training programs or encompass all appropriate technical training. This Program is not intended to provide remedial training with respect to the basic technological skills required for the employees' current positions, nor to supersede appropriate classroom or on the job training in foreign technological areas during duty hours. A foreign technological area may be work assigned in an area of technology outside of an employee's training and background.
- C. Supervisors are encouraged to support their employees' voluntary participation in this Program in order to further the mission and meet the performance goals of the USPTO.
- D. Management may reduce, suspend, or terminate funding for this Program when such action is necessary for the proper functioning of the Agency. In making such a determination, Management will consider similar cutbacks in other non-duty hours training programs in an effort to equitably distribute reductions among all employees. Such a determination will take into account the nature and purpose of the training and the adverse effect on the employees and the Agency.

Section 2: Eligibility

- A. This Program is available to all POPA bargaining unit members who are permanent, non-probationary employees.
- B. The technical courses taken under this Program must be mission-related. In making a determination as to what is "mission-related", supervisors are reminded that the employee's voluntary participation in the Program is to be encouraged. The term "mission-related" is not to be narrowly construed and shall be applied as set forth in Title 5, part 410 of the code of Federal Regulations. The Agency will make available lists of courses for which funding has historically been disapproved. These lists will be updated at least twice per year.
- C. The technical courses must be taken for credit at an accredited college or university.
- D. The employee's most recent rating of record must be at least Fully Successful, and the employee's current performance must be at least at a Fully Successful level in all critical elements as determined by the employee's cumulative most recent four full quarters of work immediately prior to the Program's application due date. Each request for tuition assistance will be considered as a new request with regard to the eligibility requirements set forth under this Section.

- E. The employee must not have served a suspension of 7 days or more in the 2 years prior to the beginning of the Program's application due date.
- F. The employee must obtain approval of their first and second line supervisors. Supervisory approval will be determined expeditiously.
- G. If the Agency denies an employee's request to participate, the employee may submit written reasons to the Office of Patent Training as to why the employee's participation should be approved. Upon receipt of the written reasons, the Office of Patent Training will either grant approval or provide the employee with a written response within 7 days explaining why the request was denied.

Section 3: Procedures

- A. Applications for each term will be submitted electronically to the first line supervisor via the non-duty technical training online system at least 2 weeks prior to the beginning of the course with copies of the (1) tuition rate and (2) course description from the school catalog. The first line supervisor will review the application and verify eligibility. If the application is verified, the supervisor will approve the application and the system will forward the application to the second line supervisor for secondary approval of eligibility. After the second approval, the employee will be asked to upload supporting documentation described in Subsection 3.B.
- B. Supporting documents must be uploaded into the system with each application by the deadlines set forth in Subsection 3.A.: proof of registration, course descriptions, invoice, school tuition & fees information, including cost per credit, and a signed continuing service agreement (CSA). If documents are not attainable, notify the Program Administrator in advance of the applicable deadline.
- C. If corrections are necessary, contact the Program Administrator. A correction cannot increase the overall number of credits for which reimbursement was originally requested.
- D. During the school's drop/add period, if the participant drops a course(s), the employee will submit a notification of the dropped course to the non-duty hours technical studies email mailbox .
- E. By signing the CSA, the employee is certifying that the employee has received and read the Program rules set forth in this Article and the CSA and understands the employee's obligation to the Agency as a participant.
- F. The employee will submit grade(s) to the Program Administrator within 6 weeks after the semester ends. If the grades are not available, the employee will notify the Program Administrator within 6 weeks after the semester ends and will submit the grade(s) as soon as they are available. If an employee fails to provide grades for courses that the USPTO has funded, the employee will be required to repay the USPTO for tuition and course materials up to the amount reimbursed for the courses in accordance with Subsection 4.B and 4.C.
- G. If the employee resigns from the Agency during a CSA, the employee will notify the Program Administrator in writing (email notification is sufficient) ten (10) working days

prior to separation so that repayment determination can be made. Failure to do so may result in a delay in processing of the employee's release papers.

- H. Failure to comply with the procedures set forth in this Article may result in a denial of reimbursement. Minor corrections or omissions will not be considered a failure to abide by the rules and procedures of this section.

Section 4: Credits and Monetary Limits

- A. Up to \$10,000 (prorated for participants on a part-time schedule) per fiscal year is available to each participant for actual tuition costs. Any number of credits within this monetary limit may be taken under this Program. If the tuition costs exceed the employee's limit, the employee will be responsible for paying any overbalance to the school.
- B. For each approved course taken under this Program, the employee is allocated up to \$300 per course for required course materials (e.g., books and/or lab fees, etc.).
- C. An employee who withdraws from or fails a course (as defined by the school) taken under this Program will be required to repay the Agency for expenses incurred from tuition and/or course materials payment.

