

**COLLECTIVE BARGAINING AGREEMENT  
JULY 1, 2015 – JUNE 30, 2018**

**DELAWARE STATE UNIVERSITY  
DOVER, DELAWARE**

**AND**

**AMERICAN FEDERATION OF STATE, COUNTY, AND  
MUNICIPAL EMPLOYEES, AFL-CIO**



**DELAWARE PUBLIC EMPLOYEES COUNCIL 81  
LOCAL UNION 2888**

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## **AGREEMENT**

Entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, between Delaware State University, Dover, Delaware, hereinafter referred to as the "University" and the American Federation of State, County and Municipal Employees (AFSCME), Council 81, affiliated with AFL-CIO acting for itself and on behalf of the Local 2888, hereinafter referred to as the "Union".

## **PURPOSE**

It is the purpose of this Agreement to promote and to ensure harmonious relations, cooperation and understanding between the University and its employees, covered hereby, to ensure true collective bargaining and to establish proper standards of wages, hours, working conditions, and other conditions of employment in accordance with Chapter 13, Title 19, Del. C.

## **ARTICLE I – UNION RECOGNITION, UNION SECURITY AND DEDUCTION OF UNION DUES OR SERVICE FEES**

### **1.1 Union Recognition**

The University recognizes the Union as the sole and exclusive bargaining agent of the employees covered by this Agreement for the purpose of collective bargaining with respect to rates of pay, wages, hours and other terms and conditions of employment.

- A. The term "Employee" as used herein shall include all employees (Dispatchers and Security Officers) made part of this Bargaining Unit by virtue of the certification by the State of Delaware, Department of Labor, Division of Industrial Affairs, in the case as stated below:

Local 2888, Public Safety, Case Number 183 dated November 3, 1977

Any future additions, amendments, deletions, or clarification of this Bargaining Unit shall be in accordance with rules and procedures of the Public Employees Relations Board (PERB).

- B. "Reasonable Time" or "Reasonable Notice" shall normally be ten (10) working days. When "Reasonable Notice" applies to situations where the Bargaining Unit has made written requests to the University or the University has made written requests to the Bargaining Unit, the notice period shall begin upon receipt of such request.
- C. New hires under this Bargaining Unit must be informed by the Office of Human Resources of the existence of the Collective Bargaining Unit and provided with an introductory packet supplied by the Union.

### **1.2 Union Security and Check Off:**

All employees in the Collective Bargaining Unit for more than thirty (30) working days who are not, who do not become or who do not remain members of the Union shall, during any periods of non-membership pay to the Union a service fee equivalent to the dues uniformly required of its members as a condition of employment.

- A. Union and Management agree that neither management nor the Union and its members will intimidate or coerce any employee with respect to his or her right to work or with respect to Union activities or to representation by Local 2888.

### **1.3 Deduction of Union Dues or Service Fees:**

- A. The University agrees to the adoption of a check-off system whereby Union dues or service fees are established by the Union and will be withheld from the Employee's pay in equal amounts (as the

frequency of the period may require). Such deductions for Union dues or service fees are to be transmitted to the duly elected Treasurer of the Union not later than the 20<sup>th</sup> day of the following month.

- B. The Union will notify the University thirty (30) days prior to any changes in any such dues or service fees. The term “dues” shall not be deemed to include fines, assessments, contributions or other forms of payment required from AFSCME members.

**ARTICLE II – RIGHTS OF MANAGEMENT**

2.1 The management of Delaware State University retains the right to manage and direct all Department of Public Safety personnel, including: the right to hire; assign; suspend; transfer; promote; discharge or discipline for just cause; and to maintain discipline and efficiency of its members; the right to relieve members from assignments for legitimate reasons; the right to determine the manner of operation; and to change the methods or processes; or to use new equipment; the right to establish schedules; to introduce new or improved methods of operation; and to extend, limit, or curtail its operations, is vested exclusively in the Chief of Police. The above statement of management functions shall be deemed to exclude other functions not listed herein. In no case shall the exercise of the above prerogative of management be in derogation of the terms and conditions of this Agreement or of State law.

For purposes of implementation of any provisions of this Agreement wherein authority is vested in the Chief of Police, the Chief of Police may designate any member of the Department to act on behalf of the Chief of Police.

Consistent with the University’s inherit right to manage the University, it is agreed that the introduction of new equipment and processes may call for the elimination, change or consolidation of job classifications and the creation of new classifications.

If, in the opinion of the University, new jobs must be created or existing jobs changed or eliminated, it shall have the right to make such changes. Should a new job be added to the Bargaining Unit, or an existing job substantially changed, the parties agree to meet promptly to negotiate a rate for the position. The University shall not deliberately attempt to reduce the Bargaining Unit by arbitrary changes in title or by the creation of new classifications.

The Union will be furnished copies of the job descriptions for all positions in the Bargaining Unit, which are incorporated herein by reference.

The University specifically reserves the right to contract out any services which may presently be performed by permanent employees. No permanent employee will be terminated as a result of any services contracted out; and services contracted out will be for emergencies or work overload situation or problems only. Contracting out will not be used to avoid the payment of overtime or be for more than sixty (60) days in a 12-month period. This restriction does not apply to temporary help filling the position of an employee on authorized leave.

This Article is intended as a general statement of the rights and responsibilities of the employer and shall not be used to threaten, harass or intimidate employees.

**ARTICLE III – UNION STEWARDS AND REPRESENTATION**

- 3.1 The University recognizes and shall deal with all of the accredited Union Stewards and Union President in all matters relating to the grievances and interpretations of the Agreement.
- 3.2 A written list of Union Steward and Officers shall be furnished to the Office of Human Resources

immediately after their designation, and the Union shall notify the Office of Human Resources promptly of any changes.

- 3.3 Union Stewards, Officers and Officials shall, without loss of pay, be granted upon request, reasonable time off during working hours to investigate, settle and process grievances upon notice to and approval of their immediate supervisor. Such approval will not be unreasonably withheld.
- 3.4 The President of the Local may appoint an alternate in the event a steward is not available due to absence from work, until the steward returns to work. The name of the substitute steward shall be submitted to Office of Human Resources.

#### **ARTICLE IV – LABOR- MANAGEMENT MEETINGS**

- 4.1 Labor-management meetings may be called from time to time, by either the President of the Local Union or the Office of Human Resources of the University, to discuss matters of mutual concern during the period of this Contract.

The request shall be made in writing and specify the area of concern to be discussed. The meeting shall be attended by not more than three (3) representatives from the Local Union; and three (3) representatives from the University. A representative from Council 81 may attend. The University and or the union may invite a representative as needed to address the topic(s) to be discussed. Except for matters related to the terms of the contract, the final decision shall be reserved by Management after giving due consideration to the employee's concerns expressed.

#### **ARTICLE V – GRIEVANCE AND ARBITRATION PROCEDURES**

- 5.1 A grievance is an allegation of a violation of this Agreement. Such a grievance shall be acted upon in the manner described below. Time limits may be extended by mutual written consent of the parties. Items that are not a part of Article I through Article XXXV of this Agreement shall not be subject to grievance procedures. If the University fails to respond to any step of the grievance process, after the prescribed time limits, the Union may submit the grievance to the next step. Employees shall have unobstructed use of the grievance procedure without fear of reprisal or prejudice.

Any employee-initiated grievance will begin with an effort to resolve the perceived violation of the agreement informally within ten (10) working days of the event that gave rise to the grievance or knowledge of its occurrence. The employee will request a face-to-face meeting with the supervisor to discuss the problem. If the problem remains unresolved after the meeting, the employee may proceed to Step One of the formal grievance process.

The second paragraph of paragraph 5.1 is interpreted to require that the grievant start with the informal grievance unless the grievance is about the supervisor's personal behavior toward the grievant, as outlined in Article X in which case the grievance will be filed at Step One. See discrimination complaint procedure.

If an employee initiates a formal grievance at step one (in a timely basis) without such an informal resolution effort, they will be directed back for the informal process and the time limits will begin anew.

#### **5.2 Step One – Department Head:**

The Union steward, with the aggrieved employee, shall discuss the grievance or dispute with the Department Head within ten (10) working days of the event that gave rise to the grievance or knowledge of its occurrence. The grievance will be initiated by submitting a completed Grievance Form to the Department Head.

The Department Head shall attempt to resolve the matter and shall respond to the Union Steward and the Office of Human Resources within three (3) working days.

### **5.3 Step Two – Office of Human Resources**

If the decision at Step One does not resolve the grievance, the grievance shall be submitted to the Office of Human Resources or designee within five (5) working days. The Office of Human Resources shall discuss the grievance within five (5) working days of its receipt with the aggrieved employee, the Union Steward, the President of the Local or Chairman of the Grievance Committee, and the Council 81 Representative may attend but is not required. The Office of Human Resources or designee shall respond in writing within five (5) working days of the meeting.

