

COMMONWEALTH OF MASSACHUSETTS
AND THE
NEW ENGLAND POLICE BENEVOLENT ASSOCIATION
COLLECTIVE BARGAINING AGREEMENT

JULY 1, 2014 – JUNE 30, 2017

ARTICLE 5 UNION BUSINESS

Section 3 Paid Leave of Absence For Union Business

Leave of absence without loss of wages, benefits or other privileges may be granted to elected delegates of the Union to attend NEPBA conventions and conventions of the State, AFL-CIO and parent organizations. Such paid leave shall not exceed a total of twenty (20) days per year.

Time off without loss of wages, benefits, or other privileges may be granted to Union negotiating committee members for attendance at negotiating sessions, **and related union caucuses**.

Section 5 Union Use of Premises

The Union shall be permitted to use facilities of the Department for the transaction of Union business during working hours and to have reasonable use of the Department's facilities during off duty hours for Union meetings subject to appropriate compensation if required by law. This section shall not be interpreted to grant an employee the right to carry on Union business during his/her own working hours, not granted elsewhere in the contract.

The Union shall be permitted **one hour** per year to address its members regarding various union issues.

ARTICLE 6 ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION

Section 1

The Employer and the Union agree not to discriminate in any way against employees covered by this Agreement on account of race, religion, creed, color, national origin, **gender**, sex, sexual orientation, age, **ethnicity**, mental or physical **disability**, union activity, **gender identity**, **military** or veteran status.

Section 2

The Union and the Employer agree that when the effects of employment practices, regardless of their intent, discriminate against any group of people on the basis of race, religion, creed, color, age, sex, national origin, or mental or physical **disability**, **gender identity**, **military**, or being a Vietnam Era Veteran, specific positive and aggressive measures must be taken to redress the effects of past discrimination, to eliminate present and future discrimination, and to ensure equal opportunity in the areas of hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation and in-service or apprenticeship training programs. Therefore the parties acknowledge the need for positive and aggressive affirmative action.

ARTICLE 6A Mutual Respect

The Commonwealth and the Union agree that mutual respect between and among managers, employees, co-workers and supervisors is integral to the efficient conduct of the Commonwealth's business. Behaviors that contribute to a hostile, humiliating or intimidating work environment, including abusive and inappropriate language or behavior, are unacceptable and will not be tolerated. Employees who believe they are subject to such behavior, and who want to pursue the matter, shall raise their concerns with an appropriate manager or supervisor as soon as possible, but no later than ninety (90) days from the occurrence of the most recent incident(s). In the event the employee(s) concerns have been formally raised at the agency level and are not addressed, within a reasonable period of time, the employee or the union may file a grievance at step 3 of the grievance procedure as set forth in Article 23 (notice shall be sent concurrently to the Agency Head or designee). If an employee, or the union, requests a hearing at step 3, such hearing shall be granted. Grievances filed under this section shall not be subject to the arbitration provisions set forth in Article 23. No employee shall be subject to discrimination for filing a complaint, giving a statement, or otherwise participating in the administration of this program.

ARTICLE 7 WORKWEEK AND WORK SCHEDULES

Section 2 Overtime

- A. An employee shall be compensated at the rate of time and one half his/her regular rate of pay for authorized overtime work performed in excess of forty-one and one quarter (41.25) hours per week.
- B. An employee whose regular workweek is less than forty hours shall be compensated at his/her regular rate for authorized overtime work performed up to forty hours per week that is in excess of his/her regular workweek.
- C. An employee whose regular workweek is forty (40.0) hours shall be compensated at the rate of time and one-half his/her regular hourly rate of pay for authorized overtime work performed in excess of eight (8.0) hours in his/her regular workday except that an employee whose regular workday is more than eight (8.0) hours shall be compensated at the rate of time and one-half his/her regular hourly rate of pay for authorized overtime work performed in excess of his/her regular workday. **However, an employee who is "not on payroll" (NOP) will not be eligible for premium overtime until he/she has accrued forty (40) hours of work and/or paid benefit time. This restriction shall not apply to any unpaid hours for approved union business leave.**

An employee whose regular workweek is forty-one and one quarter (41.25) hours shall be compensated at the rate of time and one-half his/her regular hourly rate of pay for authorized overtime work performed in excess of eight and one quarter (8.25) hours in his/her regular

workday except that an employee whose regular workday is more than eight and one quarter (8.25) hours shall be compensated at the rate of time and one-half his/her regular hourly rate of pay for authorized overtime work performed in excess of his/her regular workday. **However, an employee who is “not on payroll” (NOP) will not be eligible for premium overtime until he/she has accrued forty-one and one quarter (41.25) hours of work and/or paid benefit time. This restriction shall not apply to any unpaid hours for approved union business leave.**

The Employer shall not, for the purpose of avoiding the payment of overtime, curtail the scheduled hours of an employee during the remainder of a workweek in which the employee has previously worked hours beyond his/her normally scheduled workday. This paragraph shall not apply to employees who, because of the nature of the duties of their positions, work an irregular workday, nor shall it apply to employees who have been permitted by the Employer to participate in an approved voluntary flexible hours program that has been duly authorized by the Appointing Authority and by the Personnel Administrator.

