

AGREEMENT
BETWEEN
NEW YORK CITY TRANSIT AUTHORITY and the
MANHATTAN AND BRONX SURFACE TRANSIT
OPERATING AUTHORITY
and
TRANSPORT WORKERS UNION, LOCAL 106
(TRANSIT SUPERVISORS ORGANIZATION)
MAINTENANCE SUPERVISOR LEVEL II
Effective
August 1, 2017 to January 7, 2018



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AGREEMENT, made as of the 1st day of August 2017, by and between New York City Transit Authority and the Manhattan and Bronx Surface Transit Operating Authority (hereinafter collectively referred to as "NYCT" or the "Authority"), and the Transport Workers Union, Local 106 (Transit Supervisors Organization) (hereinafter referred to as the "Union");

WHEREAS, by a representation proceeding having been conducted by the Public Employment Relations Board (PERB), the Union has been designated and selected by a majority of the employees of the Authority as the exclusive bargaining representative for employees in the title of Maintenance Supervisor Level II working in the Department of Subways: Maintenance of Way on November 10, 2015; and

WHEREAS, the Union had thereafter presented to the Authority satisfactory evidence in the form of validly executed union dues check-off cards indicating that a majority of the employees in the title of Maintenance Supervisor Level II working in the Department of Subways: Material Control; Station Maintenance; Station Environment & Operations; Safe & Secure Rooms; and the Division of Car Equipment have selected the Union as their exclusive representative, and the Authority has agreed by stipulation dated January 8, 2016, to voluntarily recognize the Union as the exclusive organization to represent such employees; and

WHEREAS, the Union had thereafter requested that the Authority recognize the Union as the exclusive bargaining representative for employees in the title of Maintenance Supervisor Level II assigned to Operations Training in the Department of Subways and that the Authority agree to accrete MaBSTOA Maintenance Supervisor Level II employees into the existing bargaining unit, and the Authority has agreed by stipulation dated June 30, 2017; and

WHEREAS, the Authority and the Union have made certain proposals with respect to the question of salary scales and working conditions as affecting Maintenance Supervisor Level IIs whom the Union represents, which proposals have been submitted to and approved by the membership of the Union, and the parties desire to incorporate these proposals into a written agreement:

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties to this Agreement do hereby agree as follows:

Section 1.1 Declaration of Purpose

The Authority and the Union, in signing this Agreement, are governed by their mutual desires and obligations:

- A. To assure to the people of the City of New York efficient, economical, safe and dependable transportation service.
- B. To provide Authority employees in the title of Maintenance Supervisor Level II represented by the Union with salary scales, hours, working conditions and grievance procedures.
- C. To protect the interest of the public through a definite understanding of the respective rights, duties, privileges, responsibilities, and obligations of the Authority, the employees, and the Union.

Section 1.2 Recognition

- A. The Authority recognizes the Union as the exclusive bargaining representative and the exclusive representative for the presenting and processing of employee grievances for all of the annually paid employees in the title of Maintenance Supervisor Level II.
- B. This Agreement shall apply to all Authority employees in the title Maintenance Supervisor Level II, except those delineated as excluded by PERB's order dated November 10, 2015 and those mutually agreed as excluded by the Authority and the Union in the stipulation dated January 8, 2016.

Section 1.3 Agency Shop Fees

- A. The Authority will deduct from the wages of each employee to whom this Agreement applies, and transmit to the Secretary-Treasurer of the Union each month the regular bi-weekly dues payable by such employee as from time to time certified by the President and Secretary-Treasurer of the Union, as provided for in the duly adopted Constitution and by-laws of the Union. Provided, however, that such deductions will be made only with respect to such employees covered by this Agreement for whom the Union has furnished the Authority with authorizations signed by such employees consenting to the deduction of the aforesaid dues from their wages.
- B. On each payroll date on which union membership dues are withheld by it, the Authority shall deduct an agency shop fee from the pay of each employee who has not joined the Union, in the same manner and in the same amount as union dues are then being deducted by the Authority from the wages of each member of the Union.

The sum of the agency shop fees deducted in any bi-weekly period shall be transmitted by the Authority to the Secretary-Treasurer of the Union at the same time and subject to the same deduction of costs as are the Union dues deducted for such bi-weekly period.

Should the Union refuse to accept a Union dues deduction authorization from any employee, or should the Union expel or suspend an employee from membership, the Union shall so notify the Authority immediately and no agency shop fee shall be deducted from the wages of such employee.

The Union shall refund the Authority any agency shop fees deducted and transmitted to the Union in error.

The Union affirms that it has established and is maintaining a procedure which provides for the refund, to any employee demanding the same, of any part of an agency shop fee which represents the employee's pro rata share of expenditures by the Union in aid of activities or causes of a political or ideological nature only incidentally related to terms and conditions of employment. It is expressly agreed that in the event such procedure is disestablished, then the agency shop fees Agreement between the parties, shall become null and void, to the extent it is in violation of law.

The Union shall assume the defense of, and hold the Authority harmless from and indemnify it against any loss, cost or expense resulting from any claim, by whomever made, arising out of the use of agency shop fees transmitted to it by the Authority in accordance with this Agreement, or out of the failure of the Union to comply with the provisions hereof.

- C. The Union shall pay the Authority the actual monthly cost of making such deductions, which shall not exceed five (5¢) cents per deduction per employee.

Section 1.4 Entire Agreement

- A. This Agreement constitutes the sole and entire existing Agreement between the parties, superseding all prior Agreements, oral and written, and incorporating the Rules and Regulations Governing Employees Engaged in the Operation of the New York City Transit System and the Working Conditions Covering All Non-Represented Operating Employees dated April 1988 as previously amended or amended by the terms of this Agreement. In drafting the instant agreement, the parties, by mutual agreement, may have rephrased, rewritten, edited, deleted or otherwise changed the wording of the various aforementioned provisions in order to express more accurately the intention of the parties, to achieve greater clarity, or make such other changes that the parties may have agreed upon, provided that the original meaning and intent has been maintained.
- B. Paragraph "A" does not preclude consideration of evidence as to an established past practice by the Impartial Arbitrator who shall determine what weight to attach to it in light of the other provisions of this Agreement.
- C. Excepted from paragraph "A" above are those matters set forth in the attached Appendices and side letter(s), which are made part of this Agreement, and such others subsequently agreed upon, in writing, by the President of the Union and the Vice President, Labor Relations or his/her designee.

Section 1.5 No Strike Clause

During the term of this Agreement neither the Union nor any employee shall approve, engage or participate in any strike, sit-down, slow-down or other concerted stoppage of work upon the properties of the Authority, or directly involving the operations of the Authority, nor shall any employee or employees approve, engage or participate in any willful abstinence in whole or in part from the full, faithful, and proper performance of such employee or employees' duties with the Authority.

Section 1.6 Management Rights and Employee Rights

A. Management Rights

Without limitation upon the exercise of any of its statutory powers or responsibilities, the Authority shall have the unquestioned right to exercise all normally accepted management prerogatives, including the right to fix operating and personnel schedules, impose layoffs, determine workloads, arrange transfers, order new work assignments, and issue any other directives intended to carry out its managerial responsibility to operate the transit lines safely, efficiently, and economically.

B. Employee Rights

1. The Authority is committed to assuring that the dignity of each employee is respected at all times. Management shall treat employees fairly and reasonably, and shall assure that employees are not disciplined without proper cause, and that they are notified as expeditiously as reasonable with respect to any alleged violations charged by management.
2. The above policy shall be enforceable by the Union in the following manner:

- a. If the President of the Union has reason to believe that any employee has been treated in a manner inconsistent with this policy he/she may submit to his/her counterpart in management the Union's proof of this allegation. The allegation shall be investigated. Within two (2) weeks, management shall submit to the Union a report stating its finding on the allegation and any proposed action.
- b. If the Union is unsatisfied with the report on the proposed findings, it may submit the matter to the Authority's Vice President, Office of Labor Relations. The decision of the Authority's Vice President, Office of Labor Relations shall be issued to the Union's President within thirty (30) days and shall be final and binding.

Section 1.7 Reciprocal Obligations

The Union fully accepts the Authority's basic right to manage the Authority's properties and exercise the management prerogatives stated in Section 1.6 and in the law governing the Authority, and agrees to cooperate with the Authority in a joint effort to place and keep the transit system on a safe, efficient, and economical operating basis. The Authority recognizes that in the exercise of its rights and prerogatives to manage the transit properties, as set forth in Section 1.6 above, and in this Section, it will preserve the rights of the employees and/or their representatives through the legal and orderly processes provided for in Sections 1.31 and 1.32 hereof.

Section 1.8 Wages

A. Salary Rates

The wage rates for employees represented by the Union shall be those set forth in Appendix A attached hereto.

B. Wages

The wage rates as set forth in Appendix A for employees represented by the Union shall be increased as follows:

1. Effective January 8, 2016, the rates of pay that were in effect on January 7, 2016 shall be increased by two percent (2%).
2. Effective January 8, 2017, the rates of pay that were in effect on January 7, 2017 shall be increased by two percent (2%).
3. Those employees who already received the January 8, 2016 general wage increase of two percent (2%) will only be eligible to receive the January 8, 2017 general wage increase of two percent (2%).
4. Those employees who already received the January 8, 2016 general wage increase of two percent (2%) and the January 8, 2017 general wage increase of two percent (2%) will not be eligible to receive such general wage increases.
5. The overtime cap will be increased by 150% of the general wage increases set forth in paragraphs (1) and (2) for the term of this Agreement.

C. Maintenance Supervisor Level II – Telephones

Effective the date of full and final ratification the rate of pay for employees in the title, Maintenance Supervisor Level II – Telephones shall be adjusted to equal the rate of pay as employees in the titles of Maintenance Supervisor Level II – Electronic Equipment and Revenue Equipment.

D. Wage Progression

Employees hired or promoted into the Maintenance Supervisor Level II title before the effective date of full and final ratification shall progress to top rate of pay according to the following schedule at the rates set forth in the attached rate chart:

- 1st Step for the first six (6) months.
- 2nd Step upon the first day of the seventh (7) month.
- 3rd Step (Top Rate) upon the first day of the second year.

The wage rates as set forth in Appendix A shall remain unchanged with the following exception: Employees hired or promoted into the Maintenance Supervisor Level II title on or after the effective date of full and final ratification shall progress to top rate of pay according to the following schedule at the rates set forth in the attached rate chart:

- 1st Step for the first twelve (12) months.
- 2nd Step upon the first day of the thirteen (13th) month.
- 3rd Step (Top Rate) upon the first day of the twenty-fourth (24th) month.

The parties acknowledge and agree that employees who are not currently at the top rate of pay will be grandfathered into the terms of the wage progression they were in when they were hired.

E. Night Differential

1. Night differential shall be paid according to the rates specified in Appendix B for hours worked beginning at 12:00AM and ending at 6:00AM seven (7) days a week.
2. Hours worked for the purpose of this subdivision shall include all hours within the time limits specified above, including all hours which are paid as part of the employees' regular schedule.
3. The Authority shall not pay night differential to employees for any day on which the employee does not actually work.

Section 1.9 Hours of Work

- A. The working time of regularly assigned employees shall be scheduled and prescribed by their superiors, but the regularly scheduled hours of work for any employee shall not exceed forty (40) hours per week or eight (8) hours in any one day.
- B. At least two (2) consecutive days rest during each calendar week shall be allowed to each employee, except in emergencies or when service requirements prevent it.
- C. Notwithstanding the establishment herein of a regular work week and regular workday,

employees covered herein shall work either before or after their regular workday or on a holiday or on their regular days off when directed or assigned to do so.

- D. An employee reporting late, because of an unusual interruption of service on the New York City Transit System shall suffer no loss of pay for time lost on that account, provided such interruption as the cause of his/her lateness is established to the satisfaction of his/her superior.
- E. An employee in a title listed in Appendix A will be paid four (4) hours pay at straight time for each twenty-four (24) hours of "ordered" standby on his/her regular days off or holidays not to exceed eight (8) hours pay for weekends or any two consecutive days off. An employee shall not be entitled to such payment on any day he/she is ordered to work or when general standby is in effect for snow storms, power failure or for other similar conditions.

Section 1.10 Overtime

Any employee in a title listed in Appendix A hereafter required to work in excess of his/her regularly scheduled hours on any day, whether the excess be before the beginning or after the end of the employee's regularly scheduled tour of duty, will be paid at the rate of time and one-half at his/her regular rate of pay for such excess service or overtime.

Section 1.11 Allowance for Work on a Scheduled Day Off

- A. Employees in titles listed in Appendix A required to work on a day which is regularly scheduled for him/her as a day off shall be allowed time and one-half for the number of hours worked.

Employees required to work on a regularly scheduled day off shall be guaranteed at least eight (8) hours work.

For an employee to be eligible for pay at time and one-half for working on his/her regular day off, the employee must work at least three days during the week in which he/she also worked on his/her regular days off. If the employee was absent on the day immediately prior to his/her regular days off, he/she must produce a doctor's certificate in order to be eligible for premium pay on his/her regular day off.

- B. Employees in titles listed in Appendix A required to perform emergency overtime outside their normal tour of duty and not on their day off shall receive time and one-half for the number of hours worked.

Section 1.12 Earnings Cap

- A. The overtime cap for employees in the title of Maintenance Supervisor Level II shall be \$158,857 and shall continue to be calculated based on a calendar year.
- B. Employees who have reached the overtime cap shall accrue compensatory time, at time and one half, to a maximum of one hundred and sixty (160) hours.
- C. Exceptions to the overtime cap can be made by the Department Head based upon unusual circumstances involving an employee or the operation or an emergency.
- D. Employees shall be permitted to select the particular days on which they will be allowed time off with pay on account of previous overtime work, except that they will not be allowed to take time off at any time when, in the opinion of their superiors, it would interfere with the safe, efficient operation of the New York City Transit system. The particular time when any employee will be allowed to make use of compensatory time by taking time off shall be determined by advance agreement with his/her superior. Nothing herein, however, shall be deemed to limit the right of

management to require employees to take time off with pay in order to reduce accumulated compensatory time.

