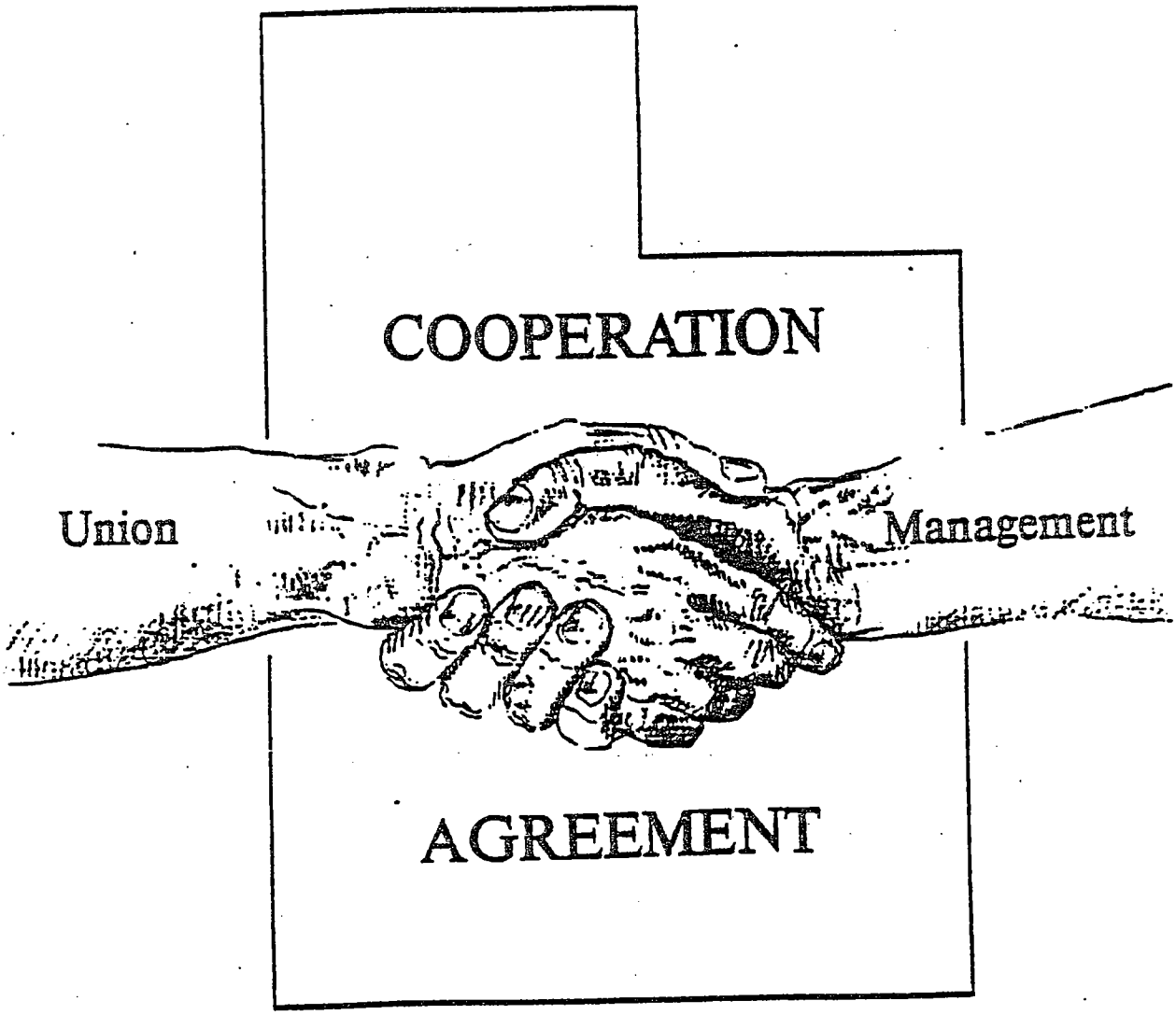
Utah
Army National Guard



National Federation of Federal Employees

Local 1724

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Preamble

Pursuant to the policy set forth by the Civil Service Reform Act of 1978 regarding Federal Labor-Management Relations, the following Articles of the Collective Bargaining Agreement, together with any and all Supplemental Agreements and/or Amendments which may be agreed to at later dates, constitute a total Agreement by and between the Utah Army National Guard, hereinafter referred to as Management, and the National Federation of Federal Employees, Local 1724, hereinafter referred to as the Union, for the Employees in the Unit described in Article 1.

Whereas the well-being of Employees and efficient administration of the Government are benefited by providing Employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment.

Now, therefore, the Parties hereto, intending to be bound herby, agree as follows:

ARTICLE 1

RECOGNITION AND UNIT DESIGNATION

1-1. **RECOGNITION:** Management recognizes that the Union is the exclusive representative of all Employees in the unit described in paragraph 1-2.

1-2. **UNIT:** The unit to which this Agreement is applicable is composed of a recognized unit of all Federal nonsupervisory, nonprofessional, nonmanagerial, General Schedule, and Wage Board Employees of the Utah Army National Guard.

ARTICLE 2

GENERAL PROVISIONS

2-1. Recognizing the mutual benefits to be derived, the Parties assume responsibilities for eliminating all practices which hinder efficient operation. The Parties will cooperate in all efforts to ensure satisfactory performance on the part of all Employees, to improve the quality of workmanship, to encourage the submission of constructive work improvement and cost reduction ideas, to promote a vigorous program of accident prevention, and to exert concerted efforts to strengthen good relations amoung the Management and the Union.

2-2. It shall be the normal practice under this Agreement to initially consider and, if possible, settle each matter of business between Management and the Union at the point nearest to its origin and at the lowest level of Management where there is authority for resolutions.

2-3. Administration of the Agreement must preserve the self respect and dignity of each Employee when the Employee is utilizing any part or procedure contained within this Agreement.

ARTICLE 3

MANAGEMENT RIGHTS

3-1. As published in 5 U.S.C. Chapter 71, Section 7106 (see APPENDIX C) and any and all other existing or future laws and regulations of a higher authority:

a. Subject to section b below of this section, nothing in this chapter shall affect the authority of any Management offical of any agency-

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws-

(a) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such emplyees;

(b) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(c) with respect to filling positions, to make selections for appointments from-

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(d) to take whatever actions may be necessary to carry out the agency mission during emergencies.

b. Nothing in this section shall preclude any agency and any labor organization from negotiating-

(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work;

(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

(3) apporpriate arrangements for employees adversely affected by the exercise of any authority under this section by such managment officials.

ARTICLE 4

UNION RIGHTS AND RESPONSIBILITIES

4-1. The Union is the exclusive representative of the Employees in the bargaining unit and is entitled to act for these Employees. The Union is responsible for representing the interests of all Employees in the bargaining unit without discrimination and without regard to Union membership.

4-2. The primary point of contact for Management is the President, Local 1724, or in his/her absence, a designated Representative. The Local President may authorize the NFFE National Office to act on its' behalf in any dealings with Management.

4-3. The properly designated Officers or Representatives of NFFE, Local 1724, have the right to represent the Employees within the entire bargaining unit in the UTARNG.

4-4. When meeting with The Adjutant General or his Primary Staff on official business, Union officials have the option of wearing civilian clothing.

4-5. The Local will provide Support Personal Management Office-L (SPMO-L) with a list of names and business phone numbers of all Local Representatives.

4-6. The Union has the right to represent an Employee or group of Employees in presenting a grievance or other appeal, or when raising matters of concern or dissatisfaction with Management. The Union has the exclusive right to represent Employees under the negotiated grievance procedure in the Agreement. An Employee or group of Employees may present a grievance without representation by the Union, providing that the Union is a party to all discussions and grievance processing. In any case, the Union shall have the right to be present at the adjustment. The adjustment must be consistent with the terms of this Agreement.

4-7. The Union President or designee will be given reasonable notice of, and provided reasonable time to be present at formal discussions concerning any grievance, personnel policy or practice, or other general condition of employment.

4-8. Should a Representative not be available, up to three calendar days will be authorized to secure representation. If a problem exists, an extension may be granted. The Representative will be permitted to present the views of the Employee(s) during the discussion.

4-9. Nonabridgement clause: The provisions of this Agreement shall not nullify or abridge the rights of Employees or the Union to grieve or appeal the exercise of Management rights through appropriate channels.

4-10. Membership drives: Upon request and subject to normal security limitations, the Union shall be granted authority to conduct one membership drive at any location within a one year period, up to 30 days duration, before and after duty hours, and at break periods and lunch periods. Upon request, Management may provide the Union with available, reasonable and visible space, tables, bulletin boards, and easels for use in such drives to be utilized in break and other negotiated areas.

4-11. Restraint: There shall be no restraint, coercion, or discrimination against any Union official because of the performance of duties in consonance with this Agreement and the Act, or against any Employee for filing a complaint or acting as a witness under this Agreement, the Act, or applicable regulations.

ARTICLE 5

EMPLOYEE RIGHTS

5-1. As per Title 5 Chapter 71, congress mandates each Employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each Employee shall be protected in the exercise of such right. Except as otherwise provided, such rights include the right:

a. To act for the National Federation of Federal Employees in the capacity of a Representative and the right in that capacity to present the views of the NFFE to heads of agencies and other officials of the Executive Branch of Government, the congress, or other appropriate authorities.

b. To engage in collective bargaining with respect to conditions of employment through Representatives chosen by Employees.

2. An Employee has the right to be represented by the Union at any formal meeting when the Employee has a complaint concerning conditions of employment.

a. Employees will be provided, during the month of January, written notification of the right to have Union Representation at any Management-initiated investigation that may result in disciplinary action.

b. Management will include the annual notification in the new employee orientation package.

c. During a Management initiated investigation, if an Employee requests Union Representation, Management will stop the interview and grant Union Representation before continuing.

3. An Employee may be represented by an attorney or other representative other than the NFFE, of the Employee's own choosing, in any appeal action not under the negotiated grievance procedures. The Employee may exercise grievance or appellate rights which are established by law, rule, or regulation.

4. This Agreement does not prevent any Employee, regardless of employee organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations, or Agency policies.

5. Management will not take reprisal action against Employees for the exercise of any appeal right granted by law, rule, regulation, or this Agreement.

6. Every Employee has the right to be treated with common courtesy and consideration normal in an employer-employee relationship by supervisors and Management officials.

7. Assignment/reassignment is a Management prerogative, however, an Employee may request reassignment at any time, through the supervisory chain to the SPMO, who will consider the request and will respond in writing within a reasonable amount of time, normally less than 30 days, stating the reason/s for the decision as appropriate.

8. Employees shall be kept informed of rules, regulations, and policies under which they are obligated to work.

9. An Employee's right to confidentiality will be protected during any admonishment, counseling, or disciplinary action.

10. Employee records that are not maintained on a permanent basis, will be removed from official files in accordance with the government's retention schedule unless otherwise specified in the Agreement. The records will be given to the Employee.

11. The Employee's title or grade may be used on all official documents, ie., telephone directories, dispatch records, tool sign-out, performance evaluation, etc.

12. This Agreement or its provisions may not in any manner diminish or impair any rights which are otherwise available to any Employee in the absence of such an Agreement.

ARTICLE 6

EMPLOYEE RESPONSIBILITIES AND CONDUCT

6-1. Employees bear a special responsibility to be fair and impartial in their dealings with those who have business with the government.

6-2. Both Parties agree and recognize that the high standards of honesty, integrity, impartiality, and conduct by Employees is essential.

6-3. Employees shall have the right to engage in outside activities and employment of their own choosing, and otherwise conduct their private lives as they see fit.

