

**AGREEMENTS
between the
Judicial Department of the State of Vermont**



**and the
VERMONT STATE EMPLOYEES' ASSOCIATION, INC.**



JUDICIARY BARGAINING UNIT

Effective July 1, 2022— Expiring June 30, 2024

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This Agreement, made and entered into this th30 day, June, 2022 between the Judicial Department of the State of Vermont (hereinafter referred to as "Employer", "Judicial Department", "Judiciary" or the "Judicial Branch") and the Judicial Bargaining Unit of the Vermont State Employees' Association, Inc. (hereinafter referred to as the "VSEA" or the "Union");

PREAMBLE:

WHEREAS, the Legislature of the State of Vermont enacted legislation providing for collective bargaining between the Judiciary and those defined as eligible employees by 3 V.S.A. Ch. 28, as the same may be amended from time to time, and

WHEREAS, it is the intent of the parties to promote the efficient administration of Judiciary service; to provide for the well being of employees; and to maintain high standards of work performance on behalf of the public; and

WHEREAS, during the life of this Agreement, the parties agree that neither the Judiciary nor the VSEA will request the Legislature to pass legislation which alters or nullifies any provision of this Agreement,

NOW THEREFORE, the parties to this Agreement, in consideration of the mutual covenants herein set forth, agree as follows:

ARTICLE I

RECOGNITION

The Judiciary recognizes the VSEA as the exclusive representative of those Judiciary employees eligible for representation by a labor organization pursuant to Title 3, Vermont Statutes Annotated, Chapter 28, in the form in effect as of the date of execution of the Agreement. The Judiciary shall give the VSEA not less than annual written notice of any new managerial, supervisory or confidential position. At VSEA's request, the Judiciary will meet to discuss any such designation. The Judiciary will not designate an incumbent employee or position as managerial, supervisory or confidential unless there has been a change in duties. An Employee whose eligibility for representation under this Agreement changes for reasons other than a reclassification will be notified with a brief explanation of the decision and a statement of the employee's right to appeal the designation to the Vermont Labor Relations Board. The notice shall state explicitly both the old and new designations

The Judiciary shall not enter into any consultations, agreements, or informal discussions regarding employment relations matters with any other organization or individual purporting to represent any group of employees, and must not engage in any type of conduct which would imply recognition of any organization, group, or individual other than the VSEA as a representative of the employees in any bargaining unit. Employees shall have the right at any time to present complaints to their employer informally, and to have such complaints considered in good faith with or without the intervention of VSEA so long as any adjustment is not inconsistent with the terms of this Agreement.

ARTICLE 2

MANAGEMENT RIGHTS

It is understood and agreed that Ch. 2, Secs. 4 and 5 of the Vermont Constitution provides as follows:

Sec. 4 Judiciary – the judicial power of the Judiciary will be vested in a unified judicial system which shall be composed of a Supreme Court, a Superior Court, and such other subordinate courts as the General Assembly may from time to time ordain and establish.

Sec. 5. Departments to be Distinct – The Legislative, Executive and Judiciary departments, shall be separate and distinct, so that neither exercises the powers properly belonging to the others.

Consequently, except as specifically set forth herein, as required by law or otherwise specifically agreed to in writing between the parties, the Judiciary possesses the sole right and authority to operate its Department and direct the Judiciary employees in all aspects including, but not limited to, the right:

- To plan, direct and control Judiciary activities, to determine Judiciary policies and to establish standards of service offered to the public;
- To schedule and assign work to employees;
- To determine the means, methods, processes, materials and equipment utilized by the Judiciary, and to introduce new or improved methods, equipment or facilities;
- To determine the qualifications and staffing of jobs;
- To create, revise and eliminate jobs, or to furlough or lay off employees due to lack of work or funds or for other legitimate reasons in accordance with the procedures set forth in Article 19 hereof;
- To contract out work, and discontinue services or programs, in whole or in part. However, no employee will be laid off or otherwise be removed from employment as a result of contracting out except in circumstances where the work is beyond the capacity of Judiciary employees, or where the work or program can be performed more economically under an outside contract, or where an outside contractor has management techniques, equipment or technology which will result in better public service and increased productivity. Prior to any such lay off or other job elimination under this paragraph the VSEA will be notified and given an opportunity to discuss alternatives. A permanent status employee who, as a result of contracting out, loses his/her job will be deemed to have been reduced in force under the Reduction In Force Article. When the Judiciary contemplates contracting out bargaining unit work and publishes a formal request for proposal, a concurrent notice of such publication will be sent to the VSEA. Upon request, VSEA shall be permitted to inspect the RFP specifications. The notice of publication of an RFP, which may result in the layoff of Judiciary employee(s), shall serve as notice to VSEA of intent to contract out and shall give VSEA the opportunity to discuss alternatives. Such notice must be sent at least thirty (30) days before the effective date of any Reduction in Force (RIF) and at least five (5) days before any employee is officially notified of layoff. If the VSEA wishes to discuss alternatives, it shall so notify the Judiciary in writing within ten (10) days of the publication of such RFP. Such notification shall include a recitation of the alternatives the VSEA would like to discuss, but this shall not preclude the discussion of other possible alternatives. The

period for discussing alternatives shall overlap the period for discussing alternatives under the RIF Article and shall terminate at the same time as the end of the discussion period under the RIF Article.

- To hire and terminate employees, including the right to hire temporary employees;
- To maintain order, and to suspend, discipline and discharge permanent status employees for just cause;
- To make, publish and require observance of reasonable rules and regulations.

If the Judiciary intends to issue a Judiciary wide rule for personnel administration of bargaining unit employees which is not prescribed or controlled by law, the Judiciary will notify the VSEA twenty-one (21) business days in advance and bargain with the VSEA to the extent the rule impacts a subject of bargaining under 3 VSA Section 1013.

- To promulgate other regulations incidental to the management of the Judiciary affecting the public health, safety and welfare.

ARTICLE 3

VSEA RIGHTS

1. The VSEA Director(s) or a representative shall be allowed to visit any Judiciary facility during working hours for the purpose of conducting VSEA business or investigating an employee complaint or grievance, provided that permission is obtained in advance from the appropriate managers, if available, and provided that such meetings do not adversely affect the efficient conduct of Judiciary business. Permission shall not be unreasonably withheld. VSEA stewards shall be allowed to visit any Judiciary facility in their designated areas of responsibility for the purpose of receiving or investigating grievances or complaints, subject to the procedures specified this Article.

2. The Judiciary will include in its package of orientation materials for new bargaining unit employees a VSEA informational brochure, provided by the VSEA, identifying it as the exclusive bargaining agent and a copy of this Agreement. The VSEA's informational brochure to be distributed by the Judiciary will consist of no more than 10 sheets of paper, 8.5" x 11", printed on both sides, and fastened together as a single document. On the bottom of the front cover shall be printed: "This brochure is produced by VSEA and the Judiciary Department is not responsible for its content" in at least 7 point Avenir.

3. The Judiciary shall provide the VSEA with sufficient space on designated bulletin boards generally accessible to employees for the purpose of posting VSEA information.

4. Union organizing activity will not be conducted on Judiciary premises during scheduled work time, excluding all authorized breaks and meal periods.

5. If space is readily available on the premises, the Judiciary shall provide places where VSEA staff, representatives, and/or VSEA stewards can confer privately during working hours with bargaining unit employees regarding any complaints or grievances they may have. Such places shall be within the VSEA steward's designated area of responsibility. The Judiciary shall provide space which is normally available for public meetings on the premises of State owned buildings

controlled by the Judiciary for VSEA meetings during non-duty hours when these meetings do not conflict with established plans of the Judiciary. All necessary expenses charged by Non-Judiciary agencies included in such use shall be the responsibility of the VSEA. The VSEA must request the use of this space through the appropriate authority as far in advance of the anticipated meeting as is practical. For securing space to conduct VSEA elections, polling space shall be requested at least two weeks in advance.

6. A VSEA steward, and/or a VSEA staff representative may be permitted to attend any meeting held by the Judiciary when permission is granted by the appropriate supervisor.

7. The VSEA shall have exclusive payroll deduction for membership dues. Dues, to include any VSEA approved insurance program premiums, shall be deducted on each payday from each bargaining unit employee who has designated VSEA as their representative. The amount of dues to be deducted will be certified by the VSEA to the designated Judiciary official.

8. VSEA Business: Subject to the efficient conduct of Judiciary business, which shall prevail in any instance of conflict, permission for reasonable time off during normal working hours without loss of pay and without charge to accrued benefits shall not be unreasonably withheld in the following instances to:

- (a) Two members of the VSEA Board of Trustees to attend 12 regular Trustee meetings and up to two special Trustee meetings a year.
- (b) No more than six (6) identified members of the Legislative Council for attendance at any of the four regular council meetings per fiscal year with paid release time. The Judiciary may grant permission for attendance at not more than one additional special meeting.
- (c) Officers/Delegates, up to a maximum of one for every fifty bargaining unit employees shall be allowed reasonable time off, not to exceed the limits established (g) below to attend national or regional meetings of the VSEA national affiliate;
- (d) Unit Chairperson or Chapter Officer, up to a total of four (4) judiciary employees statewide, up to 40 hours per year, subject to the operating needs of the Judiciary for conduct of unit Labor Relations/Contract Administration business;
- (e) Up to five (5) Unit executive committee members will be given time off to attend five meetings per year.
- (f) Up to ten (10) stewards for the processing and handling of complaints and grievances, including necessary appearances at all steps of the grievance procedure; up to 40 hours per steward per year shall be considered a reasonable time for processing and handling of complaints and grievances, and may be extended by mutual agreement in any instance. In addition, stewards shall be entitled to an additional 16 hours per year of release time for training purposes.
- (g) Any of the above listed categories and chapter officers for the purpose of attending training sessions approved in advance by the Judiciary. Approval shall not be unreasonably withheld. However, no employee will be permitted more than a total of

136 hours, 210 for Unit Chairpersons, of time off in any fiscal year under section 8, subsections a-g above.