Section 1.13 Longevity

- A. The Authority will make longevity payments, payable in one lump sum on the last payroll period in November, according to the following schedule:
1. An employee with thirty (30) or more years of continuous service shall receive the annual equivalent amount of six hundred and fifty dollars \$650.00 computed on a biweekly basis.
 2. An employee with twenty-five (25) but less than thirty (30) years of continuous service shall receive the annual equivalent amount of five hundred and fifty dollars \$550.00 computed on a biweekly basis.
 3. An employee with twenty (20) but less than twenty-five (25) years of continuous service shall receive the annual equivalent amount of four hundred and fifty dollars \$450.00 computed on a biweekly basis.
 4. An employee with fifteen (15) but less than twenty (20) years of continuous service shall receive the annual equivalent amount of three hundred and fifty dollars \$350.00 computed on a biweekly basis.
- B. Entitlement for the longevity shall be based upon the anniversary date of the individual who meets the stated criteria. Such payments are pensionable.
- C. Payments will commence on the last payroll period in November 2017 and shall be made in a lump sum. Thereafter, each successor year, payments shall continue to be made in a lump sum in the last payroll period in November. Employees who resign, die, retire or are promoted to a title that does not receive longevity payments before the payment for longevity is made will be paid a pro-rata share of the longevity payment based on the number of days the employee was in a paid status during the eligible year.

Section 1.14 Maintenance Bonus

Commencing in April 2017 a six hundred dollar (\$600.00) bonus shall be paid to all employees in the title of Maintenance Supervisor Level II. Thereafter, the bonus shall be made in the first pay period following April 1st of each year, as a supplemental allowance. Such payments are pensionable.

Section 1.15 Lunch Period

Employees in titles listed in Appendix A will be allowed the same lunch period benefit as exists for the hourly rated employees in his/her department.

Section 1.16 Emergency Work

- A. If an employee is required to report back for emergency work after being released upon the completion of his/her regular tour of duty and before the commencement of his/her next regular tour of duty, he/she will be paid as follows:
1. If he/she shall have been ordered to and does report to his/her headquarters by telephone, he/she will be allowed one and one-half (1-1/2) hours time at his/her

regular rate of pay for each required report, if he/she is not, as a result of such telephone report, ordered to report in person.

2. If he/she shall have been ordered to and does report in person to the place where he/she is directed to report, he/she will be allowed three (3) hours time at his/her regular rate of pay for so reporting, but shall not be entitled to the allowance set forth in subdivision 1 above.
 3. For all emergency work performed outside of his/her regular working time, he/she will be allowed time and one-half at his/her regular rate of pay, in addition to the allowance under subdivision 2 above and, in addition, to any allowance to which he/she may be entitled under subdivision 1 above.
 4. If he/she is put to work more than four (4) hours prior to the commencement of his/her next regular tour of duty or if, after being put to work he/she is not held through until the commencement of his/her next regular tour of duty, his/her total pay for the emergency work performed outside of his/her regular working time, including overtime and allowances under subdivisions 1 and 2 above shall be at least eight (8) hours pay at his/her regular hourly rate. If, after reporting in person pursuant to orders, he/she is not put to work at all, he/she shall receive his/her regular rate of pay for six (6) hours in lieu of the allowance provided for in subdivision 2 above.
- B. An employee, who is held over after the completion of his/her regular tour of duty for the performance of emergency work, shall be paid at the rate of time and one-half for the time during which he/she is so held.
- C. An employee engaged in emergency work outside of his/her regular scheduled working time will be given a meal allowance of three and one-half (\$3.50) dollars, for each five (5) hours during which he/she is so engaged, provided, however, that an employee held over for emergency work after the completion of his/her regularly scheduled tour of duty will be given such a meal allowance at the completion of his/her regularly scheduled tour of duty, provided he/she is to be required to perform such work or duty for a period of at least two (2) hours. Employees, without deduction of pay, will be allowed time to eat permitted meals at times consistent with the requirements of the work.
- D. If, as a result of emergency work, an employee is required to work six (6) hours or more between the completion of his/her regularly scheduled tour of duty and the commencement of his/her next regularly scheduled tour of duty, and at such time or times as to prevent him/her from having eight (8) consecutive hours off duty at any time between the two regularly scheduled tours of duty, he/she shall be excused with pay from such part of his/her said next regularly scheduled tour of duty as may follow the completion of the emergency work and as may be necessary in order that he/she may have eight (8) consecutive hours off duty between the time when he/she completed his/her emergency work whether that be before or after the time of commencement of his/her said next regularly scheduled tour of duty, and the time when he/she shall thereafter report back for work; except that if the time when he/she would thus report back for work should be within four (4) hours of the time scheduled for the completion of his/her said next regularly scheduled tour of duty, he/she shall be excused with pay from all of the said next regularly scheduled tour of duty. Notwithstanding the foregoing, if an employee, upon completing a regularly scheduled tour of duty, leaves the premises without having any reason to believe that he/she may be called out for emergency work before the commencement of his/her next regularly scheduled tour of duty, but is called out and performs emergency work for six (6) or more consecutive hours prior to the time scheduled for the commencement of his/her next tour of duty, his/her superior, if convinced that such employee has had insufficient sleep and is unfit for work,

shall have the discretion to excuse him/her with pay from part or all of said next regularly scheduled tour of duty, irrespective of whether or not the employee may have had eight (8) consecutive hours of duty before being called out for such emergency work. If an employee is definitely entitled under the foregoing provisions to be excused with pay from part or all of his/her next regularly scheduled tour of duty following the performance of emergency work, but is not so excused, he/she shall be allowed time off with pay from a subsequent tour of duty for the length of time for which he/she should have been so excused, but the day on which he/she is to be allowed such time off shall be determined by advance agreement with his/her superior.

- E. If a stretch of emergency work commences prior to the beginning of an employee's scheduled day off and continues into such day off for not more than two (2) hours, it shall be treated as though it had all been performed on the day when it commenced. If it continues into such scheduled day off for more than two (2) hours and commences not more than two (2) hours before the beginning of such day off, it shall be treated as though it had all been performed on such day off. If it commences more than two (2) hours before the beginning of the scheduled day off and continues into such day off for more than two (2) hours, then the work on each day shall be treated as having been performed on the day when it actually was performed and shall not be treated as having been performed entirely on one day or the other. If after more than two hours of emergency work performed and treated as performed in the early part of his/her scheduled day off, an employee is released from duty and allowed to go home and later is brought back again for work on the same day off, he/she shall be paid at the rate of time and one-half for all work performed after thus being brought back, in addition to receiving a minimum of one and one half times a full days pay for the work treated as performed in the early part of the day.

An employee's scheduled day off shall commence eight (8) hours after the time scheduled for the completion of his/her last scheduled tour of duty preceding the day off and shall continue for twenty-four (24) hours except that when an employee has two consecutive scheduled days off the second day off shall consist of the twenty-four (24) hours immediately following the end of the first day off.

- F. The term "emergency work" as used in the foregoing subdivision, shall be deemed to include any work which an employee is required to perform outside of his/her scheduled working hours, except work made necessary by the failure of another employee to report for duty and except work which is planned ahead, provided, however, that even where overtime work is planned ahead, if any employee, immediately following completion of his/her regular full day's work, is held over for a longer period than four (4) hours in order to finish a particular job, the overtime work in excess of four (4) hours will be considered as "emergency work" when it is not made necessary by the failure of another employee to report for duty. In cases where overtime work in excess of four (4) hours immediately following a scheduled tour of duty is to be treated as "emergency work", the first meal allowance will come after the expiration of the first four (4) hours of overtime and the employee will be entitled to another meal allowance for every five (5) hours of work thereafter. Work will not be considered as planned ahead unless notice thereof is either given to the employee himself or posted at his/her headquarters at or before the time scheduled for the end of the employee's regular tour of duty next preceding his/her regular tour of duty which is followed by the overtime work, except that where the overtime work commences only four (4) hours or less before the time scheduled for the beginning of one of his/her regular tours of duty it will be considered as planned ahead if notice thereof is either given to the employee himself or posted at his/her headquarters at or before the time scheduled for the end of his/her last regular tour of duty immediately preceding the overtime work.
- G. When an employee, after being released from work and allowed to go home following the completion of a regularly scheduled tour of duty is required to report back eight (8) hours or more, before his/her next regularly scheduled tour of duty for emergency work made necessary

by storm, flood, fire, accident or other catastrophe, he/she shall, if held on such emergency work continuously for a period of more than eight (8) hours extending into his/her regularly scheduled working time, be paid at the rate of time and one-half for all of the time during which he/she is thus held continuously on such emergency work, including the portion thereof within his/her scheduled working time. If, upon completion of such emergency work, he/she is required to resume his/her regular duties during the remaining portion of his/her scheduled working time, he/she shall be paid for such remaining portion at straight time.

Section 1.17 Holidays

- A. To the extent that it may be practicable, an employee will be released from work without loss of pay on the following holidays: New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day.

Each January 1st, employees will be credited with one (1) Floating Holiday. The Floating Holiday must be used by December 31st.

Employees will be entitled to one (1) personal leave day after one (1) year of service. The personal leave day shall be credited on May 1st. The personal leave day must be used by April 30th of the following calendar year. However, if an employee is unable to use the personal leave day in a calendar year, an employee shall have the option to cash out the personal leave day that has already been credited to the employee's personal leave day bank prior to retirement. Such cash-out shall not be considered pensionable.

- B. Where an employee is required to work on one of these holidays or when such holiday falls on one of his/her regularly scheduled days off, or during his/her vacation period, the employee will be paid eight (8) hours additional pay for the holiday unless he/she gives prompt notice before the holiday, that he/she wishes to exercise an option to accumulate an AVA instead of receiving the additional eight (8) hours pay.
- C. The employee shall have the option of requesting and obtaining eight (8) hours pay at his/her regular straight time rate for any AVA days he/she has accumulated. Such request shall be made on a form prepared by the Authority for the purpose. For pension purposes, the payment shall not be included in the final year's earnings, except for AVA days accrued in his/her final year.
- D. An employee excused from work on one of the stated holidays shall be paid for that holiday only if he/she reported for work on the scheduled work day before and the scheduled work day after the holiday/unless he/she is prevented by bona fide illness or for good reason is excused from so reporting. With respect to holiday pay, where an employee is scheduled to work on any of the stated holidays and the first day of his/her absence, because of a claimed illness, falls on the holiday, he/she shall, upon submitting proof satisfactory to the department head, be granted holiday pay for the first day of such absence and shall not be paid sick leave.
- E. An employee may elect to accumulate an AVA day only if he/she does not have a total of thirty-six (36) days of AVA's and/or compensatory time to his/her credit.

To accumulate an AVA day, the employee must give notice thereof in writing to his/her superior in advance of the holiday.

Employees shall be permitted to use AVA days in half-day increments with reasonable notice to their supervisor, subject to managerial discretion.

Despite the fact that the letters "AVA" stand for the words "Additional Vacation Allowance", the so-called AVA days shall in no event be added to vacations or used in a group as a vacation period.

- F. An employee who is not released from duty by order of his/her superior on one of the stated holidays and who nevertheless absents himself from work shall forfeit his/her right to any pay for the said holiday or to any other day off in lieu thereof, except that this shall not be applicable to veterans (as defined in Section 63 of the Public Officers Law) in respect to Memorial Day or Veterans' Day.
- G. None of the foregoing provisions in this Section shall be applicable in respect to any of the stated holidays to any employee who may have been continuously absent from duty for thirty days or more, except for absence during paid vacation immediately preceding such holiday. An employee who has performed no work for the Authority during a period of thirty days or more, except for absence during paid vacation immediately preceding a holiday shall not receive any pay for the holiday or be allowed another day off in lieu thereof.
- H. Whenever, under the provisions of this Section, an employee may be entitled to another day off, without deduction in pay, in lieu of one of the stated holidays above specified, the particular day on which he/she is to be excused from duty must be determined by his/her superior, who as far as practicable, will consider the preferences of the employee.

Section 1.18 Instructions

When an employee is required to report for staff meetings, schooling or other group instructions outside of his/her regularly scheduled tour of duty, he/she shall be paid overtime for the time actually spent in such meetings or class. In any case where there is a substantial gap between the employee's tour of duty and his/her required attendance at staff meetings, schooling, or other group instruction outside of his/her tour of duty, the employee may discuss with management the question of additional overtime for the time intervening between the conclusion or start of the employee's tour of duty and the required attendance at staff meetings, schooling or other group instruction. However, when an employee who, because of errors and dereliction in the performance of his/her duties, is properly required in disciplinary proceedings to report for schooling or instruction, he/she shall receive no allowance therefor. An employee attending classes voluntarily for his/her own benefit will do so on his/her own time without any allowance.

Section 1.19 Allowances for Time When Employee Attends Hearing or Investigations

- A. All employees will be required, when properly directed to do so, to report to court or to the claim or law department or to attend as witnesses at trial hearings or investigations and shall not lose any pay for such attendance except if it is a hearing or departmental investigation in regard to the employee's own malfeasance or neglect of duty.
- B. Employees who are required to report on their days off or required to attend on their time off (off-tour), will be allowed overtime for the time actually spent at such hearings or investigations except, if it is a hearing or departmental investigation in regard to the employee's own malfeasance or neglect of duty.
- C. An employee properly ordered to report to court or to the claim or law department in the morning and detained until 12 o'clock (noon) will be given three dollars and fifty cents (\$3.50) for his/her lunch.

Section 1.20 Payment Where Charges are Preferred Against Employees

If charges which are preferred against an employee are not sustained the employee will be paid at his/her regular rate of pay for the time lost by reason of such charges. If the charges are sustained, the employee will not be paid for any time lost as a result of such charges.

Section 1.21 Allowance for Time Consumed for Physical Examination

- A. When an employee on duty or reporting for duty is ordered by his/her superior to the Authority's Medical Staff for physical examination and is pronounced able to work and given a "Return to Duty" slip by a physician of such staff, no deduction from such employee's pay shall be made for the time consumed in compliance with such order.
- B. Employees shall not be scheduled to report for periodic examinations on their regular days off or during vacation.
- C. An employee absent from duty by reason of illness or injury for more than twenty-one (21) consecutive days or absent for any other reason for more than sixty (60) days will not be allowed to return to duty until he/she obtains and presents to his/her superior a certificate from the Authority's medical staff that he/she is fit for duty. No allowance will be made for the time required to obtain such certificate.
- D. An employee required to report to the Authority's Medical Staff for physical examination outside his/her tour of duty will be allowed three (3) hours offset time for so reporting.
- E. If required to report for such examination while on duty, no deduction shall be made from employee's pay for time necessarily consumed in undergoing such examination.
- F. An employee who has who has been injured in the course of his/her employment and who is required to report for treatment by the Authority's Medical Staff or to attend hearings at the Workers' Compensation Board because of injuries to himself but not as a witness, during his/her time off between two tours of duty, will be allowed three (3) hours offset time for so reporting.

If such an employee is required, while on duty to attend a hearing at the Workers' Compensation Board because of injuries to himself, but not as a witness, no deduction shall be made from his/her pay for time necessarily consumed for such hearing, provided, however, that such employee obtains an attendance slip from the Authority attorney which sets forth the time of arrival and time of departure from such hearing.

