

MEMORANDUM of UNDERSTANDING

FISCAL YEARS 2020 - 2021

between

THE CITY OF BALTIMORE

and



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

AFL-CIO, COUNCIL 67 and LOCAL 2202

HUMAN SERVICE WORKERS

TABLE OF CONTENTS
AFSCME COUNCIL 67 AND LOCAL 2202
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FY 2020-2021

ARTICLE 6: GRIEVANCE & ARBITRATION PROCEDURE	3
ARTICLE 8: UNION STEWARDS & UNION REPRESENTATION.....	5
ARTICLE 9: SENIORITY.....	6
ARTICLE 14: HOURS OF WORK.....	8
ARTICLE 15: OVERTIME.....	9
ARTICLE 22: DISCIPLINE & DISCHARGE.....	10
ARTICLE 23: NO STRIKE OR LOCKOUT.....	11
ARTICLE 29: OUT-OF-TITLE WORK	12

ARTICLE 6: GRIEVANCE & ARBITRATION PROCEDURE

A. 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 or 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:

The Union Steward with the aggrieved employee shall discuss the grievance with the employee's immediate supervisor within ten (10) calendar days, and in no event more than thirty (30) days, from the date of the events or conditions, or his knowledge thereof, which provide the basis for 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:

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 the Union Steward, the President of the Local Union or his designee 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 to the President of the Local Union in writing on the said form within ten (10) calendar days.

Step 3:

If the grievance has not been satisfactorily resolved in Step 2, a written appeal may be filed on said form with the Department Head 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 him and the Labor Commissioner shall meet with the Union Steward, the President of the Local Union, a council representative and the aggrieved employee to discuss the grievance. The Labor Commissioner or his designee shall respond in writing on the said form within ten (10) calendar days thereafter.

Step 4:

(a) If the grievance has not been satisfactorily resolved in Step 3, a review by an impartial arbitrator may be requested within twenty-one (21) calendar days following the completion of Step 3, by filing a written notice with the Labor Commissioner. If the grievance has not been satisfactorily resolved within twenty-one (21) 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 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; the last name remaining being the arbitrator chosen. The decision of the arbitrator shall be final and binding on all parties to the arbitration.

(b) The arbitrator shall be without power to add to, subtract from, change or alter any provision of the Agreement, Board policy, or of applicable State or local law.

(c) The arbitrator shall confine himself to the precise question presented for arbitration and shall have no authority to determine any other question.

(d) The arbitrator may hear or decide more than one (1) grievance if jointly requested by the parties.

(e) The cost for the services of the arbitrator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, will be borne equally by the Employer and the Union.

(f) Except for disciplinary actions, all documents, communications, and records dealing with the processing of a grievance will be filed in a separate grievance file and will not be kept in the official personnel file of any of the participants.

B. Time limits

Time limits under this Article may be changed by mutual agreement.

C. Untimely Responses

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. A grievance must be timely advanced once it is answered by management. A grievance may be advanced to the next step at any time after the time for an answer has expired, even though an answer has not been issued.

D. Cost of Arbitration

The cost of any arbitration proceedings under this Agreement shall be equally divided between the Employer and the Union.

E. Computing of Time Limits

In computing the time limits under this Article, the date of the preceding event shall be counted.

F. Discharge & Suspension Grievances

1. 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.

2. The rights of any employee who, on or after July 1, 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 22, Paragraph C. of this Memorandum.

3. Any employee who is suspended for three or more days, but less than thirty-one (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.

G. A grievance may be advanced to the next step at any time after the time for an answer has expired, even though an answer has not been issued. A grievance must be timely advance once it is answered by management.

ARTICLE 8: UNION STEWARDS & UNION REPRESENTATION

A. Union Representation

The Employer recognizes and shall deal with the appropriate accredited Union Steward in areas to be defined by the parties and, where provided for in this Agreement, with the Union President and/or Council Representative in all grievances filed under this Agreement.

B. Steward Listing Provided

A written list of the Union Stewards and alternates shall be furnished to the Employer immediately after their designation and the Union shall notify the Employer promptly of any changes of such Union Stewards.

C. Number of Stewards and Alternates

There shall be no more than one Union Steward and alternate in each area referred to in Section A of this Article.

D. Grievance Process & Investigation

After appropriate notice to his immediate supervisor, a Union Steward shall be granted reasonable time off during working hours when he is engaged in processing a grievance under Article 6 of this Agreement.

E. Local President – Union Business Leave

The President of the Union shall, when the need arises, be granted up to twelve (12) hours per week for the purpose of conducting Union business. If the President is unable to attend, the Vice President shall be allowed to attend on the President's behalf.