For the purpose of ARTICLE 8 – LEAVE, ARTICLE 9 – VACATIONS, and ARTICLE 10 – HOLIDAYS, all paid leave time shall be prorated for regular part-time employees.

ARTICLE 8 LEAVE

Effective as soon as administratively feasible, the Commonwealth will transition from monthly accruals for sick and vacation benefits to biweekly accruals.

Section 8.1 Sick Leave

A. A full-time employee shall accumulate sick leave with pay credits at the following rate for each **bi-weekly pay period** of employment:

| | |
|--|--|
| <u>Scheduled Hours</u> 80 hours bi-weekly | <u>Sick Leave Accrued</u> 4.61544 hours |
|--|--|

An employee on any leave with pay or industrial accident leave shall accumulate sick leave credits. There shall be no limit to the number of unused sick leave credits which an employee may accumulate.

B. A regular part-time employee shall **accumulate** sick leave credits in the same proportion that his/her part-time service bears to full-time service.

C. Sick leave shall be granted, at the discretion of the Appointing Authority, to an employee only under the following conditions:

7. An employee shall be entitled to use up to ten (10) days of accrued sick leave per calendar year for necessary preparations and/or legal proceedings related to foster care of **DCF**

children, such as foster care reviews, court hearings and MAPS training for pre-adoptive parents. HRD may approve a waiver of the ten (10) day limit if needed for difficult placements. In addition, an employee may use the one day per month of paid leave available to employees for volunteer work under the Commonwealth's **SERV volunteer School Volunteer or Mentoring** programs for the above cited foster care activities.

D. A full-time employee shall not accrue **full sick leave credit for any bi-weekly pay period month** in which he/she was on leave without pay or absent without pay ~~for a total of more than one (1) day~~. **Instead the employee shall earn sick leave credits based on the hours paid within the bi-weekly pay period. This restriction shall not apply to any unpaid hours for approved union business leave.**

F. Sick leave must be charged against unused sick leave credits in units of **fifteen minutes**, but in no event may the sick leave credits used be less than the actual time off.

I. A regular part-time employee shall not accrue **full sick leave credit for any bi-weekly pay period month** in which he/she was on leave without pay ~~or absent without pay~~. **Instead the employee shall earn sick leave credits based on the hours paid within the bi-weekly pay period, in the same proportion that his/her service bears to one day of service of a full time employee.**

J. Employees requesting sick leave under this Article must notify the designated representative of the Appointing Authority at least one (1) hour before the start of his/her work shift on each day of absence. Repeated violations of this notification procedure may result in the denial of sick leave. Such notice must include the general nature of the **illness or injury disability** and the estimated period of time for which the employee will be absent. Where circumstances warrant, the Appointing Authority or designee shall reasonably excuse the employee from such daily notification.

L. *Add new section. (Old section L will become M and reformatted accordingly.)*
When an employee requests FMLA leave, or when the Employer acquires knowledge that an employee's leave may be for an FMLA qualifying reason, the Employer must notify the employee of the employee's eligibility to take FMLA leave within five (5) business days absent extenuating circumstances. Employees who are believed, by the employer, to have a serious medical condition qualifying for FMLA leave will obtain from their Healthcare Provider a completed "Certification of Healthcare Provider for Employee's Serious Health Condition" form (D-1). The employee will return this form within 15 days of receipt. In the event of an unanticipated illness, an employee who returns to work within 8 working days of the beginning of their absence will not be required to return form D-1 to his/her employer.