Section 1.22 Leaves of Absence for Death in Family

At the time of death in any employee's immediate family, he/she shall, upon submitting satisfactory evidence to the Department Head, be granted a leave of absence, with pay, at his/her regular rate of pay, on each such day, not to exceed four (4) working days. Such leave shall not be charged to any other allowance such as vacation, sick leave or holiday. "Immediate family" shall mean for this purpose, "a spouse; domestic partner; natural, foster, or step parent; mother-in-law, father-in-law; child; brother, sister; natural grandparent; and any person residing in the household". "Any person residing in the household" is to be interpreted as meaning a person related by family ties, with permanent residence in the household.

Section 1.23 Vacations

- A. A vacation with pay will be granted each year to each employee as hereinafter provided, at such time within the year as the Authority shall fix and determine. The twelve (12) month period within which such vacations will be granted and allocated is referred to in this Section as the vacation year. The vacation year will be either the calendar year or the year commencing the first day of May in a calendar year and ending on the thirtieth day of April of the following calendar year, as the Authority may determine to be appropriate for the particular department or section of a department. Vacations may be spread over the entire twelve (12) months of the vacation year whenever the Authority deems this advisable in the interest of efficiency or economy. The amount of vacation allotment in weeks or days will be computed on the basis of the time and duration of active employment prior to the beginning of the vacation year. For the purpose of this Section, periods of leave of absence without pay for one (1) month or more, except where such leave of absence shall have been for ordered military duty, shall not be deemed to be active employment.
- B. Effective with the May 1st, 2018 – April 30th, 2019 leave year, the vacation schedule for current and future employees shall be as follows:
1. Each employee who, at the beginning of a vacation year, shall have been actively in the employ of the Authority for less than one (1) year, will be granted a vacation day of one (1) day per month for each full calendar month he/she shall have been in the employ of the Authority prior to the beginning of the vacation year, but not exceeding two (2) weeks.
 2. Each employee who, at the beginning of a vacation year, shall have been actively in the employ of the Authority for one (1) year but who at the beginning of that vacation year shall not have been actively employed for more than three (3) years shall be granted a vacation of two (2) weeks during such vacation year.
 3. Each employee who, at the beginning of a vacation year, shall have been actively in the employ of the Authority for more than (3) years shall be granted a vacation of four (4) weeks during such vacation year.
 4. Each employee who, at the beginning of a vacation year, shall have been actively in the employ of the Authority for more than fifteen (15) years shall be granted a vacation of five (5) weeks during such vacation year.
- C. An employee subject to this Agreement who during the preceding vacation year, shall have been on leave of absence without pay, except ordered military duty, shall be granted a vacation with pay on the following basis:
1. An employee otherwise entitled to a vacation of two (2) weeks shall be granted a vacation with pay of one (1) day per month for each month or the major portion thereof he/she shall have worked during the preceding vacation year, but not more than two (2) weeks.
 2. An employee otherwise entitled to a vacation of four (4) weeks shall be granted a vacation with pay of two (2) days per month for each month or the major portion thereof he/she shall have worked during the preceding vacation year, but not more than four (4) weeks.
 3. An employee otherwise entitled to a vacation of five (5) weeks shall be granted a vacation with pay of two and one-half (2-1/2) days per month for each month or

major portion thereof he/she shall have worked during the preceding vacation year, but not more than five (5) weeks.

- D. Each employee will be permitted to have a maximum balance of 42 vacation days. This will include accruals credited each May 1st and any time remaining to the employee's credit as of April 30th. Each May 1st, any vacation time which exceeds the 42 day limit will be transferred to the employee's sick leave bank.
- E. For the purpose of determining the length of active employment upon which is based the allowance provided in paragraphs (B) and (C) any leave of absence without pay and any break in service of less than one (1) year, shall not be considered as interruptions in continuous employment, except however, that an employee who, for any reason, leaves the employ of the Authority and returns within one (1) year, will be considered a new employee for the purpose of computing his/her vacation allowance as provided above during the vacation year immediately following the one in which he/she is reinstated.
- F. Terminal vacation with pay shall be allowed any employee in an annually rated title subject to this Agreement in addition to any vacation due him/her under paragraphs (B), (C) and (D) above and within the limits set forth in Section 1.24 Lump Sum Payment, 1) where the employee's services are terminated or suspended through no fault of his/her own or because of his/her induction into the Armed Forces of the United States, or 2) where the employee, who is resigning or retiring of his/her own volition and not because of, or in anticipation of disciplinary action against, shall, prior to separation from service make a request therefor, such terminal vacation shall be computed as follows:
 - 1. An employee otherwise entitled to a vacation of two (2) weeks shall be granted terminal vacation of one (1) day for each complete calendar month worked in that vacation year prior to the date of separation, but not exceeding two (2) weeks.
 - 2. An employee otherwise entitled to a vacation of four (4) weeks shall be granted terminal vacation of two (2) days for each complete calendar month worked in that vacation year prior to the date of separation, but not exceeding four (4) weeks.
 - 3. An employee otherwise entitled to a vacation of five (5) weeks shall be granted terminal vacation of two and one-half (2-1/2) days for each complete calendar month worked in that vacation year prior to the date of separation, but not exceeding five (5) weeks.
- G. No additional vacation allowance or terminal vacation shall accrue to an employee for the period of such terminal vacation.

No terminal vacation shall be granted for sick leave with pay, vacation or compensatory time used immediately prior to any terminal vacation granted under this paragraph, except that an employee who retires under either the IRT, BMT, or City pension plan shall be entitled to credit as time worked for each month or major portion of a month prior to his/her retirement he/she is on regular vacation.

Terminal vacation shall be paid on the basis of eight (8) hours per day. No additional payment shall be made because of any run or tour in excess of eight (8) hours in a day by which an employee may have been paid prior to the period of terminal vacation. No holiday pay shall be granted for any of the stated holidays provided under Section 1.17 which may fall within the period of such terminal vacation. An employee who has not worked during a vacation year shall not receive any terminal vacation if he/she is separated from service during such year. The allowance of such terminal vacation shall be conditioned, however,

upon an agreement by the employee to whom it is granted that should he/she return to the service of the Authority before the end of the following vacation year, the number of terminal vacation days so allowed to him/her shall be deducted from any vacation he/she may be entitled to take in such following year after returning.

- H. During the vacation period each employee will be allowed vacation pay equal to eight (8) hours per day.
- I. In the event of a change in the date of commencement of the vacation year for any department or section of a department or any class or group of employees, so that the vacation year shall commence on the first day of January instead of the first day of May, the allocations of vacation time shall that have been announced previous to such action by the Authority will remain unchanged, except for those whose allocated vacation time is within the first four (4) months of the following calendar year. If such change should occur, a computation of vacation allowances within the new vacation year, based on the time of employment by the Authority up to the beginning of such year, will be made and published in the month of November, and a selection and allocation of vacation time during the next vacation year will be made in accordance with the usual methods and practices governing allocation of vacation time. Those employees who had previously selected or had previously been allocated vacation time during the months of January, February, March or April, as their vacation time for the old vacation year which commenced the preceding May, will have a preferential right to hold and retain such allocations of vacation time for the vacation to be had in the new vacation year, if they so desire, but all those who do not make known such desire will participate in a new selection and allocation of vacation time for the new vacation year commencing the first day of January.

For all such allocations, the basic principle as to the length of vacation set forth in paragraphs (B) and (C) of this Section will govern vacation time allowable. No employee will be allowed two (2) periods of vacation time in the same calendar year because of such change in the date of commencement of the vacation year, unless the Authorities, upon a review of the facts in the particular case, determines that an exception should be made.

- J. An employee who is away on leave of absence will not be granted any vacation allowance during the continuance of such leave. He/she must be in active service immediately preceding the period for which he/she is granted a vacation. In the event, however, that an employee is taken sick and on that account stops work before he/she has had his/her vacation for the vacation year in which the illness commences, he/she may elect subject to approval by the head of his/her department, to take such vacation as provided in Section 1.25 (Q). When a leave of absence due to illness, begins in one vacation year and extends into the next succeeding vacation year, an employee may, subject to approval by the head of his/her department, elect to take the vacation due to him/her in such later vacation year as provided in Section 1.25 (Q). However, such election under this rule and under Section 1.25 (Q) shall apply only to complete vacation due the employee at the time of his/her request, and no grant shall be made of only a portion of a vacation allowance.
- K. An employee who is dismissed on charges, or who resigns while on charges or in anticipation thereof, shall not have the date of termination of his/her employment postponed to allow him/her any vacation pay whatever whether he/she shall have previously had a vacation in that vacation year or not.
- L. While a permanent employee is away in any year, on military duty, he/she will be treated as continuing in the employ of the Authority for the purpose of determining how much vacation he/she is entitled to take in the following vacation year should he/she return to the active

service of the Authorities during that year. Upon his/her return before the end of that year, he/she shall, to the extent that the time intervening between his/her return and the end of the year may permit, be entitled to take before the end of the vacation year such vacation as he/she would have been entitled to take in that year had he/she not been away on military leave, less such part thereof as he/she may have been allowed at the time of his/her induction into the armed forces. He/she shall not, however, carry over to a subsequent vacation year a vacation which he/she may have missed because of being away on military leave of absence.

- M. Employees may be granted advance payment of vacation allowance.
- N. The use of any vacation allowance provided by this Section shall not be anticipated unless authorized by the Authority.
- O. Any employee who, during the vacation year, is in service part of the time in a position to which this Agreement is not applicable and part of the time in a position to which they are applicable shall accrue annual leave allowances in accordance with this Agreement for each month during the major part of which he/she served in a position to which this Agreement is applicable, and shall accrue an annual leave allowance for each month during the major part of which he/she served in a position to which this Agreement is not applicable in accordance with the Agreement applicable to such other position.

An employee shall, in each vacation year, be granted his/her total accrued leave allowance regardless of the title in which he/she is serving at the time he/she takes his/her annual leave allowance.

- P. Employees shall be permitted to use up to ten (10) vacation days in half-day increments with reasonable notice to their supervisor, subject to managerial discretion.
- Q. If the Division of Human Resources offers Managers and non-represented (Career & Salary and Operating) employees the opportunity to cash-out their vacation time, while in service, employees who are members of the Union shall also be offered such opportunity under the same terms and conditions.

Section 1.24 Lump Sum Payment

- A. Upon separation, all vacation, sick, compensatory, and AVA entitlements will be handled in a lump-sum, payment following removal from the payroll. Lump-sum payments will be capped at the amount of the annual salary. However, consideration must also be given to Section 1.23 Vacation, Paragraph (K) when calculating this payment.
- B. Employees are limited to a usage of thirty-five (35) vacation days in their last year of service prior to separation. If an employee uses more than thirty-five (35) vacation days in the last year, the excess will be deducted from the lump-sum payment.
- C. In calculating the lump-sum, employee will be credited with up to a maximum of fifty-four (54) vacation days (inclusive of current and accrued time).

Section 1.25 Sick Leave

- A. Subject to the limitations hereinafter set forth, the Authority will grant to every employee, who shall have been in its employ for at least one year, sick leave with pay on each working day when he/she is unfit for work on account of illness, up to a total in any one year, of twelve (12) days.

- B. Subject to the limitations hereinafter set forth, the Authority will grant to every employee in its employ less than one year, sick leave with pay on each working day when such employee is unfit for work on account of illness, up to a total of one (1) day per calendar month during which, or the major part of which, the employee shall have been in such employ.
- C. The term "year" as used in this Section, shall mean a period of twelve months beginning on the first day of May and ending on the following thirtieth day of April.
- D. For the purpose of this Section, an employee shall not be deemed to have been in the employ of the Authority during a period of leave of absence without pay except where such leave of absence shall have been for ordered military duty.
- E. For any day on which sick leave with pay is granted to an employee, the pay to be allowed him/her shall be for a total of eight (8) hours per day.
- F. Sick leave shall not run concurrently with vacation and will not be granted in respect to any of the ten (10) scheduled holidays specified in Section 1.17 or in respect to any day which is the employee's regular day off.
- G. In order to be granted a paid or unpaid leave of absence on account of illness, an employee must file a written application, therefor, on a form provided by the Authority, within three (3) days after his/her return to work, but this form may be filed during the period of his/her absence if such absence is for an extended period. The application for sick leave must include a true statement of the cause of the applicant's absence from work, including the nature of his/her illness or disability, and must be made to the Authority through the applicant's appropriate superior. If the application is for more than two (2) days, it must comply with the provisions of paragraph (I) of this Section.
- H. No sick will be granted for illness due to indulgence in alcohol or narcotics except as permitted by the Authority policy.
- I. The burden of establishing that he/she was actually unfit for work on account of illness shall be upon the employee. Every application for sick leave, whether with or without pay, for more than two days, must be accompanied by medical proof satisfactory to the Authority and upon a form to be furnished by the Authority, setting forth the nature of the employee's illness and certifying that by reason of such illness the employee was unable to perform his/her duties for the period of the absence. This paragraph will not in any way relieve the employee from complying with paragraphs (K) and (L) of this Section, as well as subdivision (c) of Rule 5 of the Authority's Rules and Regulations.
- J. To be entitled to sick leave for any day on which he/she is absent from work because of illness, an employee, except where it is impossible to do so, must, at least one hour before the commencement of his/her scheduled tour of duty for that day, cause notice of the illness and of the place where he/she can be found during such illness, to be given by telephone, messenger, or otherwise, to his/her appropriate superior, and must also give notice to such superior of any subsequent change in the place where he/she can be found. Where it is impossible to give such notice within the time above prescribed, it shall be given as soon as circumstance permit. The failure to cause such notice to be given shall deprive the employee of his/her right to be paid for such scheduled tour of duty and he/she shall not be entitled to pay for any subsequent tour of duty from which he/she absents himself unless at some time, not less than one hour prior to the commencement of such tour of duty, he/she shall have caused such notice to be given. The failure to cause notice to be given as herein provided shall not be excused unless the Authority is convinced that special circumstances made it

impossible and is also convinced that notice was given as soon as the special circumstances permitted.