6-4. Employees shall not accept a fee, compensation, gift, payment or expense, or any other thing of monetary value in circumstances in which the acceptance may result in or create the appearance of conflicts of interest, engage in outside employment which tends to impair his/her mental or physical capacity to perform his/her job; receive any salary or anything of monetary value from a private source as compensation for his/her government services.

6-5. TPR 735 covers the standards of conduct for full time Employees.

ARTICLE 7

UNION REPRESENTATION

7-1. The Union has the right to designate bargaining unit representatives. The designated Union Representatives and their designation as points of contact, will be given in writing to the SPMO-L normally within five days of change. Management will recognize Representatives designated by the Union.

7-2. Union Representatives will use the most economical efforts to resolve representational matters by use of telephones, mail, or telecommunications. Use of government-owned or leased vehicles for such representation will be in accordance with the provisions of this Agreement.

7-3. Recognizing the benefits of having Union Representatives for each line organizational level, representative unit, official duty station, etc., the Union will endeavor to make appointments of its Representatives from all areas for cost-efficient and effective representation.

7-4. The Union may designate alternate Representatives as deemed necessary.

ARTICLE 8

LABOR RELATIONS MEETINGS

8-1. Meet and Confer

a. The right to meet and confer will apply to all levels of Management within the Utah Army National Guard and within the Union, starting with the Union Steward and the first level supervisor. It is the intent of the Parties to meet and confer at the lowest level for problem resolution. If the Parties at the initial point of contact feel resolution of a matter is outside their jurisdiction, the matter will be referred to a higher level.

b. The Union will be given the opportunity to be represented at formal discussions between Management and Employees concerning proposed changes to personal policies, practices, or other matters affecting working conditions.

8-2. Labor Management Relations Committee

a. **Purpose:** The Parties acknowledge that they have a common interest in the improvement of the operations of the Utah Army National Guard and in the well being of its Employees and therefore agree to establish a Labor Management Relations Committee to consider and suggest improvements in the areas of personnel policies and practices and working conditions.

b. **Composition:** The committee shall be composed of at least one Management and one Union Representative, and will meet as necessary, but at least bimonthly as a minimum at a location mutually agreed upon by Management and NFFE Local 1724. The arrangements and agenda for the meeting will be planned by mutual agreement between members of the committee.

c. **Functions:** The matters the committee may give consideration to include, but are not limited to are:

(1) The interpretation and application of this Agreement.

(2) The identification and/or correction of conditions causing grievances and misunderstandings.

(3) Prevention of accidents.

(4) Improving communications between Employees and supervisors.

(5) The encouragement of good human relations between Employees and supervisors.

(6) Maintaining Employee productivity and morale.

(7) The promotion of the Equal Employment Opportunity Program.

(8) The promotion of education, training, and health.

(9) The reduction of absenteeism.

(10) The improvement of working conditions.

(11) The interpretation and application of rules, regulations, and policies.

d. The Labor Management Relations Committee shall not consider individual grievances, complaints, or disputes. The committee shall submit reports of its meetings and its recommendations in writing to Management and the Union.

ARTICLE 9

CONTRACT NEGOTIATIONS

9-1. Scope:

a. In the spirit of a bilateral relationship, the Parties agree that changing conditions may create a need for both the Utah Army National Guard and the Union to propose midterm negotiations.

b. Management and Union will meet at reasonable times to negotiate changes or amendments to the contract in a good-faith effort to reach agreement.

9-2. Procedures:

a. The number of members on either negotiating team shall not exceed three, and two alternates.

b. A Chief Negotiator and Alternate Chief Negotiator will be designated in writing for each negotiating team. The Chief Negotiator of each will speak for the respective team. Other members may speak with the approval of the Chief Negotiator.

c. Additional ground rules can be established by the Parties prior to negotiations. Such ground rules can include specific time, date, location, additional negotiators, etc.

9-3. Agreement:

a. Upon reaching agreement on all articles, the Agreement shall be signed by the members of both negotiating teams.

b. The Union President and The Adjutant General may perform a signing ceremony, but will not delay implementation of the Article(s).

9-4. Disputes and Impasses:

a. Disputes:

(1) If Management believes a written Union proposal is nonnegotiable, it will raise the issue of negot-ability in a timely fashion at the early stages of the negotiation process so that attempts can be made to cure any negotiability problems.

(2) If Management still believes that a matter is non-negotiable, it will, within ten days, advise the Union in a written statement the rationale for a claim of non-negotiability.

(3) The Union may submit a negotiability appeal to the Federal Labor Relations Authority (FLRA) in accordance with applicable regulations and 5 U.S.C. Section 7105(a)(2)(E) and Section 7117(a), (b), and (c).

b. Impasses: When the Parties to the Agreement cannot agree on a negotiable matter and an impasse has been reached, the item will be set aside. After all negotiable items on which agreement can be reached have been disposed of, the Parties will again attempt to resolve any impasses. Either or both Parties may seek the services of the Federal Mediation and Conciliation Service. When the services of mediation do not resolve the impasse, either Party may seek the services of the Federal Service Impasses Panel.

9-5. Amendments, Additions, and Impact & Implementation:

a. Amendments:

(1) A request by either Management or the Union to negotiate amendments to this Agreement will indicate the Articles desired to be amended. Such amendments to the contract will be by mutual consent of both Parties, which is to be reached within 15 working days.

(2) When mutual agreement is obtained, a meeting will be held within 15 working days to begin the bargaining process.

b. **Additions:**

(1) The Parties may propose changes in conditions of employment not in conflict with this Agreement.

(2) If negotiations are requested, the Parties are obligated to meet.

(3) Bargaining will normally begin within 15 working days following notification in a good faith effort to reach agreement with respect to the proposed changes to conditions of employment.

c. **Impact and Implementation:**

(1) Management agrees to Provide the Union President, written copies of proposed changes to personnel policies, practices, or working conditions. The Union President agrees to respond to such changes within 15 working days after the receipt of the proposed change(s). Submission to the Union President will be by certified mail. If, after the expiration of 15 working days, the Union President has not responded, Management may then implement the proposed change(s).

(2) Management agrees that it will not unilaterally implement a change in personnel policy or practice or condition of employment except in the case when a delay of the effective date of a law would take place.

9-6. Subsequent Agreements: Subsequent agreements derived from negotiations shall not duplicate, conflict with, nor otherwise be inconsistent with this Agreement.

9-7. Time Limits: The time limits above shall be extended up to ten days upon request. Time limits can be further extended by mutual agreement of the Parties.

ARTICLE 10

UNFAIR LABOR PRACTICES

10-1. Management and Union agree that prior to either party submitting an Unfair Labor Practice (ULP) charge, a meeting will be held between representatives of The Adjutant General and the Union in an attempt to resolve a suspected ULP. If, at the end of 15 working days from the initial meeting a solution agreeable to both Parties has not been reached, the charging Party may then be free to file a formal ULP charge.

10-2. Charges will be investigated in a timely manner. This investigation will include discussion with representatives of the Union to determine all relevant facts and, if possible, produce an acceptable resolution of the matter without resort to formal proceedings.

ARTICLE 11

GRIEVANCE PROCEDURES

11-1. Purpose: The purpose of this Article is to provide for a mutually acceptable method for the prompt and equitable settlement of grievances.

11-2. Application: A grievance may be filed by an Employee or group of Employees, by the Union, or by Management.

a. Only the Union, or a Representative designated by the Union, may represent Employees in such grievances.

b. An Employee or group of Employees may present a grievance without the intervention of the Union, provided that the Union will be consulted and have the right to have a Representative present at formal discussions, and that the adjustment is consistent with the terms of this Agreement.

c. Numbers of representatives at representational meetings will be equal. Management may approve additional Union Representative when reasonably appropriate.

d. For those matters that are grieveable, this procedure shall be the exclusive procedure for the Parties and Employees. However, nothing in this section shall prevent Employees from exercising the option of appealing any prohibited personnel practice defined in law through the statutory appeal process, provided that the Employee has not filed a grievance in writing on the matter in accordance with this Agreement.

11-3. Grieveable:

a. The effect or interpretation, or a claim of breach, of a collective bargaining agreement.

b. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

c. Refer to Appendix A (Glossary, under Grievances).

11-4. Not Grieveable:

a. A violation relating to prohibited political activities (Hatch Act, 5 U.S.C. Chapter 73).

b. Retirement, life insurance, or health insurance.

c. A suspension or removal for national security reasons (5 U.S.C. 7532).

d. Any examination, certification, or appointment (5 U.S.C. Chapter 71).

e. The classification of any position which does not result in the reduction in grade or pay of an Employee.

f. Termination of probationary Employees.

g. Actions taken pursuant to 32 U.S.C. 709(e).

11-5. Employee Procedures:

a. Grievance procedures must begin within ten working days of the date of the act or knowledge of the act or occurrence.

b. The following procedures are established for the resolution of grievances by Employees.

(1) Step 1: (Informal) An informal meeting will be held between the Employee, his/her Representative if desired, and the first level supervisor. If no resolution is reached within five working days of the informal meeting, Employee may proceed to step 2.

(2) Step 2: (Formal) If informal efforts fail to resolve a problem appropriate for a grievance, the Employee shall have the right to present the grievance to the immediate supervisor, in writing, on the Standardized Form, Appendix B, within seven working days of the date the informal decision was rendered to the Employee. Copies will be forwarded by the Employee to the Union and SPMO-L. If a satisfactory resolution is not reached within seven working days, the Employee may proceed to step 3.

(3) Step 3: If the grievance is not satisfactorily resolved in step 2, the Employee may submit the grievance to The Adjutant General, attention SPMO-L, within seven working days following receipt of the decision in step 2. The Adjutant General, Chief of Staff, and the appropriate supervisors and Managers will review the case and issue a written decision within 15 working days of the receipt of the grievance. This decision shall be the final Agency decision on the grievance.

11-6. Union Procedures:

a. Grievance procedures must begin within ten working days of the date of the act or knowledge of the act or occurrence.

b. The following procedures are established for the resolution of grievances by the Union:

(1) Step 1: (Informal) An informal meeting will be held between the Union official and the supervisor concerned. If no resolution is reached within five working days of the informal meeting, the Union may proceed to step 2.

(2) Step 2: (Formal) If informal efforts fail to resolve a problem appropriate for a grievance, the Union shall have the right to present the grievance to the supervisor concerned, in writing, on the Standardized Form, Appendix B, within seven working days of the date the informal decision was rendered to the Union. Copies will be forwarded by the Union to the SPMO-L. If satisfactory resolution is not reached within seven working days, the Union may proceed to step 3.

(3) If the grievance is not satisfactorily resolved in step 2, the Union may submit the grievance to The Adjutant General, attention SPMO-L, within seven working days following receipt of the decision in step 2. The Adjutant General, Chief of Staff, and the appropriate supervisors and managers will review the case and issue a written decision within 15 working days of the receipt of the grievance. This decision shall be the final Agency decision of the grievance.

11-7. Management Procedures:

a. Grievance procedures must begin within ten working days of the date of the act or knowledge of the act or occurrence.

b. The following procedures are established for the resolution of grievances by Management:

(1) Step 1: (Informal) An informal meeting will be held between the Management official and the appropriate Union official. If no resolution is reached within five working days of the informal meeting, Management may proceed to step 2.

(2) Step 2: (Formal) If informal efforts fail to resolve the problem appropriate for the grievance, the

Management official shall have the right to present the grievance, in writing, on the Standardized Form, Appendix B, to the Chief Steward within seven working days of the date the informal decision was rendered to the Management official. A copy will be forwarded to the Union President. If satisfactory resolution is not reached within seven working days, the grievant may proceed to step 3.

