

MEMORANDUM OF UNDERSTANDING

between the

CITY OF BALTIMORE



and the

***AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES***

AFL-CIO, COUNCIL 67 & LOCAL 558

COMMUNITY HEALTH NURSES

and

NURSE PRACTITIONERS

Fiscal Years 2020-2021

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ARTICLE 6
Grievance and Arbitration Procedure

Sec. 6.1 - Grievance Defined

Subject to any limitations of existing law, any grievance defined in the Municipal Employee Relations Ordinance Section 1-1(g) as a dispute concerning the application or interpretation of the terms of this Agreement or a claimed violation, misinterpretation of misapplication of the rules or regulations of any municipal agency or the Employer affecting the terms and conditions of employment, may be settled in the following manner:

Step 1: Immediate Supervisor

The Union Representative with the aggrieved employee shall discuss the grievance with the employee's immediate supervisor within ten (10) calendar days of the date of the grievance or her knowledge of its occurrence, but in no event more than thirty (30) days from the date of the grievance. The employee's immediate supervisor shall attempt to adjust the matter within ten (10) calendar days of the presentation of the grievance.

Step 2: Written Appeal

If the grievance has not been satisfactorily resolved in Step 1, a written appeal may be taken to the employee's next higher supervisor on a form to be provided by the Employer and approved by the Union within ten (10) calendar days following the completion of Step 1. The supervisor shall meet with and discuss the grievance with a Union Representative and the aggrieved employee within ten (10) calendar days of the written appeal. An answer to the grievance shall be submitted to the aggrieved employee and the Union representative(s) present at the hearing in writing on the said form within ten (10) calendar days thereafter. Grievance report form attached as Addendum I.

Additionally, grievances filed on behalf of a group of employees (Class Action) will be filed directly with the Department Head, within ten (10) work days after the employee had knowledge, or should have had knowledge, of the event which caused the grievance or complaint, by the Union.

The supervisor shall meet with and discuss the grievance with a Union Representative and the aggrieved employee within ten (10) work days of the written appeal. An answer to the grievance shall be submitted to the aggrieved employee and the Union representative(s) present at the hearing in writing, from the supervisor who heard the case, on the said form within ten (10) work days thereafter.

Step 3: Labor Commissioner

If the grievance has not been satisfactorily resolved in Step 2, a written appeal may be filed on said form with the Department Head or her designee within ten (10) calendar days following the completion of Step 2. Within ten (10) calendar days of such an appeal, the Department Head or

Management representative designated by her and the Labor Commissioner meet with the Union Representative and the aggrieved employee to discuss the grievance. The Labor Commissioner shall respond in writing on the said form within ten (10) calendar days thereafter.

Step 4: Final & Binding Arbitration

If the grievance has not been satisfactorily resolved within ten (10) days following the completion of Step 3, then either the Union or the Employer, but only the Union or the Employer, may request that the grievance be arbitrated before a neutral arbitrator selected for that purpose. A copy of the notice or demand for arbitration shall be delivered to the Office of the Labor Commissioner. Thereafter, either party may request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) arbitrators who each are members of the National Academy of Arbitrators, FMCS Area No. 7. An arbitrator shall be chosen by alternately striking names from the list; last name remaining being the arbitrator chosen.

- (a) The arbitrator shall be without power to add to, subtract from, change or alter any provision of the Agreement, City policy, or applicable State or local law.
- (b) The arbitrator shall confine himself to the precise question presented for arbitration and shall have no authority to determine any other question.
- (c) The arbitrator may hear or decide more than one (1) grievance if jointly requested by the parties.
- (d) The fee charged by any arbitrator for proceedings under this Agreement shall be equally divided between the Employer and the Union. The cost of expert witnesses or materials in preparation for, or used during, the arbitration proceeding shall be borne by the party presenting said witness or material.
- (e) Any award issued by an arbitrator shall be final and binding on the Union, the Mayor and City Council, the agency and the employee(s) aggrieved.

Sec. 6.2 - Time Limits

- (a) Time limits under this Article may be changed by mutual agreement.
- (b) If the finding or resolution of a grievance at any step of the procedure is not appealed within the prescribed time, said grievance will be considered settled on the basis of the last answer provided, and there shall be no further appeal or review. Should the Employer not respond within the prescribed time, the grievance will proceed to the next step?
- (c) In computing the time limits under this Article, the date the answer is received at the preceding step shall be counted.

Sec. 6.3 - Suspension and Reduction in Pay

(a) The time period for filing a grievance under this Memorandum or an administrative appeal before the City's Civil Service Commission to contest any form of discipline shall not begin until after a conference is held, or in the case of a termination, after the pre-termination hearing is held, the final action is issued by the appointing authority and the employee(s) affected have received written notice of such action.