- K. If a representative of the Authority calls at the place where the absent employee gave notice that he/she could be found during his/her illness, or in the absence of such notice, calls at the home of the absent employee and cannot find him/her, the absent employee will be deemed to be absent without leave. Such employee will not be granted sick leave and will be subject to appropriate disciplinary action.
- L. When an employee is out sick and is visited by a doctor of the Authority who finds the employee able to work, there will be no deduction made for that day in the current pay period but the Authority may deny payment after review and deduct pay for such day in a subsequent period. An employee who is out sick is also subject to be investigated by Special Inspectors.
- M. No sick leave with pay will be granted for less than one-quarter of a day at a time. An employee who under Section 1.25 (R)(4) is not entitled to sick leave with pay for the first working day in any period of leave of absence for illness and works part of his/her scheduled tour of duty, but, because of such illness, does not work the balance thereof, and continues absent because of such illness beyond the start of his/her next regularly scheduled tour of duty, shall be granted sick leave with pay for that part of the second day of such absence which follows the equivalent time at which he/she ceased work on the day on which he/she became ill. In the event that a paid absence of less than one full day is to be charged against unused sick leave allowances, the following table of computation shall be used:
 - 1. One-fourth ($1/4$) of a day if he/she was on duty more than 5 (five) hours on the day during which his/her services were interrupted by illness;
 - 2. One-half ($1/2$) of a day if he/she was on duty more than 3 (three) hours but not more than five (5) hours on such day;
 - 3. Three-fourths ($3/4$) of a day if he/she was on duty as much as 1 (one) hour, but not more than three (3) hours, on such day;
 - 4. One (1) full day if he/she was on duty less than one (1) hour on such day.

If his/her work schedule on such day includes a paid meal period and he/she worked all of that part of his/her tour of duty which precedes his/her scheduled meal period, or all of that part of his/her tour of duty which follows his/her scheduled meal period, the meal period will be treated as time on duty in determining the charge to be made against his/her sick leave allowance.
- N. An employee who is found to be in violation of the rules set forth in this Section governing sick leave allowances shall, in addition to being subject to the denial of sick leave, also be subject to appropriate disciplinary action. Any serious violation, or persistent infractions, or a fraudulent claim for sick leave may result in dismissal from the service.
- O. Time of absence from work while incapacitated by injury received in performance of duty will not be charged against the sick leave allowable under this Section.
- P. No sick leave will be granted to an employee who is unfit for work on account of an accident incurred while working for an employer other than the Authority.

Q. An employee who has exhausted all his/her sick leave allowances at full pay, may elect subject to the approval of the head of his/her department to use any current vacation or accrued AVA days or compensatory time to which he/she may be entitled, in their entirety. If such absence is expected to continue beyond the end of the vacation year, the employee's leave of absence with pay for illness shall be interrupted for a sufficient number of days so that he/she may be paid for any remaining current vacation before the expiration of the vacation year. The employee must provide adequate medical evidence to show that the entire period of absence including vacation, AVA days, and compensatory time used under this paragraph was the result of one continuous absence.

R. Sick Leave Control Procedures

The terms and conditions of the March 16, 1989 Brian Frohlinger Memorandum, titled, "Attendance Control", shall be replaced with the following:

1. An employee having five (5) unsubstantiated instances of sick leave absences in any running one (1) year period will be counseled by his/her supervisor, at which time he/she will be advised and instructed to improve his/her sick leave record. The employee shall be paid for the time he/she is counseled and may have a union representative present if he/she requests one.
2. Upon the sixth (6th) unsubstantiated instance of sick leave absence in any running one year period, he/she will be placed on the Sick Leave Control List and be so notified with a copy to his/her union representative. The employee shall be required to acknowledge in writing receipt of the notification that he/she is on the Sick Leave Control List.
3. An employee having a recent pattern of one or two day absences, with less than one half (1/2) of his/her possible sick leave balance in the bank, will be counseled by his/her supervisor. The employee will be advised and instructed to improve his/her sick leave record. Should such patterned absences continue the employee will be placed on the Sick Leave Control List.
4. An employee who is placed on the Sick Leave Control List must provide medical documentation for all sick leave absences, regardless of duration. Failure to do so will be cause for loss of pay, if the employee normally entitled to same, and may be cause for disciplinary action. Employees promoted or hired to Maintenance Supervisor Level II on or after the effective date of full and final ratification who at any time are on the Sick Leave Control List will not be granted sick leave with pay for the first (1st) day of any sick leave instance while on such list.
5. Each Department must furnish daily to Absentee Control a list of all employees who are on the Sick Leave Control List and have reported sick.
6. The record of each employee on the Sick Leave Control List will be reviewed every (6) months starting with the date the employee is placed on the Sick Leave Control List. If on the six (6) month review, the employee has two (2) or less sick leave instances during the previous six (6) months or four (4) or less sick leave instances during the previous twelve (12) months, his/her name will be removed.
7. In addition, in the event the employee was absent more than two (2) times during the six (6) month period or more than four (4) times during the twelve (12) month period, he/she will remain on the Sick Leave Control List and may be subject to appropriate disciplinary action.

8. A notice will be sent to all employees who have been removed from the Sick Leave Control List, with a copy to his/her Union representative.
9. The method of placement pursuant to the Sick Leave Control List provision shall be that an employee who has been counseled after five (5) unsubstantiated instances of sick leave in any running one year period remains in a counseled status for one (1) year from the date of the counseling. If the employee has no other instances of unsubstantiated sick leave during that one (1) year period, he/she shall be released from the counseled status. Once released from the counseled status, the Authority will again counsel the employee after he/she has accumulated five (5) unsubstantiated instances of sick leave in any running one (1) year period.

S. Sick Leave Cash Out Upon Separation

Upon separation, if an employee has completed ten (10) years of service with NYCT or MaBSTOA, he/she shall receive a non-pensionable lump sum payment of one-half of his/her accumulated sick leave bank up to a maximum payment of 120 days (240 days of accumulated sick leave).

T. Additional Sick Leave

1. Additional sick leave shall be provided to each employee at seventy-five percent (75%) of what the employee would have been paid if he/she worked in accordance with his/her regular schedule subject to the terms and conditions set forth:
2. The additional sick leave provided herein shall not be accumulated from year to year but shall be available to the covered employee in each year. The additional days shall not be available to an employee unless he/she is absent for illness for nine (9) or more consecutive working days, in which event that employee shall receive pay to the extent provided above from the first day after exhausting his/her regular sick leave bank.
3. To be eligible to receive the additional days of sick leave on a seventy-five percent (75%) payment basis during any sick leave year, the employee must be eligible for an allowance of twelve (12) days of sick leave pay in said sick leave year.
4. An employee who has exhausted all of his/her sick leave allowances at full pay, may elect, subject to the approval of his/her department head, to use any current vacation or accrued AVA days or compensatory time to which he/she may be entitled to in their entirety, before being eligible for sick leave at the seventy-five percent (75%) payment basis. If such absence is expected to continue beyond the end of the vacation year, the employee's leave of absence with pay for illness shall be interrupted for a sufficient number of days so that he/she may be paid for any remaining current vacation before the expiration of the vacation year. The employee must provide adequate medical evidence to show that the entire period of absence including vacation, AVA days, and compensatory time used under this paragraph was the result of one continuous absence.
5. An employee may receive the additional twenty-five percent (25%) (for a total of 100%) of his/her pay as set forth above if he/she had more than one-half of his/her potential sick leave balance available at the onset of the illness which was the basis of the request for additional sick leave.

6. Upon exhaustion of the 120-day benefit, an additional 60 work days may be given at the sole discretion of management.
7. Such payments of additional sick leave cannot be utilized in conjunction with injury-on-duty claims.
8. Such payments shall not be paid to an employee who has been terminated due to a disability pursuant to the Civil Service Law, Sections 72/73.

Section 1.26 Injury on Duty

- A. An employee incapacitated from performing any type of available work as a result of an accidental injury sustained in the course of his/her employment will be allowed, for such period or periods during such incapacity as the Transit Authority may determine, a differential payment which shall be sufficient to comprise, together with any Workers' Compensation payable to him/her under the provisions of the Workers' Compensation law an amount after taxes equal to his/her after tax wages for a forty (40) hour work week.
- B. If the Workers' Compensation payment granted pursuant to law is equal to or greater than the amount the employee was receiving prior to the period of incapacity, after taxes, for a forty (40) hour work week, the employee shall not receive any differential payments. If the absence for which he/she is to be allowed pay as herein provided occurs two years or more after the date of the original accident, the allowance shall be based upon an amount equal to seventy (70) percent of his/her earnings on the date of the original accident as set forth herein.
- C. In no case will an employee be granted the allowance above mentioned or be paid more than he/she is entitled to receive under Workers' Compensation Law unless he/she voluntarily, and without any additional allowance therefor, submits from time to time, as he/she may be requested, to physical examinations by the Authority's Medical Department. Should he/she at any time after the Authority's determination to grant any allowance under the provisions of this Section, refuse to submit to examination by said Medical Department or if, upon examination he/she is adjudged by such Medical Department to be able to perform either his/her own work or lighter work which is offered to him/her and he/she should fail or refuse to perform the same, such refusal shall automatically effect a revocation of any and all allowances theretofore granted to him/her under this Section, and to the extent that the amount of any such allowance shall have already been paid to him/her it shall be treated as an advance payment of, and shall be deducted from, whatever monies may thereafter become due and payable to such employee.
- D. If, as a result of an injury sustained in the course of his/her employment, an employee is adjudged by the Authority's medical staff to be disqualified for the work of his/her own position but qualified for lighter work in another position, and if he/she is assigned to and performs such lighter work he/she will be paid in accordance with Authority policy. The amount of any Workers' Compensation payable for the period or any part of the period during which he/she so works will be deducted from his/her pay for the work.
- E. No increase, by way of increment or otherwise, shall be made in the rate of pay of any incapacitated employee during the period of his/her incapacity, or until he/she returns to work in the same position which he/she held prior to the period of incapacity, at which time his/her regular rate of pay will become what it would have been had he/she remained continuously in active service.

F. No differential pay shall be granted:

1. Unless the employee sustained an accidental injury while engaged in the performance of his/her assigned duty for the Authority and such accidental injury was the direct cause of the employee's incapacity for work.
2. If the employee tests positive for alcohol, drugs or controlled substances which testing was initiated by the incident which caused the harm or the injury to the employee.
3. If the employee failed to report for any work within title when directed that they are medically qualified to perform.
4. If the employee does not give due notice of the accident or does not report to the Authority's designated physician(s) for examination or re-examination when told to do so. This provision shall not be used to require an employee to report for examination at unreasonable times and frequency.

G. When the question arises as to the granting of differential pay under this Section to an employee who has been absent from work on account of injury in the course of his/her employment, the Attorney in Charge of the Compensation Bureau of the Authority or his/her designee shall certify that the following conditions have been met:

1. The employee sustained an accidental injury while engaged in the performance of his/her assigned duty for the Authority and said injury was the direct cause of the employees' incapacity for work.
2. That the employee has tested negative for alcohol, drugs, and controlled substances or tests administered subsequent to the incident alleged to be the cause of injury.
3. That the employee has reported for any work within title after being medically qualified to do so.
4. That the employee gave due notice of the accident to the Authority and reported to the Authority's designated physician(s) as required for examinations, which were conducted at reasonable times."

H. In certifying that the conditions as aforesaid have been met the Attorney-in-Charge of the Workers' Compensation Bureau of the Authority or his/her designee in addition to using the information available to him/her from the files in his/her bureau may call upon the Assistant Vice President of the System Safety Department, the Medical Department, and any other bureau or department of the Authority to furnish in writing to the said Attorney-in-Charge of Workers' Compensation such facts and information as he/she may deem necessary to properly make such certification. The Attorney-in-Charge of Workers' Compensation or his/her designee may call for such facts and information and the System Safety Department, the Medical Department, and all other bureaus and departments of the Authority shall furnish the facts and information so called for by said Attorney-in-Charge of Workers' Compensation or his/her designee.

I. Following certification of the above, the Attorney-in-Charge of Workers' Compensation or his/her designee, shall have the power, subject to and in accordance with the provisions above set forth, to grant differential pay.

Section 1.27 Jury Duty

- A. An employee required to perform jury duty which in any way interferes with his/her regular working hours will be granted a leave of absence with pay, provided such employee endorses all checks received in payment for such jury service to the Authority.
- B. Pay for such leave of absence for an employee shall be equal to eight (8) hours per day.
- C. Fees received for a jury duty performed by an employee during such employee's days off or vacation may be retained by the employee. When it is necessary for an employee to absent himself from any part of his/her work in order to qualify for jury duty, he/she will be granted a leave of absence with pay for such length of time as may be necessary for that purpose, not exceeding, however, four (4) hours.
- D. An employee whose Jury Service Fees are in excess of his/her regular base earnings for the period of absence while on Jury Duty, will have such excess reimbursed to him/her. Jury service fees shall include travel allowances granted by City and State Courts, but shall not include travel allowance of other courts.
- E. When an employee is required to be on Jury Duty, his/her Schedule Days Off shall be changed to Saturday and Sunday during the period of time he/she is on Jury Duty. In all other respects the controls and administration of Jury Duty shall continue.

Section 1.28 Leaves of Absence with Pay

A. Ordered Military Duty

- 1. Leaves of absence with or without pay, according to requirements of the law, will be granted to employees for the performance of ordered military or naval duty in accordance with the provisions of state statutes applicable thereto.

B. State or National Conventions of Veterans' Organizations

- 1. A leave of absence with pay in accordance with the Working Conditions set forth herein will be granted to an employee who is a member of any of the following named veterans' organizations and who has been designated as an official delegate to attend a state or national convention or encampment of such organization customarily held in the summer and fall of each year, commonly referred to as an annual convention. The Army and Navy Union of the United States of America, United Spanish War Veterans, Veterans of Foreign Wars of the United States, American Legion, Disabled American Veterans of the World War, Army and Navy Legion of Valor of the United States, Jewish War Veterans of the United States, Military Order of the Purple Heart, Catholic War Veterans, Italian War Veterans, Legion of Guardsmen, American Veterans of World War II (AM-VETS), Reserve Officers Association of the United States, Military Chaplains Association of the United States, Association of the United States Army, and other organizations composed of veterans of wars in which the United States has participated.
- 2. Leave of absence with pay will be granted for the period of attendance at such state or national convention or encampment, including normal traveling time by rail to and from same provided the employee obtains and, upon his/her return, files with the Authority, through his/her department head, a certificate by the Secretary or other authorized official of the organization certifying that such employee was duly designated as an official delegate to said convention or encampment and as such delegate, was in attendance thereat for the specific period of time allowed, and further provided that such leave of

absence may be granted without impairing the essential services of the transit system.

3. Leave of absence will not be granted where the employee desires to attend such convention in a capacity other than that of official delegate thereto.
4. An employee who is a member of more than one of said organizations shall be entitled to leave of absence as aforesaid to attend the state or national convention or encampment of only one such organization, to be designated by him/her.
5. Employees engaged in the operation of the New York City Transit System desiring such leave of absence must make application therefor on the proper form at least two (2) weeks in advance of the time when such leave is to take effect.
6. The appropriate Vice President is authorized to approve applications for leaves of absence with pay submitted in compliance with the above rules.