The processing or attending union grievances shall not be deducted from this leave.

All leave request must be submitted and approved in advance. Request may be denied for operational needs.

ARTICLE 9: SENIORITY

A. Application

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.

B. Layoffs

In the case of reduction-in-force or the elimination of a position:

- (a) Classification seniority within the division shall be given, provided the employee's productivity is satisfactory.
- (b) However, as to executive, administrative, technical or professional employees, the current Civil Service Rule #52 shall apply.
- (c) An employee who has been identified for layoff shall be able to displace a less senior employee in a lower classification in a job series within the same layoff unit, provided he is qualified and able to perform the duties of the job.

For the purpose of this Paragraph, seniority shall be defined as the total length of continuous service in the higher and lower classifications.

(d) An employee who displaces an employee in a lower classification in this manner shall be placed on the reemployment list established for the higher classification in accordance with Civil Service rules.

C. Entitlement Prior to Layoff

Before an employee's effective layoff date is scheduled, he (she) shall be entitled

1. to convert to cash, whichever is greater, his/her legacy vacation or current vacation (up to a maximum of 45 days) and legacy personal leave.

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 11 of this Memorandum.

D. Promotion by Seniority: Application

The Mayor's Office of Children and Family Success ("MOCFS") and the Union shall work together to establish a process whereby the Human Services Division staff will be able to move into positions of Human Service Worker II and Energy Program Technician II on the basis of seniority as long as the senior eligible employee is capable of performing the duties in the higher classification.

E. Reduction-in-Force

In case of a reduction-in-force, 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 he be selected for lay-off. If the agency head approves the request, the employee must also meet the Employees' Retirement Systems (ERS) eligibility requirements.

F. Department of Human Resources Mailing List

Vacancies occurring within the Bargaining Unit shall be posted on the Department of Human Resources (DHR) website. The Union will encourage employees to notify MOCFS of their interest in other classified service positions for which they qualify. The MOCFS will make good faith efforts to send notice to the Union President when requests for postings are made to the City's Central DHR.

ARTICLE 14: HOURS OF WORK

A. Consecutive Daily Hours

The regular hours of work each day shall be consecutive except for interruption for lunch periods. Except in those situations where the City implements its emergency schedules (such as inclement weather or other event which seriously impacts the City and its operation), the previously posted schedule of daily reporting and quitting times may not be changed without prior notice to the Union. If requested, the City shall meet and discuss such change with the Union. The intent of this provision is to require the City to observe an employee's starting and quitting times which have been previously posted.

B. Work Week

1. A regular work week shall be scheduled and posted for each City worksite.
2. The work week shall consist of five (5) consecutive work days.

C. Work Day

A maximum of eight (8) consecutive hours, including a paid forty (40) minute lunch period, shall constitute a work day. All employees shall be scheduled to work on a regular work shift, and each work shift shall have a regular starting and quitting time.

D. Lunch Period

All employees shall be granted a lunch period during each work shift. Whenever possible, the lunch period shall be scheduled at the middle of each shift.

E. Work Outside Regular Shift

Employees called into work outside of their regular shift shall receive pay for a minimum of four (4) hours at the rate of time and one-half (1½) their regular pay. Any employee called to or required to work prior to or after his regular shift, but annexed consecutively to one end or another thereof, shall be paid at the rate of one and one-half (1½) times his regular rate of pay only for the time so worked, but in no event less than one (1) hour, and the aforesaid four (4) hour minimum provision shall not apply. The employee shall then be paid for the balance of his regular work shift at the appropriate rate. Nothing herein shall be construed to mean compounding of overtime.

An employee required to work three (3) or more hours immediately following the completion of a normal full-time work shift shall receive a meal allowance of \$8.00 (eight dollars).

F. Limitation on Consecutive Work Hours

Shift and other employees shall not be required to work more than sixteen (16) consecutive hours without an eight (8) hour break except in the case of an emergency endangering life, health and

safety. If an employee is required to work for more than sixteen (16) consecutive hours under such an emergency situation, that period shall not exceed twenty-four (24) consecutive hours.

ARTICLE 15: OVERTIME

A. Overtime Defined

All hours worked in excess of the regularly scheduled work day or in excess of the regularly scheduled work week shall be considered overtime and paid for at the rate of 1½ times the normal straight time rate of pay.

B. Paid Leave Considered Time Worked

All paid leave shall be considered time worked in the computation of overtime.