Section 5: Approval of Courses

- A. Employees considering courses for an upcoming semester may contact the Program Administrator for review prior to requesting funding. An email to the Program Administrator at nondutytechnical@USPTO.GOV is preferred.
- B. The Agency will not reimburse for PhD dissertations, or tuition or course materials for externships or internships (or similar courses that involve experiential work).

Section 6: Continuing Service Agreement (CSA)

- A. Subject to 5 U.S.C. § 4108(b), an employee who participates in this Program is obligated to continued service with the Federal Government for thirty (30) days for each credit or portion thereof paid for by the Agency.
- B. For an employee on a part-time schedule, the CSA will be prorated based on the number of hours in their part-time biweekly schedule.
- C. If the employee leaves the Federal Government prior to completing the length of the continued service, the employee's tuition reimbursement obligation will be on a pro rata basis (based on thirty (30) day increments).
- D. If the employee separates from the Federal Government prior to completing the length of the continued service, the employee's required course materials reimbursement obligation will be for the class(es) for which continuing service was not completed.
- E. Periods of absence (i.e., unapproved non-pay status, suspension, or non-FMLA LWOP) that occur during a covered academic term will delay the start of the continued service by an equal amount of time taken for the absence. Periods of absence that

occur during service will not count towards the required continued service. For an accurate accounting of the required continued service, employees must notify the Program Administrator at nondutytechnical@USPTO.GOV of any hours during the absence.

- F. Continued service begins with the end of the term or prior service obligation period, whichever is later.
- G. The "end of the term" is defined as the day of the employee's last final examination or day the last final paper is due for that term.
- H. Any reimbursement to the USPTO will be based on the actual tuition cost incurred by the USPTO.
- I. If an employee switches to a part-time schedule during the CSA period after any term, the employee must provide the part-time work schedule to the Program Administrator. If the part-time schedule is altered, either temporarily or permanently, then the altered schedule must be provided. During the part-time status, the CSA will be prorated based on the number of hours in their part-time biweekly schedule.

Section 7: Reduction, Suspension or Termination of Funding

- A. In the event Management determines to reduce, suspend, or terminate funding for this Program under Subsection 1.D. of this Article, Management will discuss its plans and rationale with the Association at least thirty (30) days in advance or, in an emergency, as soon as possible in advance of any changes. This discussion will include an explanation of the circumstances leading to Management's change and include what other actions are being taken by the Agency to address the budget problem. Information on cuts for each non-duty time training program at the USPTO will be provided to the Association.
- B. If the funding for the Program is suspended, reduced, or terminated as provided in Subsection 1.D., funding will be fully or partially reinstated when such action is no longer necessary for the proper functioning of the Agency.

ARTICLE 45 (old 36) OFFICE SPACE AT ALEXANDRIA HEADQUARTERS

Section 1: Office Size

- A. All employees GS-13 and above will be provided with private, wall-enclosed (full ceiling height) offices of approximately 150 square feet within a reasonable amount of time after the employee achieves grade GS-13. Each employee grade GS-12 or below will be provided with a private, wall-enclosed (full ceiling height) office of approximately 150 square feet whenever possible.
- B. If there are situations where a private, wall-enclosed (full ceiling height) office is not possible for an employee grade GS-12 or below, then employees sharing office space with other employees will be located in wall-enclosed (full ceiling height) offices provided with at least 75 square feet, where possible, for their own working area. No employee shall be placed more than two to an office. Employees sharing office space with other employees may be required to share a printer.
- C. Partial teleworkers and part-time employees may be required to share offices as noted in their telework agreements or in the Part-Time Program for their area.
- D. Supervisors will address complaints of adverse impacts in shared offices as promptly as possible. The Agency will timely consider move requests when a persistent noise complaint or personality conflict creates disturbances that do not allow the affected employee to maintain necessary concentration.
- E. Except for Subsections 1.F. and 3.E., the rights and obligations set forth in Sections 1-3 do not apply to temporary redistributions of space for less than sixty (60) days.
- F. Nothing in this Agreement prevents the Agency from granting a private office as a reasonable accommodation.
- G. Twice per year, the Association may request the number of private offices assigned to bargaining unit members GS-12 and below who would otherwise be doubled but have instead been assigned an office outside the normal assignment process pursuant to the Agreement.
- H. Employees with an onsite detail will be provided with a quiet, individual work space, which may be used by other employees on days the employee is not scheduled to be on campus.