- (h) Up to four (4) members of Labor Management Committees for meetings scheduled by the Judiciary and the VSEA.
- (i) Up to seven (7) members of the bargaining team on any day when time off under this section is granted in their capacity as a member of the team. Consistent with past practice, members of the bargaining team will be granted up to one (1) day of training and, up to two (2) days for meeting to prepare for bargaining prior to its start. In addition, members of the bargaining team will have time off under this section for a reasonable number of days to attend bargaining sessions scheduled with management and to prepare for such sessions. Except in the instance of conflicting Judiciary business, the Judiciary shall make a reasonable effort to assist employees who are scheduled for bargaining meetings with the Judiciary, by accommodating a request by the employee to readjust his/her schedule in order to preserve days off. Normally, the rescheduling will take place within the same pay period, with no guarantee of back-to-back days off when rescheduling occurs. Any such rescheduling shall be for a full workday off, unless by mutual agreement of the employee and supervisor. VSEA reserves the right to cancel the meeting when the absence of a team member results from inability to reschedule. VSEA agrees to hold the Judiciary harmless from VSEA-grievances relating to any complaint(s) due to rescheduling of a team member.

In any such instances, under this Section, such employees shall coordinate their absences from work to minimize the adverse impact on the efficient conduct of Judiciary business and in all cases must secure advance permission from appropriate supervisors and permission may be denied to more than one VSEA Officer to be absent from the same work site at any one time if such multiple absences will have an adverse impact on the efficient conduct of Judiciary business. The employee shall also give the Judiciary as much prior notice of any such meetings as possible, including concurrent written notice to the appropriate manager when VSEA sends a notice of meetings to its own representatives. "VSEA business" as referred to in this Article involves the institutional role of the VSEA as required by current law in dealing with the Judiciary.

ARTICLE 4

NO STRIKE – NO LOCKOUT

1. The Judiciary and the VSEA subscribe to the principle that differences shall be resolved by peaceful and appropriate means without interruption of work. During the term of this Agreement, neither the VSEA nor its agents or any employee, for any reason, will authorize, institute, aid, condone or engage in a strike as defined by 3 V.S.A. 1011 (16), as amended. During the terms of this Agreement, neither the Judiciary nor its agents for any reason shall authorize, institute, aid, or promote any lockout of employees covered by this Agreement.

2. The VSEA agrees to notify all officers, representatives, and members of their obligation and responsibility for maintaining compliance with this Article, including their responsibility to remain at work during any interruption which may be caused or initiated by others, and to encourage employees to return to work unless there is a credible threat to the personal safety of such employees.

3. The Judiciary may discipline any employee who violates this Article and any employee who fails to carry out his/her responsibilities under this Article.

ARTICLE 5

NON-DISCRIMINATION

The provisions of this Agreement shall be applied equally to all employees. Neither the Judiciary nor the VSEA shall discriminate against, intimidate, nor harass any employee covered by this Agreement in a manner which would violate any applicable laws because of race, creed, religion, color, national origin, ancestry, marital status, disability, age, sex, sexual orientation or other protected characteristics, membership or non-membership in the VSEA, filing a complaint or grievance, or the Judiciary's gender bias policy. The Judiciary may promulgate and enforce regulations and policies deemed necessary to properly implement and enforce applicable laws and this Paragraph which prohibit discrimination based upon protected characteristics (e.g. sexual harassment and blood borne pathogen policies). The provisions of this Paragraph prohibiting discrimination on the basis of sexual orientation shall not be construed to change the definition of family or dependent in any employee benefit plan. Any complaint alleging a violation of this Article may be initiated and processed through the grievance and arbitration procedure set forth in Article 14 hereof. This does not waive any of the employee's rights granted under state or federal law or preclude the timely filing of any complaint. See Judiciary Website for its Non-Discrimination Policies including but not limited to the Policy And Procedure Regarding Gender Bias And Sexual Harassment In The Work Place Policy And Procedure Regarding Persons With Disabilities.

ARTICLE 6

EXCHANGE OF INFORMATION

1. The Judiciary shall furnish the VSEA in hard copy or in electronic format with the records and documents specified in this section when they become available unless the Judiciary discontinues their compilation.

- (a) One copy of each class specification and any revision thereto;
- (b) One copy of each interpretive memorandum of personnel policies and procedures issued by the Judiciary after the effective date of this Agreement;
- (c) One copy of any master list of legislatively approved Judiciary positions designating status as bargaining unit eligible or exempt;
- (d) Lists of new hires into such categories, separations, transfers, position reallocations, reassignments, and promotions; and
- (e) On a one-time basis, single copies of all forms currently in use by the Judiciary for personnel administration and all revisions thereto.

2. The Judiciary shall furnish the VSEA with one copy of all address changes of permanent and limited status classified employees within the bargaining unit who have completed their original probationary period.

3. The VSEA shall furnish the Judiciary with the following information and documents, and amendments or changes to these documents as they become available, in hard copy or in electronic format.

- (a) A list of the VSEA's officers, trustees, council, chapter presidents, and standing committee members;
- (b) A list of the VSEA's stewards, the stewards' places of employment and the stewards' designated areas of responsibility for the Judiciary bargaining unit;
- (c) A list of names of the VSEA's staff members and legal counsel together with their telephone and pager numbers and their e-mail addresses; and
- (d) The number of the VSEA's members in the Judiciary Unit on an annual basis.
- (e) Additionally, the Judiciary shall establish a separate and distinct VSEA folder within the Judiciary electronic mail system. In connection with such separate folder, the Judiciary shall furnish the VSEA with the work e-mail contact information for each Unit employee. The VSEA and Unit employees may use such folder only for the purposes of Labor-Management and other VSEA state wide meeting announcements, and circulation of the minutes resulting from such meetings.

4. The Judiciary shall also provide to VSEA upon its request all such additional information to which VSEA is lawfully entitled in order to exercise its responsibilities as exclusive bargaining representative under Title 3 V.S.A. Chapter 28. Upon request by the VSEA, information which the Judiciary is required to furnish under this Article which can be made available in a computer-tape or other machine-readable format shall be furnished in such format to the VSEA provided, however, that such request would not result in more than a negligible cost differential relative to hard copy.

ARTICLE 7

EMPLOYEE ASSISTANCE PROGRAM

To the extent access to the current program outlined in the agreement between the State of Vermont and the Non-Management Unit of VSEA remains available to the Judiciary at a sustainable cost, the State's Employee Assistance Program will continue to be available to covered employees. If the Judiciary should ever be of the judgment that such program is no longer available at a sustainable cost it shall meet and confer with the VSEA to attempt to develop a replacement program before making any determination to discontinue participation in the State's program. VSEA recognizes the value of employee assistance and will assist in developing the program and encourage employee participation. Employees participating in the Employee Assistance Program will be assured of strict confidentiality to the extent that this is within the control of the Judiciary.

ARTICLE 8

TUITION REIMBURSEMENT

1. The purpose of this article shall be to provide permanent status covered employees with career development opportunities by establishing policies and procedures relating to tuition reimbursement for post-secondary and/or graduate level courses taken by such employees during off-duty hours to the extent of funding authorized by the Court Administrator.
2. The Court Administrator shall appoint a three-person committee to process applications and make recommendations for tuition reimbursement. Any tuition reimbursement must be approved by the Court Administrator or designee. Upon request of the Unit Chairperson, the Judiciary shall provide quarterly written updates as to the balance of the tuition reimbursement funds, the number of applicants, the amount of funds dispersed during the fiscal year, and annual notification of the names of the members of the committee.
3. The applicant must have successfully completed the original probationary period, normally at the end of the first six (6) months of employment, at the time the class begins and must still be employed by the Judiciary upon completion of the course.
4. All courses must be of college level, undergraduate or graduate. The course number and a brief course description must be included in the application along with an articulation from the employee of how the knowledge gained will apply to the job or enhance the employee's performance. To be eligible for tuition reimbursement, the employee must complete the course with a passing grade of at least a "C" in a graded course, or passing a pass/fail course.
5. The maximum available funding for tuition reimbursement for covered employees shall be \$10,000 annually. If approved by the Committee pursuant to these procedures, and subject to available funding, employees may receive reimbursement for up to four courses per year. The maximum reimbursement shall be \$500 per credit or up to 100% of the actual cost of tuition, whichever is lower, for courses that are deemed to be directly job-related or which are mandated part of an approved degree program. For courses that are deemed to be indirectly job-related such as required electives outside the major course of study, tuition reimbursement may be granted up to 100% of the cost of tuition. Only tuition fees may be included. No other fees or expenses such as travel, registration, activity fees, insurance, parking, or textbook purchases will be reimbursed.
6. Reimbursement must be for a job-related, off-duty course or a course of study as determined by the Committee. The term job-related means that there is a reasonable expectation that tangible benefits will accrue to the Judiciary by allowing the employee to take a course which will enable him or her to keep up with changing concepts or developments in their respective fields, or the course will result in increased knowledge or skill and is aimed primarily at improving the employee's performance and upward mobility. The term off-duty means that the course is conducted during a period when the employee is not expected to be on the job, for example, during hours outside the normal work schedule or while on approved leave. The Judiciary will only pay for courses where there is a reasonable relationship between the course and the employee's current or progressive employment in the Judiciary.
7. When applications for reimbursement exceed available funds, the Committee shall give priority to employees working toward a post-secondary degree who have previously participated

in the program and/or courses that are directly job-related. The Committee may adjust the rate of reimbursement to fit requests within the budget.

8. Requests for reimbursement shall be submitted for review by the Committee before the course begins. At a minimum, the Committee shall schedule three application periods per year with sufficient lead time to allow employees to request reimbursement for courses. The Committee shall allocate the available funding to meet the needs of employees considering the schedules of the educational institutions.

There will be no reimbursement of tuition if prior approval was not obtained. A notice of approval or disapproval will be mailed to the applicant after receipt and review of the application by the Committee.

9. Upon completion of the course the applicant shall submit:

- (a) A request for reimbursement with a copy of the notice of approval,
- (b) A grade report, and
- (c) Proof of tuition payment.

10. Upon receipt of tuition reimbursement funds employees will be subject to retention incentive on a pro-rata basis. Voluntary termination up to 12 months after the date the payment was issued will require refund a portion of the payment received to the Judiciary prior to termination date. If payment is not forthcoming prior to termination, the Judiciary may reduce the remaining paychecks accordingly. Any such reimbursement, however, shall not result in an employee being paid less than minimum wage for the hours worked during those pay periods when reimbursement is subtracted from pay. The requirement regarding reimbursement shall be clearly identified on the applications signed by the employees at the time of their request.