C. Overtime Equalization

Overtime work shall be offered equally to employees working within the same job classification in each work area. The offering of overtime shall be equalized over a twelve-month period beginning January 1st to December 31st. Insofar as practical on each occasion, the opportunity to work overtime shall be offered to the employee within the job classification who has the least number of overtime hours to his credit at that time. If this employee does not accept the assignment, the employee with the next fewest number of overtime hours to his credit shall be offered the assignment. This procedure shall be followed until the required employees have been selected for the overtime work.

D. Overtime Voluntary

Overtime work shall be voluntary except in the event of an emergency. There shall be no discipline against any employee who declines to work overtime, except in the event of an emergency. A record shall be kept for each employee and posted, showing the number of hours of overtime he was offered but refused to work. These hours shall be counted toward overtime offered as per paragraph C above. If an employee fails to report for an overtime shift for which the employee has volunteered, no discipline shall be implemented if the employee has a documented illness or injury, or the employee is excused from an assignment of voluntary overtime at least twenty-four (24) hours before the start of the scheduled shift.

E. Seventh Consecutive Day of Work

The overtime rate of pay for all hours worked on the seventh consecutive day worked in a regular work week shall be at the rate of two (2) times the normal straight time rate of pay.

Where in the normal operation of a department, work is regularly scheduled on Saturdays and/or Sundays, no more than ten (10) days of work shall be scheduled for any employee in each fourteen (14) day period. An employee working this type of schedule shall be paid one and one-half (1½)

times his hourly rate for all hours worked in excess of ten (10) regularly scheduled days during said fourteen (14)-day period, except that for all hours worked in excess of twelve (12) days during said fourteen (14)-day period the employee shall be paid two (2) times his hourly rate.

F. Rearranged Work Schedules: Disallowed

The Employer shall not vary or rearrange work schedules to avoid the payment of overtime.

G. 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 forty (40) in a work week.

ARTICLE 22: DISCIPLINE & DISCHARGE

A. 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.

B. The City must impose a disciplinary action no 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 City must impose a disciplinary action no later than thirty (30) days after its investigation is completed. In any event, the City's investigation of and disposition on an alleged infraction shall occur with reasonable dispatch.

C. 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.

D. 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 A. 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 (Department Head) of the Grievance Procedure in Article 6, Paragraph A 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.

E. Any employee who, as discipline, is suspended for three or more days, but less than thirty-one (31) days, shall be permitted to grieve such discipline by filing a grievance on the form that is referred to in Article 6, Paragraph H, of this Memorandum which grievance must be filed within fifteen (15) days after the action challenged. If the employee elects to file a grievance, it shall be filed initially at Step 4 of the Grievance Procedure in Article 6, Paragraph A 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. 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.

F. The Employer shall not drop or suspend health insurance coverage, or its contribution to the cost of such coverage, for any employee who is suspended without pay for thirty (30) days or less.

ARTICLE 23: NO STRIKE OR LOCKOUT

A. No Strike or 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 Employer agrees that there shall be no lockout.

B. Unauthorized Job Action

In the event of an unauthorized strike, slow-up, or stoppage, the Employer 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 Employer, 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.

C. Disciplinary Action

In the event that such action by the Union has 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 29: OUT-OF-TITLE WORK

Exempt, Competitive, and Non-Competitive Classes

1. An employee who works out of title shall be accorded the wages and benefits that are commensurate with the position or capacity in which they work however long the employee works acting out of title.

2. An employee shall not be required to work out of title for a period of more than one hundred and twenty (120) calendar days.

3. The City shall not place and replace employees in an acting out of title status to extend the period of acting out of title to cover a specific position for a total of more than one hundred and eighty (180) calendar days.

4. Effective July 1, 2005, the City shall post and fill, or it shall abolish, any position that remains permanently vacant and is temporarily occupied by employees acting out of title for more than one hundred eighty (180) days. When the City permanently fills a position that has been temporarily occupied by employee(s) acting out of title, the Department of Human Resources and appointing authority shall give due consideration to the employee(s) who occupied the position in an acting out of title capacity.

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, he shall be paid the higher rate for such services commencing on the eleventh working day, in accordance with the rules and regulations as set forth in the Administrative Manual. No employee shall be required to perform or shall receive compensation for out-of-title work for more than ninety (90) days.

The Labor Commissioner shall, as the Employer's representative, study out-of-title practices. The Union shall be given the right to actively participate and shall share in the information to be examined. The purpose shall be to determine (on a case by case basis) whether the out-of-title practice is inappropriately administered either by labor or management and, if so, to make effective recommendations to deal with any abuses.