Section 2: Physical Facilities

- A. The Agency will provide adequate ventilation, filtration, heating, cooling, plumbing, and lighting.
- B. For facilities issues, employees may contact the facilities help desk, 571-272-2000. (2-2000) or FHD@uspto.gov, or subsequent contact information.
- C. Employees are encouraged to notify the facilities help desk of office-specific heating or cooling issues.

- D. In the event of failure of the air conditioning, heating, lighting, or plumbing, employees should notify the facilities help desk and contact their supervisor to discuss telework, relocation, excusal, or other options.
 - 1. Approved telework performed in these situations will be unscheduled telework.
 - 2. Employees who are unable to relocate temporarily to another office or to complete their shift at an approved alternate work site may be excused on administrative leave for the remainder of the day.
- E. Each office will have adequate controlled lighting, ventilation, and electrical outlets. Office temperatures will generally be maintained between sixty-four (64) and seventy-eight (78) degrees Fahrenheit during standard HVAC hours.
- F. Each Electronic Information Center (EIC) will be provided with lighting at a level that allows the reading of the documents within their search area.
- G. Smoking and vaping are prohibited indoors, outdoors, and in garages. Smoking is only permitted in designated smoking areas where smoking receptacles are placed.
- H. Each employee's office or work area will be provided with telephony.
- I. Lockable doors will be provided for each office.
- J. Employees without a lockable pedestal or cabinet will be provided one as soon as possible upon request to their business unit move coordinator.

Section 3: Moving between Offices

- A. When required by management to relocate between buildings or offices at the Alexandria Headquarters, employees will be instructed to pack personal and work-related belongings in boxes provided by the Agency. If a health condition limits an employee's ability to pack and unpack, the employees may request and receive assistance. Boxes must be labeled in accordance with instructions provided by management.
 - 1. The Agency will not be liable for personal belongings lost or damaged during the move.
 - 2. Employees must move, on their own, personal items that are too large to fit in the provided boxes or crates.
 - 3. Employees wanting to move their own personal belongings should remove them from the original office when packing, and return them to the new office following the Agency move of work-related material.
- B. The Agency will be responsible for moving all packed boxes/crates as provided by management to the employee's new office. Management will endeavor to provide different sized boxes for each move.
- C. Once the IT equipment is set up in the new office, employees will check the equipment to make sure it is working properly as soon as possible following the move. Reasonable time for checking the equipment may be included in packing and unpacking time as noted in Subsection 3.D. below.
- D. Non-production Time

1. During a move, or during maintenance involving temporary or permanent relocation of office furniture, each affected professional will be allowed non-production time for boxing and unboxing, labeling of boxes, paperwork (including electronic forms) pertaining to the move, and the preparation, implementation, and the reorganization of their office due to either a modification of, or a transfer to or from, their office area, subject to later review by the supervisor.
 2. All supervisors shall encourage accurate recording of time spent packing and unpacking offices. There will be no arbitrary uniform rules about the amount of time that can be spent packing and unpacking. Employees will engage in a reasonably good faith effort to diligently pack and unpack their offices. Any time used because an employee being moved decides that this is an appropriate occasion to determine which items to discard or retain is not envisioned as caused by the move.
- E. No professional will be assigned or reassigned to office space until such time as that office space is substantially ready for occupancy.

Section 4: Office Selection

- A. When multiple employees are being relocated, seniority will be used to determine window office assignments.
- B. Priority shall be determined by: the grade of the employee; then by permanent signatory authority (if appropriate); the amount of time served in the employee's current and previous higher grades (as in the case of down-graded employees) while an employee of the USPTO; and finally, the length of service at the USPTO. Selection of employees to share offices shall be made in the reverse order of the priority. Ties are broken by coin flip or other random process.

Section 5: Move to Exterior Office

When window offices become available for employee use, employees will be allowed to move from interior to window offices based on the procedures in Section 3, above. If multiple offices are available at the same time, employees will be assigned space based on seniority of all USPTO employees as set out in Section 4 as applicable above.

Section 6: Organizational Boundaries

- A. Employees will have access, subject to the appropriate security procedures, to USPTO space except to areas that are normally restricted to certain employees.
- B. Organizations (excluding the Patent Examining Corps) may need employees to be collocated based on their duties to foster collaboration when space and resources allow. Management will set aside space for these organizations and the office selection and moving processes will be limited to these areas.