(3) Step 3: If the grievance is not satisfactorily resolved in step 2, Management may submit the grievance to the Union President within seven working days of the receipt of the grievance. The Union President and other Union officials will meet and review the case and issue a written decision within 15 working days of the receipt of the grievance. This decision shall be the final Union decision on the grievance.

11-8. Time Limits: Time limits in this Article may be extended by mutual consent of the Parties.

a. The Parties agree to respond to the grievance within the time frame allowed.

b. When information is requested from a Party which is needed to process a grievance or determine if a grievance exists, the time limits will be extended equal to the amount of time required to receive the information.

c. Failure by the grievant to meet time limits, or to request and receive an extension of time, shall automatically cancel the grievance, unless mitigating circumstances prevail.

d. The failure to render a decision within the authorized time period will be considered a negative decision and will be grounds for escalating the grievance to the next step, or if no next step, referring the matter to arbitration.

11-9. For written grievances, the Union will have access to all written responses upon request. The Union and the SPMO-L will be given copies of all decisions.

11-10. Submitting for Arbitration: Grievances not settled under the negotiated grievance procedure may be submitted for arbitration.

11-11. Invoking Arbitration: Employees are precluded by law of invoking arbitration. Only Management or the Union may invoke arbitration.

ARTICLE 12

ARBITRATION

12-1. Right to Arbitration: If the decision on a grievance processed under the negotiated grievance procedure is not acceptable, the issue may be submitted to arbitration. The request to refer an issue to arbitration must be in writing, signed by the President of NFFE, Local 1724, or The Adjutant General of the Utah National Guard, and submitted to the other Party within ten working days following receipt of the decision by the aggrieved party.

12-2. General:

a. The Party invoking arbitration may opt to postpone the arbitration hearing date if that Party has filed an ULP charge alleging information relevant to the case has been withheld until the FLRA has rendered its decision.

b. The number of designated Union Representatives for whom official time is authorized under this provision shall not exceed the number of individuals designated as representing Management. The number of Representatives will be discussed prior to the hearing.

c. Employee participants on shifts other than the regular day shift will be temporarily placed on the regular day shift for the days of the hearing in which they are involved.

12-3. Selecting the Arbitrator: Unless otherwise agreed, when arbitration is invoked, the Parties shall meet within five working days and attempt to select a local arbitrator. If no agreement is reached, the invoking Party will submit a request within five working days to the Federal Mediation and Conciliation Service and/or the American Arbitrators Association for a list of seven impartial persons qualified to act as arbitrator. Within ten working days after receipt of such list, Management and the Union shall meet to select an arbitrator. Each Party shall strike one name in turn from the list. The determination of which Party shall strike first from the list will be determined by the flip of a coin. After each Party has struck three names from the list, the remaining person shall serve as the arbitrator. If either Party refuses to participate in the selection process, the other Party will make a selection of an arbitrator from the list.

12-4. Submission:

a. The Parties agree that a joint submission is the most desirable and will work diligently to arrive at one within ten working days.

b. If the Parties fail to agree on a joint submission of the issue for arbitration, each Party shall submit a separate statement to the arbitrator within five working days, who shall determine the issue(s) to be heard. A copy will be furnished to the other Party.

c. The arbitrator shall have the authority to make all grievability and/or arbitrability determinations.

d. If the Parties cannot agree, or if threshold issues cannot be resolved, either Party may submit to the arbitrator the issue they feel should be resolved. A copy of the submission will be furnished to the other Party. It is the intent of the Parties that the arbitrator render a decision regarding threshold questions prior to any official arbitration proceedings.

12-5. Fees and Expenses:

a. Arbitration fees and expenses shall be borne equally by the Parties, except for grievances concerning removals for cause or suspensions of 30 days of more. In these cases, the losing Party shall bear the cost.

b. If clarification of an arbitrator's decision is necessary, the requesting Party will pay for the additional arbitration fees and expenses. The arbitrator will be requested to complete the clarification within 30 calendar days. If jointly requested, the costs will be shared.

12-6. Authority:

a. The arbitrator's authority is limited to the adjudication of issues which were raised in the grievance procedure.

b. The arbitrator shall not have authority to add to, subtract from, or modify any of the terms of this Agreement, or any supplement thereto.

12-7. Arbitration Process:

a. The process to be utilized by the arbitrator may be expedited or formal.

b. The Parties will mutually agree to expedited arbitration or a formal hearing. If the Parties do not agree on the process, a formal hearing shall be held.

c. The arbitration hearing will be held, if possible, on Managements premises and during the regular day shift hours. The grievant and any Employees called as witnesses will be excused from duty to the extent necessary to participate in the official proceedings. Questions raised as to whether a witness is necessary will be resolved by the arbitrator.

d. The hearing should be scheduled within 30 days after arbitration is invoked. If the selected arbitrator is not available within that time frame, the Parties shall agree to either extend the time frame, select a different arbitrator, or mutually select a different date.

12-8. Expedited Arbitration: Where the Parties mutually agree to arbitration without a hearing, a written stipulation of facts to the arbitrator will be used. In this case, all facts, data, documentation, position, etc., will be jointly presented within 30 calendar days after selection of the arbitrator. Costs of the expedited arbitration will be shared equally by the Parties.

12-9. Formal Hearing: A submission to arbitration hearing should be used when a formal hearing is necessary to develop and establish the facts relevant to the issue. In this case, a formal hearing is convened and conducted by the arbitrator.

12-10. Decision: In either the expedited or formal case, the arbitrator will be requested to render a decision and remedy to the Parties as quickly as possible, but in any event, no later than 30 days after the conclusion of the process as described above unless the Parties otherwise agree.

12-11. Implementation: In either the expedited or formal case, the arbitrator's decision shall be final and binding, unless an exception is filed with the FLRA. If no exception is filed, the arbitrator's decision and remedy will be implemented immediately.

12-12. Transcripts: The cost of the transcript requested by one Party for its exclusive use and not shared shall be borne by the requesting Party. If it is mutually agreed to request a transcript, the cost will be borne equally.

12-13. Exceptions: Either Party may file an exception with the FLRA to the arbitrators award. Such exceptions must be filed within 30 calendar days of issuance of the decision in accordance with FLRA procedures.

ARTICLE 13

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

13-1. Management and the Union will cooperate in providing equal opportunity for employment, training, and promotion of all persons and will not discriminate because of age, race, sex, religion, color, national origin, marital status, handicapped condition, lawful political affiliation, or other nonmerit factors.

13-2. Subject to confidentiality commitments, each Party agrees to advise the other of equal opportunity trends which may adversely impact Employees. The Union President, or designee, will meet as necessary with the EEO Program Administrator to discuss measures being taken to improve the EEO climate for all Employees.

13-3. At least one member of the EEO Advisory Committee will be a Union Representative.

13-4. EEO counselors will receive training from both Management and the Union on the negotiated grievance procedures and EEO program requirements. Employees may process EEO complaints through either the formal grievance procedure or the statutory procedure, but not both.

13-5. The Union may nominate EEO counselors.

13-6. EEO counselors will inform complainants covered by this Agreement of the right to Union representation during the complaint proceedings.

13-7. The Union will be given an opportunity to review new or revised EEO plans insofar as may be appropriate under the Act. Such review may include long term goals, general recruitment ideas, and methods of monitoring the program.

13-8. The Parties may negotiate additional procedures and processes for implementing Affirmative Action Plans.

13-9. If Management determines to contract out the EEO program or any portion thereof, Management will notify the Union.

ARTICLE 14

UPWARD MOBILITY

14-1. The Upward Mobility program is a program designed to focus personnel policy and practices on the development and implementation of specific career opportunities for Employees who are in positions or occupational series which do not enable them to realize their full work potential.

14-2. The Parties are committed to use the Upward Mobility program. The proper policies and procedures prescribed by law will be followed in carrying out the Upward Mobility program.

ARTICLE 17

DISCIPLINE AND ADVERSE ACTION

17-1. Discipline and adverse actions are functions of Management. Discipline and adverse actions will be in accordance with TPR 752.

17-2. Disciplinary actions against Employees must be based on just cause, consistent with applicable laws and regulations, and be fair and equitable.

17-3. Management and the Union agree it is important that the supervisor/employee relationship encourage early recognition and resolution of potential performance or conduct which could lead to disciplinary actions.

17-4. Disciplinary actions (oral admonishments, IAW TPR 752, and written reprimands) will be taken when determined by the supervisor that they are necessary to correct deficiencies. Oral admonishments will be recorded on NGB Form 904-1 and initialed by the Employee.

17-5. Prior to issuing an oral admonishment, letter of reprimand, or a notice of proposed disciplinary action, the official issuing the letter or notice, or his/her designee, shall undertake a preliminary inquiry to obtain pertinent facts relating to the disciplinary situation. The inquiry, where appropriate, will include a discussion with the affected Employee.

17-6. The Employee may, in accordance with Article 7, be represented by the Union. Employees of the unit are entitled to Union representation at all discussions and, upon request, must be given an opportunity to secure a Representative.

a. If involved in a discussion with Management or an Agency Investigator, the Employee may terminate the discussion and be allowed adequate time to secure a Representative.

b. Once the Union is representing an Employee(s) in reference to a specific matter, the Representative will notify his/her immediate supervisor of any meetings with the Employees(s) relevant to the matter.

17-7. When Management becomes aware of misconduct by an Employee, the Employee will be contacted immediately and instructed to discontinue the misconduct. When disciplinary

action is initiated, it will be within a reasonable time period after the incident in question, or after Management knew or reasonably should have known of the incident. The two conditions stated above do not apply when an investigation is in process involving illegal activity which could result in charges of felonies or misdemeanors under the law.

17-8. In the event an Employee is issued a notice of proposed disciplinary action, that Employee must be afforded and made aware of all the rights and privileges due him/her and shall be given the opportunity to review the evidence that supports the charges.

17-9. An Employee can appeal the original decision by requesting an appellate review or an administrative hearing, but not both. An Employee does not give up his/her right to grieve the procedure during any phase of this process.

ARTICLE 18

REDUCTION IN FORCE

18-1. The decision to conduct a Reduction In Force (RIF) is a Management right. The implementation of a RIF will be administered by Management. The Parties consider RIF to be an action of last resort and will avoid a RIF whenever possible.

18-2. TPR 300, Chapter 351 procedures will be followed in processing a RIF.

18-3. Management agrees to furnish the Union, as soon as possible, information concerning a RIF.

a. The number of personnel involved and the reasons for the RIF shall be included in notifications to Employees.

b. Each Employee affected by a RIF will be furnished a copy of the RIF fact sheet.

18-4. Recognizing the Union's interest in protecting and representing Employees, Management will give the Union an opportunity to negotiate on the adverse impact of a RIF.

18-5. To minimize the effect of a RIF action, Management shall make every reasonable effort to:

a. Freeze all vacancies or promotion actions, except for positions that must be filled due to mission necessity.

b. Provide briefings to keep the technician workforce informed.

c. Assure that applicable regulations are available for Management and Employee review.

d. Review criteria to determine need for a major RIF and to provide retirement counseling.

e. Develop an aggressive placement program to include contact with other States, local Federal activities, local government, and private employers.

18-6. A retention register must be established before releasing competing Employees from their competitive level. The register shows competing Employees in descending order starting with the Employee with the highest score first. The retention register

documents any action being taken and is required in every RIF, even when the released Employee occupies the only position in the competitive level.