0-6 months from payment date must repay 75%
7-9 months from payment date must repay 50%
10-12 months from payment date must repay 25%

ARTICLE 9

EMPLOYEE PERSONNEL RECORDS

1. An employee's official personnel file is that file maintained at the Court Administrator's Office in Montpelier. An employee's annual performance evaluation as well as the record of any formal level of discipline (reprimands and more severe) shall be stored at such location. Supervisors at an employee's work location may also keep supplemental records regarding issues related to any need for corrective action and any other personnel record about which the employee is given actual notice at the time the supervisor places such record on file. If any form of discipline is proposed for an employee, such supervisory notes, as well as the official personnel file, must be regarded as discoverable and made available to the employee upon request.

2. With the exception of material that is confidential or privileged under law, an employee will be allowed access to his/her personnel file during normal working hours. Subject to the exception stated above, copies of all documents and materials placed in an employee's official personnel

file(s) will be provided to the employee, on a one-time basis, at no cost to the employee. Additional copies will be provided to the employee and/or his/her authorized representative at the employee's request at the going rate for photocopy cost per page.

3. Any material, document, note, or other tangible item which is to be entered or used by the employer in any grievance hearing held in accordance with the Grievance Procedure Article, of this Agreement is to be provided to the employee on a one-time basis, at no cost to him/her.

4. The employee has the right to provide written authorization to the Judiciary for his/her bargaining representative or attorney to act for him/her in requesting access to his/her personnel file and receiving the material (s)he is entitled to have in accordance with the preceding part of this Article. The Judiciary shall honor this authorization upon its receipt for the purpose of investigating a potential grievance or for processing an existing grievance, but not as a blanket authorization.

5. Letters of reprimand or warning, supervisors' notes, or written records of relief from duty (including investigation notes) which are more than two (2) years old and have not resulted in other discipline or adverse performance evaluation against the employee will be removed, on the employee's request to the Court Administrator, from the employee's official personnel file and destroyed.

6. An employee shall be allowed to place in his/her official personnel file a written rebuttal to a letter of reprimand, warning, counseling letter, disciplinary suspension, or personnel evaluation. Such rebuttal must be submitted within thirty (30) work days after receipt of such adverse personnel action (except in case of a later grievance settlement).

7. An employee, with the concurrence of the Manager, shall have the option of placing in his/her official personnel file any work-related commendations.

ARTICLE 10

VACANCIES/PROMOTIONS

1. When the Judiciary decides to fill a permanent or limited service, vacant bargaining unit position through competitive procedures, notice shall be posted internally and externally concurrently for an amount of time determined by the Court Administrator.

2. Vacancy notices shall include minimum requirements, rate of pay, a brief description of duties, and any special skills required.

3. The appointing authority or designee shall consider all certified applicants. Permanent or limited service employee candidates who meet the minimum requirements for a bargaining unit position shall be entitled to be interviewed.

4. It is the purpose of the recruitment process to match the best-qualified people to a job so that the Judicial Branch is able to achieve its goals and objectives effectively and efficiently. The recruitment process is designed to publicize Judicial Branch vacancies to allow qualified applicants within and outside the court system to apply. The Judicial Branch is committed to a policy of equal employment opportunity and the recruitment process is designed to treat all applicants equitably.

5. If a current list of qualified candidates exists at the time of the occurrence of vacancy, the Court Administrator may choose to use that list rather than open the position to recruitment.

6. Selection Procedure

The Court Administrator or designee shall establish the type of selection procedure subject to the requirement of the preceding sections. The selection procedure shall include one or more of the following selection devices: an application and resume review to determine whether the applicant meets the minimum educational or experience qualifications, a review of experience and education, and an interview.

1) Conducting the Interview

The individual or panel members who interview each applicant shall ask a standard group of questions and may expand on the questions depending on the applicant's response and experience. All interviews for one selection process shall be conducted in as similar environment as possible. The applicants shall also be given a general explanation of the job and the benefits associated with it and be given the opportunity to ask questions.

2) Selection

- a) The interview panel or interviewer will consider the following when making recommendations or selection: information provided on the employment application; education and experience relevant to the position being filled; and the applicant's strengths and weaknesses for the position being filled. The interviewer(s) may contact prior employers to verify employment and to receive a rating of the applicant's job performance.
- b) If the interview panel does not make a recommendation or the interviewer does not make a selection from the interview group, the Court Administrator may reopen the recruitment process to obtain additional candidates.

7. Temporary Service Credit

A bargaining unit or limited status employee, who worked as a temporary employee during the two year period immediately prior to their most recent date of hire as a bargaining unit employee or limited status employee, may request in writing credit for the period of temporary service. The request must be made following successful completion of the probationary period. The employee must have at least 1,000 hours of temporary service in the first year immediately preceding the date of hire. If this time requirement is met, the employee may be eligible for temporary service credit in the 2nd year immediately preceding such date of hire if they have worked at least 1,000 hours of temporary service in such 2nd year. Temporary Service Credit becomes effective the month after the completed application is approved.

ARTICLE 11

PROBATIONARY EMPLOYMENT

1. A newly hired employee shall serve a six (6) month probationary period. The probationary period may be extended at the discretion of the Judiciary. Prior to the end of the probationary period, the supervisor shall evaluate the performance of the probationary employee. The supervisor shall discuss the evaluation with the employee and forward the evaluation to the Court Administrator along with a recommendation to the Court Administrator that the employee become permanent, be terminated, or that the probationary period be extended. However, no failure to conduct such evaluation shall preclude the Judiciary from terminating a probationary employee in accordance with section 2 of this Article. Any recommendation for the extension of the probationary period shall include a new termination date of the probationary period and reasons for the extension.

2. Initial probationary employees may be extended in probationary status, disciplined, laid off or dismissed by the Judiciary solely at its discretion without regard to any other provision of this Agreement and with no right to the grievance process, but they shall otherwise be covered by all terms of this Agreement, except as restricted below.

- (a) No provisions of the Performance Evaluation Article may be grieved.
- (b) Upon successful completion of the initial probationary period, an employee will be credited with annual leave or personal leave accrued during such period.
- (c) Initial probationary employees hired into another position shall be considered, for all purposes, to be a new hire.
- (d) The following contract provisions shall not apply to initial probationers:
 - Military Leave with Pay
 - Medical Leave of Absence
 - Sick Leave Bank and LTD Bank
 - Tuition Reimbursement
 - Injury on the Job - Disability RIF
 - Parental Leave/Family Leave
 - RIF Rights

ARTICLE 12

PERFORMANCE EVALUATION

1. The Court Administrator shall establish and revise as deemed appropriate a performance evaluation procedure. The determination of performance evaluation standards and criteria is understood to be the exclusive prerogative of the Judiciary, provided, however, the Judiciary will notify VSEA twenty-one (21) days prior to the date of implementation of any proposed change in such standards and criteria as they appear on the form and give VSEA an opportunity to respond and suggest alternatives to the changed form prior to its implementation.

2. Performance evaluations shall be based exclusively on job duties, responsibilities, and other performance related factors. Once the standards are developed and communicated to employees, the supervisor will monitor performance, and then counsel and guide employees to help optimize performance. The supervisor may convene or will accommodate a reasonable request by an employee for a meeting to discuss any such work deficiency, suggested improvement, or rating or any performance evaluation standard or criterion that the employee considers unreasonable or not achievable.

3. Each supervisor must communicate to employees the duties the employee is to perform and the expected level of performance the employee is to achieve. After achieving permanent status, if an employee is not achieving the expected level of performance, a supervisor shall notify the employee as soon as possible of the deficiencies in the employee's performance. The supervisor has the responsibility and is expected to give reasonable counsel and assistance to an employee to help the employee improve job performance and meet job performance expectations. Employees shall be warned in a progressive manner of poor job performance.

- (a) Level I – Oral Warning. This is a means by which the supervisor calls to the attention of the employee that the employee is not performing the job to established standards. The employee must be informed of what standards are to be achieved and when these standards should be achieved. A notation of this warning must be included in the employee's personnel file and the employee shall be provided a copy. An employee shall be entitled to Union representation at any Level I meeting and shall be so advised.
- (b) Level II – Written Warning. An employee shall be entitled to Union representation in connection with any Level II warning and shall be so advised. If the supervisor feels the employee has not responded adequately to the Level I warning after a reasonable period of time, the supervisor may give the employee a Level II warning. The Level II warning is a formal letter to the employee describing performance deficiencies and what improvement is expected. The Level II warning shall contain a specific date (normally between 3 and 6 months) on which a review of the employee's progress toward improvement will occur and the warning shall also notify the employee that, if significant progress has not occurred by the date of review, the employee may be placed in a warning period.
- (c) Level III – Warning Period. A warning period shall be established upon recommendation of the supervisor and approval of the Court Administrator for employees who have not significantly improved their performance as a result of a written warning. The warning period shall be sixty (60) days in duration, but may be extended by the Court Administrator to a maximum of six (6) months. At the end of the warning period, the employee must consistently perform the job to expected standards. If the evaluation of the employee's performance still results in unsatisfactory performance, the employee may be demoted or terminated. The record indicating that an employee has been placed in a warning period for performance reasons shall be maintained in the employee's personnel file for a period of five (5) years. If there is a recurrence of the same performance deficiency within a period of twelve (12) months, the initial response may be at the warning period stage

4. An employee shall be allowed to place in their personnel file written rebuttal to a letter of reprimand, warning, counseling or a performance evaluation. Such rebuttal must be submitted within thirty (30) workdays after receipt of such adverse personnel action (except in case of a later grievance settlement). Employees may initiate appeals of Level I and Level II warnings, Level III warning periods and demotions at Step II of the Grievance Procedure. Appeals of terminations may be initiated at Step III of the Grievance Procedure. Employees in their original probationary period shall not have the right of appeal.

ARTICLE 13

CODE OF CONDUCT AND DISCIPLINARY ACTION

1. Code of Conduct -

Listed below is the Judicial Branch employee code of conduct. This list is not exhaustive but is intended to be illustrative of the professional conduct expected of each employee so that each Judicial Branch employee has a general understanding of the conduct expected and so that the employee will work diligently to accomplish the goals of the Judicial Branch and exercise good discretion when doing so. Violations of some of the provisions of the code of conduct listed are more serious than others. Violations that may result in the employee's immediate discharge regardless of the employee's length of service or work record are specifically noted.