- C. Patent examiners may be collocated based on Technology Center. When a situation arises where an employee would be entitled to a window office, the employee will be placed in a window office in the collocated area, but if no window office is available, the employee will be placed in a window office in another area.
- D. The Agency may determine the organizational level at which collocation is important.
- E. Employees in training, including patent examiners, may be assigned to space conducive to learning and collaboration, and will be assigned a permanent work space following completion of training.
- F. After the completion of any move of an entire office outside of Patents or a single move of more than ten (10) bargaining unit employees in Patents, upon request of either party, the parties will meet to consider any adverse effect(s) of the move and together make a bona fide attempt to solve such problem(s), if any. The provision related to Patents excludes routine moves of employees from the Patent Training Academy to the examining corps.

Section 7: Amenities

- A. USPTO employees shall have priority in access to the East Parking Garage, including priority for purchasing monthly parking permits (if limited) and priority for daily parking (if nearing capacity).
- B. The USPTO will provide adequate security for leased parking garage(s). Security may include cameras, roving guards, and duress alarms tied to the Security Command Center.
- C. USPTO employees will have access to bicycle racks and/or storage.
- D. Employees will have access to pantries in their work areas. Pantries shall include at least the following: full-size refrigerator, sink/disposal, microwave, counter space, cabinets, and hot water.

Section 8: Prohibited Items in Personal Offices

- A. The following items are a partial list of prohibited from personal offices in all USPTO facilities:
 - 1. Refrigerators (except as part of a reasonable accommodation)
 - 2. Space heaters (except as part of a reasonable accommodation) and other items with a heat source (coffee and tea pots, hot pots, hot plates, toaster ovens, etc.)
 - 3. Aquariums
 - 4. Upholstered furniture (unless provided by the office)
 - 5. Any electronic gear with frayed cords
 - 6. Candles or any other item that uses a flame or heating element (flameless candles that are battery operated are permitted)
- B. Before making a final determination to prohibit an item, the Agency will notify the Association in advance and discuss the issue with the Association upon request. Factors that would lead to a prohibition include items that would cause a heavy load

on the electrical system or something that is considered unsafe by the lessor or the safety division.

Section 9: Office Safety and Maintenance

- A. Individual work spaces may be inspected periodically for safety hazards, and remedial action may be required for items within an employee's control.
- B. The Agency and the Association agree that clean, well-maintained areas in which members of the Unit work contribute to the efficiency of the operation. In this regard, the Agency agrees to diligently enforce any lease requirements regarding the painting and cleaning of such areas.
- C. Offices will have trash emptied daily and will be vacuumed weekly. Cleaning of individual offices and vacuuming of any Agency space will be done in the evenings. Common areas will be regularly cleaned (e.g., restrooms and pantries cleaned at least daily; refrigerators and microwaves cleaned at least weekly, after 6 p.m. on Fridays. If Friday is a holiday, pantry cleaning will occur after 6 p.m. on Thursday).
- D. To prevent distraction from noises and smells, offices will be painted at night or on weekends, when practical. For at least 1 full day after any room or area is painted, employees assigned to offices on the painted floor will be offered unscheduled telework or temporary access to hoteling space or alternate space. Employees assigned to offices on the painted floor who do not have a signed telework agreement will be offered temporary access to hoteling space or alternate space. Requests for unscheduled telework or access to hoteling space or alternate space lasting more than one day (including for reasons such as chemical sensitivity) should be directed to the employee's supervisor and will be considered on a case-by-case basis.
- E. The Agency shall ensure that each building meets or exceeds environmental safety standards and will be managed in accordance with all regulatory requirements.

Section 10: Ergonomic Equipment

- A. The Agency will periodically offer onsite employees an ergonomic, height adjustable desk, and an ergonomic chair in which to work.
- B. Any employee may request from the Service Desk and be provided a standard ergonomic mouse and/or keyboard compatible with USPTO equipment/systems. Replacement for the standard broken or worn-out ergonomic hardware is available upon request. Requests for specific mice or keyboards may require a reasonable accommodation.

Section 11: Office Decoration

The employee may decorate their assigned space. The decorations must be safe and may not create a hostile work environment or violate the Hatch Act. Painting or damage to property is prohibited. Further, decorations that constitute a violation of the USPTO's Anti-

Harassment Policy, dated July 12, 2022, are not allowed. Decorations disapproved by the office must be removed upon notification to the employee.

Section 12: Building Access

- A. During the hours building access is permitted, employees will promptly notify management or Security of the unavailability of an office key. Employees will promptly be provided access to their office.
- B. Employees will promptly notify management of lost keys. A duplicate key will be provided to the employee as soon as possible.
- C. In the event that a PIV card is lost, the employee must go to the Security Service Center during its operating hours to get a replacement card, which will be provided as soon as possible. This card will be provided based on suitable ID. For access outside the Security Service Center's operating hours, the employee shall report to the appropriate guard station for access based on suitable ID.
- D. If the PIV card is forgotten, the employee will report to the appropriate guard station or Security Service Center or guard station for access based on suitable ID. The employee will be given access to the elevators and appropriate user areas throughout the complex.