Section 1.29 Leaves of Absence Without Pay

Leaves of absence without pay for personal business not exceeding ninety (90) calendar days may be granted to employees by the department head. No such leave of absence without pay shall be granted to any employee without written application therefor by or on behalf of the employee. Additional leaves of absence without pay in excess of the ninety (90) day period may be granted by the appropriate Vice President upon recommendation of the department head. An employee absent without leave will be subject to disciplinary action which may result in his/her removal. An employee absent without leave for five (5) consecutive calendar days shall be presumed to have abandoned his/her position and charges will be brought for his/her dismissal from the service of the Authority. An employee who has been continuously absent from work for a period of time commencing in one (1) sick leave year and continuing until two (2) months prior to the expiration of the next sick leave year shall not be granted any further leaves of absence, unless, as a condition thereof, he/she agrees in writing to waive any right or claim to sick leave allowance or other pay during his/her continued absence beyond the end of the latter sick leave year.

Section 1.30 Leaves of Absence Not To Be Granted To Perform Work Outside the Authority's Employment

- A. Leaves of absence will not ordinarily be granted to enable an employee to engage in other employment than that of the Authority. Proof of such other employment, without the consent of the Authority, during an employee's assigned working hours will be regarded as abandonment by the employee of his/her position with the Authority and will be grounds for dismissal of the employee from the service of either Authority.
- B. Likewise, if work performed for another employer outside of the time assigned to an employee for his/her work for either Authority causes him/her to be unfit for the efficient performance of his/her work for either Authority, this will constitute neglect of duty and delinquency and will be punishable by dismissal from the service of the Authority.

Section 1.31 Contract Grievance Procedure

- A. A "grievance" is hereby defined to be a complaint on the part of any employee covered by the Agreement, or a group of employees, that there has been, on the part of management, noncompliance with, or a misinterpretation or misapplication of any of the provisions of this Agreement, or any written working condition, rule, resolution, or any policy/instruction of the Authority.

- B. Grievances of employees covered by this collective bargaining agreement shall be processed and settled in the following manner:

1. Step I

An employee or his/her representative shall be permitted within five (5) days from the time a grievance arose to request in writing, by completing a form provided by the Authority, to be heard at the Departmental level by the Department Head or his/her designee. The grievance shall be scheduled to be heard within ten (10) days after receipt of the written request by the employee's Department Head or designee. The employee may be accompanied at this meeting by his/her Union representative. The decision on the appeal will be rendered to the employee and his/her Union representative within ten (10) days after the meeting.

2. Step II

In the event that the matter is not satisfactorily adjusted with the Department Head or his/her designee, the employee or his/her Union representative may, within five (5) days after the receipt of written notification from the Department Head of his/her decision, submit the dispute in writing, by completing a form provided by the Authority, to the Authority's Vice President, Office of Labor Relations, or his/her designee. The appeal shall be scheduled to be heard within fifteen (15) days after the receipt of the written request by the Vice President, Office of Labor Relations or his/her designee. The Vice President, Office of Labor Relations or his/her designee shall, within twenty (20) days after such hearing is closed, render his/her decisions in writing.

In any case where the decision on a grievance, filed and presented by an employee individually, would affect other employees or would involve a basic interpretation or application of the provisions of this contract or any working condition, rule or resolution, the Union shall be given notice and its representative shall be permitted to attend and be heard at each step in the grievance procedure.

C. Impartial Arbitration

1. If the Union grievance representative is not satisfied with the written decision at Step II of the grievance procedure, within fifteen (15) calendar days after receipt of the Step II decision, the Union will give written notice of its intention to arbitrate to the Vice President, Office of Labor Relations or his/her designee.
2. The parties mutually agree that Carol Wittenberg and Howard Edelman shall serve as Impartial Arbitrators for the duration of the term of this Agreement. Upon expiration of the term of this Agreement, the parties will mutually agree upon an Impartial Arbitrator(s). If the parties cannot agree on the designation of an arbitrator(s), they shall utilize the procedures of the American Arbitration Association for the selection of an arbitrator(s).
3. The Arbitrator shall fix a date for a hearing on at least fourteen (14) days notice to the Authority and to the employee and his/her Union representative, at which the employee and his/her Union representative and a representative of the Authority, shall be on hand to present both sides of the controversy. At the request of the Arbitrator, witnesses, records and other documentary evidence as required shall be produced.
4. The Arbitrator shall mail a copy of his/her opinion and award to the Vice President, Office of Labor Relations or his/her designee and to the employee or his/her Union representative within ten (10) days after the close of the hearing. His/her determination

upon matters within his/her jurisdiction and submitted to him/her under and pursuant to the terms and conditions of this Agreement, shall be final and binding upon the parties.

5. In rendering his/her opinion and award, the Arbitrator shall be strictly limited to the interpretation and application of any written agreement between the parties, any written working condition, rule or resolution of the Authority governing or affecting employees represented by the Union, but shall be without power or authority to add to, delete from, or modify any such agreement, working condition, rule or resolution. The Arbitrator shall not have authority to render any opinion or make any recommendations hereunder:
 - a. inconsistent with or contrary to the provision of applicable Civil Service Laws, Rules and Regulations;
 - b. limiting or interfering in any way with the statutory powers, duties and responsibilities of the Authority in operating, controlling and directing the maintenance and operation of the transit facilities, or with the Authority's managerial responsibility to run the transit lines safely, efficiently and economically;
 - c. with respect to modification of any wage rates applicable to employees represented by the Union;
 - d. with respect to any disciplinary action or determination of unfitness of any employee to perform his duties taken or proposed to be taken by the Authority pursuant to Section 75 of the Civil Service Law, or pursuant to the Authority's own resolutions or rules.
6. The Authority shall also have the right to submit to the Arbitrator for his/her opinion and determination, upon twenty (20) days notice to the Union, any complaint or dispute between the parties arising solely out of the interpretation, application, breach or claim of breach of the provisions of this Agreement.

D. Other Provisions

1. In computing the time within which any action must be taken under the foregoing grievance procedures, Saturdays, Sundays, and holidays shall not be counted, unless otherwise specified.
2. The time limitations provided in this Section shall be strictly adhered to by the employees, by the Union, and by the Authority. A grievance, may be denied at any level because of failure to adhere to the time limitations. In exceptional cases, however, and for good cause shown, the time limitations may be waived and a decision made on the merits. It is agreed, however, that neither the filing of any complaint nor the pendency of any grievance as provided in this Section, shall prevent, delay, obstruct, or interfere with the right of the Authority to take the action complained of, subject to the final disposition of the complaint or grievance as provided for herein. In any case where the Authority does not schedule a matter for hearing or render a decision within the prescribed time limits, the grievance may be appealed to the next step of the procedure.
3. Step I and II hearings and Impartial Arbitration shall be held on the employee's own time.
4. Any serious contractual violation question may be appealed in writing to the Vice President, Office of Labor Relations or his/her designee. The final decision as to whether

a contractual violation is serious or whether a grievance should be remanded to Step I shall be within the sole discretion of the Vice President, Office of Labor Relations or his/her designee. Such appeal must include a statement as to the contractual provision allegedly violated by management and the remedy sought. The Vice President, Office of Labor Relations or his/her designee shall set a hearing within seven (7) business days after receipt of such appeal and render his/her decision within ten (10) business days following the hearing. If the Union seeks to appeal this decision, the case will be scheduled for arbitration as expeditiously as possible.

Section 1.32 Disciplinary Grievance Procedure

- A. A disciplinary grievance is hereby defined to be a complaint on the part of any employee covered by this Agreement that there has been a violation of the employee's contractual rights with respect to a disciplinary action of a warning, reprimand, fine, or suspension, demotion and/or dismissal except that a "disciplinary grievance" shall not include the removal or other discipline of a probationary, part-time or temporary employee. This provision shall not be construed to deprive a provisional employee of his/her right to use this procedure prior to suspension or termination from his/her permanent title.
- B. The disciplinary procedure and the rights set forth herein shall be in lieu of any other disciplinary procedure and rights that may have previously applied to an employee covered by this Agreement including but not limited to the procedures and rights specified in Sections 75 and 76 of the Civil Service Law and shall apply to all persons who but for this procedure and rights would be subject to Sections 75 and 76 of the Civil Service Law. These procedures and rights shall not apply to probationary, part-time or temporary employees.
- C. In the Authority, no disciplinary proceeding shall be commenced more than thirty (30) working days after the employee's Manager or Immediate Supervisor has knowledge of the alleged violations or misconduct complained of and described in the charges, provided, however, that such limitation shall not apply when the violations or misconduct complained of and described in the charges is the subject of an investigation or would, if proven in a court of appropriate jurisdiction, constitute a crime. Employee absences and Authority observed holidays shall be excluded from the thirty (30) working days.
- D. In the Authority, no warning, reprimand, suspension, demotion, or dismissal shall be entered on an employee's record or otherwise imposed until the completion of the disciplinary procedure. This provision shall not, however, foreclose the pre-disciplinary suspension of an employee for reasons of serious misconduct detrimental to the operation of the Authority including but not limited to the following:
 - 1. violation of the drug and controlled substance policy;
 - 2. violation of the alcohol policy;
 - 3. theft or fraud;
 - 4. allowing subordinates to commit fraud;
 - 5. chronic absenteeism;
 - 6. physical violence or threats of physical violence;
 - 7. gross insubordination;
 - 8. serious safety violations;
 - 9. criminal conduct; and
 - 10. violations of the Authority's policies concerning EEO and sexual harassment.
- E. If an employee fails to appear on two (2) occasions at any step in the disciplinary grievance procedure, the grievance shall be deemed abandoned and the penalty imposed. The Union has the right to appeal the issue of abandonment but must file the appeal with the Vice

President, Office of Labor Relations or his/her designee within ten (10) business days of notice of implementation. In addition, the Authority shall have no liability at equity or in law for any delays in this procedure as a result of the employee's or the Union's actions, including, but not limited to, the Union or the employee requesting the underlying grievance be held in abeyance.

F. Disciplinary grievances shall be processed and settled in the following manner:

1. Step I

An employee or his/her Union representative shall be permitted within five (5) days from the time of notification of the disciplinary charges to appeal the charges in writing. The Local Divisional Management Representative or his/her designee will hear the appeal. Within fifteen (15) days after receipt of the written appeal, the matter shall be heard. The decision on the appeal will be rendered to the employee and his/her Union representative within ten (10) days after the meeting.

Where a pre-disciplinary suspension has been imposed, the employee or his/her Union representative will be given the opportunity to have the appeal heard with the Local Divisional Management Representative or his/her designee within 48 hours after receipt of written appeal (or the next weekday workday exclusive of the employee's regular days off, if suspended on a Saturday, Sunday or a holiday). The decision of the Local Divisional Management Representative or his/her designee will be rendered in writing to the employee and his/her Union representative within 48 hours after the meeting.

2. Step II

In the event the matter is not satisfactorily adjusted at Step I, the employee or his/her Union representative may, within five (5) days after receipt of the Step I decision, appeal in writing to the designated Department Head or his/her designee. The Department Head or his/her designee will hear the appeal within thirty (30) days after the receipt of the written appeal. The Department Head or his/her designee shall within twenty (20) days after the hearing is closed, render his/her decision in writing. Such decision shall be final and binding.

Where a pre-disciplinary suspension has been imposed, the Department Head or his/her designee will hear the appeal within ten (10) days of the receipt of the appeal. The Department Head or his/her designee shall issue a short written decision at the conclusion of the hearing and may within ten (10) business days of the conclusion of the hearing, issue a full written decision. Such decision shall be final and binding.

3. Demotions and Dismissals

a. In disciplinary cases where the recommended penalty is demotion or dismissal the employee or his/her Union representative may within five (5) days after notification of the Step II decision, appeal in writing to the Vice President, Office of Labor Relations seeking an arbitration hearing. In the case of demotion, the Arbitrator's determination shall be limited to whether the underlying conduct occurred, and the Arbitrator shall have no authority to modify or reverse the recommended penalty. The following rules shall apply:

- i. The appeal will be heard at arbitration by a Tripartite Panel consisting of an impartial arbitrator, the Vice President, Office of

Labor Relations, or his/her designee, and the President of the Union or his/her designee.

- ii. The matter will be scheduled for a hearing within thirty (30) business days of the date of appeal of the Step II decision.
 - iii. The Union and the Authority shall be given an opportunity to submit relevant evidence and cross-examine witnesses. No transcript of the hearing shall be required.
 - iv. All witnesses shall take an appropriate oath or affirmation prior to testifying.
 - v. The decision of the Panel must be by a majority and will be written by the Arbitrator as quickly as possible but no later than twenty (20) business days after the closing of the record in the hearing. Within twenty (20) days after issuance of the award by the Panel, the Union or the Authority Panel members have the right to issue a dissenting opinion. Such Tripartite Panel decisions shall be final and binding.
- b. The Authority shall schedule all Tripartite Panel arbitrations on a timely basis. There shall be sufficient dates of Tripartite Panel arbitrations to timely process all pending cases.
- c. The Impartial Arbitrators shall be Howard Edelman and Carol Wittenberg on a rotating basis based upon their availability. These arbitrators have been selected by mutual agreement and will serve for the period of the Agreement.
- d. The Tripartite Panel, in rendering any opinion or determination, shall be strictly limited to the interpretation and application of the provisions of this Agreement, or of any written rule, or Policy/Instruction of the Authority governing or affecting employees, and it shall be without any power or authority to add to, delete from, or modify any of the provisions of this agreement or of such rules or Policy/Instruction. The Arbitrator of the Panel shall not have the authority to render any opinion or make any recommendations:
- i. Inconsistent with or contrary to the provisions of the applicable Civil Service Laws and regulations;
 - ii. Limiting or interfering in any way with the statutory powers, duties, and responsibilities of the Authority in operating, controlling, and directing the maintenance and operation of the transit facilities, or with the Authority's managerial responsibility to run the transit lines safely, efficiently and economically.
- e. All expenses of the arbitrator shall be divided equally between the Authority and the Union.

G. General Provisions

- 1. At each step of the disciplinary grievance procedure, the Authority retains the right to increase, decrease or otherwise modify the decision made at the lower level.
- 2. In computing the time within which any action must be taken under the above procedures, Saturdays, Sundays, and holidays shall not be counted except where

otherwise specified.