- a. It is the policy of the Judiciary that discriminatory behavior will not be condoned or tolerated. Any employee who violates this policy is subject to disciplinary action up to and including dismissal. (the 'Appendix D Policy and Procedure Regarding Gender Bias and Sexual Harassment in the Work Place' and 'Appendix E Policy and Procedure Regarding Persons With Disabilities' may be found on the Judiciary intranet.)
- b. Accurate court records are critical to the prompt and fair administration of justice. No employee shall misuse, falsify or alter court records or remove the records from a court or office without proper authorization.
 - 1) The confidentiality of information that is legally confidential contained in judicial and administrative records must be protected. It is the duty of the employee to protect the confidentiality of manually and electronically stored information. Employees should safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters. Breach of confidentiality of this information or falsifying records may result in immediate dismissal.
 - 2) A former court employee shall not disclose confidential information when disclosure by a current court employee would be a breach of confidentiality.

- c. No employee shall conduct himself or herself in any manner which shall reflect negatively on the Court. Such conduct shall include drinking alcoholic beverages or using illegal drugs while on duty or working while under the influence of drugs or alcohol. A violation of this rule may result in immediate dismissal.
- d. The property and image of the court should be respected. Employees should refrain from the careless, negligent or improper use of the property of the court or the property of the court employees. The theft, misuse, or misappropriation of the funds or property of the court or court employees will not be tolerated and may result in immediate dismissal.
- e. Employees are expected to obey proper authority and to respect the rights of their co-workers. An employee's failure or refusal to comply with a rightful order to accept a reasonable and proper assignment from an authorized supervisor may result in dismissal. If an employee considers an order to be unreasonable, the employee should obey under protest and then bring the matter to the attention of the Court Administrator within five working days. The only exception is an order or instruction that may jeopardize the employee's safety or health, or the employee believes to be unethical or illegal. In that case, the employee should ask for a written order or directive and bring the matter to the immediate attention of the Court Administrator.
- f. Court employees are expected to be courteous and of assistance to the public and furnish accurate information as requested in accordance with established policy. They should be tactful in the performance of their duties and exercise the utmost patience, impartiality and discretion when dealing with the public.
- g. Every Judicial Branch employee shall avoid conflicts of interest in the performance of professional duties. Even though no misuse of office is involved or intended, conflicts of interest involving Judicial Branch employees can seriously undermine the community's confidence and trust in the Judiciary, therefore, every Judicial Branch employee is required to exercise diligence in becoming aware of conflicts of interests and disclosing those conflicts to the employee's immediate supervisor. Employees who violate this section of the code of conduct may be subject to immediate dismissal. Conflicts of interest include but are not limited to the following:
 - 1) No employee shall solicit or accept a fee, gift, or other valuable item in the course of or in connection with the employee's job when a fee, gift or other valuable item has the appearance of being given or is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons by the court. Honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees on their own time and not related to their employment by the Judiciary shall not be deemed a violation of this section.
 - 2) No employee shall use their position to secure special privileges, favors or exemptions for themselves or others.

- 3) An employee shall not engage in any employment, activity or enterprise which may be determined by the employee's supervisor incompatible, or in conflict with the duties, functions, or responsibilities of the court by which he or she is employed, including but not limited to the following: (NOTE: Some of these may not apply to volunteers.)
 - a) Outside employment with an entity that regularly appears in court or conducts business with the court system, and requires the court employee to have frequent contact with attorneys who appear in the court system; or
 - b) Outside employment which cannot be fulfilled outside the employee's work schedule or is incompatible with the performance of the court employee's duties and responsibilities; or
 - c) Outside employment which involves the practice of law; or
 - d) Outside employment which requires or induces the court employee to disclose confidential information acquired in the course of and by reason of official duties; or
 - e) Outside employment within the judicial, executive or legislative branch of government without written consent of both employers.
- h. Every Judicial Branch employee shall during their hours of duty and subject to such other laws, rules, and regulations as pertain thereto, devote his or her full-time attention and efforts to the responsibilities of his or her position. Specifically, all employees shall:
 - 1) Report for work promptly and regularly and not leave early.
 - 2) Not be absent from work without proper approval from the supervisor;
 - 3) Meet established standards for quantity, timeliness and quality of work;
 - 4) Behave in a manner that does not disrupt the professional working environment, exercising self-control, even under provocation, and refraining from practical jokes, fighting, horseplay, offensive language, or other conduct which is offensive to other employees; and
 - 5) Work consciously to accomplish the goals of the court and refrain from the misuse of work time.
- i. The dress, personal hygiene and appearance of judicial employees must be in conformance with accepted community standards, reflect positively on the court, and be appropriate when due consideration is given to the employee's duties.
- j. Political activity:

An employee as defined in this code of conduct shall not use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office. An employee shall not command or solicit from any other employee direct or indirect participation in any political activity or enforce or solicit in a coercive fashion contribution for any political party, organization or candidate. An employee shall retain his or her right to vote and express freely his or her opinion on all political subjects. An employee shall not be prohibited from participation in local community activities or from holding public office in the community in which the employee resides, provided that such activity does not conflict with Section 3.01 of the Rules and Regulations for Personnel Administration for the Executive Branch and the Federal Hatch Act.

2. Just Cause Standard -

An employee who has completed his/her original probationary period shall not be disciplined except for just cause. Four levels of disciplinary actions are established. Disciplinary actions will generally be imposed in the order of progressive severity described below. However, there may be cases that warrant bypassing steps in the progressive disciplinary procedures or applying discipline in differing degrees so long as it is imposed for just cause.

The Court Administrator or designee may relieve employees from duty with compensation and benefits pending the outcome of investigations or legal actions if the Court Administrator deems it is in the best interests of the Judiciary. A relief from duty of this nature may be for any period of time until a formal outcome is determined. An employee shall have the right to have a union representative present whenever the employee may be disciplined in any manner as a result of the meeting. The Judiciary shall inform an employee of such right prior to taking disciplinary action. With the consent of the employee and the VSEA, an employee may be relieved from duty without compensation and/or benefits pending the outcome of such investigations or legal actions.

The Court Administrator or designee may place an employee on administrative leave without compensation during an investigation into allegations of criminal misconduct once probable cause has been judicially determined. If the result of such an investigation determines that no unpaid leave is warranted, the employee shall receive any pay and benefits that have been withheld during the unpaid administrative leave. Health insurance benefits may be maintained upon continued payment of the employee's share by the employee. Accrued benefits may not be utilized to avoid the unpaid administrative leave.

3. Disciplinary Actions -

"Disciplinary Actions - An employee shall be entitled to Union representation in connection with any meeting with a supervisor which could result in disciplinary action being taken, and shall be so advised. This right of representation shall be recognized when the discussion of a particular matter turns from a general gathering of facts to determine what happened at an incident to a specific focus on an individual employee that specifically attempts to elicit information that may result in discipline. The supervisor or program manager shall inform the employee before asking any questions at such a meeting that a disciplinary action is contemplated, and that the employee is entitled to VSEA representation and at least one meeting at which he/she can hear the possible

action and reasons therefore and state his/her defense if applicable, before any discipline is imposed. Discussions between the supervisor or program manager and employee regarding disciplinary actions shall:

- (a) Be conducted in private and in a manner that will not embarrass the employee;
- (b) Afford the employee opportunity for union representation;
- (c) Include a full explanation of the facts that surround the incident(s);
- (d) Include an opportunity for the employee to present his or her arguments or explanations; and
- (e) Be confidential.

If the employee refuses to participate in a meeting to discuss a disciplinary action, the employee shall be informed in writing of the incident(s) and the disciplinary action to be imposed within five working days. In those instances where the Court Administrator determines it is inappropriate for the supervisor to conduct the disciplinary meeting, the Court Administrator or his or her designee, shall conduct the meeting. As soon after the meeting as possible, the employee shall be informed of the disciplinary action taken and of the right to appeal."

- (a) Oral Warning. This is the least severe of all disciplinary actions. It is a means by which a supervisor or program manager calls to the attention of an employee specific deficiencies in the employee's job performance because of work rule violations or one or more violations of the work rules or regulations by the employee. At this step, counseling the employee is the most important concern. A record of an oral warning shall be made by the supervisor and placed in the employee's personnel file at the Court Administrator's office. The record of oral warning shall be removed from the employee's file two (2) years after the issuance if no other disciplinary warnings concerning the same subject have been issued. An employee may appeal a Step I warning through the grievance procedure. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.
- (b) Written Warning. A written warning is the next more severe disciplinary action. It consists of a formal memorandum or letter in which the immediate supervisor informs the employee that the employee has violated a work rule or regulation. These memoranda or letters will warn the employee that behavior must be corrected within a specified period of time if more severe penalties are to be avoided and should give direct and concrete instructions for future conduct. The original of the written warning shall be presented to the employee and a copy shall be included in the employee's personnel file. The written warning shall be removed from the employee's file two (2) years after issuance if there have been no additional disciplinary warnings issued concerning the same subject. An employee may appeal a written warning through the grievance procedure. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

- (c) Suspensions. This is an action by which the Court Administrator, upon recommendation of a supervisor or program manager, temporarily suspends an employee from employment without compensation for a period not to exceed thirty work days. Suspensions include the following:

- i. Loss of pay for the time specified,
- ii. Loss of annual, sick, and personal leave accrual during the period involved, where applicable.
- iii. No accrual of service credit which may affect the calculation of longevity pay, additional annual leave, and step increases in salary, where applicable.

Employees may not use annual leave, personal leave, sick leave or compensatory time while suspended. Benefits for employees who are suspended without pay shall be administered as if the employee were on an unpaid leave of absence. Before they are suspended, employees shall be given a written memorandum specifying the reasons for the suspension and the exact date and time when the employee is to return to work. A copy of this memorandum shall also be placed in the employee's personnel file. An appeal of a suspension action must be filed within the prescribed time established in Step III of the grievance procedure.

- (d) Dismissal. The Court Administrator, upon recommendation of a supervisor or program manager, may dismiss an employee for just cause. Written notice of dismissal must be given to the employee within twenty-four (24) hours of oral notification. In the dismissal notice, the supervisor shall state the reason(s) for dismissal and inform the employee of the right to appeal the dismissal within the time limits established in Step III of the grievance procedure.