### **5.4 Step Three – Vice President( of Division ) or Designee:**

If the Step Two decision does not resolve the grievance, the grievance may be appealed to the Vice President within ten (10) working days. The Vice President shall meet with the aggrieved employee, the Union Steward, the President of the Local or Chairman of the Grievance Committee and a Representative of Council 81. The Vice President shall respond in writing within five (5) working days-after the meeting.

#### **Step Three (a) – Federal Mediation:**

In an attempt to settle grievances amicably that are unresolved, both the Union and the University can agree to mediation overseen by the Federal Mediation and Conciliation Service (FMCS). Said service shall be mutually requested in writing. Both the University and Union must agree with the mediator's recommendation in writing in order for it to be binding.

### **5.5 Step Four – Arbitration**

If after receipt of the decision from the Vice President or designee, the grievance has not been resolved, the Union may request arbitration by registered or certified mail to the Office of Human Resources not later than twenty (20) working days after postmarked mailing date of such decision.

**5.6** During the next twenty (20) working days, the University, the Director of Council 81 or designee and the Union President or designee may meet and attempt to resolve the grievance. If this meeting fails to resolve the grievance, or if no such meeting is held, the Union may proceed to arbitration under the Voluntary Labor Arbitration Rules of the American Arbitration Association.

**5.7** At the arbitration hearing, the grievant shall be accompanied by such representatives as the grievant and/or the Union shall select and by witnesses who have information relevant to the grievance.

**5.8** The arbitrator shall render a decision no later than thirty (30) calendar days after the conclusion of the hearing. Such a decision shall be final and binding. The award shall be in writing and set forth the arbitrator's opinion and conclusion on the issues submitted.

**5.9** The arbitrator shall be without power to make decisions contrary to or inconsistent with, or modifying, or amend the terms of the Agreement.

### **5.10 Cost of Arbitration:**

The costs for the services of the arbitrator, administrative fees, and the hearing room shall be shared equally by the parties. Any other expenses shall be paid by the party incurring the same.

**5.11** Grievance hearings and meetings shall take place during normal work hours. For the convenience of both parties, grievance hearings involving employees who work a second shift shall be held as close to their starting times as practical. Employees who must attend these hearings or meetings will be excused without loss of pay.

**5.12** A grievance may be filed initially at the Third Step within ten (10) working days that are provided for in Step one, by the Union President on behalf of the membership in those cases where there is a violation



impacting the entire bargaining group covered by the Agreement.

**5.13** It is agreed between the parties that Saturdays, Sundays and official State holidays shall not be applied in computing time limits in grievance procedures.

**5.14 Back Pay Awards**

Awards will be paid within two (2) pay periods after the decision has been received unless the arbitrator's ruling is being appealed by the University. The University will notify the Union if it intends to appeal.

**ARTICLE VI – SENIORITY, LAYOFF AND RECALL**

**6.1** Within each Bargaining Unit, seniority shall be defined as length of continuous service with the University, except as otherwise specified in the contract.

**6.2** New employees shall serve a ninety (90) day probationary period, which may be extended up to an additional ninety (90) days by mutual agreement of the parties. During this probationary period, the employee may be discharged without a specific cause, reason or recourse to the grievance procedure. Upon completion of the probationary period, the employee shall be considered permanent and placed on the seniority list retroactive to his/her date of hire.

A. An employee shall lose seniority standing upon voluntary resignation from employment or discharge for just cause. An employee's seniority shall not be terminated because of authorized leave of absence or layoffs unless such period of absence exceeds one (1) year. An employee who resigns and is reinstated within one (1) year shall receive credit for all seniority accrued up to the time of separation.

**6.3** If a layoff in any classification is necessary or a position is to be eliminated, the University shall notify the Union and the affected employees immediately. The University and representatives from the Union will meet to determine the options available to the affected employees and other employees who would be affected, by the bumping process. All affected employees will be allowed to exercise the options listed below. The University and the Union will attempt to complete this process within ten (10) working days. After the bumping process is completed, the employee to be laid off will be given at least ten (10) days notice by the University. Probationary employees shall be laid off before any permanent employees. Employees who are hired in a training program and while in such a trainee status, shall not bump employees who are not in a training program. Permanent employees who transfer into a training program retain bumping rights in their former classification.

A. An employee who is laid off shall be awarded any vacant position for which he/she is qualified.  
B. If there is no such vacant position the employee may bump the junior employee doing the similar type work in any classification at the same or lower pay grade, provided he/she has sufficient seniority.

**6.4** Employees who are laid off shall be eligible for recall for one (1) year. They shall be recalled to vacancies existing anywhere in the Bargaining Unit for which they are qualified with the senior qualified employee being the first to be recalled. Failure to respond within five (5) working days to a recall or to be available to begin work within two (2) weeks following notice by certified mail shall disqualify the employee for claim to the position. Notice shall be considered given when mailed to the last address received in writing by the Office of Human Resources from the employee. The employee shall be responsible for keeping the Office of Human Resources informed of any changes in address.

A. Unemployment compensation coverage shall be provided for all employees as may be determined under prevailing federal laws by the appropriate State authority.

**6.5** An employee who exercises bumping rights to another position shall retain their salary.

6.6 An employee who is given notice of lay-off shall be given the option to leave vacation and sick leave on the books for up to one year or receive payment for vacation at the time of lay-off.

### 6.7 Posting of Vacancies

The University will print and provide to the Local Union President a copy of the notice of any and all vacancies in Bargaining Unit positions. The University will also provide to the Local Union President notification when the vacancy has been filled which includes the name of the employee, the effective date of hire and the salary level.

6.8 A seniority list shall be provided by the University to the Local Union President twice annually, on April 1 and October 1 of each calendar year. The seniority list shall include the name, hire date, position title, and current annual salary of each Bargaining Unit employee. The content of this list may be modified by agreement of the parties.

## ARTICLE VII – TEMPORARY TRANSFERS

7.1 The University shall have the right to make temporary transfers for continuous periods up to thirty (30) days in order to meet operational requirements or to avoid temporary layoffs.

- A. If the transfer is to an advantageous or desirable job, the most senior employee from among those available shall be given preference.
- B. If the transfer is to an undesirable job, the least senior employee shall be transferred.
- C. An employee temporarily transferred to a position in a higher class shall be paid at the lowest rate of such class, which exceeds his or her regular rate of pay. If the employee is transferred to a position in the same or lower class the employee shall suffer no reduction in pay.
- D. Any job that requires more than thirty (30) days of temporary transfer shall be considered an available job.

## ARTICLE VIII – BIDDING, TRANSFERS AND PROMOTION

8.1 Applications for promotion and lateral transfers within the same job classification will be given preference based upon skill, experience and ability. Seniority will dominate in cases where employees have relatively equal qualifications, experiences, evaluations, and other relevant factors. No employee who makes a lateral transfer shall receive a decrease in salary except transfers to federally funded positions.

8.2 The University reserves the right regardless of seniority to transfer any employee who has suffered an injury permanent in nature, such as to render him or her unable to continue with his or her usual occupation after the University has made reasonable accommodations. The reasonable accommodations may not cause undue hardship on the University. The transfer will be to an available position for which the employee is qualified at the established rate of pay for such work. Any employee transferred shall retain in the new department the same seniority as in the department from which he or she was transferred. The University, before making such transfers, will discuss the case with the Union.

Reasonable accommodations include those things that are needed to perform the essential duties of the job. The accommodations can be adjustments to workplace environment or job responsibilities such as changing work schedules, reassigning job responsibilities, removing architectural barriers and offering auxiliary aids.

8.3 All persons promoted shall serve a sixty (60) day probationary period in the new position. If Management or the employee determines that he/she is unable to satisfactorily perform, he/she shall be returned to the old position within the sixty (60) day probationary period without losing seniority in grade.

## **ARTICLE IX – NONDISCRIMINATION**

- 9.1** The University will not interfere with nor discriminate in respect to any term or condition of employment against any employee covered by this Agreement because of membership in the Union or legitimate activity on behalf of the members of this Bargaining Unit, nor will the University encourage membership in another Union. The University shall not discriminate against any member of any protected class or membership or non-membership in the Union consistent with federal and state laws and the University's Equal Opportunity, Harassment and Nondiscrimination policy and process, which applies to all claims of discrimination involving members of the University community.
- 9.2** The Union recognizes its responsibility as the exclusive bargaining agent and agrees to represent all employees in the Bargaining Unit without discrimination, interference, restraint or coercion against any member of any protected class or membership or non-membership in the Union. The Union is likewise bound by the Equal Opportunity, Harassment and Non-discrimination policy and process.
- 9.3** Provisions of this Agreement shall be applied equally to all employees in the Bargaining Unit without discrimination against any member of any protected class. The Union shall share equally with the University the responsibility for applying this Article.