3. In any case where the Authority does not schedule a matter for hearing or render a decision within the prescribed time limits, the grievance may be appealed to the next step of the procedure where applicable.
4. At Step I and Step II of the disciplinary grievance procedure, the employee may represent himself/herself, but shall not be allowed to have a representative other than a Union representative. If an employee chooses to represent himself/herself or hire an outside party to represent himself/herself at the Tripartite Panel, the employee must sign a written waiver provided by the Union and provide a copy to the Authority.
5. An employee may choose to work for any period of suspension and pay a fine equal to thirty percent (30%) of his/her regular salary during the period in question. For purposes of progressive discipline, the only penalty reflected on the employee's record will be the suspension time that was originally accepted or imposed through arbitration. The Authority shall not deduct more than thirty percent (30%) of an employee's weekly salary in any given week. These provisions shall not be available to employees who are pre-disciplinary suspended.
6. In a disciplinary grievance where an employee subject to the disciplinary grievance provisions herein has been suspended pending appeal under this procedure, such employee shall be restored to the payroll pending the finalization of the disciplinary case after the employee has been suspended from service for thirty-five (35) Suspension Days.

"Suspension Days" shall be counted from the day on which the Authority receives the employee's notice of appeal to Step I and shall continue until the day that the case is first scheduled before the Impartial Arbitrator. However, Suspension Days shall not include any time after an employee is notified of the decision at any of the steps until the Authority receives written notice of the appeal to the next step in the procedure nor any delay of a hearing or postponement brought about by the employee or his/her Union representative. Additionally, regular days off and Authority observed holidays shall be excluded from the calculation of Suspension Days.

In no event shall this section entitle an employee to pay beyond the first scheduled hearing date before the Arbitrator except that where such hearing date is postponed at the request of the Authority, Suspension Days shall include any delay directly caused by such postponement.

H. Enforcement of Arbitration Awards

If the Authority decides to appeal a disciplinary arbitration decision wherein the Authority was seeking termination, the affected employees will be returned to work with modified duties unless public safety or danger to fellow employees is involved.

If the Authority continues to hold the employee out of service and the final court appeal is not successful, the employee will be entitled to any awarded back pay plus 10% premium on the amount of the awarded back pay.

Section 1.33 Release Time

- A. The Union shall have seventy-five (75) days per calendar year for New York City Transit paid release time. The individual(s) shall be designated by the Union President, but shall be an employee in the bargaining unit.
- B. The Union shall provide reasonable notice to New York City Transit when the former has designated an employee to be on Authority paid release.
- C. The parties agree that the New York City Transit paid release time will be utilized exclusively for labor-management activities.

Section 1.34 Health and Welfare Benefits

- A. Health Benefits: NYSHIP health benefits for employees, their spouses, domestic partners, and eligible children shall remain in effect. Employee contribution rates shall continue to be set at one-half (1/2) of the Managerial contribution rates. If the Authority changes the current method of determining managerial contribution rates, the Authority's sole obligation shall be to advise the Union of such change with at least sixty (60) days notice. The Union shall have the right to meet with the Authority to discuss the change in contribution rates.

If for whatever reason the NYSHIP plan were no longer available to NYC Transit employees, the parties shall meet to negotiate a new plan.

- B. Dental Benefits: The Authority shall maintain the existing level of dental benefits for employees, their spouses, domestic partners, and eligible children.
- C. Vision Benefits: The Authority shall maintain the existing level of vision benefits for employees, their spouses, domestic partners, and eligible children.
- D. Life Insurance: The Authority shall provide life insurance benefits as follows:
 - 1. Basic Life Insurance: The Authority shall provide basic life insurance coverage equal to \$25,000.00 at no cost to employees covered by this Agreement.
 - 2. Basic Dependent Life Insurance: The Authority shall provide basic dependent life insurance coverage equal to \$1,500.00 for an employee's spouse at no cost.
 - 3. Accidental Death and Dismemberment Insurance: The Authority shall provide basic accidental death and dismemberment insurance of \$250,000 at no cost to employees covered by this Agreement.
 - 4. Supplemental Life Insurance: Employees covered by this Agreement shall have the option to purchase additional life insurance, on the same terms and conditions as currently in effect, of one to five times an employee's base annual salary, up to a maximum of \$750,000.00. If an employee applies for coverage within thirty (30) days of their hire date, an employee will not be required to submit evidence of insurability (EOI), except, if the coverage selected exceeds three times an employee's base salary, or \$200,000.00, whichever is less. Supplemental life insurance applications received outside an employee's eligibility period require EOI regardless of the amount requested. Premiums are taken through automatic payroll deductions. When there are three pay periods in a month, premiums are deducted only in the first two paychecks of the month. However, the Authority reserves the right to amend and/or cancel such plans at any time on the same basis as other employees who are enrolled in this coverage.

5. Supplemental Dependent Life Insurance: Employees covered by this Agreement shall have the option to purchase additional dependent life insurance for their spouse and dependent children, on the same terms and conditions as currently in effect. There are four options available. An employee may elect a benefit from \$3,500.00 (spouse) / \$1,000.00 (dependent children) to \$18,500.00 (spouse) / \$4,000.00 (dependent children). If an employee applies for coverage within 30 days of their eligibility date, an employee will not be required to submit EOI. Supplemental dependent life insurance applications for an employee's spouse that are received outside of an employee's eligibility period require EOI. Premiums are deducted through automatic payroll deductions from the first paycheck of each month. However, the Authority reserves the right to amend and/or cancel such plans at any time on the same basis as other employees who are enrolled in this coverage.
6. New York State Public Employee and Retiree Long Term Care Insurance Plan (NYPERL): Employees, covered by this Agreement, who currently participate in NYPERL, shall be permitted to continue participation in such long term care insurance plan on the same basis as managerial employees, on the same terms and conditions as currently in effect.

Effective April 30, 2016 the contract between New York State and MedAmerica Insurance Company of New York, the insurer and administrator of the NYPERL, expired. Therefore, there shall be no new enrollees in NYPERL. If New York State secures a new contract in the future, the Authority's sole obligation will be to notify the Union. Enrollment in any future plan shall be under the rules and at the discretion of New York State.

However, if New York State ceases to offer NYPERL or a similar long term care insurance plan, the Authority shall be under no obligation to offer and/or replace a similar plan.

E. Health Insurance Continuation

1. If an employee covered by this Agreement dies while in active service and has at least ten (10) years of credited service in the New York City Employee's Retirement Service (NYCERS) or MaBSTOA pension system, health benefits for such employee's covered spouse and dependents will be continued, in accordance with the rules set forth by NYSHIP, provided such employee was enrolled in health benefit coverage on the date of death. Health benefits coverage for such deceased employee's spouse will continue for life or until remarriage. There is no health benefits continuation for such deceased employee's spouse and/or dependents if they were not enrolled in the plan(s) at the time of the former's death.
2. Retiree Benefits: Upon separation of service from the Authority, if a retiree has at least ten (10) years of credited service in the New York City Employee's Retirement Service (NYCERS) or MaBSTOA pension system and such retiree is immediately collecting pension payments, medical, dental and vision coverages will continue for such retiree and their eligible dependents for life. When such retiree becomes Medicare eligible at age 65 or due to disability, Medicare Part A, Part B, and Part D must be applied for. Medicare will be primary and medical coverage with the Authority will be secondary. Such retirees will receive a reimbursement for the cost of Medicare Part B and Part D through NYSHIP.

3. **Survivor Benefits:** Upon death of the retiree, health benefits for the covered spouse and dependents will be continued, in accordance with the rules set forth by NYSHIP, provided they were enrolled in coverage on the date of the retiree's death. Coverage for the spouse will continue for life or until remarriage. There is no health benefits continuation for the spouse and/or dependents if they were not enrolled in the plan(s) at the time of retirement.
4. **Vestee Benefits:** If an employee terminates employment with the Authority and has at least ten (10) years of credited service in the NYCERS or MaBSTOA pension system, but does not meet the age requirement for collecting pension benefits, an employee may still be eligible for health insurance continuation when retirement age is attained. In order to be eligible for health insurance continuation when an employee reaches retirement age, uninterrupted health care coverage must be maintained for the separated employee and their dependents by paying the full cost of their medical coverage. Premium payments will end once the separated employee's pension payment commences.

If the employee has dependents but only maintains vestee benefits for themselves, their dependents will not be eligible for benefits when the pension payments commence. If an employee does not enroll for vestee benefits or does not maintain vestee benefits continuously, medical, dental and vision benefits will not be available when pension payments commence.

5. Employees and their covered dependents who do not qualify for retiree or vestee benefits upon separation from service may continue their health care coverage under COBRA.

Section 1.35 Miscellaneous Provisions

A. Commutation Pass

No later than ninety (90) days after execution of this Agreement, employees will be entitled to either the Metro North Railroad or the Long Island Rail Road pass for commutation. In addition, employees will be entitled to use their EPIC Pass on SIRTOA. All existing rules and regulations applicable to commutation passes shall apply. The MTA reserves the exclusive right to revoke the use of such pass, if abuse is established.

B. MaBSTOA Pension

Employees who are currently enrolled in the MaBSTOA Pension Plan shall continue to participate in their current plan in accordance with the Plan rules.

C. 401(k) and 457 Plans

The Authority will offer employees the option of opening a 401(k) and/or 457 account on the same terms and conditions as currently in effect. However, the Authority reserves the right to amend and/or cancel such plans at any time on the same basis as other employees who are enrolled in these plans.

D. TransitChek

The Authority will offer employees the option of TransitChek benefits on the same terms and conditions as currently in effect. However, the Authority reserves the right to amend and/or cancel such benefit at any time on the same basis as other employees who are enrolled in this benefit.

E. Flexible Savings Account

The Authority will offer employees the option of enrolling in a Flexible Savings Account on the same terms and conditions as currently in effect. However, the Authority reserves the right to amend and/or cancel such plan at any time on the same basis as other employees who are enrolled in this plan.

F. College Savings Plan

The Authority will offer employees the option of opening a College Savings Plan on the same terms and conditions as currently in effect. However, the Authority reserves the right to amend and/or cancel such plan at any time on the same basis as other employees who are enrolled in this plan.

G. Bulletin Boards

The Union may use Authority bulletin boards to post notices to its members. Such official Union notices shall be limited to announcements and shall contain nothing political or similarly controversial and in no circumstances shall reflect upon the Authority or upon any of its officers or employees.

H. "COPE" Deductions

Employees shall be allowed to voluntarily authorize payroll deductions for contributions to a fund known as the "TSO – Political Activity Fund" (the "Fund"). It shall be the responsibility of the Union to obtain and deliver such authorization cards to the appropriate Authority. The content of such cards shall be agreed to by the appropriate Authority and the Union.

Upon receipt of authorization cards, the appropriate Authority shall begin bi-weekly payroll deductions on the first feasible payroll after the effective date of this Agreement.

The appropriate Authority shall deduct the actual expense of making the payroll deductions by a deduction from the contributions (not to exceed .05¢). Contributions shall be transmitted to the Union on a bi-weekly basis, after the payroll deductions are made.

Section 1.36 Out of Title Work

After an employee has worked in an out of title assignment for ninety (90) consecutive days, he/she shall be paid the difference between his/her current rate and the minimum rate for the higher paid title in which he/she is performing. Such payments shall not be made where the employee holding the higher title has been granted a leave of absence by the Authority.

Section 1.37 Job Security

The parties will make every effort to avoid involuntary reductions in force. These efforts will include reassignments and other movements of personnel where applicable, when a reduction in force occurs. The Authority will provide forty-five (45) days prior written notice by certified mail to the Union of any planned reductions in personnel and agrees to meet with the Union within fifteen (15) days after notice is given to discuss such planned reduction.

Section 1.38 The Authority's Rules and Regulations

The foregoing working conditions are in addition to the Rules and Regulations of the Authority Governing Employees Engaged in the Operation of the New York City Transit System. Every employee should study and be familiar with the said rules and regulations.

Section 1.39 NYCT and MaBSTOA's Drugs, Controlled Substances and Alcohol Policies

The current Drug and Controlled Substance Policy/Instruction Number 4.24.5 Issued January 2014, attached as Appendix C, shall continue to apply.

The current Alcohol Policy/Instruction Number 4.13.3 Issued January 2014, attached as Appendix D, shall continue to apply.

Section 1.40 Duration of Agreement

This Agreement shall be effective August 1, 2017 and continue in effect through January 7, 2018.

Section 1.41 Conclusion


Except as otherwise herein provided, this Agreement, and each of its provisions, provided they are not in violation of law as determined by a court of competent jurisdiction shall be effective as of August 1, 2017 and shall continue in full force and effect until January 7, 2018.

To the extent that any of the provisions of this Agreement require approval of, or are subject to modification, by a federal or state agency pursuant to statute or regulations issued thereunder, they shall be subject to such approval or modification.

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL. IT IS FURTHER AGREED THAT THE PARTIES WILL JOINTLY SEEK SUCH APPROVAL WHERE REQUIRED.

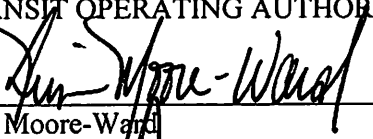
IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

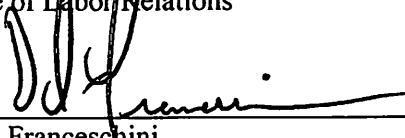
TRANSPORT WORKERS UNION, LOCAL 106

By:  8-1-17
Vincent Modafferi
President

By: 
Joseph Betancourt
Chairman

NEW YORK CITY TRANSIT AUTHORITY
and MANHATTAN AND BRONX SURFACE
TRANSIT OPERATING AUTHORITY

By: 
Kim Moore-Ward
Vice President
Office of Labor Relations

By: 
David Franceschini
Senior Director
Collective Bargaining

APPENDIX A – WAGE TABLES

Employees hired or promoted into the following Maintenance Supervisor Level II titles before the effective date of full and final ratification shall progress to top rate of pay according to the following schedule at the rates set forth below.

Employee Title (code)	1st Step for the first 6 months	2nd Step upon the first day of the 7th month	3rd Step (Top Rate) upon the first day of the second year
Maintenance Supervisor - (Car Equipment) II (TA 548)			
Maintenance Supervisor - (Electrical Power) II (TA 554)			
Maintenance Supervisor - (Power Cables) II (TA 568)			
Maintenance Supervisor - (Power Distribution) II (TA 570)			
Maintenance Supervisor - (Structure A Carpenter) II (TA 578)			
Maintenance Supervisor - (Structure B Masonry) II (TA 580)			
Maintenance Supervisor - (Structure E Plumber) II (TA 586)			
Maintenance Supervisor - (Structure F Painter) II (TA 588)			
Maintenance Supervisor - (Track Equipment) II (TA 536)			
Maintenance Supervisor - (Elevators) II (TA 558)			
Maintenance Supervisor - (Lighting) II (TA 563)			
Maintenance Supervisor - (Signals) II (TA 574)			
Maintenance Supervisor - (Stores) II (TA 576)			
Maintenance Supervisor - (Structure C Ironwork) II (TA 582)			
Maintenance Supervisor - (Structure D Sheetmetal) II (TA 584)			
Maintenance Supervisor - (Structure H AC) II (TA 591)			
Maintenance Supervisor - (Telephones) II (TA 595)			
Maintenance Supervisor - (Vent) II (TA 620)			
Maintenance Supervisor - (Track) II (TA 611)			

Employee Title (code)	1st Step for the first 6 months	2nd Step upon the first day of the 7th month	3rd Step (Top Rate) upon the first day of the second year
Maintenance Supervisor - (Electronic Equipment) II (TA 556)			
Maintenance Supervisor - (Power Electron.) II (TA 572)			
Maintenance Supervisor - (Revenue) II (TA 507)			
Maintenance Supervisor - (Revenue) II (OA 263)			

1/8/2015
\$93,656
\$94,995
\$98,334

1/8/2015
\$91,935
\$93,243
\$96,521

APPENDIX B – NIGHT DIFFERENTIAL TABLES

Maintenance Supervisors Level II shall receive night differential in accordance with Section 1.8 (E) as per the following schedule below.