4. Immediate Suspension/Discharge -

There are some work rule and regulation violations which are so serious that they may warrant the immediate discharge of the employee. The parties agree that there are appropriate cases that may warrant the Judiciary bypassing progressive discipline or corrective action; applying discipline or corrective action in different degrees or applying progressive discipline for an aggregate of dissimilar offenses, except that dissimilar offenses shall not necessarily result in automatic progression; as long as it is imposing discipline or corrective action for just cause. In deciding which disciplinary action to take, the Court Administrator, upon the recommendation of the supervisor or Human Resources manager should consider the factors for determining the appropriate level of discipline as determined by the Vermont Labor Relations Board.

ARTICLE 14

GRIEVANCE AND ARBITRATION PROCEDURE

1. Purpose - The intent of this Article is to provide for a mutually satisfactory method for settlement of complaints and grievances, as defined in Section 2 of this Article, filed by an individual, unit, or the duly certified bargaining representative. Complaints and grievances relating to classification are covered by Article 15 of this Agreement. It is expected that

employees and supervisors, and the VSEA, will make a sincere effort to reconcile their differences as quickly as possible at the lowest possible organization level.

2. Definitions -

- (a) "Complaint" is an employee's or group of employees' informal expression to the immediate supervisor of dissatisfaction with aspects of employment or working conditions under a collective bargaining agreement that are clearly identified to the supervisor as a complaint.
- (b) "Grievance" is an employee's, group of employees' or the employee's collective bargaining representative's expressed dissatisfaction, presented in writing, with aspects of employment or working conditions covered by a collective bargaining agreement, or the discriminatory application of a rule or regulation.
- (c) A grievance shall contain the following information:
 - (1) The full name and address of the party or parties submitting the grievance;
 - (2) A statement of the facts concerning the grievance;
 - (3) Specific references to the pertinent section(s) of the contract or of the rules and regulations alleged to have been violated;
 - (4) A statement of the specific remedial action sought;
 - (5) A request for a grievance meeting, if desired.

3. Procedure for Complaints

(a) Step I

The employee or group of employees shall notify the immediate supervisor of their dissatisfaction within fifteen (15) days of the date upon which they could have reasonably become aware of the event which gave rise to their Complaint. The employee (s) may make the complaint orally or in writing but must identify their expression of dissatisfaction as a Complaint under Article 14.

- i. Within fifteen (15) days of the submission of the Complaint, the immediate supervisor, at their sole discretion, shall respond in one of three ways:
 - a. Send a written response to the employee(s);
 - b. Hold a phone discussion with the employee(s) and/or their representative;
 - c. Hold a meeting with the employee(s) and/or their representative.

ii. If a phone discussion or meeting takes place, the immediate supervisor will send a written response within fifteen (15) days to the employee(s) and their representative.

(b) Step II

- i. If the employee(s) continues to be dissatisfied, or the immediate supervisor does not respond in the time frame specified, the Complaint may be presented in writing to the Court Administrator's Designee.
- ii. The Complaint shall be discussed informally with the employee(s) and their representative within fifteen (15) days of receipt. The Court Administrator's Designee will decide whether the discussion will be in-person or via telephone.
- iii. The Court Administrator's designee will determine all aspects of the in-person or telephone discussion and conduct it in such a way as to minimize its impact on the operations of the Judiciary unit.
- iv. After a phone discussion or meeting, the Chief of Finance & Administration or designee will send a written response within fifteen (15) days to the employee(s) and their representative.

(c) A Complaint may not be pursued beyond Step II of the Complaint procedure.

4. Procedure for Grievances

(a) Step I (Immediate Supervisor)

The employee shall notify the immediate supervisor of a grievance within fifteen business days of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the grievance. The grievance may be made orally, but must be followed up in a written manner and must be identified as a grievance by the employee. If the grievance involves an action by the immediate supervisor, the Step I filing may be made exclusively with the supervisor's supervisor. If the grievance involves an action by the Court Manager, it may be initially filed at Step II.

- i. Within 5 days of the submission of the grievance, the grievance shall be discussed informally by the aggrieved employee with the immediate supervisor and the Court Manager. The immediate supervisor and the Court Manager shall notify the employee in writing of the decision within five business days after the discussion of the grievance.
- ii. Step I may be waived by procedures in Subsection 4 of this Article if the level of review is inappropriate to the type of grievance.

(b) Step II (Court Administrator's Office Level)

- i. If no satisfactory settlement is reached at Step I or the responding supervisor does not respond to the grievance, the grievance shall be presented in writing to the Court Administrator. The submission must occur within five business days after the receipt of the Step I decision, otherwise the matter shall be considered closed. If Step I is by-passed for reasons above specified, the grievance must be submitted in writing to the Court Administrator within the time limit specified for a Step I submission. The submission of the grievance should also contain a request for a hearing if so desired.
 - ii. If a Step II grievance hearing is requested, the Court Administrator or designee shall hold the hearing within ten business days from receipt of the grievance unless a satisfactory solution can be agreed to before such hearing. The hearing shall be conducted informally. Within ten (10) business days of the hearing, the Court Administrator or designee shall notify the aggrieved employee and the VSEA of the decision in writing. If the grievance involves an action taken by the Court Administrator, the grievance shall be heard instead by the Chief Administrative Judge or his/her designee.
 - iii. If no Step II grievance hearing is requested, the hearing authority shall notify the aggrieved employee and the VSEA of the decision in writing within ten (10) business days after the receipt of the Step II grievance.
 - iv. The hearing authority may interview any witness or review any materials which may have a bearing on the grievance without resorting to a grievance hearing unless such a hearing has been requested.
- (c) Step III (VLRB Level) If the grievance is not satisfactorily resolved at the level of the Court Administrator it may be appealed by the grievant or the VSEA to the Vermont Labor Relations Board (VLRB). If the grievance relates to the dismissal of a covered employee who has attained permanent status, it shall be initiated with the VLRB. A filing at this level must be made within thirty (30) days of the Step II decision or the dismissal of the employee, whichever the case may be. The decision of the VLRB shall be final and binding, except that questions of law may be appealed to the Vermont Supreme Court. By mutual agreement of the parties, the Step III appeal may be to final and binding arbitration under the labor relations rules of the American Arbitration Association, subject to the standards set forth in the Vermont Arbitration Act, Title 12 V.S.A. Chapter 192 as the same may be amended from time to time, in lieu of an appeal to the VLRB. Any administrative costs associated with Step III appeals will be shared equally by the parties.

5. Extension of Time Limits -

Work schedules and job requirements may limit the ability of any party to initiate a grievance or Complaint, respond to a grievance or Complaint, hold a grievance hearing or Complaint discussion or proceed to the next level of a grievance or Complaint within the established time requirements. If the employee or the reviewing party has just reason for not being able to meet the established time limits, he or she shall notify the other party prior to the expiration of the time limit and they may mutually agree to an extension of time. Neither party

shall lose any rights due to a time extension. All extensions of time limits must be confirmed in writing.

6. Waiver of Review Level -

The level of review may be waived in the grievance procedure by mutual agreement of the parties if:

- (a) The proposed resolution of the grievance is not within the authority of the reviewing party at that level; or
- (b) The reviewing party believes he or she cannot appropriately respond to the grievance.

The parties may mutually agree to waive the grievance procedure at any level and proceed to the next level of review. All time limits shall be suspended until the parties have been notified of the decision of the waiver request. Neither party shall lose any rights while waivers are being considered, and all waivers shall be confirmed in writing.

7. The Parties' Rights -

- (a) The employee has the right to the assistance of the VSEA, or private counsel of his/her choice and at his/her expense, to prepare the written grievance and to represent the employee in grievance hearings. The employee must notify the Court Administrator in advance of any meeting in which the employee intends to have a representative other than a VSEA representative present.
- (b) Employees involved in complaint and grievance meetings, investigation meetings, or meetings with their VSEA Representative regarding disciplinary or other corrective actions, may do so during working hours without loss of pay and without charge to accumulated leave, after requesting permission from the supervisor to do so, which permission shall not be unreasonably withheld. Meetings with a VSEA Representative shall normally be limited to no more than one (1) hour in any given workday. This provision shall not be construed to expand the release time afforded to VSEA officers under Article 3.
- (c) The reviewing authority at any step of this procedure shall have the right to have a representative present. The reviewing authority shall notify the VSEA and the employee in advance if a representative will be present.
- (d) Any material, document, note, or other tangible item which is to be entered or used by any party at Step II or Step III of any grievance proceeding shall be provided to the other party 48 hours prior to the proceeding at no cost.

8. Alternative Dispute Resolution -

In recognition of the parties' commitment to reconcile their differences in the least adversarial manner possible, the VSEA and the Judiciary may agree to utilize mediation or other processes which will facilitate the goal of positive labor relations. In the event of an agreement to

mediate, the mediator shall be jointly selected by the parties and all Grievance Procedure time limits will be suspended until the mediation process (or other agreed upon alternative process) is completed. No evidence or testimony which is presented in any process utilized pursuant to this subsection shall be utilized or referred to in any way should the formal grievance procedure be resumed, nor shall any mediator be called as a witness by either party. Either party may elect to discontinue utilizing the alternative process at any time. The cost of any such mediator shall be borne equally by the parties hereto.

ARTICLE 15

CLASSIFICATION PLAN AND REVIEW PROCEDURE

1. Classification Plan -

- (a) This classification plan covers all positions in the bargaining unit.
- (b) Definitions
 - i. Request for classification review: a request for a review of a new or existing position to determine the proper class assignment.
 - ii. Request for reconsideration: a request by the Judiciary, the VSEA, or the employee for the Court Administrator or his/her designee to review a Step 1 classification decision.
 - iii. Classification grievance: an appeal of a Step 2 reconsideration decision to the Vermont Labor Relations Board ("VLRB").
 - iv. Wherever used, the term "employee" means employee or employees of the Judiciary, as appropriate, who are covered by the terms of this Agreement
 - v. "Business days" means calendar days exclusive of Saturdays, Sunday, and holidays observed by the State of Vermont.

2. Classification Review Procedure

- (a) The classification methodology for the Judiciary will be based on the Willis Classification System. The Judiciary will maintain a classification plan for all employees in the bargaining unit based on the analysis of each position's duties and responsibilities, as performed at a satisfactory level, as they relate to the factors of the Willis Classification System. The plan shall group positions that have common characteristics and assign them to a class. For each class, a title shall be assigned, a general description prepared and minimum qualifications established. All class descriptions shall be provided to the VSEA, and upon request to employees. A copy of the "Willis Guide to Classification" will be available on the Judiciary website.
- (b) Request for Classification Review – Step 1

If a significant change occurs in a position or classification that alters its duties or responsibilities in a manner that justifies a change in classification based on the

principles underlying the Judiciary classification plan, the Court Administrator, the VSEA or the affected employee may request in writing that a classification review of the position occur to ascertain if it is assigned to the proper class. The request shall be submitted to the Human Resources Manager, and shall consist of a form containing the applicant's name and other identifying and contact information, accompanied by a written statement of the facts upon which the applicant's request is based, together with any documents supporting reclassification. The request shall be deemed filed on the date that it is received by the office of the Human Resources Manager.