18-7. Retention registers will be made available to the Union as soon as they are developed.

18-8. The Union and Management will jointly encourage each Employee to see that his/her Official Personnel File (OPF) and Standard Form 171 are up to date as soon as the RIF or reorganization is announced. Appropriate changes or amendments requested by the Employee will be added to their OPF.

18-9. The Union may designate one Union official to work with Management in outplacement planning and program activities when a RIF is anticipated.

18-10. A competing Employee may appeal to The Adjutant General when he/she has received a specific notice of a RIF, and he/she believes that the State incorrectly applied the provisions of TPR 300, Chapter 351.

ARTICLE 19

AWARDS PROGRAM

19-1. Management agrees that the Union will have one non-voting Representative, or an alternate, on the Awards Committee. Said Representative will participate in deliberations and discussions with respect to planning the suggestion program, stimulating participation, establishing goals and targets, and evaluating progress.

19-2. Upon notification by Management of the scheduled meeting, the Union President will provide the Awards Committee Chairman the name of the Union Representative or alternate. Management will encourage the awarding of awards for deserving Employees. Employees may recommend other deserving Employees to the appropriate supervisor.

19-3. An award is a method of recognizing and motivating Employees to increase their productivity and creativity for the benefit of the Utah Army National Guard and the public. Employees will be given an equal opportunity to work at a level sufficient for award eligibility. Employees must meet minimum eligibility standards established in TPR 451 to be eligible for any performance award.

19-4. Awards are defined as follows:

a. Special Act: A monetary award for special contributions such as heroic acts, inventions, special acts, savings to the government, etc. It is given to recognize a specific accomplishment at a specific time. The amount is in proportion to the benefits realized by the government.

b. Sustained Superior Performance Award (SSP): A monetary award based on the performance of assigned tasks in a manner exceeding normal requirements.

c. Quality Step Increase (QSI): A one step increase to base pay to recognize Employees with outstanding performance ratings. The award is based on sustained high quality performance that is expected to continue into the future.

d. Suggestion Awards: A monetary award due to an adopted suggestion. The monetary amount is based on the benefits realized by the government.

e. Honorary Recognition: Typically a medal, plaque, or certificate for significant career oriented achievements or contribution.

f. Certificates and Letters of Merit, Appreciation, or Commendation: Non-monetary awards given to recognize a specific accomplishment at a specific time.

ARTICLE 20

BASIC WORK WEEK

20-1. The Utah Army National Guard works under a "Compressed Work Week" schedule. The basic work week will consist of four consecutive nine hour days, Monday through Thursday, and one eight hour day every other Friday. Any requested changes to approved schedules must be agreed upon by both Management and Union and submitted to The Adjutant General for approval.

ARTICLE 21

ANNUAL LEAVE

21-1. It is the right of the Employee to schedule annual leave for his/her own best interest as long as it does not interfere with the accomplishment of the mission of the Utah Army National Guard.

21-2. Annual leave usage shall be in accordance with appropriate statutes and regulations. Procedures for scheduling annual leave are:

a. Extended periods (two weeks) of annual leave vacation must be requested sufficiently in advance so that supervisors may schedule such leave to insure continued effective operation of the activity.

b. Requests for leave of more than four hours, but short of extended periods for vacation, will be normally requested from the responsible supervisor at least one working day in advance.

21-3. Leave will be granted in a fair and equitable manner.

ARTICLE 22

SICK LEAVE

22-1. Employees not reporting for work because of reasons falling within the scope of sick leave shall advise the immediate supervisor by telephone or other means of communications of his/her absence and the reason for such absence. Such notification of absence shall be made within one hour of the start of the regular work shift. If unable to notify the immediate supervisor within one hour because of extenuating circumstances, then the Employee shall give notice as soon as possible.

22-2. Sick leave will be authorized only in bona fide cases and may be granted orally or may require acceptable evidence. It is the responsibility of the first level supervisor to ascertain whether absences are properly chargeable to sick leave. Medical Certificates may be required under the following conditions:

a. For absences in excess of three consecutive working days.

b. Whenever there is reason to believe that the sick leave privilege is being abused, and the Employee has been communicated to, the Employee will be advised in writing that a medical certificate, signed by competent medical authority, will be required to support future grant of sick leave regardless of duration.

22-3. Abuse of sick leave is not necessarily related to the frequency of sick leave nor to the number of hours an Employee retains.

22-4. Sick leave is for use when an Employee is physically incapacitated to do his/her job or for related reasons. Such reasons are:

a. Exposure to a contagious disease that would endanger the health of coworkers.

b. Presence of contagious disease in an Employee's immediate family which requires his/her personal care.

c. Dental, optical, or medical examination or treatment.

22-5. Sick leave may be advanced to an Employee (not to exceed 30 days) subject to the following conditions:

a. Request for advancement of leave will be supported by a medical certificate signed by a licensed medical practitioner certifying to the incapacitation of the Employee and the date the Employee may be expected to return to work.

b. All available sick leave will be used before advancement.

c. Annual leave that would otherwise be forfeited is used.

d. There is a reasonable assurance that the Employee will return to duty to earn and repay advance credits.

ARTICLE 23

OTHER LEAVE

23-1. Court Leave. Generally, an Employee who is called for jury duty will be given the option of keeping their jury fees and being in a leave without pay status or turning over their jury fees to the Utah Army National Guard and continuing to collect their salaries during the time they are on jury duty. In every instance, the Employee may fulfill the citizenship responsibilities of jury duty. Management may, if jury duty will substantially interfere with the program of work, petition the court to excuse the Employee. For specific information regarding court leave see FPM 630.

23-2. Other Leave. Other types of leave, ie. maternity, military, administrative, and LWOP, will be administered as per FPM 630.

23-3. Excused Absence: Supervisors have the option to excuse infrequent absences and tardiness of less than one hour on the part of the Employees. Each case shall be considered on its merits. Proper justification must be presented to the supervisor or time will be made up or charged to annual leave.

ARTICLE 24

ADDITIONAL HOURS OF DUTY AND COMPENSATORY TIME

24-1. An Employee assigned additional hours of duty will be provided as much advance notice as possible. He/she will normally be notified no later than 24 hours prior to the scheduled duty. In the event of an emergency situation, additional hours of duty will be assigned at the discretion of the supervisor.

24-2. It will be the responsibility of the supervisor to insure that all additional hours are distributed in a fair and equitable manner.

24-3. Employees will receive compensatory time on an hour for hour basis.

24-4. An Employee called back to work because of an emergency will receive a minimum of two hours of compensatory time.

24-5. Employees may be directed to perform a reasonable amount of additional hours of duty if a qualified volunteer cannot be found to perform the work. Directed additional hours will be kept to a minimum, consistent with mission requirements.

24-6. Employees normally will not be called for additional hours of duty when:

a. On scheduled leave.

b. The supervisor is notified that the Employee is not able to work the additional hours for reasons of health or personal reasons.

24-7. A supervisor will make every effort not to assign a member or driver of a car pool to any additional hours of duty assignment which will create a hardship on the members of the car pool.

ARTICLE 25

TRAVEL

25-1. Per diem for travel will be paid at the maximum rate authorized under the Joint Travel Regulation. Authorized advance per diem will be provided, when requested, within a reasonable time prior to departure.

25-2. In the course of required travel by an Employee, his/her objection, supported by a valid medical certificate stating he/she could not travel by aircraft, may be accepted as sufficient authority to utilize other methods of public transportation as provided in the Joint Travel Regulation.

25-3. Each Employee shall, whenever possible, be given a minimum of three working days notice of travel requirements.

25-4. Both Parties agree that the Joint Travel and other applicable regulations, will be followed in matters of payment of per diem, travel, quarters, advances, and other related items.

ARTICLE 26

PAY

26-1. Management agrees to provide accurate and timely reports of time and attendance for pay purposes to the proper Payroll Office, and to assist any Employee who does not receive a paycheck by Friday afternoon following the scheduled payday. Management agrees to follow up with the Payroll Office on lost, stolen, or late paychecks in accordance with the Payroll Office procedures.

26-2. Hazardous and environmental differential pay will be authorized and paid in accordance with appropriate regulations (FPM Suplement 990-2, Chapter 550).

ARTICLE 27

POSITION DESCRIPTION/GRADE CLASSIFICATION

27-1. Each Utah Army National Guard Employee is entitled to have access to a copy of the National Guard Bureau position description which is published for the position in which he/she is employed.

a. The position description will be reviewed with the Employee by the first line supervisor during each annual performance rating discussion.

b. Management agrees to strive to keep "other duties as assigned" within the realm of the position description for each Employee. However, in the interest of the mission of the activity, the Employee and the supervisor may mutually agree to perform other duties as assigned.

c. Management agrees that it will not assign any Employee a duty or task that will endanger the life or well being of that Employee or other Employees working with him/her.

27-2. It is understood and mutually agreed by Management and the Union that the terminology used in classification of position descriptions by National Guard Bureau must be broad to encompass the wide variety of duties for each position.

a. If an Employee feels that the scope or level of work accomplished during the majority of time spent on the job is beyond that outlined in the position description under which he/she is employed, he/she may, and should, bring this fact to the attention of his/her first line supervisor. A review of the position description should take place in a reasonable amount of time.

b. After a review of the position description and actual tasks that have been performed by the Employee, the Employee may, thru the first line supervisor, request the position classification specialist at the SPMO to conduct an on site field audit of the position description and the work that is actually being performed.

c. The Employee may appeal the results of the classification.

d. The Union will be given notice, whenever possible, if, as a result of the on site classification audit, the position is to be down graded or changed to a higher or supervisory position. Upon the request of the Employee being audited, the supervisor may be present.

27-3. When an Employee is hired in a trainee category, at the time he/she meets the requirements in the position description for promotion to the grade authorized, he/she will be counseled by the supervisor and awarded the higher grade if fully qualified.

a. If not qualified, he/she will be counseled as to what further training and experience is needed. If training is needed, the Employee will receive priority consideration for qualifying schools.

b. Fully qualified includes provisions of time in grade restrictions.

ARTICLE 28

SAFETY AND HEALTH

28-1. Management and the Union mutually agree to cooperate in common efforts to create and maintain safe and healthy working habits and conditions to minimize accidents, and to prevent lost worktime due to illness or injury. A Safety and Health program will be administered in accordance with Army Regulations and E.O. 12196.

28-2. An annual inspection of the facilities by qualified personnel will be conducted. The Union will be notified and a local Union Representative, if available, will be given an opportunity to accompany the inspector. Management agrees to make available to the Union, upon request, appropriate reports of safety inspections, and reports of accidents, and of occupational illnesses if allowed by law or regulation.

28-3. A Safety and Health Committee shall be established at each activity. The Union may have a Representative serving on the committee. The committee may meet at least quarterly to review the Safety and Health program and to formulate recommendations. The Union shall have a Representative on the State Safety committee, and the Representative will be notified of all meetings of the committee. The Union Safety Representative will be included in Safety Training programs.

28-4. Management will exert every reasonable effort to provide safe and sanitary working conditions and equipment in consonance with standards promulgated under the Occupational Safety and Health Act of 1970 (OSHA).

28-5. The use of proper safety clothing and equipment is of utmost concern to Management and the Union. Management agrees to provide, consistent with the tasks assigned Employees, safety foot wear (not to include low quarters), rubber gloves, aprons, goggles, hard hats, prescription impact eye wear, noise protection devices, nomex flight suits, coveralls, adequate cold weather clothing, and equipment for outside work.