(b) The rights of any employee who, on or after July 2, 2007, is discharged, reduced in pay or position or suspended for more than thirty (30) days shall be as prescribed in Article VII, Section 100 of the Baltimore City Charter (2006), as amended by City Council Resolution 06-017 (ratified November 7, 2006) and in Article 10, Paragraph 10.2. b of this Memorandum.

(c) Any employee, who is disciplined, including suspensions for less than 31 days, shall be permitted to grieve such discipline. The Union may advance the employee's grievance to arbitration if in its discretion the Union finds arbitration to be appropriate. The issue presented which may be decided by an arbitrator, shall be whether, consistent with Baltimore City Code (2000), Article 12, Section 3-2(3) (i), the discipline was for just cause, and, if not, what shall be the remedy.

Sec. 6.4 - Representation

(a) Representative of Choice: At any step of this procedure, the aggrieved shall be entitled to the representative of choice.

(b) Union Representation: In the presentation of grievances, representation of aggrieved employees by Union representatives shall be permitted at each step.

(c) Grievance Processing - Time Off with Pay: A recognized and accredited representative of the Union shall be granted reasonable time off without loss of pay during working hours, where practical, where the representative is engaged in processing a grievance under Article 6 of the Memorandum of Understanding. The aggrieved shall be granted reasonable time off during work hours without loss of pay while she is engaged in processing the grievance.

ARTICLE 8

Leaves

Sec. 8.15 - President's Leave and Union Activity

Union Activity during Working Hours

(a) The Employer and the Union recognize that the president and stewards play an important role in effectuating the terms of this Agreement; however, both parties acknowledge that the duties undertaken as a steward are in addition to the employee's normal job assignment.

Consistent with the operational needs of the Employer, the Employer shall grant time off with pay, including reasonable travel time when necessary during work hours, for:

1. Grievance investigations;
2. Labor Management, Committee meetings, and activities if such meetings or activities have been jointly established by the parties; or,
3. Negotiating sessions regarding supplementation or amendment of this Agreement during its term;
4. Meetings called or agreed to by the Employer, if such employees are entitled and required to attend the meetings by virtue of being Union representatives or stewards.

Release hours will not exceed the employee's normally scheduled workday. Time off with pay will not be unreasonably withheld. The Union, whenever possible, will provide the Employer with the names of its representatives who need release time, within seven (7) work days, before the scheduled meeting.

Union representatives shall be allowed reasonable work time to complete assignments that have been assigned by the Labor Management Committee. The employee's supervisor shall approve when the time can be taken.

- (b) The President of Local 558 or her designee may request and be granted up to a maximum of fifty-two (52) days of duty time per year in order to conduct Union business and up to a maximum of twenty (20) days for other members for union training. The Union shall provide on a quarterly basis a report to the appropriate Assistant Commissioner and Office of the Labor Commissioner of the dates and times used.

ARTICLE 10

Discipline and Discharge

Sec. 10.1 - Discipline

Disciplinary action may be imposed upon an employee only for just cause. If the Employer has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public. Following disciplinary action, the employee shall be notified that a copy of the disciplinary action will be forwarded to the union president unless the employee notifies the Employer within two (2) workdays of the disciplinary action that a copy should not be sent to the Union. It shall also be explained to the employee that notification of discipline does not constitute a grievance being filed, which must be generated by the Union.

Sec. 10.2 - Discharge, Reduction in Pay or Position or Suspension for More than Thirty (30) Days

- (a) The Employer shall not discharge any employee who has completed her probationary period, nor shall the employer reduce in pay or position, or suspend for more than thirty (30) days, any employee without just cause as may, in the opinion of the person authorized by law to remove or dismiss such employee, interfere with the efficient performance of the employee's duties. The

employee will be promptly notified, in writing, of any discharge, reduction in pay or position, or suspension for more than thirty (30) days, and specific reasons will be given.