The VSEA may submit a class action request for classification review on behalf of employees in the same class, filing one (1) request that applies to the entire class.; Any employee within the affected class may elect via written notification to the Human Resources Manager not to have the results of the class review applicable to him/her until after such employee's next step increase occurs.

The Human Resources Manager or his/her designee shall conduct an analysis of the position or positions that are the subject of the request, based on the duties performed on the date the request was filed, gathering such information as is necessary to properly classify the position. The VSEA and/or the employee shall have the right to present documentary and other information to the Human Resources Manager, and shall have access to all information gathered by him/her, including participating in any site visit and the opportunity to hear any interviews or other oral statements, and shall be provided copies of any documents presented to or considered by the Human Resources Manager.

Within 120 calendar days of filing of the request, the Human Resources Manager shall issue a written decision concerning the proper classification of the position(s), stating with specificity the facts and reasoning upon which the decision is based. The decision will be final on the thirtieth day following its receipt by the VSEA and the employee(s), unless the VSEA and/or the employee(s) file a request for reconsideration during that period.

3. Reconsideration of Classification Determination – Step 2

- (a) A request to reconsider a Step 1 decision shall be filed in writing with the Court Administrator within thirty days of the Step 1 decision. The request for reconsideration shall be deemed filed on the date that it is received in the Office of the Court Administrator.
- (b) The request shall include:
 - i. the name of the employee/employees
 - ii. the class title, pay grade equivalent and work unit of the position under review;
 - iii. a statement of the specific reasons that the Step 1 decision was incorrect;
 - iv. a copy of the Step 1 decision;

- v. the remedial action requested, including the class or classes to which reassignment is sought; and
 - vi. appropriate signature and date.
- (c) If the reconsideration request relates to a bargaining unit position and is made by the Judiciary or the employee, the court Administrator shall promptly notify the VSEA of the request. The VSEA shall have the opportunity to represent the employee(s).
 - (d) The employee(s) shall promptly file a copy of the request for reconsideration with the Human Resources Manager. Within ten business days of receipt of the request, the Human Resources Manager or his/her designee shall forward to the Court Administrator all of the information, documents, and other evidence gathered or submitted during the Step 1 analysis of the position.
 - (e) Within sixty days of a request for reconsideration, the Court Administrator or his/her designee shall issue a written decision on the request for reconsideration. The decision shall be in writing, and shall state with specificity the facts and reasons upon which it is based. The Court Administrator shall send the decision to the employee(s) and to the VSEA.

At the option of any party to the dispute, the Court Administrator or his/her designee may meet with the VSEA and/or the employee before issuing the decision.

4. Classification Grievance Procedure – Step 3

- (a) Within thirty (30) business days of the notification of the reconsideration determination, the Judiciary, or the VSEA or the employee may file a classification grievance with the Vermont Labor Relations Board ("VLRB"), using the VLRB's rules and procedures that apply to grievances within the Judiciary. In addition, the grievance shall include:
 - i. a written statement of the reasons that the decision(s) below were arbitrary and capricious;
 - ii. The entire record of the proceedings below, including the decisions at the Step 1 and Step 2 and all documents and other information presented to the decision maker(s) below.
- (b) The VLRB shall decide the grievance based on the record of the proceedings below, and determine whether the reclassification decision was arbitrary and capricious. There shall be no hearing de novo.
- (c) The parties agree to offer a training for members of the VLRB on the Willis system, to be provided by an expert selected by agreement of the parties, and whose fee, if any, shall be paid equally by both the VSEA and the Judiciary.

5. Pay Adjustments

In the event that the employee(s) is reclassified to be higher classification, the new rate of pay will be retroactive to the next pay period following the date the reclassification request was filed. Notwithstanding any other provisions of this agreement, any such pay adjustment shall be implemented only upon funding by the Legislature.

6. Rights and Restrictions

- (a) The employee has the right to the assistance of the VSEA or private counsel of his/her choosing to prepare the classification grievance and to represent the employee at the employee's expense before the VLRB. In those cases where the VSEA is not representing the employee, the VSEA shall have the right to participate in all proceedings under this article, the grievance proceedings, and shall have access to all records and documents relating to the request for reclassification or subsequent proceedings.
- (b) The employee may present information relevant to the reclassification request or request for reconsideration on work time.

Other Judicial Branch employees who are asked to present information in connection with the reclassification request may do so during work time.

- (c) All time periods under this Article may be extended by agreement of the parties.

ARTICLE 16

COMPENSATION/BENEFITS

1. Compensation –

- (a) The existing pay plan in effect on June 30, 2022, shall continue in effect through June 30, 2023 as adjusted by paragraph (d) below. See Appendix A. An updated pay plan effective the first full pay period in July of 2023 shall be created and become the new Appendix B.
- (b) Subject to full funding by the Vermont Legislature and receipt thereof of by the Judiciary, the Judiciary will create a new position to be titled "Judicial Assistant" which will be at a paygrade 19 as provided in the Side Letter. As further provided by the Side letter, employees holding the titles of Docket Clerk B and Court Room Operators will be retitled "Judicial Assistant". Neither the VSEA nor an individual employee holding the title "Judicial Assistant" will file for a reclassification of the title for a period of eighteen months (January 1, 2024), unless the Judiciary significantly revises the job description as described in the Side Letter.
- (c) Each bargaining unit employee employed as of January 3, 2023 will receive a lump sum payment of One Thousand Five Hundred Dollars (\$1,500.00), payable in the first full pay period of calendar year 2023. Such lump sum will not be added to employees' base nor to the pay plan.

Should the Governor's Twin State Family Medical Insurance plan be implemented it shall be provided to the members of the bargaining unit at no cost to the members. Should such Plan not be implemented or be implemented and then discontinued, an Across the Board Increase of one quarter of one percent (0.25%) shall be applied effective with the beginning of the first full payroll period following such decision.

- (d) Effective as of the start of the first full pay period after July 1, 2022, (July 3, 2022) each bargaining unit employee employed as of July 1, 2022 shall receive an across the board increase of three percent (3.0%). Such increase shall be added to the existing pay plan.
- (e) Each bargaining unit employee employed as of January 2, 2024 will receive a lump sum payment of One Thousand Dollars (\$1,000.00), payable in the first off cycle period in January of 2024. Such lump sum will not be added to employees' base nor to the pay plan.
- (f) Effective as of the start of the first full pay period after July 1, 2023, (July 2, 2023) each bargaining unit employee employed as of July 1, 2023 shall receive an across the board increase of two percent (2.0%). Such increase shall be added to the existing pay plan.
- (g) The Judiciary's financial commitments stated above in subsection (b) through (f) above are subject to the complete funding of these commitments by the Legislature and the full receipt thereof by the Judiciary. It is anticipated that the Legislature will fund the same wage increases for the executive branch employees. If, however, the Legislature should for any reason fully fund the executive branch's requirements to cover its settlements, but appropriates an amount for the Judiciary Unit's , new title, pay increase and/or lump sum payment that is less than the funding needed by the Judiciary to pay the new title, pay increase and/or lump sum payments provided in this agreement, the Judiciary shall have the right to re-open these negotiations in order to bargain an agreement that is within the dollars it receives.
- (h) The Judiciary's financial commitments stated above in subsection (b) through (g) above are subject to the complete funding of these commitments by the Legislature and the full receipt thereof by the Judiciary. It is anticipated that the Legislature will fund the same wage increases for the executive branch employees. If, however, the Legislature should for any reason fully fund the executive branch's requirements to cover its settlements, but appropriates an amount for the Judiciary Unit's new title, pay increase and/or lump sum payments that is less than the funding needed by the Judiciary to pay the new title, pay increase and/or lump sum payments provided in this agreement, the Judiciary shall have the right to re-open these negotiations in order to bargain an agreement that is within the dollars it receives.
- (i) The ability of covered employees to move on step in accordance with the applicable provisions and timelines of the Agreement will remain in effect throughout the two year duration of the Agreement.
- (j) Reorganization – Terms of Compensation: During the life of this Agreement, any employee who, as a result of Judiciary restructuring, accepts a position with a rate of

compensation which is less than the rate of compensation he/she is then earning which places the hourly rate between the pay grid steps or above the pay grade maximum, shall be at a "red circled" hourly rate. When a pay raise occurs within the Judicial Branch, the increase for red circled employees will be calculated as follows:

The hourly rate will be unchanged until such time as the step rate to which the red circled employee is assigned equals or surpasses his/her current rate of pay (this will most likely be achieved through the implementation of a ABI resulting from collective bargaining) or the employee meets the requirements to advance to the next step.

Any ABI increase that occurs prior to the employee's next step date that does not raise the hourly rate for the applicable step to the employee's current hourly rate will be paid entirely in cash.

If the ABI increase would raise the hourly rate for the applicable step higher than the employee's current hourly rate, such current hourly rate will be increased to the applicable hourly rate. Any portion of a ABI that is not included in the new step hourly rate for the employee will be paid in cash.

2. Compensation Plan -

(a) The compensation plan for Judiciary employees has 28 pay grades, each pay grade having salary steps. It is the policy of the Judiciary to establish pay grade equivalents to coincide with the compensation plan approved by the General Assembly. The Court Administrator shall assign each class established in the Judiciary classification plan to a pay grade equivalent. The positions shall be assigned to pay grade equivalents based on responsibility, prevailing salary rates for similar positions, and other pertinent information.

(b) Hiring Rates

- i. New employees - Employees new to Vermont State Government shall be hired at Step 1 of the pay grade equivalent to which the position class is assigned except as provided for by subsection iv. hereof.
- ii. Employees from other state agencies - employees who are transferring from permanent positions in other state departments shall be treated as if they were transferring between positions within the Judiciary.
 - A. If the Judiciary position's pay grade equivalent is greater than the pay grade of the employee's Executive Branch position, the employee shall start at the step within the new pay grade equivalent that guarantees at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades but never lower than Step 2.
 - B. If the Judiciary position's pay grade equivalent is equal to the employee's Executive Branch pay grade, the employee shall be assigned to the same step that the person was assigned in the Executive Branch.