28-6. Management agrees to provide adequate lighting, heating, and ventilation in work areas. If it is determined that heat, light, ventilation, and space are not adequate in any work area controlled by the Utah Army National Guard, corrective action will be taken to the extent feasible. Whenever such conditions cannot be readily abated, Management shall inform the Union and the Parties shall arrange a timetable for abatement, including a

schedule of interim steps to protect Employees. Arrangements shall include notifications, warnings, and information to Employees affected by the hazardous conditions.

28-7. The Parties, in the course of normal duties are required to report any observed unsafe or unhealthy conditions.

28-8. When an Employee feels that he/she is subject to conditions so severe that even a short term exposure to such conditions would be detrimental to safety and health, he/she should report the circumstances to the immediate supervisor. The supervisor shall inspect the work area or substance in question and analyze the situation to ensure that it is safe (or may be safely handled) before requiring the Employee to carry out the work assignment. If any doubt regarding the safety of existing conditions is raised by the supervisor, an appraisal shall be obtained from the appropriate Management official before proceeding. If the supervisor determines an unsafe or unhealthy circumstance exists and the supervisor cannot correct the hazard, the supervisor will will take corrective action. When exposure to a serious hazard requires immediate solution and it is not possible to obtain the supervisor's concurrence beforehand, an Employee may temporarily avoid the hazard and as soon as possible, notify the supervisor. This does not include inherently hazardous activities for which advance preparations have been made, such as fire suppression.

28-9. No Employee will be required or permitted to handle potentially hazardous materials without the proper training and equipment as prescribed by Federal law or regulation.

28-10. Only authorized Employees who are qualified or in training will be permitted or required to operate hazardous machinery or equipment or perform work that could cause serious injury to an inexperienced operator or otherwise unreasonably endanger Employees.

28-11. The Parties will make every reasonable attempt to ensure that hazardous or poisonous substances are properly marked and stored in accordance with Federal labeling and storage regulations. Upon discovery of noncompliance with Federal labeling and storage regulations, the Parties will immediately initiate corrective action.

28-12. Employees shall report to their supervisor all injuries or occupational illnesses which occur on the job. Management shall process and forward to Office of Workers Compensation (OWCP) Employees and employer documentation required when an Employee sustains an on the job injury or contracts an

occupational disease. Management agrees to provide Employees with assistance in processing claims under the Federal Employees Compensation Act (FECA).

28-13. When Employees are temporarily unable to perform their regularly assigned duties because of documented and confirmed illness or injury, but may be capable of returning to or remaining in a duty status, Management may detail such Employees to work assignments compatible with the Employee's physical condition, or temporarily tailor the Employee's regularly assigned duties to the physical limitation. This will only be done to the extent Management determines such other work assignments are available and other such changes are feasible and warranted.

28-14. Where documented medical evidence shows the work environment is contributing to a medical problem, Management may make every reasonable effort to place the Employee in a suitable environment to protect the Employee's health.

28-15. Supervisors will instruct Employees in safe working habits, practices, and procedures in regard to specific job assignments.

28-16. For serious injuries or death, the first line supervisor will inform the head of the activity who will take the most appropriate action to inform the next of kin.

a. The Union will be notified as soon as practicable.

b. The Union may be provided copies of all reports and investigations upon request after the Management review process is complete.

28-17. The Employee or group of Employees who continue to believe that work is being required under conditions which are unsafe or unhealthy beyond the normal hazards inherent in the operations in question have the right to file a grievance.

ARTICLE 29

CONTRACTING OUT

29-1. Management recognizes the importance of utilizing knowledge, skills, and abilities of the Employee work force and will consider these factors prior to making decisions to contract work out. If a function is contracted out, Management agrees to bargain with the Union on the impact.

29-2. To ensure cost savings and efficiency for the Utah Army National Guard, Management may find it appropriate to do cost comparison studies for all work performed by Employees before bid solicitations are offered or contracts are negotiated with private contractors.

29-3. Management will inform the Union of plans for proposed contracts, including personal services contracts, where formal bids or proposals are solicited, or negotiated contracts, that may impact on the bargaining unit.

ARTICLE 30

USE OF OFFICIAL FACILITIES AND SERVICES

30-1. The Union shall be responsible for the proper use and care of the facilities, services, and equipment provided in this Article.

30-2. The Utah Army National Guard agrees to provide reasonable office space at the Draper Complex only. This space will be private and secure to assure confidentiality of records and conversations.

30-3. Upon the request of either Party, negotiations may include additional details on the size, location, privacy, security of space, use of materials and equipment, and use during non-work hours. The Union will be allowed full use of telephone services for representational purposes.

30-4. The Union will be allowed to use telephones to communicate with other Local Representatives and Officers, when discussing representational matters.

30-5. Utah National Guard facilities will be requested, in writing, on a first come, first serve basis, for Union meetings held during non-duty hours. Such use will not incur any additional costs to Management and will be provided without cost to the Union.

30-6. The internal distribution service will be available for use by the Union when dealing with Management or elected Union officials. Both Parties agree that suspense dates must be met when using the internal distribution service.

30-7. Bulletin board space(s) of at least one quarter of available space for posting notices and literature, limited to NFFE Local use only, will be available at each facility.

30-8. Management agrees to furnish to the Local, upon written request, but not more than quarterly, an up to date list of Employees in the bargaining unit showing name, position, and title. Home address of bargaining unit members will be furnished upon request unless otherwise restricted by law.

30-9. Management agrees to provide to Union Representatives and Employees, when requested, access to publications such as Army National Guard Regulations, Federal Personnel Manual Handbooks, Position Classification Standards, and other publications available in offices of the Utah Army National Guard.

30-10. Government owned or leased vehicles may be used for Local representational functions for which official time will be used provided:

a. A vehicle is available.

b. The Union Representative has made reasonable efforts to resolve the matter through the use of telephones, mail, etc.

c. A more economical and efficient method of transportation is not available.

30-11. Management will provide the Union a copy of the Agreement and a mailing label for each member of the bargaining unit for distribution by the Union. Additional copies will be made available for Union use if needed.

ARTICLE 31

OFFICIAL TIME

31-1. The Parties agree that it is in the publics best interest to provide statutory protection for the right of Employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them and as such shall be granted official time in reasonable amounts.

31-2. Union Officials or Representatives will be granted reasonable amounts of official time for contract administration of this Agreement and its supplements. These functions are:

a. Reviewing Managements proposals concerning negotiations and changes in policies, practices, and matters concerning working conditions.

b. Receiving and performing representational functions as specified in this Agreement.

c. Receiving, reviewing, and preparing grievances.

d. Representational with FLRA, EEO, GAO, etc.

e. Preparing for negotiations and negotiating.

f. Preparing reports required by 5 U.S.C. 7120.

g. Contacting other Union Officers regarding aforementioned functions.

31-3. The Union President or designee will be given reasonable notice of, and provided reasonable time to be present at formal discussions concerning any grievance, personnel policy or practice, or other general conditions of employment.

31-4. Employees, when exercising the rights under this Agreement, will be granted a reasonable amount of official time for initiating, reviewing, and presenting complaints. Any Employee acting as a Union Representative in any negotiations with Management shall be authorized official time for such purposes.

31-5. The Parties agree that official time will be made available to Local 1724 each year to enable Employees to attend Union training, provided that training is a benefit to the Utah

Army National Guard and the Union in the administration of this Agreement. The Union agrees that training should be distributed among Union Officials in an efficient manner. Request for official time must be submitted in writing at least one week in advance of the training.

31-6. The Parties may mutually agree to request assistance of NFFE Staff Representatives in joint training sessions.

31-7. The Union may be given the opportunity to present their point of view of the contract and Employees rights at all supervisor training seminars, by Representatives of thier own choosing, and on official time.

31-8. When the Parties (including individual Union Representative and their supervisors) are not mutually agreeable to alternative arrangements on a continuing basis the following procedure for official time applies:

a. A Union Representative using official time will inform his/her supervisor of the approximate length of time needed and the location where the Representative will be for representative functions. If the Representative cannot be released immediately due to work related reasons pertaining to mandatory short term coverage and/or the critical mission of the functional area, the Representative will be released as soon as the mandatory work requirement is met or other appropriate arrangements are made. Ordinary workload will not preclude the release of the Representative. If a delay in releasing a Representative for representational functions involves a situation with a contractual time limit, the time limit will be extended equal to the delay.

b. When performing representational functions with Employees at other work sites, the Union Representative will notify the unit head or the immediate supervisor before visiting an Employee(s). If the visit would unduly interfere with work requirements, the supervisor shall establish another time at which the Union Official can visit the Employee.

c. Travel with per diem IAW the JTR is included in all allowed official time. Use of vehicles is authorized IAW the provisions of the Use of Official Facilities and Services Article.

ARTICLE 32

ALLOTMENT OF UNION DUES

32-1. Employees eligible for Union dues withholding are those members of the Union who are employed in the Utah Army National Guard and whose net salary, after other legal and required deductions, is regularly sufficient to cover the amount of the authorized allotment.

32-2. In application of the allotment arrangements, the Union shall be responsible for:

a. Purchasing Standard Form 1187, "Request for Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues."

b. Distributing copies of Standard Form 1187 to its members.

c. Educating eligible Employees as to the program for allotment of dues, its voluntary nature, and the availability and uses of the required forms.

d. Educating eligible Employees as to the procedure for revoking allotments, emphasizing that the effective date is the first pay period following:

(1) March 1 for those Employees who have been on dues withholding for at least one year.

(2) The anniversary date of the signing of the Standard Form 1187 for those Employees who have been on dues withholding for less than one year.

e. Certifying Standard Form 1187, completed by eligible Employees, as to the amount of dues.

f. Refunding any unauthorized deductions or excess payments, either to the Employee or employer, as required.

32-3. Management shall be responsible for informing Employees that:

a. Dues allotments are to be entirely voluntary on the part of eligible Employees.

b. Allotment deductions will take effect during the first pay period beginning after the allotment form, properly completed, signed, and certified, has been received in the payroll office.

c. Forms for requesting allotments are to be obtained from the Union and returned by the Union member to the Union for delivery to the SPMO.

d. Standard Form 1188, "Revocation of Voluntary Allotment," and information concerning revoking an allotment, can be obtained from SPMO.

32-4. Processing allotments will be accomplished in the following manner:

a. The Union will distribute Standard Form 1187, educate its members in the use of the form, and process completed voluntary requests from its members.

b. A Union officer will certify all Standard Form 1187's, and other pertinent documents, and formward to United States Property and Fiscal Office (USP&FO) pay section.

c. Allotments will take effect the first pay period after receipt of the properly executed and certified Standard Form 1187's in the payroll office.

d. Standard Form 1187, Standard Form 1188, and other material pertaining to allotments, will be date stamped upon receipt in the payroll office.

e. Changes in the amount of regular dues may be made upon receipt of a certification from the Union treasurer, and such changes will be effective with the beginning of the pay period after the receipt of notification in the payroll office.

f. The Union will notify the SPMO-L, in writing, within five days when an Employee ceases to be a a member in good standing. The allotment for such Employee will be terminated with the first complete pay period after the receipt of notification in the payroll office.

g. Revocation of allotment submitted at the request of an Employee will be elective as set forth in paragraph 31-3d. Allotments will be automatically terminated on the effective date of the action for Employees who transfer or are separated from the Utah Army National Guard.

h. Normal deductions will be made by the payroll office in all biweekly pay periods, even though an Employee may not be liable for dues during certain pay periods. Dues allotments will be withheld from sick leave payments, but not from lump sum leave payments.

i. The payroll office will make the remittance for dues withheld biweekly. This remittance will be in a single check for the net balance of dues withheld for each dues deduction each pay period. The check will be made payable to Local 1724 and will be mailed to the local bank account that has been established by the Union. A copy of the Standard Form 1049 voucher and the computer printout of names will be forwarded to the treasurer of the Local, whose name and address will be furnished to the payroll office on a current basis by the Local. It will be accomplished by the current "Union Dues Deduction Report" containing the following:

(1) Names of the Employees and amount deducted.