## **ARTICLE X – SEXUAL HARASSMENT, HARASSMENT**

- 10.1** Claims of harassment, including sexual harassment, against a member of a protected class, are subject to investigation and sanctions as noted in Article IX. Complaints of other kinds of harassment, verbal abuse or physical abuse, may be filed by either the employee(s) or the union, are subject to the grievance procedure so that people involved in the complaint will not be required to hear the grievance. A Union representative may be present at the grievance meeting. Grievances of this type are covered by Title IX of the Federal Education Amendments of 1972. The University has a policy in process for dealing with such claims which conforms to federal law and process.

## **ARTICLE XI – HOLIDAYS**

### **11.1 Holidays**

The following holidays shall be observed with pay each year:

New Year's Day  
Martin Luther King's Birthday  
Good Friday  
Easter Monday  
Memorial Day  
Independence Day  
Labor Day  
Election Day (even number years only)  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Day

The above specified holidays with pay shall be scheduled for celebration each year, as provided for in Federal or State guidelines pertaining to them and their dates of celebration. Such other days as the Governor may designate as holidays with pay shall be known as Special Holidays. If required to work on the holiday, employees will be paid at their straight time rate, in addition to overtime rate of pay. In lieu of having time off from December 24 through January 1, employees covered by this agreement will be given four additional holidays: Columbus Day, Veterans Day, President's Day and one floating holiday, with pay, each year.

Employees who are not working a regular Monday through Friday shift and whose regularly scheduled day off falls on a holiday, shall be given the next regular work day off to compensate for the holiday. If the employee is required to work on the next regular workday, he or she shall then be paid extra at time plus one-half in lieu of the holiday.

**ARTICLE XII – VACATIONS**

**12.1** Following the ninety (90) day probationary period OR UP TO THE 180 if probation is extended by mutual agreement, all permanent employees of the university who regularly work twenty (20) hours or more per week shall be entitled to a paid vacation each year which shall accrue and be calculated on the following basis for full months worked retroactive to the date of hire.

Fiscal Years of Employment (July 1 through June 30)	Accumulated Rate per Month	Number of days Annual Leave
First partial year (hired after Sept. 30)	1.00	varies
First full year	1.00	12
Second through fifth year	1.08	13
Sixth year	1.33	16
Seventh year	1.43	17
Eighth year	1.50	18
Ninth year	1.58	19
Tenth through fifteenth year	1.67	20
Sixteenth through twentieth year	1.75	21
Twenty-first year and thereafter	1.83	22

**12.2** Vacation benefits are prorated for employees working less than thirty-five (35) hours per week or fifty-two (52) weeks per year. A “day” shall be the regular number of hours worked by the employees on each of five (5) days during the week or one-fifth (1/5) of the number of hours regularly worked in a normal work week.

**12.3** Vacations shall not be accumulated from year to year, but must be taken before the end of the next succeeding fiscal year after the year in which the vacation days were earned except that an employee may elect to carry ten (10) earned vacation days forward into the subsequent twelve month period.

**12.4** An employee leaving the employment of the University due to retirement, death, voluntary resignation, lay off or dismissal, and who is entitled to vacation benefits at the time of such termination, shall receive pay in lieu of their vacation for all unused vacation days accrued during the twelve (12) months immediately preceding the termination date plus the 10 day carry forward, if any, as provided by Section 12.1 of this Article.

An employee who resigns from the University shall be required to give two (2) weeks written notice in order to be paid for vacation time.

**12.5** Vacation time preference will conform to the operational needs of the University as determined by the supervisor and be granted based on seniority. Approval shall not be unreasonably withheld.

**12.6** Pay for all vacations will be based on the rate of pay of the employee at the time of vacation.

**12.7** Vacations will only accrue for those months during which the employee is actually at work and/or on paid leave for a total of fifteen (15) days during the month.

**12.8** If a holiday falls within a scheduled vacation period, the employee is entitled to an additional day of vacation to compensate for the holiday.

- 12.9** An employee who is terminated or discharged after three (3) full calendar months or more of continuous service shall be paid for any unused accrued vacation time.
- 12.10** The fiscal year of Delaware State University shall be July 1 through June 30 of the next calendar year.
- 12.11** The University will make every effort to accommodate the request of the employee in scheduling vacations. However, vacations will normally be granted during the months of June, July and August for leave earned through the preceding fiscal year ending June 30. The University reserves the right to limit the number of employees on vacation at any one time in order to meet its operating needs and in such cases will grant requests on the basis of employee seniority.
- 12.12** For purposes of computing vacation allowance:
- A. No deduction is made for time lost because of normal shutdown at Christmas.
  - B. A month is counted for vacation credit only if the employee is in a paid status for at least one-half the normal scheduled work days of that month.
  - C. Vacation time accrues only while the employee is actively working in a regular approved position.
- 12.13** Public Safety employees who cannot come to work due to inclement weather shall be allowed to use annual leave in order to receive compensation for such days provided they contact the duty officer in charge no later than two (2) hours prior to the start of their shift and provided alternative arrangements to get them to work cannot be made.

## **ARTICLE XIII - LEAVE**

### **13.1 Sick Leave**

Sick leave shall be defined as those periods of illness, either physical or mental that would incapacitate an employee from performing his or her regular duties. A physician's statement certifying the medical justification for an employee's absence will not normally be requested for less than three (3) days consecutive absence. However, should there be an attendance pattern which appears to warrant it, the employee shall be notified in writing that a physician's certificate will be required for all future absences. This certification requirement will be reviewed each six (6) months following such notification.

- A. Employee taking time off and not complying with the conditions of Section 13.4 will not be paid for time off.

**13.2** Sick leave shall be earned by all employees from the commencement of employment, but paid only after the ninety (90) day probationary period. Time worked as an emergency, temporary, or seasonal employee when followed immediately by permanent appointment, shall be included in computing length of continuous service.

**13.3** One and one-quarter (1 ¼) days of credit for sick leave will be granted for each calendar month of continuous service in which the employee has worked or been on paid vacation for more than one half of the normal workdays each calendar month. An employee who has exhausted accumulated sick leave may use earned vacation for these purposes.

**13.4** In order to qualify for sick leave, employees must comply with the following conditions:

- A. Notify their supervisor no later than one (1) hour before commencement of work as to the general nature of the illness and expected time when they will return to work. Failure to give notice will cause the employee to be unexcused and absent without pay. Failure to give notice will be waived by the employer only in extreme cases where there is evidence that the employee was unable to get word to the employer in the time prescribed.

- 13.5** Employees injured in the performance of their assigned duties will be covered by Worker's Compensation. Time lost due to such injuries will not be chargeable to sick leave or vacation in accordance with Sec. 5933, Title 29, Del. Code. The employee will receive full pay to the extent of accrued sick leave and or vacation time and only the difference between the Worker's Compensation payment and his/her regular salary will be paid after the Agreement to Compensate has been received. After the Agreement to Compensate has been received, any sick leave or vacation time charged will be reinstated and all overpayments or underpayments to salary will be adjusted. Worker's Compensation checks will be given to the employee.
- 13.6** Sick leave shall accrue to a maximum of sixty (60) work days. A State employee who transfers to the University from another State agency shall be credited with prior accrued sick leave not to exceed maximum accrual upon written notice from the prior employing agency and provided there is no interruption in service.
- 13.7** At the end of each fiscal year, or upon termination other than by retirement, all employees who have accumulated sixty (60) days of sick leave shall receive payment at the rate of one-half day's regular pay for each sick leave day in excess of sixty (60) days which has accumulated during the current fiscal year. In the event of death of the employee, payment shall be made to his/her estate at the rate of one day's pay for each day of unused sick leave up to a maximum of sixty (60) days.
- 13.8** The University shall maintain accurate records of sick leave and such records shall be available to employees and the Union at reasonable times during working hours.
- 13.9** An employee who becomes confined in a hospital or nursing home as a result of sickness or injury while on leave with pay may have those days of confinement charged against accumulated sick leave by immediately notifying the employee's director of such confinement. In all other cases, the classification of leave shall be determined at the time of the employee's departure from the job and cannot be changed even though the employee may become sick while on leave.

**13.10 Bereavement Leave**

Five (5) days of leave with pay will be granted when death occurs in the immediate family (mother, father, foster parents, husband, wife,(to include civil union), father-in-law, mother-in-law, sister, brother, son, daughter, grandparents, grandchildren, stepparents and stepchild and foster children. If more time is needed, accrued annual or sick (if medically justified) leave may be used for this purpose. Also includes individual's living in the employee's household; must provide verification.

One (1) day of leave with pay will be granted when death occurs outside of the immediate family. Documentation may be requested to verify the need for this type of leave to be approved.

**13.11 Illness on the Job**

An employee who becomes ill at work, and who has worked at least two (2) hours, may be given permission to leave by his or her supervisor in order to be paid for the balance of the work day without charge to sick leave. This is a privilege which is provided for illness and not for the purpose of coming to work for two (2) hours so as not be charged for the balance of the day. This privilege shall not be provided for an employee who has used it three (3) or more times during the preceding twelve (12) months.