- C. If the Judiciary position's pay grade equivalent is lower than the employee's Executive Branch pay grade, the employee shall receive the end of probation salary level of the Judiciary position. If the Court Administrator determines the employee's Executive Branch experience will contribute to the employee's ability to perform effectively in the new position, the employee may be slotted on a step in the pay grade that exceeds Step 2, but does not exceed the employee's present salary. In no case may an employee's salary exceed the maximum salary step of the pay grade equivalent.
 - iii. Re-employment - A permanent employee in good standing who has voluntarily terminated employment from the Judiciary or left due to a reduction in force shall have salary restoration rights for two years after the separation. Salary restoration depends upon the relevance of experience gained in the previous position to the new position and the degree of responsibility of the previous position as compared to the new position. The maximum restored salary is defined as the salary at the time of termination plus any salary adjustment to which an employee would have been entitled, unless specifically excluded by the Legislature, had the employee remained employed with the Judiciary in the same pay grade equivalent. If a person's maximum restored salary falls in between steps in the pay grade equivalent, the maximum restored salary shall be the higher step. However, in no instance may a re-employed person's salary exceed the maximum salary step of the new position's pay grade equivalent.
 - A. Hiring rate where the new position is at a higher pay grade equivalent - If the person's previous experience warrants, the starting salary shall be the step within the new pay grade equivalent that guarantees at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades over the employee's maximum restored salary or step 2 of the new pay grade equivalent, whichever is greater.
 - B. Hiring rate where the new position is at the same pay grade equivalent - If the person's previous experience warrants, the person's starting salary shall be the maximum restored salary.
 - C. Hiring rate where the new position is at a lower pay grade equivalent. The person's starting salary shall be Step 2 of the new pay grade equivalent. If the person's maximum restored salary is greater than Step 2, depending on the person's previous Judicial Branch experience, the Court Administrator may establish a starting step above Step 2, but not to exceed the person's maximum restored salary.
 - iv. Hiring above the minimum salary - In instances of difficult recruitment or extraordinary qualifications of an applicant, the Court Administrator may authorize a starting salary above the minimum of the pay grade equivalent.
- (c) Step Movement- advancement through the steps of a pay grade equivalent for permanent employees shall be governed by the time requirements set forth below.

- i. Anniversary Date - The date on which an employee most recently completed an original probation, or in the case of restored or rehired employees, the date of restoration or rehire. In the case of completion of original probation, the date shall be the actual date of completion rather than the effective date of the associated pay increase. This date will be used initially as the date upon which step increases may be granted in accordance with the compensation plan provisions.

Step Date - The date on which an employee moved to a specific pay grade and step.

The required time on each step shall be as follows:

Step 2 (End of Probation) through 5 - one year

Step 6 through 12 - two years

Step 13 through 15 - three years

Movement to a higher step level is predicated on satisfactory performance. Any employee who has been warned under Article 12, Section 3 of unsatisfactory job performance shall not advance to the next step level until the employee's supervisor has notified the Court Administrator that the employee is performing satisfactorily. The advance to the next step level should occur on the Monday of the first full pay period following the notification to the Court Administrator.

- ii. Normally, step movement will take place on the employee's Step Date. The effective date for all pay increases will be as follows: If an employee's actual step date occurs before midnight Saturday of the first week of the applicable pay period, then the employee's effective date of increase shall be retroactive to the beginning of the same pay period. If the employee's actual step date occurs after midnight Saturday of the first week of the applicable pay period, then the employee's effective date of increase shall occur on the first day of the pay period following the employee's step date.

(d) Reassignment of Pay Grades Due to Classification Review

A position class may be reassigned to a greater pay grade equivalent due to an action or an employee may be assigned to a new class at a greater pay grade equivalent due to a classification review. If adequate funding is available, all permanent status employees within the reassigned class or a reassigned permanent status employee to a class with a greater pay grade equivalent shall be slotted into step 2 of the new pay grade equivalent or into the step in the new pay grade equivalent which will give the employee at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades, whichever is greater. However, no employee may receive a salary that exceeds step 15 of the new pay grade equivalent. All reassignments are effective at the beginning of the next pay period following the date of the original classification request submission to the CAO Human Resources Division. Employees who are still in their original probationary

period shall have their salary adjusted to the minimum rate of the new pay grade equivalent. If adequate funding is not available, the reallocation of pay grades shall become effective at the beginning of the first pay period in the next fiscal year. If an employee is reassigned to a higher class within two years of a previous reassignment to a higher class, the employee shall be slotted into the new pay grade at the step that results in a salary increase.

If a class or position is reassigned to a lower pay grade equivalent as a result of a classification study, the employees affected by the study shall have their compensation established as follows:

Where the review assigns the position one or two pay grades below its former pay grade assignment, the rate of pay shall be "red-circled" and shall not be subject to a reduction. Such employee will move to the step next above his/her red-circled rate on the next step date, except when the salary is over the maximum for the pay grade or falls on a step in the new Pay Grade. The next step date in such cases shall be based on the effective date of the reassignment, and will be calculated on the required time on step assigned to the step next below the employee's red circled rate.

Where the review assigns the position three or more pay grades below its former pay grade assignment, the employee shall be placed on a specific step in the new (lower) pay grade that is at least a 1.5% decrease in salary and then slotted down, but shall not be paid less than the minimum, nor more than the maximum for such lower pay grade. All such employees will establish a new Step Date.

After this action, any employee whose compensation was set by subsection i above and whose salary exceeds step 15 of the new pay grade will have their salary red-circled until such time as the compensation for step 15 exceeds the employee's salary and at that time the employee will be slotted on step 15. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period, movement to a grade higher than the former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

When a reassignment pay raise results in a junior employee receiving a greater salary than a senior employee assigned to the same or a greater pay grade equivalent, the Court Administrator, in the interests of fairness and equity, may adjust the senior employees' salary. For purposes of this section, seniority is based upon total uninterrupted state service, except where the interruption is caused by a reduction in force.

(e) Promotion

Upon promotion, an employee shall receive a salary increase to the step in the new pay grade equivalent with at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades, or to step 2 of the new pay grade equivalent, whichever is greater. The employee will not receive a salary increase at the end of the promotional probationary period. For purposes of this provision,

promotion shall mean the advancement of an employee from the employee's present pay grade equivalent to a higher pay grade equivalent through a change from one position to another position. If the new position is vacant, the pay raise associated with the promotion should be effective at the beginning of the pay period immediately following the acceptance of the promotion by the employee. If the position is not vacant when the promotion is accepted, the pay raise will occur at the beginning of the pay period immediately following the termination date of the previous incumbent.

(f) Lateral Transfer

If an employee transfers from one position in the Judicial Branch to another position in the Judicial Branch at the same pay grade equivalent, the employee shall receive the same salary. The Court Administrator may increase the salary in accordance with subsection (e).

(g) Demotion

i. Voluntary demotion

An employee may voluntarily transfer from a position classified at a pay grade equivalent to a new position with a lower grade equivalent. If the pay grade for the new position is not more than two (2) pay grades lower than that of the current position, the employee will be placed on the step that is closest to but does not exceed the employee's then current rate of pay. If the pay grade for the new position is three (3) or more pay grades lower than that of the current position, the employee shall be placed on a specific step in the new (lower) pay grade that is within the range for salary upon demotion specified in Section 6.072, et seq., of the Executive Branch Rules and Regulations for Personnel Administration which represents at least a one and one-half (1.5%) percent decrease in salary and then slotted down, but shall not be paid less than the minimum, nor more than the maximum for such lower pay grade. All such employees will establish a new Step Date.

ii. Involuntary demotion

An involuntary demotion may occur by either transferring an employee to a lower pay grade equivalent position in the work unit or by reassigning the employee's position to another class with a lower pay grade equivalent as a result of unsatisfactory performance. A reassignment to a lower pay grade equivalent that occurs as a result of a classification study or action shall not be considered an involuntary demotion. An employee who is involuntarily demoted shall have the base salary reduced to the maximum salary step of the new pay grade equivalent or, to the step in the new pay grade equivalent that reduces the employee's current salary by at least 5%, whichever is the greater reduction. In no event shall the salary be reduced to less than the step 2 salary rate of the new pay grade equivalent. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period, movement to a grade higher than the

former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

(h) Original Probationary Period

Upon satisfactory completion of an original probationary period, an employee earning less than the step 2 salary rate for the employee's pay grade equivalent shall receive a salary increase to that step 2 rate. The increase shall be effective at the beginning of the bi-weekly pay period immediately following the date of the completion of the probationary period. If an employee was hired at or above the step 2 salary rate, the employee will not receive an end of probation increase.

(i) Temporary Assignment

i. Alternate Rate Pay

Employees may be specially assigned by the Court Administrator to assume the duties of a position assigned to a higher pay classification than the employee's own within the bargaining unit. Upon completion of the assignment, the employee shall return to his/her regular position without the loss of any contract right that would otherwise have accrued. If this occurs the employee may be eligible for alternate rate pay as described below.

The alternate rate pay shall be the step in the new pay grade equivalent that is the promotion rate for the employee under subsection (e) above. For an employee to be eligible for alternate rate pay, the replaced employee's pay grade equivalent must be at least one pay grade equivalent greater than the employee's own. Alternate rate pay will apply only for the duration of the reassignment. At the end of the reassignment period, the employee will return to the employee's normal salary, plus any salary adjustments that would have normally been granted had the employee not been specially assigned. Any salary increase which occurs during the period of special assignment shall be given to the specially assigned person in the same manner as it would have applied to a person holding the position on permanent assignment.

Special assignment justifying alternate rate pay shall occur only when an employee is required by the Court Administrator to perform a majority of those duties of the specially assigned position which are substantially different from the employee's own normal duties for a period of five (5) or more consecutive full work days, effective upon execution of this agreement. If special circumstances warrant, the Court Administrator may approve alternate rate pay for shorter periods of time. The performance standard of a specially assigned employee shall be the same as that expected of a newly assigned permanent employee during the probationary period. If all of the above conditions are met, the Employee shall receive the alternate rate of pay during the special assignment retroactive to the first day of such assignment.

ii. Interim Appointment Outside Bargaining Unit

In the event of an interim appointment of a covered employee to a position exempt from the bargaining unit, such employee shall be compensated at an interim rate set by the Court Administrator. Upon completion of the assignment, the employee shall return to his/her regular position without the loss of any contract right that would otherwise have accrued. The employee shall make a written request to the Association for a leave of absence from the Bargaining Unit for the duration of such special assignment.