(2) Names of eligible Employees in LWOP status who have completed Standard Form 1187 from whom no deductions have been made.

j. Copy 2 "Labor Organization Copy" of all Standard Form 1188's, Revocation of Voluntary Allotment," will be provided to the Union by the USP&FO.

32-5. Failure of Management to properly withhold and remit dues in accordance with 5 U.S.C. and this Agreement shall be either a 5 U.S.C. 7166 (a) violation, ULP or a grievance.

ARTICLE 33

APPROPRIATE ATTIRE

33-1. Competitive Employees shall wear appropriate attire for the nature of their work.

33-2. Excepted Employees shall wear the appropriate military uniform, or if appropriate, military coveralls, which are issued and are worn to protect the Employee from damaging issued duty uniforms. Wear of the military coverall shall be limited to the work area. Any clothing visible outside of the military coveralls must be the appropriate military uniform color.

33-3. If, during the duration of the contract, a change to the law c ncerning wearing of the military uniform occurs this Article may be reopened at the Unions option.

33-4. To insure adequate allocation of military uniform items at specific work sites, the Parties will form a committee to determine the type of requirements.

ARTICLE 34

TRAINING

34-1. The Parties recognize the value of a well trained work force and the need for a well planned and conducted training effort. The Parties agree that training efforts are to be aimed at improving job performance, providing for career development, or meeting Utah Army National Guard needs as determined by Management. The Parties further mutually agree to encourage Employee self development.

34-2. Recognizing the need for flexibility, Management retains the right to schedule and assign Employees to training, determine the investment to be made in training, and to select training methods and facilities. Management will endeavor to schedule training so that Employees will not have to travel on weekends. For those Employees enrolled in Management approved work related classes not scheduled by Management, Management agrees to make a reasonable effort to enable an Employee to adjust his/her work schedule if feasible, in order to attend.

34-3. Training accomplishments will be maintained by the supervisor. Employees should insure their OPF is upgraded when training is completed.

ARTICLE 35

PERFORMANCE MANAGEMENT SYSTEM

35-1. Management and the Union recognize the right and obligation of Management to evaluate the performance of Employees in accordance with TPM 430.

35-2. The identification of performance elements and the establishment of performance standards will be a joint planning and communication process between the Employee and the rating supervisor. It is the rating supervisor's responsibility to ensure that performance elements and standards are developed and communicated in writing to the Employee. The performance elements and standards shall be documented on the appropriate form and signed by the Employee and rating supervisor. Performance elements identified as critical elements will be so noted. Further amendments may be made during the rating year, and these amendments will be noted with the Employee and rating supervisor initials. The Employee's signature or initials only means that the Employee has received a copy.

35-3. Performance standards and critical elements must be consistent with the duties and responsibilities contained in the Employee's position description. They must permit the accurate evaluation of the job performance. To the greatest possible extent, objective criteria will be used. They must be applied fairly and equitably.

35-4. The rating supervisor will be an individual with administrative authority for the Employee and who has direct knowledge of the Employee's work performance.

35-5. Postponement of annual performance appraisals may be made IAW Part II, paragraph F, TPM 430.

35-6. The rating supervisor and Employee should discuss the Employee's job performance in private surroundings at least once every three months.

35-7. If the rating supervisor has identified shortcomings in the Employee's performance, the Employee shall be notified when the problem is perceived. The rating supervisor will state what he/she will do to assist the Employee and suggest ways for the

Employee to improve the quantity, quality, and/or timeliness of work in order to more satisfactorily perform duties at expected levels. When such discussions are documented by the rating supervisor, a copy of that documentation will be given to the Employee.

35-8. The Parties agree that Employees be informed of the importance of performance appraisals as they pertain to RIF procedures.

35-9. Appeals to performance appraisals must use the procedures outlined in TPM 430.

ARTICLE 36

EMPLOYEE ASSISTANCE PROGRAM

36-1. Public Laws 91-616 and 92-255 provide for the establishment of treatment and rehabilitation programs and services for the prevention of alcoholism, alcohol abuse, and drug abuse among Federal Employees. Technician Personnel Supplement 792-2 sets forth the Technician Assistance Program (TAP) for providing counseling, referral services, and other assistance to Employees, to aid them in solving personal problems having an impact on job performance. Although particular emphasis will be given to those Employees with health problems related to drug and alcohol abuse that may affect an Employees work performance, nothing shall prohibit an Employee from receiving assistance under this program for other personal problems, such as financial difficulties, legal, family or other problems, that may affect job performance.

36-2. The Parties acknowledge that the Employee has the primary responsibility to maintain performance and for taking any actions or treatment necessary to maintain it. When an Employee sincerely seeks treatment in order to maintain or regain acceptable performance or conduct, Management will provide assistance, create an atmosphere of understanding, and attempt to remove the effects of social stigma associated with the problem.

36-3. Management will attempt to provide Employees with the appropriate assistance to overcome problems which contribute to poor performance or conduct.

36-4. Employees should contact their supervisor or the TAP Coordinator (TAPC) at the SPMO for referral for diagnosis and treatment.

36-5. Participation in the program shall not jeopardize an Employee's job security or his/her opportunity to compete for promotion.

36-6. In accordance with regulations, sick leave may be granted for treatment or counseling sessions.

36-7. The TAPC should maintain an up to date listing of community facilities for treatment of medical/behavioral problems. Such listing shall include, when known, the cost of such services and eligibility requirements. Examples of organizations that may aid in this respect are:

a. Local chapter of Alcoholics Anonymous.

b. Local chapter of American Medical Association.

c. State or County Health Department.

d. Mental Health Clinic.

e. Social Welfare Clinic.

36-8. The confidential nature of records of Employees with medical/behavioral problems shall be maintained. Neither the program coordinator, the Union, or any Management official shall reveal the name of an Employee voluntarily seeking assistance.

36-9. To assure the cooperation and support of the Union, the TAPC should deal with Union Representatives on program policy formulation and should maintain open lines of communication with Union leaders.

ARTICLE 37

PROMOTIONS AND DETAILS

37-1. Personnel actions involving career progression shall be consonant with the spirit and intent of the merit system. Management agrees to assure fair, equitable, and consistent practices in carrying out the merit procedures. Management and Union agree to negotiate merit promotion policy or changes to current merit promotion plan in accordance with TPR 300.

37-2. All vacancy announcements will be advertised within the area of consideration and will remain posted for a minimum of 15 calendar days, if practical. The Union will be on the distribution list for vacancy announcements.

37-3. A Employee who believes that proper procedures were not followed in a particular placement action for which he/she was an applicant may present a grievance under applicable grievance procedures. A grievance will not be considered when it is based solely on non-selection.

37-4. During a grievance, the following information will be provided upon request:

a. NGB Form 300, Application for Vacancy.

b. NGB Form 300-2, Initial Screening Worksheet.

c. NGB Form 300-3, Knowledge, Skills, and Abilities Category Worksheet.

d. NGB Form 300-4, Rating Worksheet.

e. NGB Form 300-6, Referral and Selection Certificate.

37-5. Detailing to positions or work assignments requiring higher or different skills will be based upon bona fide need and will be consonant with the spirit and intent of applicable regulations and the merit system. The detailing method may be used to meet emergencies or situations such as those occasioned by abnormal workload, changes in mission or organization, or absences of personnel.

37-6. Personnel actions affecting an Employee detailed to another position for less than 30 days will be posted to the NGB Form 904-1 of the individual concerned. Details of more than 30 days will be documented on Standard Form 52 and filed in the

OPF. The detail procedure shall not become a device to afford certain individuals an undue opportunity to gain qualifying experience or to prevent others from gaining such experience. Where a detail is made to a higher graded position and the Employee is qualified for the position, the Employee will receive a temporary promotion if the detail exceeds 30 working days.

ARTICLE 38

REORGANIZATION

38-1. Management will inform the Union of proposed reorganization as soon as it anticipates such an occurrence and prior to releasing official oral or written information to Employees or the public. Management shall arrange, upon request, procedures, including meetings, to facilitate the sharing of information and general reorganization problems that may arise during the life of this Agreement.

38-2. In accordance with Article 9, paragraph 9-5c, the Managements notice to the Union will provide the proposed effective date of the reorganization, projected adverse impacts on Employees, and the projected implementation actions and timetable. For major reorganizations with extensive impact, reasonable extension of time limits in Article 9, paragraph 9-5c, will be granted. Management will submit such necessary further background or other information as the Union may request concerning the reorganization plan.

38-3. If Management finds it necessary to alter the planned reorganization after negotiations have been completed, the Union has the opportunity to reopen the original Agreement on the reorganization.

ARTICLE 39

FURLOUGHS

39-1. Furloughs (non-pay) of Employees of 30 days or less are Management actions that may be taken because of a lack of funds or work or other non-disciplinary reasons.

39-2. If Management determines it necessary to furlough Employees because of reasons in paragraph 1 above, the following applies:

a. Management agrees to bargain with the Union on the procedures that will be used.

b. When possible, Employees will be given 30 days advance notice before being placed on furlough status.

c. The total number of days which Employees may be furloughed may not exceed 30 calendar days (if consecutive) or 22 working days (if discontinuous).

d. Employees do not accrue annual or sick leave during any pay period in which they are in non-pay furlough status for the entire pay period or after having accumulated 80 hours in a non-pay status.

39-3. Information on retirement coverage, health insurance coverage, use-or-loose annual leave, and entitlement to unemployment compensation will be provided in the notice to the Employees and the Union.

ARTICLE 40

MISCELLANEOUS PROVISIONS

40-1. Blood Donations: Up to four hours administrative leave may be granted an Employee that donates blood.

40-2. Fund Drives: Authorized Utah National Guard charitable fund raising drives will be coordinated by both Parties. Thirty days prior notice will be given when possible. Employees may invest their money, donate to charity, and participate in similar types of activities freely and without coercion.

40-3. Personal Hygiene Time: Consistent with the nature of the work an Employee performs, a reasonable amount of time will be provided for clean-up of work areas, tools, and personal hygiene at the end of the work day. Also, a reasonable amount of time will be allowed for personal hygiene prior to lunch periods. The amount of time will be determined by the first line supervisor of each functional area, using experience factors, input from Shop Stewards, and input from Employees who work in the specific area.

40-4. Tools and Equipment: The furnishing of tools is a Management responsibility. Supervisors will consult with the Union Steward in each activity concerning tools. Authorized tools and special equipment will be provided by Management in accordance with current authorized allowances, and fund availability.

40-5. Personal Lockers: Personal lockers, authorized by regulation, will be provided by Management for storing of uniforms and personal items.

ARTICLE 41

DURATION AND EXTENT

41-1. The effective date of this Agreement shall be the date of approval by National Guard Bureau, or on the 31st day after execution of this Agreement if NGB has neither approved nor disapproved the Agreement. It shall remain in effect three years after the effective date. It will remain in effect for biannual periods thereafter, automatically renewing itself on the day after the anniversary of the effective date, unless either Party serves the other with written notice, not more than 105 calendar days nor less than 60 calendar days prior to the expiration date, of its desire to terminate or modify this Agreement

41-2. Upon receipt by either Party of notice from the other Party of its desire to terminate or modify this Agreement, both Parties shall meet within 90 calendar days to begin negotiations. When either Party notifies the other Party that it wishes to modify this Agreement, this Agreement will be extended until the effective date of the modified Agreement. The provisions of any Article in this Agreement may not be reopened through the midterm bargaining process except by mutual agreement or where necessitated by statutory changes.