Employee Title (code)

Maintenance Supervisor - (Car Equipment) II (TA 548)
Maintenance Supervisor – (Electrical Power) II (TA 554)
Maintenance Supervisor – (Power Cables) II (TA 568)
Maintenance Supervisor – (Power Distribution) II (TA 570)
Maintenance Supervisor – (Structure A Carpenter) II (TA 578)
Maintenance Supervisor – (Structure B Masonry) II (TA 580)
Maintenance Supervisor – (Structure E Plumber) II (TA 586)
Maintenance Supervisor – (Structure F Painter) II (TA 588)
Maintenance Supervisor – (Track Equipment) II (TA 536)
Maintenance Supervisor – (Elevators) II (TA 558)
Maintenance Supervisor – (Lighting) II (TA 563)
Maintenance Supervisor – (Signals) II (TA 574)
Maintenance Supervisor – (Stores) II (TA 576)
Maintenance Supervisor – (Structure C Ironwork) II (TA 582)
Maintenance Supervisor – (Structure D Sheetmetal) II (TA 584)
Maintenance Supervisor – (Structure H AC) II (TA 591)
Maintenance Supervisor – (Vent) II (TA 620)
Maintenance Supervisor – (Track) II (TA 611)
Maintenance Supervisor – (Electronic Equipment) II (TA 556)
Maintenance Supervisor – (Power Electron.) II (TA 572)
Maintenance Supervisor – (Telephones) II (TA 595)
Maintenance Supervisor – (Revenue) II (TA 507)
Maintenance Supervisor – (Revenue) II (OA 263)

1/8/2015

1st Step for the first 6 months	\$42,161
2nd Step upon the first day of the 7th month	\$42,769
3rd Step (Top Rate) upon the first day of the second year	\$44,290

The following formula shall be used to calculate the night differential rate:

Night Differential Rate for Non-Leap Year:

$(0.1 * 14 * \text{the applicable rate from the above table}) / (40 \text{ hours} * 2 * 365) = \text{Night Differential Rate}$

Night Differential Rate for Leap Year:

$(0.1 * 14 * \text{the applicable rate from the above table}) / (40 \text{ hours} * 2 * 366) = \text{Night Differential Rate}$

LIST OF APPENDICES

Appendix A – Wage Tables

Appendix B – Night Differential Tables

Appendix C – Drugs and Controlled Substances Policy/Instruction Number 4.24.5 Issued January 2014

Appendix D – Alcohol Policy/Instruction Number 4.13.3 Issued January 2014

APPENDIX C

**NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION**

Subject:	Classification	Issued:	Number:
DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

1.0 POLICY

- 1.1 It is the policy of the Authority to operate and maintain its transportation facilities in a safe and efficient manner and to provide a safe work environment for its passengers and employees. Possession or the use/misuse of Drugs or Controlled Substances, including marijuana, that may prevent an employee of the Authority from performing the duties of his/her job safely and/or efficiently is prohibited. In addition, it is the policy of the Authority to provide eligible employees the opportunity to rehabilitate themselves by use of counseling services as provided in this Policy Instruction (P/I).

2.0 PURPOSE

- 2.1 The purpose of this P/I is to set forth policies and the procedures concerning employee possession or use of Drugs or Controlled Substances including marijuana, as defined in Section 4.0.

3.0 SCOPE

- 3.1 **This P/I shall apply to all Authority employees serving in titles which (1) are not represented by a Union or (2) are represented by a Union, but do not have drug and alcohol testing provisions as part of their collective bargaining agreements.**
- 3.2 Authority - For the purpose of this P/I Authority shall mean the New York City Transit Authority, Manhattan and Bronx Surface Transit Operating Authority, Staten Island Rapid Transit Operating Authority and/or the South Brooklyn Railway Company.

4.0 DEFINITIONS

- 4.1 Controlled Substances - Any drug or substance listed in Public Health Law, Section 3306, including but not limited to marijuana, heroin, LSD, concentrated cannabis or cannabinoids, hashish or hash oil, morphine or its derivatives, mescaline, peyote, phencyclidine (angel dust), opium, opiates, methadone, cocaine, quaaludes, amphetamines, seconal, codeine, phenobarbital, or valium.
- 4.2 Drug - Any substance which requires a prescription or other writing from a licensed physician or dentist for its use and which may impair an employee's ability to perform his/her job or whose use may pose a threat to the safety of others.

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DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

- 4.3 Marijuana – (Marihuana) - means all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.
- 4.4 Medical Authorization - A prescription or other writing from a licensed physician or dentist for the use of a Drug in the course of medical treatment, including the use of methadone in a certified drug program.
- 4.5 Medical Review Officer - a licensed physician who has passed the training and certification examination requirements on drug and alcohol testing in accordance with Federal Department of Transportation regulations.
- 4.6 Substance Abuse Professional (SAP) - a physician, social worker, psychologist, employee assistance professional, marriage or family therapist, or drug and alcohol counselor who has satisfied the qualification, training and certification examination provisions in accordance with Federal Department of Transportation regulations.

5.0 REPORTING AND TESTING OF CONTROLLED SUBSTANCES AND DRUGS

Reporting

- 5.1 Each employee is under an affirmative obligation to report to the Authority's Occupational Health Services his/her use or possession of any Controlled Substance. Each employee must also report the use of any other drug or substance, whether or not used pursuant to proper medical authorization, which may impair job performance or pose a hazard to the safety of the employee or others. Questions concerning the effect of a Drug or Controlled Substance on performance should be referred to the Authority's Occupational Health Services.
- 5.2 Each employee shall provide evidence of medical authorization upon request. The failure to report the use of such Drugs or Controlled Substances to Occupational Health Services as described in paragraph 5.1 above, or the failure to provide evidence of medical authorization upon request will result in disciplinary action and may be deemed proper grounds for dismissal. Occupational Health Services shall notify the employee's Department Head as appropriate.

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Subject:	Classification	Issued:	Number:
DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

Testing

- 5.3 Employees of the Authority shall submit to urine screening testing for Drugs and Controlled Substances when ordered to do so in the following circumstances:
- 5.3.1 Back-to-work physical for safety-sensitive titles/positions following an absence of twenty-one (21) or more days due to illness, suspension or unauthorized absence;
- 5.3.2 Periodic physicals for safety sensitive titles/positions;
- 5.3.3 Physical examination for promotion if the employee is being promoted to a safety-sensitive position/title;
- 5.3.4 When an employee holding a safety sensitive position is directed by members of supervision or management following any incident that occurs while on duty, such as an accident or collision, where the employee's conduct contributed to or cannot be discounted as having contributed to the accident or incident;
- 5.3.5 When directed by members of supervision or management following any accident or unusual incident that occurs while on duty where it is reasonable to conclude that the use of Drugs and/or Controlled substances could have been a contributing factor;
- 5.3.6 Return to Duty After a Positive and Follow-up testing when an employee holding a safety-sensitive position has tested positive on a test required by Federal regulations and is being restored to safety-sensitive duties. Frequency and duration of testing is determined by a SAP in Work Life Services;
- 5.3.7 Return to Duty After a Positive and Follow-up testing when a Drug or Controlled Substance has been identified in a prior test performed in accordance with NYCT policy, and less than one year has elapsed since the employee's successful completion of Work Life Services (formerly known as the Employee Assistance Program), and where applicable, the employee has been restored to duty;
- 5.3.8 When supervision or management has reasonable suspicion to believe that the employee is under the influence of alcohol, Controlled Substances, including marijuana or Drugs;

**NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION**

Subject:	Classification	Issued:	Number:
DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

5.3.9 When an employee holding a safety-sensitive position/title is selected for random testing.

5.4 Refusal to take such test(s) will result in the immediate suspension of the employee from duty and shall lead to dismissal from service without eligibility for restoration.

6.0 USE OR POSSESSION OF CONTROLLED SUBSTANCES AND DRUGS

Use or possession of Controlled Substances and/or Drugs is strictly prohibited

6.1 Except as set forth in paragraph 6.6 and in paragraph 8.2, use, misuse or possession of any Drugs or Controlled Substance without medical authorization, as these terms are defined in Section 4.0, DEFINITIONS, in violation of this P/I is strictly prohibited and will result in dismissal from service.

6.2 Any employee voluntarily reporting his/her use of Drugs or Controlled Substances may be temporarily reassigned, transferred or placed on a leave of absence.

Use of Drugs/Controlled Substances

6.3 All non-negative drug tests are evaluated by a certified NYCT Medical Review Officer using the procedures of the Federal Department of Transportation (DOT) regulations. The Medical Review Officer will make a determination whether a drug test result is verified positive or negative.

6.4 When the testing is verified positive for Drugs or Controlled Substances and the employee has less than one (1) year of service, he/she shall be subject to dismissal. The provisions of Section 9.0 shall not apply to employees dismissed under this paragraph.

6.5 When the testing is positive for Drugs or Controlled Substances and the employee has one (1) or more years of service, the employee will be dismissed with the ability for restoration pursuant to Section 9.0 except as set forth in sections 6.6 - 6.10.

6.6 Where an individual has been dismissed pursuant to Section 6.5, the individual will be referred to a SAP at Work Life Services (WLS). In order to be eligible for restoration pursuant to Section 9.0, the individual must participate in counseling in a WLS approved program. Failure to participate in a WLS approved program will render the individual ineligible for restoration pursuant to Section 9.0.

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POLICY/INSTRUCTION**

Subject:	Classification	Issued:	Number:
DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

- 6.7 When the testing is positive for Drugs and Controlled Substances following an incident that resulted in harm or injury to any person, including harm or injury to the tested employee, the employee shall be dismissed. The provisions of Section 9.0 shall not apply to employees dismissed under this paragraph.
- 6.8 If an employee has a second positive test for Drugs or Controlled Substances including marijuana, such employee shall be dismissed from the service. The provisions of Section 9.0 shall not apply to employees dismissed under this paragraph.
- 6.9 In any case wherein an employee has tested positive for alcohol and is subsequently detected as having used or misused any Drugs or Controlled Substance, including marijuana, such employee shall be dismissed. The provisions of Section 9.0 shall not apply to employees dismissed under this paragraph.
- 6.10 In any case wherein an employee has tested positive for alcohol and had previously been detected as having used any Drugs or Controlled Substance, including marijuana, such employee shall be dismissed. The provisions of Section 9.0 shall not apply to employees dismissed under this paragraph.

**7.0 PROCEDURES FOR MAKING BLOOD OR URINE SAMPLES AVAILABLE
FOR CONFIRMATION TESTING**

Employees whose drug screening tests result in a positive finding shall have the option of having a re-test at a second laboratory. The Authority will only accept the re-test results from a laboratory on the retest list referred to in paragraph 7.3. See paragraphs 7.3 and 7.8.

When an employee or his/her representative requests that a urine sample collected under NYCT policy be sent for retesting at a second laboratory, the following procedures shall apply:

- 7.1 The employee shall submit a written request to the Division of Labor Disputes Resolution of the Office of Labor Relations including the employee's name, pass number, and the date on which the samples were given. Employees will be allowed three (3) weeks from the date the results of the initial tests are reported to the employee to request and pay for a confirmation retest from the retest laboratory.
- 7.2 Requests for confirmation of test results can only be honored if the employee gave sufficient samples at the time of the original examination.

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DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

- 7.3 The employee may choose to send his/her sample to any one of the retest laboratories that appear on a list which is maintained by the Division of Labor Disputes Resolution of the Office of Labor Relations.
- 7.4 The selected retest laboratory shall be responsible for the pick-up and transport of the sample.
- 7.5 The selected retest laboratory shall fill out a chain of custody form which will be submitted with the retest results.
- 7.6 The employee shall be solely responsible for the cost of transport and the cost of all retest laboratory tests requested. All arrangement for payment shall be made by the employee with the retest laboratory.
- 7.7 Retest laboratory test results shall be submitted to the Authority and the employee. Where the initial results rendered by the laboratory utilized by the Authority are not confirmed by the retest laboratory utilizing the same confirmation test as the initial laboratory (i.e., currently the GC/MS test), the Authority will not proceed with disciplinary action for Drug and/or Controlled Substance use. The initial test results shall be considered confirmed if the retest laboratory finds the presence of the Drug or Controlled Substance at any detectable level.
- 7.8 Confirmatory testing for specimens for safety-sensitive employees collected under Federal DOT regulations will be offered using required DOT procedures.

8.0 WORK LIFE SERVICES (formerly known as the Employee Assistance Program)

- 8.1 WLS shall provide assistance to employees who are referred to it as provided in this P/I and to those employees who voluntarily wish to participate in the WLS program.
- 8.2 Voluntary participation and cooperation in the WLS program will not be cause for dismissal or discipline, but may not be used to avoid disciplinary action that would be otherwise appropriate under the Authority's rules and regulations.
- 8.3 Individuals participating in the WLS program under the provisions of this P/I must comply in all respects with the directions and program requirements of WLS or they will not be eligible for restoration pursuant to Section 9.0.

**NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION**

Subject:	Classification	Issued:	Number:
DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

9.0 RESTORATIONS

An employee who has been dismissed from service under this policy, except where the dismissal occurred while the employee was on probation or where restoration is not available under this policy, will be restored to duty if he or she (1) enrolls in a WLS approved rehabilitation program and is compliant with program requirements as set forth by the SAP and Occupational Health Services; or (2) submits other medical proof that he or she is not using Controlled Substances or Drugs as defined in Section 4.0 of this policy, satisfactory to the Authority. Employees desiring to obtain counseling or treatment in a program not under the jurisdiction of the Authority must obtain prior approval of WLS to use such treatment program. Treatment rendered under such approved program must be reviewed and approved by WLS prior to a recommendation of restoration to duty. Such program must be licensed by the State of New York or equivalent licensing authority. Prior to restoration an employee must pass a medical assessment which shall include a drug test administered by the Authority's Occupational Health Services.