ARTICLE 46 (old 37) REGIONAL OFFICES

Section 1: Consistency of Working Conditions

- A. All policies and practices that apply to bargaining unit employees who report to the USPTO Alexandria Headquarters will also apply to the bargaining unit employees who report to the Regional Offices to the extent not inconsistent with location-specific practices noted in this article.
- B. This article applies to all Regional Offices in which 1 or more bargaining unit members have a permanently assigned office.

Section 2: Time Zones and HVAC Hours

- A. Work schedule times, including core hours (except as noted in the Work Schedules Article 19), and HVAC hours, will be local times based upon the location of each employee's actual worksite. All other times, unless otherwise specified in an agreement, will be Eastern Time.
- B. Action counting, docket management, STIC and EIC hours (including translation services), Alexandria-based ITRP hours, Service Desk hours, and OCIO maintenance times will apply to the Regional Office employees using Eastern Time.
- C. Regional Offices will maintain the current HVAC hours, even if they relocate (or as allowed by the lessor). New Regional Offices will use the same hours as the Alexandria campus (adjusted for time zone) or as allowed by the lessor unless the parties agree otherwise. The Agency may propose more limited hours if very few or no bargaining unit members enter the facility during the times for which the agency proposes limiting HVAC. Lack of HVAC will not limit an employee's ability to work flexible hours.

Section 3: Site Accessibility and Security

- A. Bargaining unit employees assigned to the Regional Offices will have access, subject to the appropriate security procedures, to the USPTO occupied areas of the Regional Offices except for areas that are normally restricted.
- B. Non-Emergencies
 1. Between 7:30 a.m. and 5:30 p.m. weekdays (local time), employees in Regional Offices may contact their local USPTO security officers.
 2. At any hour, dialing 2-7800 connects to USPTO security command center in Alexandria, VA.

Section 4: Operating Status of Regional Offices

- A. The Federal Holiday schedule for the Regional Offices will be the same as the USPTO Alexandria Headquarters, except for holidays that are specific to the Washington, DC area, such as Inauguration Day.
- B. The operating status of the Regional Office due to weather or other emergency situations will be made and communicated by the Agency and will consider information provided by the local Federal Executive Board. Communications made related to operating status should utilize the same format as announcements for the same operating status in the National Capital Area.

Section 5: Facilities Issues

- A. For facilities issues, employees may contact the facilities help desk, 571-272-2000, (2-2000) or FHD@uspto.gov or subsequent contact information.
- B. When the Agency negotiates directly with a lessor for space for a Regional Office, the Agency will negotiate to provide the following with regard to cleaning: Offices will have trash emptied daily and will be vacuumed weekly. Cleaning of individual offices and vacuuming of any USPTO space will be done in the evenings. Common areas will be regularly cleaned (e.g., restrooms and pantries cleaned at least daily; refrigerators and microwaves cleaned at least weekly, after 6:00 p.m. on Fridays. If Friday is a holiday, pantry cleaning will occur after 6:00 p.m. on Thursday).
- C. When the Agency is not negotiating directly with the lessor, the Agency will request that the above matters will be included as part of the services provided.
- D. If the space and assignment of offices to bargaining unit members in a particular Regional Office is not able to follow Article 45, Sections 1, 3 and 4, then the issue will be discussed with the Association. New hires with the same entry date will be assigned offices randomly.
- E. Management will make available to all employees high speed network printer(s) in a non-public area that is accessible to the employees.

Section 6: Amenities

- A. Employees will have access to bicycle racks and storage, if available.
- B. Employees will have access to all pantries in their work areas.
 - 1. Pantries in all locations occupied by bargaining unit employees shall be cleaned daily.
 - 2. Pantries shall include at least the following: full-size refrigerator, sink, soap, paper towels, microwave, counter space, cabinets and hot water. Disposals will be included when they are negotiated as part of the lease.
- C. Some Regional Offices may have common spaces available for employees to use such as conference rooms, pantries, cafeterias, fitness centers. Employees may use

these facilities as permitted. Employees will be notified of rules and hours pertaining to the use of these facilities.

- D. The availability of fitness centers will be considered when evaluating new Regional Office locations.
- E. The Agency will provide health services to the extent practical. A flu shot clinic will be available on site annually if sufficient interest exists, the serum is available, and the service is provided at the Alexandria Headquarters.
- F. The Agency will provide transit subsidies to eligible bargaining unit employees to the extent allowed by regulations and benefits are available at USPTO Alexandria Headquarters.