APPENDIX A

GLOSSARY

AND

DEFINITIONS

GLOSSARY / DEFINITIONS

ACTIVITY - Utah Army National Guard

ADVERSE ACTION - An official personnel action, usually taken for disciplinary reasons, which adversely affects an Employee and is severe in nature ie., suspension, reduction in grade, or removal.

ADVANCE NOTICE - In general, an announcement of an intention to carry out a certain action, given to an affected or interested party in sufficient time to prepare for the action.

AGENCY - For purposes of this contract, agency refers to the Department or any entity of the Department above the activity level.

AGREEMENT - See Collective Bargaining Agreement.

ARBITRATION - Method of settling employment disputes through recourse to an impartial third party whose decision is usually final and binding.

ARBITRATOR - An impartial third party to whom disputing Parties submit their differences for decision (award).

ARBITRABILITY - Whether a given issue is subject to arbitration.

AUTHORITY - See Federal Labor Relations Authority (FLRA).

AWARD - The final decision of an arbitrator, binding on both Parties.

BACK PAY - Pay awarded an Employee for compensation lost due to an unjustified Management action.

BARGAINING - See Collective Bargaining.

BARGAINING RIGHTS - Legally recognized right of the labor organization to represent Employees in negotiations with employers.

BINDING ARBITRATION - See Arbitration.

COLLECTIVE BARGAINING (COLLECTIVE NEGOTIATIONS, NEGOTIATIONS, NEGOTIATION OF AGREEMENT) - The performance of the mutual obligations of the employer and the exclusive Representative to meet at reasonable times, to consult and bargain in good faith,

and to execute a written Agreement with respect to terms and conditions of employment. This obligation does not compel either Party to agree to proposals or make concessions.

COLLECTIVE BARGAINING AGREEMENT (AGREEMENT, CONTRACT, BARGAINING CONTRACT, NEGOTIATED AGREEMENT) - A written Agreement between an employer and a labor organization, usually for a definite term, defining conditions of employment, rights of Employees and labor organizations, and procedures to be followed in settling disputes or handling issues that arise during the life of the Agreement.

COMPELLING NEED - A basis upon which rules or regulations issued by an agency or primary national subdivision of any agency may serve as a bar to negotiations with a labor organization. A labor organization may challenge the agencies interpretation of compelling need before the FLRA. In its regulations, FLRA prescribes illustrative criteria for determining compelling need.

CONCILIATION - See Mediation.

CONFIDENTIAL EMPLOYEE - An Employee who acts in a confidential capacity with respect to an individual who formulates or administers Management policies in the field of labor-management relations.

CONDITIONS OF EMPLOYMENT (WORKING CONDITIONS) - Personnel policies, practices and matters whether established by rule, regulation or otherwise, affecting working conditions.

CONSULTATION - An obligation on the part of employers to consult the labor organization on particular issues before taking action on them. In the Federal government, consultation refers only to the duty owed by agencies to labor organizations which have been accorded national consultation rights. That duty involves informing the Union of substantive changes in conditions of employment, giving the Union time to present its views and recommendations, considering those views and recommendations, and giving the Union written reasons for the final action.

CONTRACTING OUT - The practice of having certain steps in a work function performed by outside contractors, using their own work forces.

CONTRACT (AGREEMENT, COLLECTIVE BARGAINING AGREEMENT, NEGOTIATED AGREEMENT) - See Collective Bargaining Agreement.

CREDITED SERVICE - Years of service counted for seniority.

DAY - Unless otherwise stated, day means calendar day. If a due date falls on a Saturday, Sunday or holiday, the next official working day will be considered the due date.

DISCIPLINARY ACTIONS - Management initiated actions designed to correct Employee behavior.

DISPUTE - Any disagreement between an employer and a labor organization requiring resolution; for example, the inability to agree on contract terms or agrievances.

DOWNGRADING (DEMOTION, REDUCTION IN GRADE) - Assignment of workers to tasks or jobs with lower rates of pay.

DUES ALLOTMENT (DUES WITHHOLDING, DUES CHECK-OFF) - Practice whereby the employer, by Agreement with the Union (and upon written authorization from the Employee where required by law or Agreement), regularly withholds union dues from Employee's wages and transmits these funds to the Union. In the Federal government dues allotment occurs without charge to the Employee or the Union.

EMERGENCY SITUATION - A situation which possess immediate and/or unforeseen work requirements for the employer as a result of natural phenomenon or other circumstances beyond the employer's reasonable control.

EMPLOYEE - An individual employed by the Utah Army National Guard who is included in the bargaining unit as described in Article 1.

EMPLOYEE COMPLAINT - A discussion between an Employee and a Union Representative in advance of a determination as to a final course of action by the Employee, and a Management official if appropriate.

EMPLOYER - Broad term used to define any individual who represents the agency in an official capacity, most commonly, supervisors and Management.

EXCLUSIVE RECOGNITION/REPRESENTATION - In the Federal government, the status conferred on a labor organization which (1) receives a majority of votes cast in a representation election and (2) is certified by the FLRA to represent all Employees in an appropriate unit. Certification by the FLRA

means that only this particular Union is authorized to act for the Employees in the bargaining unit and negotiating agreements on their behalf. The labor organization enjoying this status is known as the Exclusive Representative.

EXPIRATION DATE - Formal termination date established in a collective bargaining Agreement or the earliest date at which the Agreement may be terminated.

FEDERAL LABOR RELATIONS AUTHORITY (FLRA) - An administrative body empowered by Title VII of the Civil Service Reform Act of 1978 to provide leadership in Federal service labor-management relation matters by establishing policies and guidance.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS) - An independent Federal agency which provides mediators to assist the Parties involved in negotiations, or in a labor dispute, in reaching a settlement; provides lists of suitable arbitrators on requests; and engages in various types of "preventive mediation."

FEDERAL SERVICE IMPASSES PANEL (FSIP) - Organizational entity within the FLRA, which resolves bargaining impasses in the Federal service. The Panel may recommend procedures, including arbitration, for the settling of impasses or it may direct settlement of the impasse itself.

FORMAL DISCUSSION - A formal discussion exists when the following two conditions are met:

a. The participants in the discussion are an agency Representative and a bargaining unit Employee(s), or the Employee's Representative(s).

b. The subject of the discussion is:

(1) An Employee's grievance, or

(2) Personnel policy or practice, or other condition of employment which affect bargaining unit Employees.

GENERAL COUNSEL - An individual appointed by the President to the FLRA. The General Counsel is responsible for investigation of Unfair Labor Practice (ULP) allegations, filing and prosecuting ULP complaints, and exercising other powers prescribed by the FLRA.

GOOD FAITH BARGAINING - Defined by law as the obligation to

approach negotiations with a sincere resolve to reach a collective bargaining Agreement; to be represented by properly authorized Representatives who are prepared to discuss and negotiate; to meet at reasonable times and convenient places as frequently as necessary; to avoid unnecessary delays in negotiations; and in the case of the agency, to furnish, insofar as possible, information requested by the Union.

GRIEVANCE - Any complaint:

a. by any Employee concerning any matter relating to the employment of the Employee;

b. by any labor organization concerning any matter relating to the employment of any Employee; or

c. by any Employee, labor organization, or agency concerning --

(1) the effect or interpretation, or a claim of breach of a collective bargaining Agreement; or

(2) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

GRIEVANCE PROCEDURE - See Negotiated Grievance Procedure.

INVESTIGATORY EXAMINATION - Any examination of an Employee in the unit by a Representative of the agency in connection with any investigation.

IMPASSE - A situation in which the Parties are unable to reach a settlement.

JUST CAUSE - Good or fair reasons to take some action.

LOCAL UNION - Labor organization representing a bargaining unit located in a particular area or establishment, which is chartered by a national or international Union.

MANAGEMENT - All levels of Management to which the Utah Army National Guard assigns managerial or supervisory responsibilities.

MEDIATION - A procedure by which an impartial third party (a mediator) is used to settle disputes. The mediator assists in resolving the dispute by attempting to find a solution satisfactory to both Parties in a dispute but renders no binding

decisions. In the Federal government, mediation is required before impasses can be referred to the Federal Service Impasses Panel.

MEET AND CONFER - A meeting to talk over problem(s) concerning personnel policies, practices, and working conditions.

MIDTERM NEGOTIATIONS - Bargaining changes affecting conditions of employment during the life of this Agreement which are not in conflict with this Agreement.

NEGOTIABILITY - Whether a given topic is subject to bargaining between the agency and the Union. The FLRA makes final decisions on whether a subject is negotiable.

NEGOTIATION - A mutual obligation of the Parties to meet or otherwise communicate at reasonable time on a timely basis and bargain in a good faith effort to reach Agreement with respect to conditions of employment, working conditions, and personnel policies and practices, with the view toward arriving at a formal Agreement.

NEGOTIATED GRIEVANCE PROCEDURE - The systematic procedure agreed to by the negotiating Parties for the resolution of grievances. The negotiated grievance procedure is applicable only to Employees in the bargaining unit.

NON-DUTY TIME - An Employee's time which performance of duty is not normally required, for example before and after work, lunch time, and break times.

NEGOTIATION DISPUTE - A disagreement between the Parties as to the negotiability of an item.

OFFICIAL TIME - Duty time that is granted to a Union Representative to perform designated functions without loss of pay or charge to that Employee's leave account.

PAST PRACTICE - Those privileges of Employees which by custom, tradition, and known past practice have become an integral part of their working conditions. A past practice or procedure will normally meet the following tests; (1) are known to Management, (2) responsible Management knowingly allows to continue and practice, and (3) such practice continues for some significant length of time. Such practices remain in effect provided they are not contrary to law or the collective bargaining Agreement. Not being addressed in the Collective Bargaining Agreement will not effect past practices.

PARTIES - Management and Union collectively.

RECOGNITION - Employer acceptance of a labor organization as the one authorized to negotiate.

REPRESENTATIONAL ACTIVITIES - Activities performed by a Union (or the Union's Representative) on behalf of the Employees the Union represents. Such activities include meeting and negotiating with Management, investigating problems, handling grievances, and policing the terms of the collective bargaining Agreement.

STATUTE - A law.

STATUTORY - Of or relating to a law. A statutory appeal procedure is an appeal procedure prescribed by law.

STEWARD - A Local Union's Representative designated to carry out Union duties, such as handling grievances.

SUBORDINATE AGREEMENT - Any Agreement negotiated by the Parties.

SUPERVISOR - An individual having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove Employees, to adjust their grievances, or to effectively recommend such action.

SUPPLEMENTAL AGREEMENT - An Agreement negotiated subsequent to the basic Agreement.

SUSPENSION - A form of disciplinary action of a temporary nature, as in removing an Employee from his/her job for a stipulated time with the consequent loss of pay.

UNFAIR LABOR PRACTICE - Action by either Management or Union which violates the provisions of law.

UNILATERAL ACTION - Implementation of Management decisions concerning personnel policies and matters affecting working conditions which were developed without Union input. Unilateral actions in areas requiring consultation or negotiation are subject to ULP charges.

UNION - NFFE Local 1724, Local officers of the Union, Union Stewards, and other authorized Representative designated by any of the above.

UNIT - See Bargaining Unit.