- 9.1 The restoration provisions of this P/I are not available to employees who are dismissed from service following detection of use of Controlled Substances or Drugs through testing precipitated by an incident which resulted in harm or injury to any person including harm or injury to the person being tested.
- 9.2 Employees who meet the requirements of Section 9.0 within the time limitations of paragraph 9.3 following the first instance of a positive drug test shall be restored to duty. The dismissal will be rescinded and the time elapsed since the employee's dismissal until the day of restoration will be registered as a suspension without pay.
- 9.3 Such restoration shall be considered no earlier than one (1) month nor later than one (1) year following such dismissal. An employee may be restored to duty under the provisions of this Section 9.0 only once. A second dismissal will be final and will not be subject to such restoration.

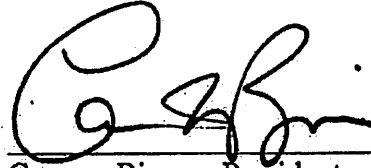
An employee restored to duty under Section 9.0 will be required to serve a one (1) year probationary term from the date of his restoration and will be restored to duty with a warning, final and absolute, that any derelictions in the year following restoration may result in dismissal. The employee will be subject to periodic follow-up drug testing during this period in accordance with subparagraph 5.3.6 and 5.3.7.

**NEW YORK CITY TRANSIT AUTHORITY
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Subject:	Classification	Issued:	Number:
DRUGS AND CONTROLLED SUBSTANCES This Policy/Instruction is limited in scope (see 3.1)	Executive Vice-President	January 2014	4.24.5

- 9.4 Employees dismissed for violating an Authority rule or regulation other than that involving use or possession of Controlled Substances and/or Drugs shall not be eligible for restoration under this P/I.

Approved: _____


Carmen Bianco, President

APPENDIX D

NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION

Subject	Classification	Issued	Number
ALCOHOL	Executive Vice-President	January 2014	4.13.3
This Policy/Instruction is limited in scope (see 3.1)			

1.0 POLICY

- 1.1 It is the policy of the Authority to operate and maintain its transportation facilities in a safe and efficient manner and to provide a safe environment for its passengers and employees. Possession of an alcoholic beverage on Authority property or the consumption of an alcoholic beverage while on duty or at any time where there would be a threat of rendering an employee unfit to perform the duties of his/her job safely and/or efficiently is prohibited. In addition, it is the policy of the Authority to provide eligible employees the opportunity to rehabilitate themselves by use of counseling services as provided in this Policy Instruction (P/I).

2.0 PURPOSE

- 2.1 The purpose of this Authority P/I is to set forth policies and the procedures concerning employee possession of alcoholic beverages on Authority property and consumption of an alcoholic beverage on Authority property or at any time or place to the extent that there would be a threat of rendering an employee unfit to perform his/her duties.

3.0 SCOPE

- 3.1 This P/I shall apply to all Authority employees serving in titles which (1) are not represented by a Union or (2) are represented by a Union, but do not have drug and alcohol testing provisions as part of their collective bargaining agreements.
- 3.2 Authority – For the purpose of this P/I Authority shall mean the New York City Transit Authority, Manhattan and Bronx Surface Transit Operating Authority, Staten Island Rapid Transit Operating Authority and/or the South Brooklyn Railway Company.

4.0 DEFINITIONS

- 4.1 Unfit due to indulgence in an alcoholic beverage (a positive finding) – A reading of 0.04 gm/dl or greater on the confirmation breath analysis test.
- 4.2 Property – For the purpose of this P/I shall mean the property of the New York City Transit Authority, Manhattan and Bronx Surface Transit Operating Authority, Staten Island Rapid Transit Operating Authority and/or the South Brooklyn Railway Company.

NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION

Subject	Classification	Issued	Number
ALCOHOL	Executive Vice-President	January 2014	4.13.3
This Policy/Instruction is limited in scope (see 3.1)			

- 4.3 Substance Abuse Professional (SAP) – a physician, social worker, psychologist, employee assistance professional, marriage or family therapist, or drug and alcohol counselor who has satisfied the qualification, training and certification examination provisions in accordance with Federal Department of Transportation regulations.

5.0 TESTING FOR USE OF ALCOHOLIC BEVERAGES

- 5.1 Employees of the Authority shall submit to breath analysis testing in the following circumstances:
- 5.1.1 When directed by members of supervision or management following any accident or unusual incident that occurs while on duty where it is reasonable to conclude that the use of alcohol could have been a contributing factor;
 - 5.1.2 When supervision or management has reasonable suspicion to believe that the employee is under the influence of alcohol, controlled substances, including marijuana, or any other substance;
 - 5.1.3 When an employee holding a safety-sensitive position is selected for random testing;
 - 5.1.4 Return to Duty After a Positive and Follow-up testing when an employee holding a safety-sensitive position has tested positive on a test required by Federal regulations and is being restored to safety-sensitive duties. Frequency and duration of testing is determined by a SAP in Work Life Services;
 - 5.1.5 When an employee holding a safety sensitive position is directed by members of supervision or management following any incident that occurs while on duty, such as an accident or collision, where the employee's conduct contributed to or cannot be discounted as having contributed to the accident or incident;
 - 5.1.6 Return to Duty After a Positive and Follow-up testing when a Drug or Controlled Substance has been identified in a prior test performed in accordance with NYCT policy, and less than one year has elapsed since the employee's successful completion of Work Life Services (formerly known as the Employee Assistance Program), and where applicable, the employee has been restored to duty;

NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION

Subject	Classification	Issued	Number
ALCOHOL	Executive Vice-President	January 2014	4.13.3
This Policy/Instruction is limited in scope (see 3.1)			

- 5.2 The Authority shall utilize breath analysis testing. After an initial breath analysis test indicating a reading of less than 0.02 gm/dl, there shall be no further testing. When the breath test result is greater than 0.02 gm/dl, then a second, confirmatory breath test will be performed. A confirmation breath analysis test indicating a reading of 0.04 or greater will be considered a positive test. Safety-sensitive employees who have any breath alcohol concentration of 0.02 gm/dl or greater but less than 0.04 gm/dl, when tested just before, during or just after performing safety-sensitive functions must be removed from performing such duties for 8 hours.
- 5.3 Refusal to take such test(s) shall subject the employee to immediate suspension from duty and may lead to dismissal.
- 5.4 NYCT reserves the right to use oral fluid or any other Alcohol Screening Devices from the National Highway Traffic Safety Administration conforming products list to conduct alcohol screening tests.

6.0 CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES

- 6.1 When someone is found **“UNFIT DUE TO INDULGENCE IN AN ALCOHOLIC BEVERAGE”** (a positive finding) and the employee either has less than one (1) year of service or is serving a probationary period, he or she shall be terminated from his or her position. The provisions of Section 8.0 shall not apply to employees dismissed under this paragraph.
- 6.2 Except as noted in Section 6.3, below, on the first occasion when the alcohol finding is positive for an employee with one (1) or more years of service, the employee will be dismissed from service. The individual will be referred to Work Life Services (WLS) and will be allowed to participate in an approved rehabilitation program. Where WLS recommends restoration pursuant to Section 8.0, the individual shall be eligible for restoration following examination by the Authority’s Occupational Health Services, including an alcohol test.
- 6.3 When the alcohol finding is positive for an employee following an accident or incident that resulted in harm or injury to any person, including harm or injury to the tested employee, the employee shall be dismissed. The provisions of Section 8.0 shall not apply to employees dismissed under this paragraph.

NEW YORK CITY TRANSIT AUTHORITY
POLICY/INSTRUCTION

Subject	Classification	Issued	Number
ALCOHOL	Executive Vice-President	January 2014	4.13.3
This Policy/Instruction is limited in scope (see 3.1)			

- 6.4 Where an employee is dismissed and referred to WLS pursuant to paragraph 6.2 of this policy and WLS reports that the employee has not satisfactorily met the requirements of the program, the employee shall no longer be eligible for restoration.
- 6.5 Where an individual has not met the requirements as set forth by WLS within one year from the initial positive finding for alcohol, the individual shall no longer be eligible for restoration.
- 6.6 If an employee has a second positive finding for alcohol, such an employee shall be dismissed. The provisions of Section 8.0 shall not apply to employees dismissed under this paragraph.
- 6.7 Where an employee is found to be in possession of an alcoholic beverage while on duty, the employee, in the first such instance, may be dismissed without an opportunity for restoration.
- 6.8 In any case wherein an employee was found to be positive for alcohol and subsequently tests positive for any controlled substance, including marijuana (pursuant to the Drugs & Controlled Substances P/I, Number 4.24.5) such employee shall be dismissed and will not be eligible for restoration pursuant to Section 8.0.
- 6.9 In any case wherein an employee has been found to be positive for alcohol pursuant to this P/I and had previously tested positive for any controlled substance, such employee shall be dismissed. The provisions of Section 8.0 shall not apply to employees dismissed under this paragraph.

7.0 WORK LIFE SERVICES (formerly known as the Employee Assistance Program)

- 7.1 WLS shall provide assistance to employees who are mandated to it as provided in this P/I. WLS will continue to provide services to employees, covered by this policy, who voluntarily seek services, as long as these employees do not have disciplinary charges pending which would lead to dismissal or are in an AWOL status.
- 7.2 WLS shall notify the Office of Labor Relations immediately in all cases where an individual has failed to cooperate or satisfactorily meet the requirements of the WLS program. Such notification shall be in writing.

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- 7.3 Individuals referred to programs by WLS under the provision of this P/I must comply in all respects with the directions and program requirements of WLS or they will not be eligible for restoration.

8.0 RESTORATIONS

- 8.1 An employee who has been dismissed from service under this P/I, except where the dismissal occurred while the employee was on probation or where restoration is not available under this P/I, shall be eligible for restoration to duty pursuant to the terms of this policy if he or she (1) enrolls in an WLS approved rehabilitation program and meets the requirements of said program; or (2) submits other medical proof satisfactory to the Authority that he or she is not misusing alcoholic beverages, controlled substances or drugs. Individuals desiring to obtain counseling or treatment in a program not approved by WLS must obtain prior approval of WLS to use such treatment program in order to remain eligible for restoration. Treatment rendered under such approved program must be reviewed and approved by WLS prior to a recommendation of restoration to duty. Such program must be credentialed by the State of New York or equivalent credentialing authority. Prior to restoration an employee must pass a medical assessment which shall include an alcohol test administered by the Authority's Occupational Health Services.
- 8.2 The restoration provisions of this P/I are not available to individuals who are dismissed from service following detection of use of alcohol through testing precipitated by an incident which resulted in harm or injury to any person, including harm or injury to the tested employee.
- 8.3 Individuals who meet the requirements of Section 8.0 within the time limitations of paragraph 8.4 following the first positive alcohol finding shall be eligible for restoration to duty.
- 8.4 Such restoration shall be considered not later than one (1) year following the first time positive test. An employee may be restored to duty under the provision of Section 8.0 only once. A second positive test shall lead to a final dismissal and the employee shall not be eligible for restoration.

An employee restored to duty under Section 8.0 will be required to serve a one (1) year probationary term from the date of restoration and will be restored to duty with a warning, final and absolute, that any derelictions in the year following restoration may result in dismissal. The employee will be subject to periodic

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unannounced alcohol testing during the one (1) year probation in accordance with subparagraph 5.1.4 or 5.16 of this P/I.

- 8.5 Employees dismissed for violating an Authority rule or regulation other than that involving use or possession of alcoholic beverages shall not be eligible for restoration under this P/I.

Approved:



Carmen Bianco, President



New York City Transit

August 1, 2017

Vincent Modafferi
President
Transport Workers Union, Local 106 (TSO)
5768 Mosholu Avenue
Bronx, New York 10471

Dear Mr. Modafferi:

This letter is to memorialize our discussions during the initial collective bargaining agreement, for the Maintenance Supervisors Level IIs, between New York City Transit and the Transport Workers Union, Local 106 (TSO) regarding the following issues:

Release Time:

The parties have agreed that the Union shall be permitted to use New York City Transit paid release time in partial days, but not less than four (4) hour increments, for the term of the initial agreement. However, NYCT shall continue to maintain its discretion on whether partial use days is operationally feasible in each department. Additionally, the parties have agreed to monitor the volume of interviews conducted by Special Investigations and its impact on the paid release time bank.

Vacation Carry-Over:

The parties have discussed that employees have been permitted to have a vacation bank of more than forty-two (42) days as a result of operational events, the aftermath of Superstorm Sandy, and other emergencies. The parties have agreed to continue to discuss the Union's request to permit employees to carry-over vacation days in excess of the current forty-two (42) day limit. However, the Authority reserves the right to reduce excess vacation banks to the forty-two (42) day limit. Should the Authority seek to reduce such balances the parties shall discuss a mechanism to reduce employees' banks down to the forty-two (42) maximum day limit.

Changing Shifts and Filling of Vacancies:

The parties shall continue discussions on employees who wish to move to a different shift and the filling of vacancies.

Safety Equipment:

Employees shall be provided, without cost to themselves, with such safety equipment as may be authorized by the Department Head.

Coats and Shoes:

The Authority shall continue to supply without cost, shop coats and safety shoes/boots to those Maintenance Supervisors Level IIs who are currently provided, as of the date of this letter, and required to wear shop coats and safety shoes/boots.



Voluntary Disability/Life Insurance Deductions:

The Union may offer represented employees the opportunity to purchase voluntary disability/life insurance on the same basis as other TSO represented employees. The Authority will make payroll deductions from employee's biweekly paychecks and remit such payment to the appropriate vendor. However, the Authority reserves the right to cease automatic payroll deductions upon notice to the Union.

Dental and Vision Benefits:

The Authority shall maintain the existing level of dental and vision benefits for employees, their spouses, domestic partners, and eligible children. However, should the Subway Surface Supervisors Association and the Transport Workers Union, Local 106 (Transit Supervisors Organization) Operating, Queens, and Coin Retriever Units, reach an agreement on dental or vision benefits, the parties agree that the current dental and vision benefits offered to employees in the title of Maintenance Supervisors Level II shall be amended to provide similar improvements.

Retroactive Wage Adjustments:

The parties agree that the January 8, 2016 and the January 8, 2017 retroactive wage adjustments will not count towards the 2017 salary cap. The parties will continue to discuss which payments shall be counted towards the annual salary cap.

If the above accurately reflects your understanding please counter-sign below.

Thank you,



Kim Moore-Ward

Vice President

Office of Labor Relations



8-1-17

Vincent Modafferi

Date

President

Transport Workers Union, Local 106 (TSO)