(b) Any employee who is discharged, reduced in pay or position, or suspended for more than thirty (30) days may contest the action either (i) by lodging an appeal with the Civil Service Commission under the official rules of the Commission, or (ii) by filing a grievance under Article 6, Paragraph 6.1. of this Memorandum which grievance must be filed within fifteen (15) days after the action challenged. The employee's choice of which procedure to use to contest the action shall be final and binding on the employee, and the employee may not subsequently choose to follow a different procedure. If the employee elects to file a grievance, it shall be filed initially at Step 3 of the Grievance Procedure in Article 6, Paragraph 6.1 of this Memorandum, and it shall subsequently be processed by the Union through that grievance and arbitration procedure. The Union may advance the employee's grievance to arbitration if in its discretion the Union finds arbitration to be appropriate, and the employee shall be bound by the Union's decision whether or not to arbitrate. The Union also may decline to arbitrate. The issue presented, which may be decided by an arbitrator, shall be whether, consistent with Baltimore City Code (2000), Article 12, Section 3-2(3)(i), the discipline issued by the Employer was for just cause, and, if not, what shall be the remedy. The Arbitrator's decision shall be final and binding on the City, the Union and on the employee(s) affected.

(c) The Employer must impose disciplinary action not later than thirty (30) days after the agency acquires knowledge of the misconduct for which the disciplinary action is imposed; except in those cases where criminal conduct may be involved, or with offenses related to violations of civil statutes, including those governing anti-discrimination and sexual harassment, and in those cases, the Employer must impose disciplinary action no later than thirty (30) days after the investigation is completed.

(a) No employee shall be suspended without pay, even if only pending further investigation without (i) prior written notice of the offense(s) for which the employee may be charged; (ii) prior notice to the Union of the same; and (iii) an informal hearing at which management shall be required to present its evidence and findings to sustain the charge(s) to the extent of a probable cause determination.

ARTICLE 11 ***No Strike or Lockout***

Sec. 11.1 - No Strike - No Lockout

The Union and its members, individually and collectively, agree that during the term of this Memorandum of Understanding, there shall be no strikes, slow-ups, stoppage of work and the City agrees that there shall be no lockout.

Sec. 11.2 - Unauthorized Strikes

In the event of an unauthorized strike, slow-up or stoppage, the City agrees that there will be no liability on the part of the Union, provided the Union promptly and publicly disavows such

unauthorized strike, orders the employees to return to work and attempts to bring about a prompt resumption of normal operations, and provided further that the Union notifies the City, in writing, within forty-eight (48) hours after the commencement of such strike, what measures it has taken to comply with the provisions of this Article.

Sec. 11.3 - Discipline of Strike Participants

In the event that such action by the Union had not effected resumption of normal work practices, the City shall have the right to discipline, by way of discharge or otherwise, any member of the Union who participates in such strike, slow-up or stoppage, and no such disciplinary action shall be subject to the grievance procedure provided for in this Memorandum of Understanding.

ARTICLE 12 ***Hours of Work***

Sec. 12.1 - Hours of Work

(a) Regular 12-month employees shall work seven and one-third (7 1/3) hours with a forty (40) minute unpaid meal period within the hours of 7:30 a.m. to 7:30 p.m., Monday through Friday, depending on the operating hours of the program. Adjustment of hours to accomplish optimum service will be determined by management.

(b) Regular ten (10) month employees shall work seven and one-third (7 1/3) hours with a forty (40) minute unpaid meal period within the hours of 7:30 a.m. to 4:30 p.m., Monday through Friday, depending on the operating hours of the school subject to evaluation of the school health program. Adjustment of hours to accomplish optimum service will be determined by management and based upon the operational needs of the school.

(c) On Call Employees: Employees on call during the weekend who are required to remain in their homes shall be granted compensatory time off for those hours spent on call. In the event an employee is called in to go on assignment, she shall have the option of receiving compensatory time at the rate of one and one-half (1½) hours for each hour spent on assignment, or she may receive payment for each hour spent on assignment at one and one-half (1½) her normal rate of pay.

(d) Use of Comp Time: The use of compensatory time shall not be unreasonably denied.

(e) Breaks: All employees shall be provided two (2) fifteen (15) minute breaks per workday, provided it does not unduly interrupt City business.

(f) Employees are entitled to a duty-free unpaid lunch. For Employees assigned to school health, depending on the operating hours of the school and based on students' health needs as determined by the site's supervisor, all forty (40) minute lunch periods must be scheduled for the middle of the workday, starting at 11:00 am and ending by 2:00 pm. There are no terminal (end of shift) lunch breaks.

If an employee is required by her supervisor to perform, during any portion of the unpaid duty-free lunch period, a service that cannot be postponed or rescheduled, the incomplete portion of the lunch period shall be paid at the applicable overtime rate.

If an employee is unable to take a duty-free lunch period in order to perform a service required by her supervisor, that cannot be postponed or rescheduled, and the employee is not given time during the shift to take lunch, the lunch period shall be paid at the applicable overtime rate.

In either case, the employee must work an entire shift in order to be paid overtime for any portion of the lunch period.