(j) Termination

Any employee who wishes to terminate employment voluntarily with the Judicial Branch must give the supervisor two (2) weeks written notice. The written notice shall indicate the last day the employee will work and the reason for termination. The termination will be effective on the last day of work.

A terminating employee, regardless of the nature of the termination, will be paid for any unused annual leave or unused compensatory time if eligible for cash payment, provided proper notice was given in the case of voluntary termination. If insufficient notice is given, the employee's accumulated annual leave shall be reduced by the amount of time that the notice is insufficient. Where circumstances warrant, the Court Administrator may waive the notice provision.

The Court Administrator may withhold the employee's final pay check until all state-owned property which was assigned to the employee has been returned. In the case of an involuntary termination, the employee shall receive two week's notice or two week's pay in lieu of notice. Notwithstanding this provision, an employee may be dismissed without notice or pay in lieu of notice for a violation of a rule which notes that immediate dismissal could result. Regardless of the type of termination, the Court Administrator may require the employee to leave work immediately upon notice of termination. If this is required, it will have no impact on any payments due the employee.

(k) Employee Benefits

The Judicial Branch extends to its permanent employees working the equivalent of twenty (20) hours or more per week the benefits available to all state employees. All employees will be subject to deductions for F.I.C.A. Since the details of these benefits change from year to year, complete information about these benefits is available from the Human Resources Manager. However, permanent employees employed prior to January 1, 1985 who work at least fifteen (15) hours per week and who were receiving benefits shall continue to be eligible for those benefits.

(l) Market Factor Adjustments

The Judiciary, upon the determination of the Court Administrator, may exceed established classified pay plan steps and maximums in order to implement market factor adjustments for the purpose of attracting and retaining qualified employees in the Judiciary. If the Court Administrator determines to make a market factor adjustment, the impact of such decision shall be negotiated for up to 45 calendar days with the VSEA. At the end of the 45 calendar day period, commencing with the

notice to the VSEA, the Judiciary may implement any proposed adjustment without further negotiations or recourse to the statutory impasse procedures. The Judiciary may subsequently lower any rate which has been adjusted above the established step and maximum provided no then current employee is reduced in salary or step as a result.

(m) **Employee Development Fund**

The Judiciary shall provide funds in the amount of \$26,000 for fiscal year 2023 and \$26,000 for fiscal year 2024 in order to assist in the professional development, personal wellness activities, elder and day care expenses, of its employees covered by this Agreement and/or activity that will bring credit to the Judiciary. A joint committee consisting of two members appointed by each party shall, no later than August 1, 2008, put into place the eligibility standards for participation in the program. These standards shall be designed to make eligible activities that assist an employee's professional performance, bring credit to the Judiciary or otherwise work to the mutual advantage of the parties. The deadline for applications for funding under this program shall be July 15, 2023 and July 15, 2024 respectively. An employee must be actively employed with the Judicial Branch bargaining unit at the deadline for annual application in order to be eligible for the reimbursement. Approved expenses incurred during the fiscal year are reimbursable if submitted by the deadline. Not more than \$175 shall be available to any employee per fiscal year. Within this limitation, and upon a majority of the committee's approval of each application, the yearly Fund amount shall be divided equally among those employees who provide sufficient proof to the joint committee of conducting an eligible activity. Payments will be disbursed after July 1, 2023 and July 1, 2024 respectively.

ARTICLE 17

OVERTIME AND CALL-IN PAY

1. **Eligibility for Overtime compensation**

- (a) All bargaining unit employees in classes assigned to pay grades 5 through 28 shall receive overtime compensation at the rate of one and one-half times their regular hourly rate for all hours worked in excess of eight in any work day or forty in any work week, excluding hours claimed as sick leave.

i. **Authorization of Overtime**

- A. Except as required by law, no employee will be compensated for work in excess of the employee's normal work schedule unless the work was approved in advance by the judge or the supervisor. Overtime, the use of permanent part-time employees beyond their established work schedule, must have the prior authorization of the Court Administrator or designee unless the supervisor's budget contains money to pay for those purposes. When a jury trial or other court hearing extends past the normal work schedule, judges or supervisors may authorize overtime as necessary to insure the efficient operation of court.

- B. All overtime work which has been assigned to an employee by the appropriate authority and is actually worked by the employee shall be compensated by cash. The employee may request compensatory time in lieu of cash or request a combination of compensatory time and cash. Compensatory time shall be granted at the discretion of the supervisor.
 - C. No employees may authorize overtime for themselves.
- ii. Computation of Overtime
 - A. The smallest division of an hour to be used in the computation of overtime is fifteen minutes.
 - B. It is expected that travel between work locations shall be conducted during normal working hours. An employee who is required by a supervisor to report to and remain at a work location other than the employee's normal work station at a time that would make it impossible for the employee to travel to the work location during normal working hours plus normal commuting time shall be granted overtime compensation or compensatory time off at the overtime rate applicable to the employee for the additional time required to travel to the work location. Voluntary in-state or out of state travel time shall not count as time worked. However, in-state travel time to and from and time attending required conferences, conventions, seminars, training courses and related activities will be considered as time actually worked for purposes of computing overtime compensation. Time spent for meals and the normal commutation time, when appropriate, shall be deducted from such travel time. Required out of state travel time above and beyond normal commuting time which is completed in a single day shall count as time worked. Required out of state travel which involves more than one day and which cannot be accomplished during scheduled work hours shall count as time worked, but shall be compensated for by straight time compensatory time off. All compensation/reimbursement for travel time shall be subject to the protocols set forth in Bulletin #3.4 of the executive branch's Agency of Administration.
 - C. If a manager assigns an employee to be available to address work issues outside of their regularly schedule workhours, the employee will receive \$2.00 an hour for each hour so assigned. During such hours the employee must be able to respond within one hour of initial contact by Judiciary. Hours worked outside of regularly scheduled hours will be paid at overtime rate.
 - D. Hours actually worked, hours on annual leave, compensatory time off, unworked holidays, paid training time and personal leave shall be considered as time actually worked for the purpose of determining eligibility for overtime compensation.
- iii. After Hours Coverage, Relief from Abuse

- A. If the Judiciary finds it necessary to provide state-wide applicant support for relief from abuse (RFA) matters, an employee may volunteer to provide coverage. All after hours RFA services will be provided over phone and internet on a remote state-wide basis with no need to travel from one's home. Volunteers must have timely access to telephone, electronic computing device, standard software suite and internet service needed to service these applicants.
- B. The Judiciary shall determine the number of employees needed to meet projected state-wide applicant need. Managers shall annually solicit a list of volunteers from court staff. Managers will assign eligible volunteers before engaging a contract worker. Once an employee has volunteered for such list, however, the employee may not remove himself/herself from such list without sixty (60) days advance written notice to the appropriate manager. When an employee eligible for overtime is called outside the hours of his/her normal shift to consider a RFA matter, such employee shall receive a minimum of one hour's overtime pay for handling the call, inclusive of the call. A second call occurring within the initial hour shall not require payment beyond the hour unless the second call extends beyond the hour starting when the first call was received, at which point the employee shall be compensated at overtime rates for time worked.
- C. If the call proceeds to starting the application process over the phone the employee will be paid four (4) hours overtime, inclusive of the call. A second call occurring within the four hours shall not require payment beyond the four hours unless the second call extends beyond the four-hour overtime period starting when the initial call was received, at which point the employee shall be compensated at overtime rates for time worked.
- D. The Judiciary shall establish a reasonable system with priority given to those employees who volunteer for consistent and substantial blocks of coverage and do not avoid duty on holidays. A manager may remove a person from the RFA after-hours list as long as the decision is made with sufficient reason. If an employee who is scheduled for coverage on a given day is unable to perform such assignment, it shall be the responsibility of the employee to provide timely notice to the appropriate manager.

iv. After Hours Relief from Abuse Rate of Pay

Two dollars (\$2.00) per hour shall be paid to any employee providing coverage for afterhours RFA. This rate of pay shall not be accrued concurrently with either the one (1) hour of pay earned by handling a call, nor the four (4) hours of pay earned by starting an application. Payment of this rate shall fully compensate employees for the use of personal electronic devices and personal internet service associated with providing service to RFA applicants.

v. Call-In Pay

When a full-time employee eligible for overtime is called in to a Judiciary duty station or other location and required to work at any time other than continuously into the normally scheduled shift, the employee shall receive compensation at overtime rates for all hours worked. Any eligible employee called in under this section shall receive a minimum of four (4) hours of overtime compensation. If a part-time permanent employee who is eligible for overtime compensation is called in to work at a time outside normal court business hours, the employee shall receive a minimum of four (4) hours of overtime compensation. The overtime rate paid for call in pay shall not be reduced or affected by use of sick leave within the work week.

vi. Misdemeanor Bail Calls

Employees recommended for misdemeanor bail calls by a court manager shall be paid according to the same terms outlined above in subsection iv., After Hours Coverage, Relief from Abuse. When a full-time employee is called outside the hours of his/her normal shift to consider a misdemeanor bail, such employee shall receive a minimum of one hour's pay for handling the call. Any subsequent calls occurring within the one hour period shall not require additional payment, however a subsequent call after the expiration of the original one hour period shall once again necessitate the payment of a minimum of one (1) hour for handling the call. Such hours shall be paid at overtime rates.

2. Compensatory Time

(a) Accumulation

- i. Compensatory time may only be earned for authorized overtime hours worked.
- ii. The amount of compensatory time earned shall be computed at the rate of one and one half hours for each hour of overtime actually worked.
 - A. The accrual year for compensatory time accumulation shall be April 1 to March 31.
 - B. No employee shall be allowed to accumulate more than 240 hours of compensatory time. Any subsequent overtime incurred by an employee shall be paid in cash.

(b) Use of Compensatory Time

- i. Compensatory time off may be used and must be authorized in the same manner as the use of annual leave.
- ii. Any compensatory time earned during an accrual year ending March 31 must be used within the year following that March 31. If an employee did not use the compensatory time within the time period, the employee will be paid for the unused compensatory time in cash.