WEINGARTEN RIGHT - Name taken from a private sector case. Refers to the right of a bargaining unit Employee to be represented by the Union under specific circumstances. That right exists when (1) the Employee is examined in an investigation (and investigatory examination) conducted by an agency representative, (2) the Employee reasonably believes disciplinary action against him/her may result, and (3) the Employee requests Union Representation.

WORKING CONDITIONS - See Conditions of Employment.

WRITTEN NOTIFICATION - Written hard copy delivered by U.S. Postal Service. (Electronic Mail will not be used as a substitute for written notification.)

APPENDIX B

NEGOTIATED GRIEVANCE FORMS

NEGOTIATED GRIEVANCE FORM

SECTION 1 | STEP 1

1. _____
Name of aggrieved, position title, grade, & organization.

2. This grievance involves the interpretation, application or violation of (cite Cooperation Agreement Article(s), regulations, etc.):

3. Nature of the grievance. (Describe the occurrence, condition, or the way in which the agreement or policy has been interpreted, applied, or violated. Additional pages may be used and documents attached as necessary:

3a. Corrective action desired:

4. An informal meeting was held on _____, between
(date)

_____ and _____.
(Grievant) *(Supervisor or Union Official)*

A satisfactory resolution has not been reached within 5 working days of the informal meeting. I desire to proceed to Step 2 of the Negotiated Grievance Procedure. I understand that I may withdraw this grievance at any time.

_____ _____
(signed) *(date)*

5. _____ is hereby
(Name, title, address and phone #)

designated as my/our representative in this grievance.

PREVIOUS EDITIONS OBSOLETE

UTNG FORM 1109
8 April 1992

NEGOTIATED GRIEVANCE FORM

SECTION 2 STEP 2

_____ (date)

Informal efforts have failed to satisfactorily resolve this problem. I/We therefore formally submit this grievance to _____ (Supervisor/Union Official) on this _____ (day) day of _____ (month/year).

I/We certify that I/we have submitted copies of this grievance form to the Union and the SPMO-L as required by the Negotiated Grievance Article.

_____ (signature of grievant) _____ (date)

_____ (Supervisor/Union Official) _____ (date recd)

The following is my decision on the grievance described above: (additional pages may be used as necessary)

_____ (Supervisor/Union Official) _____ (date)

Formal efforts (Step 2) have failed to satisfactorily resolve this problem. I/We therefore request to proceed to Step 3 of the Negotiated Grievance procedure.

_____ (signature) _____ (date)

PREVIOUS EDITIONS OBSOLETE

UTNG FORM 1109
8 April 1992

NEGOTIATED GRIEVANCE FORM

SECTION 3 | STEP 3

Informal (Step 1) and Formal (Step 2) efforts have failed to satisfactorily resolve this grievance. I/We therefore submit this grievance to The Adjutant General/Union President for review. I/We understand that the TAG/Union President decision will be the final Agency/Union decision on this matter.

_____ (Grievant)

_____ (date)

I have thoroughly reviewed this grievance and all documentation associated with it, and have interviewed individuals as necessary. This is my decision on this matter:

_____ (The Adjutant General/Union President)

_____ (date)

PREVIOUS EDITIONS OBSOLETE

UTNG FORM 1109-1
8 April 1992

APPENDIX C

5 U.S.C.

CHAPTER 71

Please Note:

This Appendix contains the original labor-management relations law established by the Civil Service Reform Act (CSRA) of 1978. Any changes made to that law since CSRA have not been included here. If you need the latest edition of that law, obtain a current copy of Title 5 of the United States Code and see Part III, Subpart F, Chapter 71, "Labor-Management Relations."

TITLE VII—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

SEC. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F—Labor-Management and Employee Relations

"CHAPTER 71—LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"7101. Findings and purpose.
"7102. Employees' rights.
"7103. Definitions; application.
"7104. Federal Labor Relations Authority.
"7105. Powers and duties of the Authority.
"7106. Management rights.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"Sec.
"7111. Exclusive recognition of labor organizations.
"7112. Determination of appropriate units for labor organization representation.
"7113. National consultation rights.
"7114. Representation rights and duties.
"7115. Allotments to representatives.
"7116. Unfair labor practices.
"7117. Duty to bargain in good faith; compelling need; duty to consult.
"7118. Prevention of unfair labor practices.
"7119. Negotiation impasses; Federal Service Impasses Panel.
"7120. Standards of conduct for labor organizations.

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW

"Sec.
"7121. Grievance procedures.
"7122. Exceptions to arbitral awards.
"7123. Judicial review; enforcement.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.
"7131. Official time.
"7132. Subpenas.
"7133. Compilation and publication of data.
"7134. Regulations.
"7135. Continuation of existing laws, recognitions, agreements, and procedures.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 7101. Findings and purpose

"(a) The Congress finds that—

"(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

"(A) safeguards the public interest,

"(B) contributes to the effective conduct of public business, and

"(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

"(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

"(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

"§ 7102. Employees' rights

"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right—

"(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

"§ 7103. Definitions; application

"(a) For the purpose of this chapter—

"(1) 'person' means an individual, labor organization, or agency;

"(2) 'employee' means an individual—

"(A) employed in an agency; or

"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official;

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency; or

"(v) any person who participates in a strike in violation of section 7311 of this title;

"(3) 'agency' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

"(A) the General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Ceneral Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority;

or

"(G) the Federal Service Impasses Panel;

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include—

"(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

"(C) an organization sponsored by an agency; or

"(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(9) 'grievance' means any complaint—

"(A) by any employee concerning any matter relating to the employment of the employee;

"(B) by any labor organization concerning any matter relating to the employment of any employee; or

"(C) by any employee, labor organization, or agency concerning—

"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—

"(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;

"(B) relating to the classification of any position; or

"(C) to the extent such matters are specifically provided for by Federal statute;

"(15) 'professional employee' means—

"(A) an employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which—

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—

"(i) on the basis of an election, or

"(ii) on any basis other than an election,

and continues to be so recognized in accordance with the provisions of this chapter;

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

"(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

"(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

"(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

"§ 7104. Federal Labor Relations Authority

"(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c)(1) One of the original members of the Authority shall be appointed for a term of 1 year, one for a term of 3 years, and the Chairman for a term of 5 years. Thereafter, each member shall be appointed for a term of 5 years.

"(2) Notwithstanding paragraph (1) of this subsection, the term of any member shall not expire before the earlier of—

"(A) the date on which the member's successor takes office, or

"(B) the last day of the Congress beginning after the date on which the member's term of office would (but for this subparagraph) expire.

An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

"(2) The General Counsel may—

"(A) investigate alleged unfair labor practices under this chapter,

"(B) file and prosecute complaints under this chapter, and

"(C) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

"§ 7105. Powers and duties of the Authority

"(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

"(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority—

"(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

"(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

"(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

"(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

"(E) resolves issues relating to the duty to bargain in good faith under section 7117(c) of this title;

"(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

"(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

"(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

"(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.

"(e)(1) The Authority may delegate to any regional director its authority under this chapter—

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to supervise or conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may—

"(1) hold hearings;

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

"(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"(i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

"§ 7106. Management rights

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws—

"(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

"(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

"(C) with respect to filling positions, to make selections for appointments from—

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

"SUBCHAPTER II—RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

"§ 7111. Exclusive recognition of labor organizations

"(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

"(b) If a petition is filed with the Authority—

"(1) by any person alleging—

"(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

"(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(c) A labor organization which—

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing empoyees eligible to vote the opportunity to choose—

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(f) Exclusive recognition shall not be accorded to a labor organization—

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

"§ 7112. Determination of appropriate units for labor organization representation

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes—

"(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;

"(2) a confidential employee;

"(3) an employee engaged in personnel work in other than a purely clerical capacity;

"(4) an employee engaged in administering the provisions of this chapter;

"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

"(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

"(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization—

"(1) which represents other individuals to whom such provision applies; or

"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"§ 7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

"(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) be permitted reasonable time to present its views and recommendations regarding the changes.

"(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

"§ 7114. Representation rights and duties

"(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

"(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at—

"(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

"(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if—

"(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

"(ii) the employee requests representation.

"(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.

"(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

"(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from—

"(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or

"(B) exercising grievance or appellate rights established by law, rule, or regulation;

except in the case of grievance or appeal procedures negotiated under this chapter.

"(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data—

"(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"(c)(1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

"(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

"(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

"(4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

"§ 7115. Allotments to representatives

"(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

"(2) the employee is suspended or expelled from membership in the exclusive representative.

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

"(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

"§ 7116. Unfair labor practices

"(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

"(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

"(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure—

"(1) to meet reasonable occupational standards uniformly required for admission, or

"(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

"(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7121 (e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

"(e) The expression of any personal view, argument, opinion or the making of any statement which—

"(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election.

"(2) corrects the record with respect to any false or misleading statement made by any person, or

"(3) informs employees of the Government's policy relating to labor-management relations and representation,

shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

"§ 7117. Duty to bargain in good faith; compelling need; duty to consult

"(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Goverment-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if—

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines that a compelling need for a rule or regulation does not exist.

"(3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

"(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by—

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency.

"(3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall—

"(A) file with the Authority a statement—

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation; and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

"(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

"(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall—

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization—

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

"§ 7118. Prevention of unfair labor practices

"(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice—

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of—

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

"(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order—

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

"(C) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

"(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

"(8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

"§ 7119. Negotiation impasses; Federal Service Impasses Panel

"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse—

"(1) either party may request the Federal Service Impasses Panel to consider the matter, or

"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

"(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

"(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and and shall either—

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may—

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

"(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

"§ 7120. Standards of conduct for labor organizations

"(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

"(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

"(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

"(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

"(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

"(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that—

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

"(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

"(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation—

"(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

"(2) take any other appropriate disciplinary action.

"SUBCHAPTER III—GRIEVANCES

"§ 7121. Grievance procedures

"(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d) and (e) of this section, the procedures shall be the exclusive procedures for resolving grievances which fall within its coverage.

"(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that—

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) The preceding subsections of this section shall not apply with respect to any grievance concerning—

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment; or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

"(e)(1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his

option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

"(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

"(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

"§ 7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient—

"(1) because it is contrary to any law, rule, or regulation; or

"(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date of such award, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§ 7123. Judicial review; enforcement

"(a) Any person aggrieved by any final order of the Authority other than an order under—

"(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

"(2) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which

the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall

have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

"SUBCHAPTER IV—ADMINISTRATIVE AND OTHER PROVISIONS

"§ 7131. Official time

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section—

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

"§ 7132. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

No subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7133. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§ 7134. Regulations

"The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§ 7135. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude—

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.".

BACKPAY IN CASE OF UNFAIR LABOR PRACTICES AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code is amended to read as follows:

"(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

"(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

"(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

"(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

"(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

"(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

"(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(3) For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit.".

I witness thereof, the Parties herto executed this basic Employee-Management Cooperation Agreement on 6 FEB 1992. The effective date of this Agreement shall be the date of approval by the National Guard Bureau, or the 31th day after execution if NGB has neither approved nor disapproved this Agreement.

FOR THE UTAH ARMY NATIONAL GUARD:

Chief Negotiator

Alt Chief Negotiator

Team Member

Alt Team Member #1

Alt Team Member #2

FOR THE UNION:

Chief Negotiator

Alt Chief Negotiator

Team Member

Alt Team Member #1

Alt Team Member #2

FOR THE CHIEF, NATIONAL GUARD BUREAU:

Approved:

MICHAEL F. MEAD
Chief, Labor and Employee
Services Division