Section 7: Health and Safety Issues

The Agency shall ensure that the building meets environmental safety standards and will be managed in accordance with all regulatory requirements (e.g., GSA and OSHA).

Section 8: Automated Systems and Collaboration Tools

- A. To the extent it is feasible, automated systems and collaboration tools used by examiners in the Regional Offices will be equivalent to those used by examiners at the Alexandria Headquarters.
- B. Although Regional Offices may have fewer on-site technicians than Alexandria Headquarters, the Agency will offer a similar level of technical support regardless of location.
- C. Management will provide collaboration tools and private space for interactions between Regional Office employees and Agency staff at other locations or Association representatives.

Section 9: Association Arrangements

- A. The Association will have access to the lists of emails of employees located in the Regional Offices or within fifty (50) miles of the Regional Offices, either by being provided in the Global list in Outlook, or providing the Association with an Excel list of those employees (list which can be sorted and copied from).
- B. The Agency will pay the travel expenses and per diem for individual Agency employees who are serving as Association representatives to travel to Regional Offices for representational activity. The maximum number of paid individual trips provided each year is calculated by doubling the number of Regional Offices. For example, if the number of Regional Offices is 4, then the maximum number of paid individual trips to be paid by the Agency is 8 trips. The number of representatives, the identity of the traveler(s), and the Regional Office visited, are at the discretion of the Association. The number of travelers and the duration of travel for the Association visit will be limited to what is reasonable to complete the representational activity. The

Association will identify the general nature of the representational activity when requesting paid travel.

- C. When requesting paid travel for an Association visit, the requestor will request appropriate space in the Regional Office for the traveler to engage in private consultations with bargaining unit employee(s), and will request to access collaboration tools with the traveler's UL. The Agency will provide badges and keys, as necessary, for the traveler to access the Regional Office and the appropriate space.
- D. The Agency shall provide at least one lockable bulletin board per pantry on floors with offices assigned to full time bargaining unit employees. At least one half of one lockable bulletin board per pantry is for the Association's use. The Agency may use the other half of the lockable bulletin board, or an additional lockable bulletin board, to display EEO and other notices and postings.
- E. The Association may use all video conferencing and other collaboration tools for representational activities, including but not limited to, Association conferences, annual meetings and grievance meetings, meetings associated with proposed adverse actions or proposed disciplinary actions, adverse actions, disciplinary actions and investigatory meetings.
- F. In the event that the Agency cannot provide desktop collaboration tools to the appropriate Association representatives or employee(s), the Agency agrees to postpone any investigatory meeting, to the extent practicable, or to grant a reasonable extension for any response to a proposed disciplinary action, proposed adverse action or grievance filing or response, if warranted.

Section 10: Travel by Employees Assigned to a Regional Office

If the Agency requires employees with an official duty station at a Regional Office or on a fifty (50) mile Agreement to a Regional Office to travel to another USPTO office, then the Agency will pay for travel expenses and per diem as provided by the Federal Travel Regulations. This travel will be non-production time (or compensatory time for travel, which will not be counted toward the employee's production hours) for production employees. For the docket management (DM) pause, the travel days will be included in the DM pause, as long as no examining time is claimed during the pause.

Section 11: Visits from Employees not Stationed at a Regional Office

- A. Employees on a fifty (50) mile agreement with a Regional Office may request to temporarily work in that Regional Office using RoomRez or the equivalent reservation system.
- B. TEAP participants and other teleworking employees may request to temporarily work in a Regional Office as a temporary alternate worksite. Employees must make requests at least 5 days in advance except in exigent circumstances, such as during a severe weather event or other emergency that prevents the employee from working in an approved alternate work site. See TEAP Agreement, Section 15.

C. Except as provided above, employees not stationed at a given Regional Office or on a fifty (50) mile agreement with a given Regional Office may not visit that office unless they are invited, directed to go to the facility, or are representing the Association.

Section 12: Relocating Between Regional Offices and the Alexandria Headquarters

Relocations from one Regional Office to another, or between a Regional Office and the Alexandria Headquarters (or within fifty (50) miles of these locations), or between a telework site and a USPTO office, will be handled in accordance with the Agreement on Examiner Transfers Between Offices, dated August 14, 2017.

Section 13: Closure of a Regional Office

If the Agency decides to close a Regional Office, the parties will follow the procedures set out in the Permanent Closure of a Satellite Office agreement (September 25, 2014), with the understanding that the term "Satellite Office" as used in that agreement is synonymous with "Regional Office" as used in this CBA.