- 13.12** A permanent employee who has a job related disability shall be returned to his/her job if the period of disability does not exceed six (6) months. An employee with three (3) or more years of continuous service, who is disabled on or off the job, shall be returned to his/her job if the period of disability does not exceed six (6) months. If the period of disability extends beyond this allotted period, the employee's employment shall terminate but he/she will be returned to the same job if it is unfilled at the termination of the disability or in a comparable job when there is an opening. If no comparable position can be found, the employee will be given first consideration on the next opening for which he/she is qualified.

### **13.13 Maternity Leave**

Employees requesting a maternity leave of absence are required to notify their department heads at least one (1) month prior to the date of the requested leave in order that replacements can be arranged during the time of their leave of absence. It is expected that the employee will follow the advice of a physician as to the length of time to be worked during pregnancy and furnish such information in writing to the Office of Human Resources.

A request for maternity leave carries with it the intention to return to full-time University employment when the period of disability ends. Employees taking maternity leave shall have their life insurance and their individual share of health insurance (where applicable) continued by the University in accordance with Family and Medical Leave Policy/Procedure.

Employees may request and be granted other unpaid leave if they are eligible for the University's Family and Medical Leave Act. Any employee that qualifies for FMLA approved unpaid leave shall have his/her life insurance and their individual share of health insurance (where applicable) continued by the University to the extent required by the Federal Family and Medical Leave Act.

After that date, the employee may continue health and life insurance programs at her expense. Employees entitled to sick leave benefits, who choose to continue their employment during pregnancy, will be entitled to sick leave benefits if they are certified by their physician as being unable to work due to their condition caused or contributed by pregnancy, miscarriage, abortion, childbirth, and recovery there from, on the same basis as other employees on maternity leave incurring non-occupational illnesses. An employee on maternity leave who resumes active University employment will return to the same or comparable position held at the time of beginning maternity leave.

## **ARTICLE XIV – FAMILY AND MEDICAL LEAVE AND DONATED LEAVE**

### **14.1 Family and Medical Leave**

**Background** – The Family and Medical Leave Act (FMLA) was enacted on February 5, 1993 as a means of balancing the demands of the workplace with the needs of families, and promoting the stability, integrity, and economic security of families in a manner that accommodates the legitimate interests of employers.

The Family and Medical Leave Act entitles an “eligible” employee to take up to twelve (12) work weeks of leave during any 12-month period for certain family and medical reasons. FMLA maintains eligible employees’ pre-existing group health insurance coverage during periods of FMLA leave and restores most eligible employees to their same or an equivalent position at the conclusion of their FMLA leave. The following is a brief summary of the major provisions of the federal law and its State application, University Collective Bargaining Agreements and Professional Employee Handbook.

#### **1. Eligibility**

To be eligible for FMLA leave, employees must have one year of aggregate Delaware State University service and have been paid for at least 1,250 hours during the prior 12 months.

#### **2. Provisions**

Eligible employees may take up to twelve (12) work weeks of paid or unpaid FMLA leave (continually or intermittently) during the FMLA 12-month period. The eligibility period begins on the first day of FMLA leave and runs for 365 days.

#### **3. Reasons for Using FMLA**

Leave shall be granted for any of the following reasons: to care for an employee’s child after birth, or placement for adoption or foster care; to care for an employee’s spouse, son, daughter, or parent who has a serious health condition living at home; or for a serious health condition that renders an employee unable to perform his/her job. Under certain circumstances, FMLA leave may be taken on an intermittent basis, or employees may work a part-

time schedule. Such accommodations shall be made only when medically necessary or when agencies agree to a reduced leave schedule.

#### **4. Qualifying Conditions**

Specific conditions will determine what qualifies as a serious health condition. At least one of the following shall be satisfied: inpatient hospital care; absence from work or school for more than three consecutive days that involves continuing care by a health care provider; continuing treatment for a chronic serious health condition; continuing treatment for serious health condition that if not treated would result in incapacitation for more than three days; and any period of incapacitated prenatal care.

The three day waiting period does not apply for pregnancy, chronic serious health conditions, or for multiple treatments.

Common maladies like colds, flu, earaches, headaches, other than migraine, etc., are not considered to be serious health conditions. Plastic surgery after injury or removal of a cancerous growth would be considered a serious health condition. Mental illness may be a serious health condition. Cosmetic surgery is not considered a serious health condition unless in-patient hospital care is required.

Continuing treatment means treatment two or more times, or one treatment resulting in a regimen of continuing treatments under the supervision of a health care provider, or continuing supervision but not necessarily being actively treated for a severe long-term or chronic condition.

#### **5. Definitions**

To determine who is covered under FMLA, the following definitions shall apply: "spouse" means a current husband or wife as defined or recognized under Delaware law for the purposes of marriage. (Delaware does not recognize common-law marriages.) "Parent" means a biological parent or an individual who stands or stood "in loco parentis," meaning, "in place of the parent" to the employee when the employee was a child. (This does not extend to a parent "in-law.") "Son" or "daughter" means a biological, adoptive, step, or foster child, a legal ward, or a child of a person standing "in loco parentis" under age 18 or age 18 or older and incapable of self care because of a mental or physical disability.

#### **6. Application**

Employees on FMLA shall use available accrued annual and/or accrued sick leave in accordance with the leave policy.

An employee may be on a workers' compensation absence due to an on-the-job injury or illness, which also qualifies as a serious health condition under FMLA. The worker's compensation absence and FMLA leave does not run concurrently unless requested by the employee. If employees are offered a "light duty" assignment, they are permitted but not required to accept the position. Consequently, they may no longer qualify for payments from the workers' compensation benefit plan but are still entitled to continue on FMLA either until the employee is able to return to the same job or until the 12-week FMLA leave entitlement is exhausted. FMLA leave taken on a part-time or intermittent basis is charged on a pro-rated basis.

#### **Notice and Medical Certification**

Employees are required to provide advanced leave notice and medical certification whenever practical. Ordinarily, thirty (30) days advance notice shall be given when leave is "foreseeable." Medical certification to support a request for FMLA leave is required and the University may also require second or third opinions (at the University's expense) and "fitness-for-duty" report to return to work.

Employees are responsible for providing the University with the qualifying medical reason. The University will make the FMLA designation within two business days. This designation may be verbal, but shall be followed up in writing. Medical re-certification may be required every thirty (30) days.

The Certification of Health Care Provider can be found at the University's website at: <http://www.desu.edu> Human Resources Forms and Templates.



## **8. Job Benefits and Protection**

The FMLA provides maintained employee health coverage for the duration of the leave period. Employees who fail to return to work after their FMLA leave entitlement has been exhausted shall be responsible for their State share under their existing “group health plan” unless they fail to return to work due to their own or eligible family member’s serious health condition, or for some other reason beyond their control. Employees are responsible for re-payment of State contributions toward coverage for any unpaid leave if they fail to return to work. Coverage will be reinstated upon an employee’s return, without waiting until the next open enrollment period. We will not interfere with, restrain, or deny the exercise of any right provided under FMLA. Additionally, we will not discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for their involvement in any proceeding under or relating to FMLA.

Original completed FMLA forms must be submitted to the Office of Human Resources for review. All incomplete forms shall be returned to the employee requesting such leave.

## **14.2 Donated Leave Policy**

### **Purpose**

The purpose of this policy is to aid employees suffering from a catastrophic illness by enabling them to draw upon sick leave donated by other employees.

### **Guidelines**

Employees may donate sick leave and/or annual leave directly to other specified employees suffering from catastrophic illness pursuant to the terms and conditions set forth in this policy. They may also donate to a leave bank that eligible employees may draw upon.

### **Catastrophic Illness**

Donated leave may be used by a recipient only for “catastrophic illness.” Catastrophic illness means any illness or injury to an employee that is diagnosed by a physician and certified by a physician as rendering the employee unable to work for a period greater than six calendar weeks.

### **Length of Service**

Prior to receiving donated leave time; the requesting employee will have been employed by the University for at least (12) months.

### **Additional:**

- Employees must have exhausted their annual vacation and sick leave before receiving donated leave.
- Employees receiving donated leave must have medical justification for the illness.
- Employees shall receive no more than sixty (60) days of donated leave.
- The Office of Human Resources has developed the Donated Leave Request Form, Request to Make a Direct Donation Form, Request to Make a Donation to the Leave Bank Form, Authorization to Release Information for Solicitation Purposes, and Check Lists of Steps for Processing Donated Leave Form.
- The Office of Human Resources will manage the Donated Leave Program and publish a Donated Leave Users Guide for administration of the program.