Section 2 Paid Personal Leave

A. **During the first full paid period in each** January, full-time employees on the payroll as of August 16, 2011 will be credited annually with paid personal leave credits at the following rate:

Scheduled Hours per Week

40.0 hours per week

Personal Leave Credits

40.000 hours

During the first full paid period in each January, full-time employees hired after the effective date of this Agreement will be credited annually with paid personal leave credits at the following rate:

Scheduled Hours per Week

40.0 hours per week

Personal Leave Credits

24.000 hours

Such personal leave may be taken during the following twelve (12) months at a time or times requested by the employee and approved by the Department. Full-time employees hired or promoted into the bargaining unit after **the first full pay period in** January of each year will be credited with personal leave days in accordance with the following schedule:

Except as provided for herein, any personal leave not taken by **the last Saturday prior to the first full pay period in January** will be forfeited by the employee. Personal leave days for regular part-time employees will be granted on a pro-rata basis. Employees' personal leave balances shall be charged for time used on an hour-for-hour basis, e.g. one hour charged for one hour used and may be used in conjunction with vacation leave. Charges to personal leave may be allowed in units of not less than one-half hour. An employee who cannot utilize his/her personal leave in the months of November and December, due to the operational needs of the Department shall be permitted to carry-over one day of personal leave credit not utilized, to the next calendar year.

Section 3 Bereavement Leave

Paid leave granted under this Section shall be prorated for regular part-time employees.

A. Upon evidence satisfactory to the Appointing Authority of the death of a spouse or child, an employee shall be entitled to a maximum of seven (7) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of **death of a child and within ninety (90) calendar days from the date of death of the employee's spouse.**

B. Upon evidence satisfactory to the Appointing Authority of the death of a foster child, step child, parent, step parent, brother, sister, grandparent, grandchild, person for whom the employee is legal guardian, parent or child of spouse or person living in household, an employee shall be entitled to a maximum of four (4) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of said death.

C. Upon evidence satisfactory to the Appointing Authority, an employee shall be **granted one (1) day of leave without loss of pay to attend the funeral of the employee's brother-in-law, sister-in-law, grandparent-in-law, or grandchild-in-law.**

Section 7.1 Family Leave

During family leave taken in conjunction with the birth, adoption or placement of a child, an employee shall receive his/her salary for ten (10) days of said leave, at the option of the employee. The ten (10) days of paid family leave granted under this Section may be used on an intermittent basis over the twelve (12) months following the birth of adoption, except that this leave may not be charged in increments of less than one (1) day. **For cases of foster placement, if the placement is less than 10 days, the number of paid days shall equal the number of work days that fall within the placement time period.** In addition, if the employee has accrued sick leave, vacation leave or personal leave credits available, the employee may use such credits for which he/she may otherwise be eligible under the sick leave, personal leave, or vacation leave provisions of this Agreement. **The ten (10) days of paid leave granted under this Section shall be prorated for regular part-time employees.** Where an eligible full-time or part-time employee and his/her eligible spouse are both employees of the Commonwealth, they shall jointly be entitled to a combined total of not more than ten (10) days paid under the provisions of this section.

Section 7.2 Family and Medical Leave

A. Family Leave

1. An Appointing Authority shall grant to a full-time or part-time employee who has completed her/his probationary period, or if there is no such probationary period, has been employed for at least three consecutive months, an unpaid leave of absence for up to twenty-six (26) weeks in conjunction with the birth, adoption or placement of a child as long as the leave concludes within twelve (12) months following the birth or placement. **The ability to take leave ceases when a foster placement ceases unless the need for additional leave is directly connected to the previous placement.**

B. Medical Leave

1. An Appointing Authority shall grant to any employee who has completed his/her probationary period or, if there is no probationary period, who has been employed at least three (3) consecutive months, an unpaid leave of absence for up to twenty-six (26) weeks to care for a spouse, child or parent who has a serious health condition or for a serious health condition which prevents the employee from being able to perform the functions of her/his position. **For this leave, under the Family and Medical Leave Act, 29 U.S.C. 2611 et seq., and accompanying regulations, 29 C.F.R. Part 825, the Employer will request medical certification at the time the employee gives notice of the need for the leave within five business days thereafter, or in the case of the unforeseen leave, within five business days after the leave commences. In the event of an unanticipated illness, an employee who returns to work within eight (8) working days of the beginning of their absence will not be required to return form D1 to his/her employer.**
3. At least thirty (30) days in advance, the employee shall submit a written notice of his/her intent to take such leave and the dates and expected duration of such leave.

The employee shall utilize the medical certification recommended by the Department of Labor (29 C.F.R. Section 825.306(a)), when requesting medical leave or when requested to provide such medical evidence by the Appointing Authority. (See FMLA Form 1 and FMLA Form 2).

If thirty (30) days notice is not possible, the employee shall give notice as soon as practicable. **Under FMLA law** the Appointing Authority may obtain a second opinion at its own expense. In the event there is a conflict between the second opinion and the original medical opinion, the Appointing Authority and the employee may resolve the conflict by obtaining the opinion of a third medical provider, who is approved jointly by the Appointing Authority and the employee, at the Appointing Authority's expense.