ARTICLE 47 (old J) RETIREMENT PLANNING

Section 1: General

- A. The Agency will provide retirement classes with an appropriate number of slots to accommodate eligible employees.
- B. The retirement planning program shall include the following training classes: early career (generally 15+ years from retirement age and 1-5 years of Federal Service), mid-career (5-14 years from retirement age), and approaching retirement (within 5 years from retirement age). Information materials and sources will be provided.
- C. General information about disability retirement will be covered in the retirement planning program. Further questions about obtaining disability retirement should be directed to the Compensation and Benefits Division of the OHR.

Section 2: Retirement Classes

- A. Employees with 1 to 5 years of service who are not retirement eligible may attend the early career class once in that time period.
- B. Employees with more than 5 years of service and more than 5 years before they are retirement eligible may attend the mid-career class no more than once every 5 years.
- C. The Agency will provide approaching retirement (or pre-retirement) classes for employees who are within 5 years of retirement.

Section 3: Information about Training

- A. The training will provide a comprehensive presentation of retirement entitlements and an overview of the application process with the goal of facilitating successful retirement planning.
- B. Attendance at a retirement class will be considered training.

Section 4: Individual Retirement Counseling

- A. In addition to time for training as set out above, the Agency will provide up to 1 hour of non-production time for retirement counseling once in the employee's career, generally following the completion of the pre-retirement class. Employees may participate in retirement counseling more than once during their career on non-duty time.
- B. Individual retirement counseling will include, as applicable to individual circumstances and requested by the employee, informational material, information on phased retirement, and an estimate of the employee's retirement benefits. Retirement counselors will provide complete information as to the retirement procedures established by the Agency.

C. The Agency agrees to annually inform employees that individual retirement counseling is available. Employees will be informed via email or the Intranet homepage.

Section 5: Phased Retirement

For phased retirement, see Appendix X.

DRAFT

ARTICLE 48 (old G) HEALTH SERVICES

Section 1: Regional Offices

Health services at the Regional Offices are covered in Article 46, Subsection 6.D.

Section 2: USPTO Headquarters

The Agency will continue to provide access to a Health Unit or Health Unit Services at the USPTO Headquarters, which will offer services available to bargaining unit members, including flu shots (to the extent serum is available), screening, and education programs.

Section 3: Test and Examination Results

Upon request, the health care provider at the Health Unit shall supply an employee with the results of any test or examination given them.

DRAFT

ARTICLE 49 (old L) CHILD CARE CENTERS

Section 1: Child Care Centers

- A. The parties recognize that USPTO employees need to have reliable and adequate daycare services available to them so that they are free to devote their full energy and attention to their duties and responsibilities.

The parties recognize and acknowledge that a child care center at the USPTO has resulted, and will continue to result, in substantial benefits for the USPTO and its employees.

These benefits include, but are not limited to, enhanced employee family life, improved employee morale and performance, reduced use of leave for family-related problems, lower employee turnover, and reduced personnel costs for the PTO.

Accordingly, it is the intent of the parties that a child care center will continue to operate at the Alexandria Headquarters.

Any changes in status of the current child care center will be conveyed to the Association as soon as possible.

- B. If a decision is taken to change or eliminate these facilities, the Office will notify the Association and bargain to the extent allowed by law.

Section 2: Priority

For as long as a child care center continues to operate at Alexandria Headquarters, the Agency will seek to include, in any contract or agreement regarding the operation of the childcare center, that siblings of enrolled students who are children or wards of USPTO employees shall continue to have enrollment and waitlist priority over siblings of other enrolled students, and children of USPTO employees shall continue to have enrollment and waitlist priority over children and wards of other federal employees and children and wards of members of the general public.

Section 3: Subsidies

If the Federal Government in general, or USPTO specifically, decides to provide a child care subsidy, then USPTO must discuss the subsidy with POPA prior to implementation.

ARTICLE 50 (old M) ADDITIONAL PROVISIONS

Section 1: Future Discussion of Employee Feedback

The Agency will meet with the Association within 6 months following the effective date of this agreement to discuss the potential for employees to provide feedback concerning supervisors.

Section 2: Assessments Upon Return to Examining

Whenever an examiner has no examination time for a period of more than 1 year, an assessment of training and learning curve needs will be made. Art appropriate training and refresher training may be provided based on the assessment and will not count against the examiner's bank of hours for employee selected training.

DRAFT

ARTICLE 51 (old N) INFORMATION TO THE ASSOCIATION

The Agency will provide the following information to the Association in addition to other information as provided in this agreement:

A. Biweekly

1. Biweekly, list of all POPA-covered employees including name, USPTO email address, employee number, occupational series, position title, organization/cost code.