## **ARTICLE XV - MILITARY LEAVE/SERVICE**

**15.1** “Armed Forces” are defined to include Army, Navy, Marine Corps, Air Force, and Coast Guard. “Reserve Components” are defined to include the federally recognized National Guard and Air National Guard of the United States, the Officer Reserve Corps, the Regular Army Reserve, Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve and Coastal Reserve.

**15.2** The seniority established by those employees entering military service will be protected and for seniority purposes they will be given credit for military service.

- 15.3** An employee who is required to take off from work for an induction examination into Armed Services will be paid for that day or portion thereof not worked. Payment will be made at that employee's regular straight time rate up to a maximum of eight (8) hours. A night shift employee who, as a result of having to undergo such induction examination, is not reasonably able to work their regularly scheduled shift hours shall be compensated similarly.
- 15.4** Employees who have three (3) or more years of employment with the University and who are affiliated with the Armed Forces or Reserve Components will be paid their regular salary in addition to military pay when called to active duty by official State or Federal Declaration, under emergency conditions, or for annual training, up to a maximum of ten (10) days per year plus up to two (2) days in addition to be used for travel. Employees with less than three (3) years of service will be entitled only to the greater of their university or military pay.
- 15.5** In order to receive payment of salary, an employee must file, prior to his or her leave, a copy of the official orders with the Office of Human Resources and upon return a certification from his or her commanding officer of performance of duty in accordance with terms of the orders.
- 15.6** Full Service credit with the University is to be allowed to the extent provided by the laws of Delaware for all permanent State employees for time spent in the military service, providing the employee goes directly from University employment into military service and makes application for reemployment within ninety (90) days after being released under honorable conditions from such military service. The University shall provide for the re-employment of returning veterans in accordance with provisions of the applicable Federal and State laws and the terms of this Agreement.
- 15.7** It shall be the policy of the University to guarantee to its permanent employees who, during a national emergency, volunteer or are called for active military service, a position upon their return to civilian life equal to the one they left providing that the requirements set forth in the above paragraph are fulfilled.
- 15.8** Permanent employees who, after ninety (90) days service, volunteer or are called for active military service, shall be paid from the date they leave the University employment for all accrued vacation to their credit at that date. The employee, at his or her discretion, may elect not to be paid for vacation but to leave it to his or her credit for use upon returning to the University.
- 15.9** These same policies shall be applicable to permanent employees who at any time are subject to the provisions of the Selective Service Act.

## **ARTICLE XVI – LEAVE**

### **16.1 Unauthorized Absence – Automatic Termination**

An employee absent from his or her position for three (3) or more working days without prior approval in accordance with this Agreement shall be considered to have voluntarily abandoned employment with the University. Such termination shall be final unless said employee upon return, furnishes satisfactory evidence to the University (as determined by the Office of Human Resources) for not having given prior notice.

### **16.2 Authorized Absence**

An employee may apply in writing to his or her appropriate Vice President for a leave of absence without pay for a period not to exceed one (1) year for reasons of personal illness, illness in the immediate family, disability, for the purpose of furthering the employee's education or training for other valid reasons. The Vice President will forward the request with his or her recommendation to the Office of Human Resources who in turn may submit the request for final approval to the President. During such a leave, the employee will earn no seniority or other employment benefit except that, subject to the laws of Delaware and the terms of insurance policies then in effect, the employee may continue such insurance and pension benefits at his or her expense to the extent they are eligible.

### **16.3 Union Leave**

Up to 42 working days leave with pay over the two years ending 2017 shall be granted to the Union for conferences, seminars, workshops, conventions or other Union functions. Request for leave shall be made to the Office of Human Resources at least one (1) week in advance. Leave under this section will be granted subject to the operational needs of the University and taken in increments of no less than one-half (1/2) day.

- A. In the event this Agreement is extended by operation of Section 30.2 herein, up to 21 additional days of Union Leave will be provided for the additional year of the Agreement. Unused Union Leave from preceding contract year shall also be available for use during the extended year of the Agreement. Up to 42 working days/leave with pay over two years ending 2017 are covered by this Agreement.

### **16.4 Personal and Emergency Leave**

Throughout the year as urgent and compelling business may occur, permission for a days leave of absence with pay shall be given up to four (4) days in each fiscal year. The leave shall be allowed only for urgent and compelling personal business and shall not be cumulative nor carried forward to subsequent fiscal years. Personal leave will not be denied except in those cases where the employee's absence will create a serious operational problem for the University. Personal leave shall not be allowed without written permission of the supervisor either immediately before or immediately after any other day off nor as part of a vacation period either with or without pay.

## **ARTICLE XVII - JURY DUTY/SUBPOENAED AS A WITNESS**

- 17.1 In recognition that is the obligation of every citizen to serve as a juror when called upon to do so, an employee called for jury duty or subpoenaed as a witness will be granted a leave with full pay. An employee will be excused with pay for jury duty, but the employee must return to work if excused by the court clerk with enough time to arrive at the University with one (1) hour or more remaining in the employee's shift. If the employee fails to do so, he/she will be charged annual leave.
- 17.2 Night shift employees who normally work would not be expected to work during this period of jury duty shall be similarly compensated.

## **ARTICLE XVIII - SAFETY AND HEALTH**

- 18.1 The University and the Union shall cooperate in the enforcement of safety regulations. No employee shall be required to work in a situation, which is unsafe or unhealthy. This provision shall not be applied to variances in temperature which simply cause uncomfortable conditions or conditions which simply cause an inconvenience to the employee.
- 18.2 In the event an unsafe or unhealthy situation is alleged to exist, the condition shall be reported to the employee's supervisor. If the unsafe or unhealthy condition is not corrected promptly, the problem shall be investigated by the shop steward. If the shop steward determines that a possible unsafe or unhealthy work situation exists, he/she shall report the condition to the University's Risk Manager for appropriate action. If the Risk Manager does not agree with the opinion of the shop steward, the matter will be referred to the Safety Committee. During any period of dispute, or while an unsafe condition is being corrected, Management may relocate employee(s) to do their same type of work in areas where the alleged unsafe condition does not exist.
- 18.3 A Safety Committee consisting of three (3) representatives of the University and three (3) representatives of the Union Local shall be appointed for the purpose of eliminating unsafe and unhealthy work situations and to educate employees in safe work habits.

- 18.4** In the event of a medical emergency, employees may be treated at the University Infirmary. However, it is recognized that the University Infirmary and Health Service has as its primary obligation the health care of students and is not equipped or staffed to provide general health services to others.
- 18.5** The University will, at its expense, provide protective clothing, boots, and safety equipment, which, in the joint opinion of the University and the Union, are necessary for the protection of employees in the Bargaining Unit.
- 18.6** Security officers shall receive two pairs of shoes per year. One pair can be a pair of boots if needed. One pair of sneakers for those certified on bike patrol.
- 18.7** The University will reimburse Public Safety Officers the value (less any insurance recovery available) for any personal effects damaged or destroyed while in the course of apprehending or physically restraining criminal activity on the campus, up to \$300.
- 18.8** When the University cancels classes, non essential employees may take a personal leave day or annual leave by calling in to their supervisor or the Public Safety Office to make known their intentions. Essential employees are expected to have made personal arrangements for emergencies. Essential employees are those who are engaged in providing safety for resident students and protecting the University property.

When an employee is designated to work when school and offices are closed, or state of emergency is called by the Governor of Delaware for an emergency or weather event, the employee shall report to work and will be paid at time and a half for each hour worked in addition to straight time pay. See Exhibit A

Regardless of whether an official "State of Emergency" is declared, nonessential DSU employees will be excused from work whenever the Governor excuses employees of the Executive Branch from reporting to work during extreme weather conditions or other natural or man-made disasters.

## **ARTICLE XIX -DISCIPLINE**

- 19.1** No employee shall be disciplined, reprimanded or reduced in rank without just cause.
- 19.2** Discipline is to be progressive and may consist of oral reprimands, written warnings, suspensions, demotion or discharge in accordance with Delaware State University's Progressive Discipline Procedure. Written notice of intent to suspend, demote or discharge an employee must be given to the employee not less than three (3) days prior to the proposed action.
- All permanent employees shall have the right to Union representation during every phase of disciplinary action including meetings with management or supervisor, which might result in discipline action. Any such disciplinary action shall be taken with due regard to the employee's right to privacy.
- 19.3** A Grievance involving suspension or discharge shall be initiated at Step Two of the grievance procedure within the time period provided for "Step One" and every effort will be made to expedite the grievance process in such cases.
- 19.4** Employees shall be entitled to a pre-termination hearing, provided they submit a written request for such hearing to the appropriate Vice President within three (3) working days of receiving written notification.
- Disciplinary action shall be taken within ten (10) working days of the event giving rise to the action or within ten (10) work days of the employer's knowledge of the occurrence.
- 19.5** Should it be determined that any employee was discharged without just cause, such employee shall be restored to his or her former status. Any award of back pay shall have credited against it any earnings, compensation, unemployment or remuneration received by the employee from other employers during the period involved.