4. Intermittent leave usage and modified work schedules may be granted where a spouse, child or parent has a serious ~~health~~ **medical** condition and is dependent upon the employee for care, **or for a serious health condition which prevents the employee from being able to perform the functions of his/her position.** ~~Where intermittent or a modified work schedule is medically necessary, the employee and Appointing Authority shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the operations of the workplace.~~

Effective January 1, 2016 employees, who are on intermittent FMLA or for new requests, must provide satisfactory medical documentation to support an intermittent FMLA, and may utilize up to 60 days of their FMLA allotment provided for in Section 8(B)(1) for intermittent absences.

Where intermittent or a modified work schedule is medically necessary, the employee and Appointing Authority shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the operations of the workplace.

Such modified work schedules may include full time continuous leave, a change in job responsibilities, an alternative work option or a continuation of the intermittent leave beyond the sixty (60) days if operations allow provided the employee has not exhausted the 26 weeks of FMLA leave allowed within the previous 52 week period.

At the expiration of the intermittent medical leave, modified work schedule, or job assignment that was agreed upon, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the date of his/her leave.

In the event that no alternative is agreed upon and if the employer believes that operations are being unduly disrupted, the employer will give written

notice to the Union and employee of the intent to terminate the intermittent leave.

In such an event, no employee who then requests full time continuous leave and who is otherwise eligible shall be denied such leave as long as they provide medical documentation supporting an FMLA qualifying illness. Such leaves will be limited to the remainder of the 26 weeks of available FMLA leave and based upon their intermittent determination shall not be eligible for the Catastrophic leave extension.

The Appointing Authority shall maintain the ability to transfer an employee to an alternative position with no reduction of pay or benefits in order to avoid disruption of operations so as long as the transfer is reasonable and not meant to discourage the use of intermittent leave. Wherever practicable an employee who transfers pursuant to this paragraph shall be given 10 days' notice of such transfer.

In the event that the employer gives notice of its intent to terminate the intermittent leave, and the affected employee does not wish to access any remaining full-time leave benefits as described above, the Union may request expedited impartial review by an arbitrator to determine whether the Agency has made a reasonable attempt to accommodate the need of the employee's intermittent leave beyond the sixty (60) days and whether or not the leave unduly disrupts operations. Said review must be requested within 10 calendar days of the notification that the leave will be terminated. The status quo ante shall be preserved pending the decision of the arbitrator, unless the proceedings are unreasonably delayed due to the part of the Union or the Employee.

The parties shall meet upon execution of the agreement to establish the review/arbitration process noted above. Such proceedings shall be informal in accordance with the rules to be agreed upon by the parties. The parties shall develop a form to be used as notice to the Union and employee of the intent to terminate intermittent leave.

Section 13 Domestic Violence / Sexual Assault or Stalking Leave

An employee may use up to a maximum of fifteen (15) paid days per calendar year for the purpose of arranging for the care of him/herself or his/her child(ren) or for attending to necessary legal proceedings or activities in instances where the employee or his/her child(ren) is a victim of domestic abuse, **domestic violence, sexual assault or stalking** and where the employee is not the perpetrator: Said fifteen (15) paid days are in addition to any other paid leave which the employee may accrue under the provisions of this Agreement.

If the employee has accrued sick leave, personal leave, compensatory leave or vacation leave credits at the completion of his/her domestic violence leave, that employee may use such leave

credits for which he/she may be eligible under the sick leave, personal leave or vacation leave provisions of this Agreement.

ARTICLE 22 ARBITRATION OF DISCIPLINARY ACTION

Section 1

No employee who has been employed in the bargaining unit described in Article 1 of this Agreement for six (6) consecutive months or more shall be discharged, suspended, or demoted for disciplinary reasons without just cause. An employee who severs his/her employment with **an Agency the Commonwealth** must serve an additional probationary period upon re-employment whether in the same or a different job title **or the same or different agency**.

Section 4

If an employee files a charge of discrimination covered by Article 6 with a state or federal agency or state or federal court arising from termination of employment, the Commonwealth and the Union agree that the union waives its right to arbitrate any grievance based on a claim of a violation of Article 6 relating to the same claim of discrimination. If the employee withdraws his or her charge with prejudice, other than in the case of a mutually agreeable settlement, the grievance shall be arbitrable if otherwise timely and appropriate. This waiver provision shall not apply to claims filed pursuant to MGL c. 150E or claims relating to FMLA.