Authorization for overtime payments for interrupted lunch periods not taken must be given by the employee's immediate supervisor or designee in order to be eligible for overtime payment.

ARTICLE 13 ***Assignments***

Sec. 13.1 – Evening and Weekend Assignments

Nurses will be assigned to evening and weekend assignments according to a schedule plan subject to the following:

- (a) Seniority: Registered Nurses with eighteen (18) years of service with this agency will have the option of accepting any evening or weekend assignment.
- (b) Employees Registered for College: Nurses registered for accredited college courses will not be assigned on the evenings or weekends of their classes.
- (c) Compensation: One and one-half (1½) hours of compensatory time, or paid time at one and one-half (1½) the computed hourly rate, at the employee's option, shall be paid after twelve (12) minutes for each hour worked in excess of a regularly scheduled shift.
- (d) Two or More Different Types of Work: When an employee in a single work week works at two (2) or more different types of work for which different straight-time rates have been established, the employee will receive paid overtime for the type of work that is performed during the overtime hours at the higher rate for all hours over thirty-six (36) hours and forty (40) minutes in a work week.

Sec. 13.2 – Assignments, Public Health Emergency Response

- (a) Assignments during an event requiring a public health emergency response: The Employer and Union agree that events such as terrorist attacks and large-scale communicable disease outbreaks demonstrate the need for the Health Department to expand its mission to respond to such public health emergencies. The Health Department shall maintain a list of volunteers who shall be called upon to respond to the public health emergencies. Should there not be enough volunteers available for an event, employees with the least seniority on a Department-wide basis shall be

called for all assignments. Once an employee has been selected and worked an assignment, her name shall be placed at the end of the seniority list. Discretion shall be used by the Commissioner of Health on a case-by-case basis regarding transportation problems and/or personal responsibilities.

(b) Employees reporting for duty when the City is officially closed due to an emergency or unforeseen circumstance shall be entitled to a payment of fifty dollars (\$50.00) per event. Such payment shall be in addition to the employees' regularly scheduled pay or overtime benefit paid for working during the event.

Section 13.3 Delegation (Bureau of School Health)

- (a) Assignments that involve delegation to non-licensed staff must abide by the guidelines set forth in The Maryland Board of Nursing-Nurse Practice Act.
- (b) Nurses who are assigned to positions within the BCHD, Bureau of School Health that involve delegation to non-licensed staff shall be provided the Case Manager/Delegating Nurse Training.
- (c) Any member who takes the Case Manager/Delegating Nurse Training shall receive the training manual.
- (d) After completion of the Case Manager/Delegating Nurse Training, the Agency shall forward all required documentation to the Maryland Board of Nursing in a timely manner.
- (e) The Agency shall promulgate guidelines for delegation within the BCHD, Bureau of School Health.

ARTICLE 24 ***Out-Of-Title-Work***

Sec. 25.1 - Eligibility

Whenever an employee is assigned to perform the duties and responsibilities of a higher classification for a period in excess of ten (10) consecutive working days, she shall be paid the higher rate for such services commencing on the eleventh (11th) working day, in accordance with the rules and regulations as set forth in the Administrative Manual.

Sec. 25.2 - Maximum Performance and Compensation Period

No employee shall be required to perform or shall receive compensation for out-of-title work for more than ninety (90) days.

ARTICLE 29
Seniority

Sec. 30.1 - Seniority Factored

The Employer and the Union recognize the principle of seniority as a factor in promotion, layoff, reemployment, transfer, and other conditions of employment and recognize the need of maintaining an efficient work force. The application of seniority under this Article shall prevail where the principle does not conflict with any provision of applicable law.

Sec. 30.2 - Seniority in Layoffs

(a) Factors Considered: In the case of reduction-in-force or elimination of position, the appointing officer shall retain the best qualified individual utilizing the following factors: merit, efficiency, work performance, length of service in the present classification or other classification, total length of service in the Classified Service, and any other classification relating to efficient operation of the organized unit. (Civil Service Rule 52). After an employee's effective layoff date is scheduled, she shall be entitled to convert to cash her accumulated vacation and personal leave.

(a) Sick Leave Conversion - Layoff: In either event, sick leave for the then current sick leave year shall be converted at the time of employment termination to cash payment on a one (1) for four (4) basis as provided in Article 8 of this Memorandum.

Sec. 30.3 - Voluntary Layoff

In case of a reduction-in-force or elimination of a position, an employee with twenty (20) years or more of continuous City service may volunteer to be laid-off. The employee must send a written request to the agency head asking that she be selected for lay-off. If the agency head approves the request, the employee must also meet the Employees' Retirement Systems (ERS) eligibility requirements.