Disciplinary action will be active for eighteen (18) months in the employees file and beyond the period shall be retained for financial documentation purposes only.

## **ARTICLE XX –HEALTH AND WELFARE**

- 20.1** All full-time employees who have been in continuous service with the University for ninety (90) days shall be eligible to participate in the hospitalization programs as provided by the State of Delaware for State employees.
- 20.2** Permanent part-time employees are eligible to participate in the group health and welfare benefits, but are not eligible for State Share. Therefore, if they join the plan they must pay the full cost of the health plan they select (part-time employees are employees who work less than 30 hours per week).
- 20.3** The University will provide each eligible full-time employee with life insurance in an amount equal to twice the employee's regular annual salary. The entire cost of this program is to be paid by the University. Coverage may be reduced at age sixty-five (65) with any decreases limited to the amounts allowed by the Age Discrimination Employment Act (ADEA) and amendments thereto.
- 20.4** The University agrees to assume the full cost of income protection under a group disability insurance program for all eligible full-time employees under the age of seventy (70). Should a covered employee become disabled due to accident or sickness and not be able to work, the employee will receive two-thirds (2/3) of his or her regular pay (reduced by any Worker's Compensation, State Pension or Social Security benefits or any continuation plans) beginning on the ninety-first (91<sup>st</sup>) day of such disability for as long as five (5) years, but not past age seventy (70) in accordance with the conditions of the insurance policy approved by the State Insurance Commissioner.
- 20.5** Worker's Compensation, Unemployment Compensation, Social Security, the State of Delaware Pension Plan, and the State of Delaware Disability Pension Plan shall cover employees. Employees must meet the eligibility requirements of these various programs.
- 20.6** Employees in the Bargaining Unit shall have parity with the faculty of the University with respect to fringe benefits in the areas of insurance, health coverage, pension etc. Any new or improved coverage provided for faculty members shall be provided to members of the Bargaining Unit at the same time. If a benefit provided to the faculty is inappropriate to the employees covered by this Agreement, an alternative benefit of equal value may be substituted by mutual agreement.
- 20.7** Should the employees establish their own group dental plan, the University will fully cooperate by providing payroll deductions and assisting in the administration of the plan.

## **ARTICLE XXI – BULLETIN BOARDS AND UNIVERSITY FACILITIES**

- 21.1** The University agrees to provide reasonable bulletin board space where the Union may post notices of official Union matters.
- 21.2** The University will provide the Union with office space for the Union's exclusive use within six (6) months. The office will include a lockable desk, lockable filing cabinet and at least two chairs.
- 21.3** The University agrees to list the name of the Union and officers in the University phone directory.

## ARTICLE XXII - VISITATION

- 22.1** Officers and accredited representatives of the Union shall, upon request, be admitted to the property of the University for the purpose of ascertaining whether or not this Agreement is being observed by the parties or for the investigation and processing of grievances.
- 22.2** The exclusive bargaining agent and/or Union officers/members may not distribute organizational literature or otherwise solicit University employees during working hours in areas where the actual work of employees is being performed in such a way as to hinder or interfere with the operation of the University or its various functions.

## ARTICLE XXIII - WORKING CONDITIONS

- 23.1** The cost of furnishing and maintaining uniforms, protective clothing and devices required by the University will be the responsibility of the University.
- 23.2** The University agrees to provide a mileage allowance of fifty-six cents (\$.56) per mile or the rate approved by the General Assembly, whichever is higher, to those employees who are required to use their private vehicles in the course of University duties.
- 23.3** Where employees are required to work unscheduled overtime in excess of three (3) hours, "Unscheduled overtime" being defined as when notice is not given prior to the close of the previous day's shift. The overtime schedule may permit employees to return home during the meal period as a matter of convenience to the employees upon approval of the supervising officer.
- 23.4** An employee who is required to return to work at a time not contiguous with the regular starting or quitting time shall be credited for pay purposes with no less than three (3) hours of work at the appropriate overtime rates.
- 23.5 Meal Provisions**  
The University shall furnish a meal without charge to any employee who is required to work due to a large scale emergency, ten (10) continuous hours or two shifts within a twenty-four (24) hours period. All meals so provided shall be taken in the student dining hall at the regular meal time. If meals are not available in the student dining hall, the employee shall receive payment as an allowance for providing his or her own meal during a large scale emergency that encompasses a normal meal hour.

## ARTICLE XXIV - HOURS OF WORK AND PREMIUM RATES

- 24.1** Employee's workday shall consist of eight (8) hours. The normal workweek shall consist of forty (40) hours Sunday through Saturday. However, no employee shall be assigned more than five (5) consecutive eight-(8) hour days in one payroll week. Employees in emergency or special situations, who are required to work beyond five (5) consecutive eight-(8) hour days, shall receive overtime pay at time and one half for hours worked after the fifth day.

The parties agree that an alternative four-day workweek may be desirable to increase service to the University, and enhance the quality of the employee's work life. Therefore, employees may voluntarily work a four-day workweek subject to the following conditions:

- A. Employees who so desire may request to work four days each week, total the same number of hours worked under the five-day schedule (either 35 hours or 40 hours).
- B. The work shall be for consecutive days. Preference within each work unit shall be based on seniority.

- C. Employees working a 40-hour schedule shall work ten (10) hours per day.
- D. Employees working a 35-hour schedule shall work two days of nine (9) hours each and two days of eight and one-half (8 ½) hours each.
- E. Employees who desire to work the four-day schedule shall request to their supervisor in writing within thirty (30) days prior to the requested effective date.
- F. Employees who elect the four (4) day workweek (subject to quarterly review by the supervisor) may opt out after six months and return to their former schedule.
- G. Starting and quitting times under the four-day work week shall not vary more than two hours from those of the five-day work week previously worked by the affected employees.

**24.2 Overtime Compensation**

Work performed prior to or beyond the employee's regular work hours in excess of eight (8) hours per day or forty (40) hours in any week shall be compensated at the rate of one and one half the employee's regular rate of pay for such service. Overtime will be paid within two pay periods of the period when it is earned unless there is a dispute about the overtime. The employee will be notified at the time of dispute. For purpose of overtime, calculation of accrued benefit hours will be included in such.

**24.3** Time and one-half shall be paid for hours worked in excess of eight (8) hours per day. Straight time shall be paid for all hours worked up to eight (8) hours in one (1) day or up to 40 hours in one five (5) day week. An employee may elect compensatory time in lieu of payment. Compensatory time shall be calculated at time and one-half hours for work in excess of eight (8) hours per day or forty (40) hours in any work week. Compensatory time should be approved prior to the commencement of work and in writing. Compensatory time can be accumulated up to 140 hours. All hours that will result in an accrual of over 140 hours must be paid.

**24.4** Overtime shall be divided and rotated as equally as possible within the department among those employees who regularly perform such work. Assignment of overtime shall be made on the basis of seniority with each employee who regularly performs the work being given the opportunity to work in accordance with employee's seniority. If an employee entitled to work the overtime assignment refuses it or cannot be contacted or is not available, the overtime is then assigned to the next senior employee who regularly performs the work. Each employee has the right of refusal except that if management determines that overtime is to be worked, and all employees refuse, the overtime will be rotated in reverse order of seniority among those employees who normally perform the work.

**24.5** In the event a department needs additional employees because an assignment requires more employees than the department has who normally perform the work, this overtime work shall be divided and rotated as equally as possible among those employees in the Bargaining Unit who regularly perform such work in the same manner as stated in Section 24.4.

**24.6 Shift Hours**

The public safety department will run from 8:00 a.m. to 4:15 p.m. The second shift will run from 4:00 p.m. to 12:15 a.m. The third shift will run from 12:00 midnight to 8:15 a.m. The dormitory shift hours will be from 8:00 p.m. to 4:15 a.m.

Employees will receive a fifteen (15) minute break.

**24.7 Shift Premiums**

Employees regularly employed on the second shift shall receive, in addition to their regular pay, a premium of forty-five (45) cents per hour for such work. Employees regularly employed on the third shift shall receive, in addition to their regular pay, a premium in the amount of fifty (50) cents per hour for such work.

**24.8** Public Safety personnel can expect one nonworking Saturday and Sunday weekend each consecutive three (3) weeks worked. They will also receive two (2) days off together. The weekends off and the two (2) days off will be established to ensure officers time off except for such events as:

Commencement  
Unforeseen emergencies  
Homecoming

Employees shall not be called to work overtime on their scheduled weekends off unless all other employees are already working and additional employees are still needed.

**24.9 Call-In Pay**

An employee reporting for emergency duty at the University's request for work which he/she had not been notified in advance and which is outside of and not continuous with his/her regular work period shall be guaranteed at least three (3) hours work at the rate of time and one-half.