B. Semi-annually

1. Names and email addresses of all POPA employees participating in telework (other than new hires), divided by business unit and telework program.
2. Based on the fiscal year, a list of disciplinary actions, including the nature of the action (whether it is performance or conduct), the discipline proposed and imposed, and the basis for the action (e.g., AWOL, Internet Usage, etc.). The list will include the date range for the report.

C. Annually

1. For each SEE (Article 42, section 5) trip, separately account for the number of employees and management officials participating.
2. Upon request, the Agency will provide the Association aggregated ratings data for the Patent examining corps, and each Technology Center, by overall rating and element.

ARTICLE 52 (old 39) REPRODUCTION AND DISTRIBUTION OF THE AGREEMENT

- A. The Agency will make electronic copies of the Agreement available to all Unit supervisors, management officials, and bargaining unit employees. The electronic copy will enable users to search by Article and section, including a table of contents that links to the articles. When the Agreement becomes effective, the Agency will notify all bargaining unit employees of the location of the Agreement on the Agency Intranet or a similar means of accessing the Agreement.
- B. The Agency will maintain a copy of the Agreement on the Agency's Intranet site, or equivalent.
- C. The Agency will provide the Association with a version of the Agreement that the Association can post electronically.
- D. Version control will be maintained over electronic copies of the Agreement including date of the version.
- E. The Chief Negotiators shall arrange for printing of a mutually agreeable number of hard copies at a mutually agreeable cost. The number of hard copies will be at least the number of members of the Association's executive committee (officers and delegates). The cost shall be shared equally by the Office and the Association. The printing will be done as expeditiously as possible.

ARTICLE 53 (old 40) TRANSITION AND DURATION

Section 1: Transition to This Agreement

The contract in place on the date of the matter in question will be used to determine rights and obligations of the parties with the following exceptions:

- A. Grievances filed after the effective date of this Agreement will be processed under the grievance process outlined in Article 13.
- B. If either party invokes arbitration after the effective date of this agreement, the procedures contained in Article 14 will apply, regardless of when the grievance was filed.

Section 2: Duration

This Agreement shall remain in effect through June 30, 2029, and will roll over for additional 1 year periods on July 1st, unless written notice of intent to terminate or renegotiate the agreement is given to the other party in accordance with Section 4 below.

Section 3: Limited Midterm Reopening

- A. This Agreement may be reopened by either party 3 years after the effective date of the Agreement.
- B. Notice must be provided to the other party of intent to reopen between sixty (60) and thirty (30) days prior to the third anniversary of the effective date of the Agreement.
- C. Reopening shall be limited to 4 topics per party. A topic is an entire Article or discrete section of multiple Articles that contain an identical issue (such as the manner in which leave may be requested) with the remainder of the multiple Articles remaining unaltered (or the party uses a separate topic for the remainder of the Article).
- D. If only 1 party serves notice of its intent to reopen during the reopening window, the other party may reopen up to 4 topics. The other party must serve its notice of intent to reopen, including the topics to be reopened and any proposals, no later than thirty (30) days after receiving the other party's reopening notice.
- E. Clarification of both sets of proposals shall be part of the bargaining.
- F. Bargaining will begin the second full week after the expiration of the thirty (30) day period for reopening additional topics or following the second party submitting proposals, unless a different date is agreed to by the parties.
- G. Each team may have up to 6 members.
- H. The following articles shall not be subject to this reopener and shall remain in full force and effect for the duration of this agreement:
7, 8, 9, 10, 11, 13, 14, 16, 17, 29, 31, 32, 33, 46 (Section 9 only), and 53.
- I. Notwithstanding the above, the topic of awards may be reopened in accordance with the reopening provisions as set out in Article 29 (and incorporated MOU).

- J. The parties shall use the ground rules established in this Agreement under midterm bargaining to the extent they are not inconsistent with these provisions (Section 3). The parties may agree to any revisions, but the discussions over ground rules shall not delay the start of bargaining.

Section 4: Reopening

- A. During November or December of 2028, or November or December of any year thereafter in which the Agreement has rolled over, either party may provide a notice of intent to terminate or renegotiate the Agreement. The notice must include proposed ground rules for the upcoming negotiations.
- B. If either party provides such a notice to the other party, the receiving party must submit counterproposals on ground rules by February 1 of the following year.
- C. Negotiations over ground rules for a successor agreement will begin the second full biweek following submission of ground rules by the non-opening party. If both parties reopen the Agreement, negotiations will begin on the first Tuesday on or after January 15.
- D. Association negotiators may claim a reasonable amount of non-bank official time to prepare for the ground rules negotiations.

Appendix -TBD

DRAFT