As a condition precedent to submitting a grievance alleging a violation of Section 1 of Article 22, the Union and the employee involved shall sign and give to the Employer, on a form agreed and incorporated as Appendix B, a waiver of any and all rights to appeal the disciplinary action to the Civil Service Commission. The waiver shall include a declaration that no disciplinary review has been commenced at the Civil Service Commission.

ARTICLE 23 GRIEVANCE PROCEDURE

Section 6

The arbitrator shall have no power to add to, subtract from or modify any provision of this Agreement or to issue any decision or award inconsistent with applicable law. The decision or award of the arbitrator shall be final and binding in accordance with Massachusetts General Laws, Chapter 150C. **Arbitrators will issue a decision within 30 days of receipt of the parties post-hearing brief or oral argument.**

ARTICLE 29

DURATION

This Agreement shall be for the three (3) year period from July 1, 2014 to June 30, 2017, and the terms contained herein shall become effective on the signing date of the Agreement unless otherwise specified. Should a successor Agreement not be executed by June 30, 2017, this Agreement shall remain in full force and effect until a successor agreement is executed or an impasse in negotiations is reached. At the written request by either party, negotiations for a subsequent agreement will be commenced on or before January 1, 2017.

~~This Agreement shall be for the three year period from July 1, 2011 to June 30, 2014 and terms contained herein shall become effective upon execution unless otherwise specified. It is expressly understood and agreed that subject to ratification by the NEPBA Membership, the predecessor collective bargaining agreement shall be voided and superseded by all aspects of this collective bargaining agreement. Should a successor Agreement not be executed by June 30, 2014, this Agreement shall remain in full force and effect until a successor Agreement is executed or an impasse in negotiations is reached. At the written request of either party, negotiations for a subsequent Agreement will be commenced on or after January 1, 2014.~~

Shaun Dewey, President

John Langan, Deputy Director, Office of Employee Relations

Date

Date

**MEMORANDUM OF AGREEMENT
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NEW ENGLAND POLICE BENEVOLENT ASSOCIATION**

Labor Management Committee

The parties agree to establish a Labor Management Committee to discuss tuberculosis testing.

ATTACHMENT "A"

ATTACHMENT "A"

**ARTICLE 12
SALARY RATES**

Section 1

The following shall apply to full-time employees:

- A. Effective the first full pay period in July of 2014, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one-and-one-half percent (1.5%) increase in salary rate.**
- B. Effective the first full pay period in January of 2015, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one-and-one-half percent (1.5%) increase in salary rate.**
- C. Effective the first full pay period in July of 2015, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one-and-one-half percent (1.5%) increase in salary rate.**
- D. Effective the first full pay period in January of 2016, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one-and-one-half percent (1.5%) increase in salary rate.**
- E. Effective the first full pay period on July of 2016, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one-and-one-half percent (1.5%) increase in salary rate.**
- F. Effective the first full pay period in January of 2017, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a one-and-one-half percent (1.5%) increase in salary rate.**

Effective the first full pay period in January 2015:

- Clothing Allowance - the annual cash payment shall be increased from \$750.00 to \$850.00.**
- Increase the weekend differential by \$0.40.**
- \$2,100 for the purpose of education assistance, training, or other purposes as determined by the Commonwealth/NEPBA Health and Welfare Trust Fund.**

Effective the first full pay period in January 2016:

- **Increase the holiday differential by \$0.75**
- **Increase the shift differential by \$0.25**
- **\$2,100 for the purpose of education assistance, training, or other purposes as determined by the Commonwealth/NEPBA Health and Welfare Trust Fund.**

Effective the first full pay period in January 2017:

- **Increase the holiday differential by \$0.75**
- **Increase the weekend differential by \$0.10**
- **Increase the shift differential by \$0.25**

**MEMORANDUM OF AGREEMENT
BETWEEN THE
COMMONWEALTH OF MASSACHUSETTS
AND THE
NEW ENGLAND POLICE BENEVOLENT ASSOCIATION**

Grandfathered List

Effective with the retirement of Captain Archilla, Captain Agostinho Oliveira has been placed on the "Grandfathered" list. The parties agree that this is the final addition to the Grandfathered list and that no other Captain will be added to this list. Captains who are currently on the Grandfathered list will remain on the list until they are no longer Captains. Moreover, the parties agree that there will be no grievance filed if a Captain junior to Captain Oliveira is not placed on the list.

This MOU will have full force and effect, but will not be published as part of the collective bargaining agreement.

Shaun Dewey, President

John Langan, Deputy Director, Office of
Employee Relations

Date

Date