**24.10** Employees in the Bargaining Unit required (by their supervisor) to work when all other employees are released by the President or his/her designee, exclusive of faculty and students, due to inclement weather shall receive compensatory time off for such time worked.

**ARTICLE XXV - EDUCATION**

**25.1** A full-time employee may take up to a combination of nine (9) credit hours of instruction per semester and during the summer sessions free of tuition only distributed as follows: nine (9) undergraduate credits or six (6) graduate credits only at Delaware State University. The Vice President of Academic Affairs and/or the Dean of Graduate Studies (Graduate Programs) must approve the program of study. The courses taken by employees must have sufficient enrollment, excluding employees, to justify the course offering. Eligible employees are responsible for all student fees associated with undergraduate/graduate courses each semester and for the cost of books and supplies.

Effective July 1, 2015, the Delaware State University Educational Benefits for dependent children are as follows:

Eligible dependent children under the age of 26 years of age with proof of parentage shall be granted 50% tuition remission per semester. Beginning July 1, 2017, unit members shall receive 75% tuition remission that will increase to 80% on July 1, 2018. All other educational and student fees are the sole responsibility of the employee.

**ARTICLE XXVI - CLASSIFICATION CHANGES AND NEW JOBS**

**26.1** Consistent with the University's inherit right to manage the University, it is agreed that the introduction of new equipment and processes may call for the elimination, change or consolidation of job classifications and the creation of new classifications.

**26.2** If, in the opinion of the University, new jobs must be created or existing jobs changed or eliminated, it shall have the right to make such changes. Should a new job be added to the Bargaining Unit, or an existing job substantially changed, the parties agree to meet promptly to negotiate a rate for the position. The University shall not deliberately attempt to reduce the Bargaining Unit by arbitrary changes in title or by the creation of new classifications.

**26.3** Position audits may be conducted from time to time by the University on its own initiative or upon request by an employee or the Union for the purposes of determining whether or not an employee is performing the duties as required by the job description. When such an audit is conducted, the employee and/or the Union may request a report within a reasonable time from the date of the request. The Office of Human Resources will complete Job audits within thirty (30) days from the time the request for audits was received. Copies will be sent to the Union President, the Employee and the Supervisor.



**26.4** The Union will be furnished copies of the job descriptions for all positions in the Bargaining Unit, which are, incorporated herein by reference.

**26.5 Job Description**

**Other Duties as Assigned**

Employees asked to perform “other duties as assigned” shall not be required to perform duties in a higher classification or duties that are comparable to other job classifications.

**ARTICLE XXVII - CLASSIFICATION AND SALARIES**

**27.7 Service Compensation**

All classified employees shall receive longevity increases effective July 1, following their 5, 10, 15 and 20th anniversary of their date of hire. A lump sum payment shall be made according to the schedule below and will be added to the employees’ base salary effective July 1 of the subsequent year.

Therefore, the cumulative longevity pay will be equal to the following:

	<u>Amount to be Paid</u>	<u>Cumulative</u>
5 years of service	\$150.00	\$ 150.00
10 years of service	\$250.00	\$ 400.00
15 years of service	\$300.00	\$ 700.00
20 years of service	\$350.00	\$1,050.00

**27.8** If specifically funded by the State of Delaware Legislature, permanent employees in the Bargaining Unit who are below the maximum starting salary for their pay grade (after receiving the longevity increase, if applicable) shall receive on January 1 of each year an additional increase in annual salary of four percent (4%) of the maximum starting salary for their pay grade, or their salary will be increased to the maximum starting salary for their pay grade, whichever is less. The University agrees to request such funding in the annual budget.

**27.9 Classification and Salaries**

Effective July 1, 2015 and for the term of this Agreement, a salary adjustment shall go into effect for all the following classifications:

Security Sergeant	\$38,000.00
Security Corporal	\$35,000.00
Security Officer	\$30,000.00
Dispatch Control Coordinator	\$34,500.00
Senior Dispatcher	\$32,500.00
Dispatcher	\$28,000.00

Effective July 1, 2016, all classifications represented by Local 2888 on the active payroll, with more than one year of service, shall receive a 3% salary increase to their base rate of pay as of July 1, 2016.

Effective July 1, 2017, all classifications represented by Local 2888 on the active payroll, with more than one year of service, shall receive a lump sum pay amount of \$500.00 added to their base rate of pay as of December 1, 2017.

Salary adjustments/increases that are effective July 1, 2015 and have been agreed upon by the University and Union shall be retroactive to July 1, 2015.

## **ARTICLE XXVIII - SHIFT COMMANDERS**

- 28.1** Shift commanders will not be paid less than 5% more than the highest base pay for any lower ranking officer. The shift commander must meet all minimum qualifications as defined in the shift commander's job description.

An officer assigned to duty in a higher rank for more than thirty (30) days, shall thereafter be paid while performing such continuous assignment at the employee's current rate plus 7 %. Upon completion of assignment, he or she will be returned to his or her base pay at the time of appointments or any adjustment for annual increments that might have been assigned.

## **ARTICLE XXIX - FINANCIAL SUPPORT**

- 29.1** It is recognized that financial support for personnel benefits, hourly wage rates and other economic factors provided for in this Agreement are contingent upon the receipt of operating funds from the State of Delaware. In the event that the amounts requested from the State of Delaware by the University for these purposes are not granted, the parties shall meet to negotiate over the deficient areas only.

Until agreement is reached and ratified by the Union, the specific provisions of this Agreement shall remain in full force and effect.

## **ARTICLE XXX - TERM OF AGREEMENT**

- 30.1** This agreement should go into effect as of July 1, 2015 and continue in effect through June 30, 2018, and from year to year thereafter unless at least ninety (90) days prior to the expiration date of this Agreement, or any anniversary date thereafter, notice in writing shall be given to either party by the other party of the desire to amend, alter, abrogate or negotiate a new Agreement.

## **ARTICLE XXXI - GENERAL**

- 31.1** Any employee may perform required duties and functions in emergencies and for short durations of time when their services are essential. It is agreed that existing practices in this regard are satisfactory and are within the meaning of this Article. Additionally, they may engage in work for instructional purposes. Any employee may be utilized as required for emergency operations to perform work to lessen or remove the existing emergency.
- 31.2** Public Safety staff required to appear at court hearings or formal investigations in which they are involved shall be paid for any overtime incurred at appropriate rates.
- 31.3** The University may employ casual labor, including students, with the provision that the employment of such casual labor shall not cause the layoff, reduction of hours or discharge of any regular employees in the Bargaining Unit.

## **ARTICLE XXXII - TRAINING**

- 32.1** The University agrees to develop and provide the necessary training for employees in the Bargaining Unit.
- 32.2** The University agrees to establish a working committee for job classifications and new positions.

### **ARTICLE XXXIII - ALTERATION OF AGREEMENT**

- 33.1** No agreement, alteration, understanding, variation, waiver, or modification of any of the terms, conditions or covenants contained herein shall be made by any employee or group of employees of the University and in no case shall it be binding unless executed in writing subscribed by the parties hereto and ratified by the Union.
- 33.2** The waiver of or any breach of any condition of the Agreement by either party shall not constitute a precedent in the further enforcement of the terms and conditions herein.
- 33.3** It is understood and agreed that if any part of this Agreement is in conflict with Federal or State laws or provisions of the University Charter, such part shall be suspended and the appropriate mandatory provision shall prevail and the remainder of the Agreement shall not be affected thereby.

### **ARTICLE XXXIV - LEGAL CONFLICTS**

- 34.1** Should any applicable Federal or State law or any applicable court or administrative order or ruling conflict with any provision of this Agreement, the provision so affected shall be made to conform to the law, order or ruling, and otherwise the Agreement shall continue in full force and effect.

### **ARTICLE XXXV - NO STRIKES OR LOCKOUTS**

- 35.1** In accordance with Chapter 13, Title 19, Del. Code, there shall be no strikes, walkouts or stoppage of work during the life of this Contract.
- 35.2** The University agrees that there shall be no lockout, during the life of this Agreement.

## EXHIBIT A - EMPLOYEE OBLIGATIONS DURING SEVERE WEATHER CONDITIONS AND EMERGENCIES

1. **Definitions:** The following definitions will apply throughout this policy.
  - a. ***“Essential Employee”***: An employee who is indispensable to the emergency service function of his or her employing agency or department and is required to assist the department or agency in meeting its operational needs.
  - b. ***“Non-Essential Employee”***: An employee who is not necessary to the emergency service function of his or her employing agency or department and is not required to report to work.
  - c. ***“Report When Contacted Employee”***: An employee who is not required to report to work during severe weather or emergency situations unless there is the approval of the agency and the employee has been specifically contacted by a management representative or management representative’s designee (or informed by notification system such as a telephone tree or telephone hotline established by management informed by HRM website or by official information provided by the designated news media). These employees are not on stand-by status and are not required to remain by the telephone.
  - d. ***“SHOC/DFS Employees”***: Employees of the State Health Operations Center, and Division of Family Services Investigation, Treatment and After Hours Response Employees. SHOC/DFS Employees may have different requirements to follow than the Report When Contacted Employees and are required to follow the specific instructions of the agency and shall be deemed essential at such time of an emergency is declared (depending on the type of emergency).
  - e. ***“HRM”***: The Human Resources Management unit of the Office Management and Budget.
2. The Governor, or Governor’s designee, has the sole authority to excuse employees of the Executive Branch from reporting to work during extreme weather conditions or other natural or man-made disasters or emergencies. In appropriate circumstances, the Governor shall issue an Order stating that, because of expected or existing conditions, certain employees (as designated in this policy) are excused from reporting to work. Unless such an Order has been issued, all employees of the Executive Branch shall report to and remain at work for their regularly scheduled hours or shift.
3. The Order may be applicable to all Executive Branch employees in the entire State, or only to those employees in one geographical region of the State, or a combination of the geographical regions. The Order may be limited regarding the purpose for which it is issued, such as permitting the use of Delaware National Guard personnel and equipment, and so may not affect Executive Branch employees in any respect.
4. The Order may require certain employees to work during the emergency. Those required to work during times when the Governor has excused some employees from reporting to work are referred to as *“Essential”* employees. An *Essential* employees is defined as one who is indispensable to the emergency service function of the employing agency or department and is required to assist the department or agency in meeting its emergency operational needs, e.g., food, medical, housing maintenance, personal care, hospital care, emergency road service. These examples are not exhaustive. All other employees (other than the SHOC/DFS employees defined earlier) shall be designated as *“Report When Contacted”* or *“Non-Essential”* employees. Such *Report When Contacted* or *Non-Essential* employees are not required to report to work unless there is the approval of the agency and the employees have been specifically contacted by a management representative or management representative’s designee (or informed by a notification system such as a telephone tree or telephone hotline established by management or informed by HRM’s

website or by official information provided by the designated news media). These employees are not on stand-by status and are not required to remain by the telephone. Such employees shall not be called into work without a compelling and justifiable operational reason. As long as all other applicable laws, rules and regulations are not violated, non-merit agencies may make more restrictive reporting policies in order to meet operational needs, but cannot make less restrictive policies.

5. All State agencies must designate all *Essential* and SHOC/DFS employees by job classification, budget position number and payroll unit in the PHRST system. Each State agency shall review these classifications annually, at a minimum, and report any revisions to the Director of HRM, and make appropriate changes in PHRST, by October 31<sup>st</sup> each year.
6. Department and agency heads shall designate employees as *Essential* or SHOC/DFS employees depending upon their necessity in carrying out the emergency service responsibilities of the department or agency. These employees shall be notified accordingly in writing, and a list of employees and/or classifications designated as *Essential* or SHOC/DFS employees shall be posted in a conspicuous location and distributed to the appropriate Exclusive Bargaining Representatives. The status of employees who are designated as *Essential* or SHOC/DFS employees at the time of an emergency is declared, and who report to work during the emergency pursuant to such designation, shall not be changed with respect to that emergency subsequent to their reporting to work without being compensated for their normally assigned hours or shift. Depending on the type of emergency, the Governor's Order may exempt certain group off *Essential* employees or management may advise such employees.
7. *Essential* employees who live or work in a region or regions covered by the Governor's Order, and who are required to work, are entitled to compensation at their regular hourly rate plus equal time off for all hours worked during their regularly scheduled work hours or shift. All *Essential* employees who work additional hours shall be compensated in accordance with existing rules and policies governing overtime payment. Employees covered by the Fair Labor Standards Act (FLSA) are compensated at straight time rates and receive equal time off. Exceptions to this may be found in the Budget epilogue or Merit Rules for specific groups of employees.
8. During any specified time periods when *Essential* employees are required to report to work and other State employees have been given approval by the Governor to not report to work (during normal state business hours 8 a.m. to 4:30 p.m.), those who work will receive an additional hour of compensation for each hour worked. Agencies have the authority to determine whether the additional compensation will be paid time or compensatory time. Any employee (whether essential or not) who is already on paid leave during such time will not be charged leave for those specific hours.
9. Unless the Governor's Order covers a day which is statutory holiday of the State, the emergency day shall not be considered a holiday for pay purposes. When employees work at times when it is both a holiday and an emergency, they will receive additional equal time off as compensation for the holiday in addition to equal time off (or pay based on other merit and FLSA rules) for the emergency. Employees in a paid status during the holiday would still receive payment for the holiday in their regular paycheck whether or not they are required to work that day.
10. Upon direction of the Governor (or a designee), if an emergency develops during working hours, department heads and other chief administrative officers within the Executive Branch may allow their *Report When Contacted* or *Non-Essential* employees to leave work early. No loss of pay or accumulated time

off will occur in the event of early dismissal for this reason. Under no circumstances, however, will early dismissal operate to excuse an unauthorized absence from work.

11. If a natural or man-made emergency forces any employee to be late for work, the employee shall contact his or her supervisor; inform the supervisor of the impending lateness, and state the expected time of arrival for work. Reasonable delay (not to exceed two hours) in arriving at work due to poor travel conditions will not be a basis of charging annual leave.
12. If *Essential* employees are required to work but are specifically prevented by the police or other emergency personnel from traveling to their work site due to a natural or man-made emergency, and after notifying such emergency personnel of their *Essential* status, the employees shall immediately notify their supervisors of the obstruction and shall be excused and not charged for the absence. Employees who are required to work but who do not report to work for any other reason shall immediately notify their supervisors and shall not be paid for the absence. Employees in this category may request approval to use annual leave, accumulated compensatory time, if any, or have their pay docked; however, employees cannot assume that it will be granted and may not be subject to disciplinary action if approval is not received for the absence.
13. Before approving pay for after-the-fact sick leave during an emergency, a department or agency head may require either a physician's certificate or a written statement by the employee setting forth the reason for absence. *Essential* employees are responsible to report to work and may be subject to disciplinary action if there is a regard of this policy. All determinations as to whether leave will be approved or whether there will be docking and/or disciplinary action will be made on a case-by-case basis taking into consideration the totality of circumstances preventing the employee from reporting to work.
14. An employee, who is already on authorized paid leave during an emergency, will not be charged leave for the duration of the emergency. Upon the employee's return to work from such leave, the employee's leave records will be credited accordingly.
15. Casual/seasonal employees may be designated as "*Essential*". Agencies are encouraged to allow casual/seasonal employees designated as *Report When Contacted* or *Non-Essential* to flex their schedules to make up work hours lost as casual/seasonal employees are only paid for the actual hours they work. While casual/seasonal employees are paid for the time actually worked, they are not eligible for the equal time off provision.
16. All *Report When Contacted* or *Non-Essential* employees on an alternate or compressed schedule shall have their time adjusted in accordance with that schedule and other applicable rules and regulations whenever there is an emergency Order. Employees not scheduled to work during the emergency will not be impacted unless the emergency day is also a state holiday. If it is a state holiday, employees must still submit leave slips or work additional time to cover the difference between a 7.5 or 8.0 State-paid holiday and their compressed hours or shift.
17. Employees on approval leave without pay will not be impacted by this policy.
18. Rest/sleep time, for all employees regardless of FLSA status, is compensable in accordance with the regulations of the Fair Labor Standards Act.

19. Normally home to work travel is not compensable. However, during an emergency situation, it is possible that an employee must report from home to a location other than the employee's regular reporting location. If the emergency reporting location is further from the employee's home than the employee's regular reporting location, agencies shall compensate such employees for their additional travel time as well as for mileage, if appropriate, minus the normal commute time.

In witness whereof, the parties hereto have set their hands and seals on this day of June 2015.

Attest Delaware State University:

By: \_\_\_\_\_  
Harry L. Williams, Ed.D. President, Delaware State University Date

By: \_\_\_\_\_  
Teresa Hardee, Ed.D., Senior Vice President/Chief Operating Officer Date

By: \_\_\_\_\_  
David Sheppard, General Counsel Date

By: \_\_\_\_\_  
Stacy Downing, Ed.D. Vice President, Student Affairs Date

By: \_\_\_\_\_  
Irene C. Hawkins, Senior Associate Vice President for Human Resources Date

By: \_\_\_\_\_  
Harry Downes, Chief of Police Date

Attest: Delaware Public Employees Council No. 81 and Its Affiliated Local 867, American Federation of State, County and Municipal Employees, AFL-CIO

By: \_\_\_\_\_  
Michael A. Begatto, Executive Director, AFSCME Council 81 Date

By: \_\_\_\_\_  
Angela LaManna, Staff Representative, AFSCME Council 81 Date

By: \_\_\_\_\_  
Amanda Lindsey, President, Local Union 2888 Date

By: \_\_\_\_\_  
Kevin Burns, Negotiating Committee Member, Local Union 2888 Date