

# **NJIT/SOA AGREEMENT**

**July 1, 2015 – June 30, 2019**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**

**and**

**NJIT SUPERIOR OFFICERS' ASSOCIATION, affiliated  
with the Fraternal Order of Police Labor Council  
Inc.**

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**NJIT/SOA**  
**AGREEMENT**

This Agreement is entered into by New Jersey Institute of Technology, hereinafter (“NJIT” or “the University”) and NJIT Superior Officers’ Association, affiliated with the Fraternal Order of Police Labor Council, hereinafter referred to as (“SOA”).

**ARTICLE I**

**RECOGNITION**

NJIT recognizes SOA/FOP Labor Council as the sole and exclusive negotiating agent for the purpose of negotiating terms and conditions of employment for all full-time commissioned Police Sergeants, hereinafter referred to as “Sergeant(s)”; specifically excluding all other Commissioned Police Officers above and below the rank of Sergeant and all other employees of NJIT.

**ARTICLE II**

**NEGOTIATING PROCEDURE**

A. The SOA shall present its demands for a successor Agreement to NJIT, in writing, related to terms and conditions of employment on or before October 1, prior to the expiration of this Agreement. On or before November 1, NJIT shall meet with the SOA for the purpose of negotiating, in good faith, a mutually acceptable Agreement.

B. Should any provision in or portion of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction or unenforceable by the Public Employment Relations Commission (PERC), such decision of the court/PERC shall only apply to the specific provision or portion thereof, directly specified in the decision. Upon the issuance of final determination, after any and all appeals, the parties agree immediately to meet and discuss a substitute for the invalidated provision or portion thereof.

C. This Agreement incorporates the entire understanding of the parties on all matters which were or could have been the subject of negotiations, and shall not be changed except by an amendment mutually agreed upon between the parties in writing.

## **ARTICLE III**

### **MANAGEMENT RIGHTS**

- A. NJIT retains and reserves unto itself all rights, powers, duties, authority, and responsibilities conferred upon and vested in it by the law and constitutions of the State of New Jersey and the United States of America.
- B. All such rights, powers, duties, authority, and responsibilities possessed by NJIT may be exercised without restrictions, subject to the limitations imposed by law and except as they are specifically abridged and modified by this Agreement.
- C. NJIT retains its responsibility to promulgate and enforce the rules and regulations, subject to limitations imposed by law, governing the conduct of and activities of those Sergeants subject to this Agreement and not inconsistent with the express provisions of this Agreement, recognizing that proposed new rules, policies or modifications of existing rules/policies governing negotiable terms and conditions of employment shall be presented to the SOA and negotiated upon the request of the SOA as may be required pursuant to the New Jersey Public Employer –Employee Relations Act, as amended. Request for negotiations shall be made in writing and within thirty (30) days after receipt of notice of the proposed new or modified rule(s) and/or policy(ies).

## **ARTICLE IV**

### **DUES/FEE DEDUCTION**

#### **A. Dues**

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (N.J.S.A. 52:14-15(9)(e), as amended), NJIT agrees to deduct from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, the SOA dues and regular assessments of each member of the negotiating unit who furnishes a voluntary written authorization of such deduction on a form acceptable to NJIT.
2. The right of dues deductions for any Sergeant of the negotiating unit shall be limited to the SOA and each Sergeant in the negotiating unit shall be eligible to withdraw such authorization only as of July 1 of each year provided the notice of withdrawal has been timely filed.

3. The amount of the SOA dues shall be such amount as shall be certified to NJIT by the SOA at least thirty (30) days prior to the date on which deduction of dues are to begin.

4. The deduction of SOA dues made from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, pursuant hereto, shall be submitted by NJIT to the SOA before the fifteenth day of the calendar month succeeding that in which such deductions are made, together with a list of names of negotiating unit members from whose pay such deductions are made.

5. The SOA agrees to save NJIT, its trustees, officers, Sergeants and representatives, harmless from any action or actions commenced by any member(s) of the negotiating unit against NJIT, for any claim arising out of such deduction and the SOA assumes full responsibility for the disposition of any such funds once they have been turned over to them as provided.

6. Errors made by NJIT in the deduction and/or remittance of monies under this Agreement shall not be considered by the SOA as a violation of this Agreement.

**B. Representation Fee (Agency Shop)**

**1. Purpose of Fee**

Subject to the conditions set forth in number 2. below, Fee Assessment, all eligible nonmember Sergeants in this unit will be required to pay to the majority representative a representation fee, in lieu of dues, of services rendered by the majority representative until June 30, 2010. Nothing herein shall be deemed to require any Sergeant to become a member of the majority representative.

**2. Fee Assessment**

It is understood that the implementation of the agency fee program is predicated on the demonstration by the SOA that more than fifty percent (50%) of the eligible Sergeants in the negotiating unit are dues paying members of the SOA.

If, at the signing of this Agreement, the above percentage has not been achieved, the agency fee plan will be continued through the calendar year, after which it shall be discontinued unless the minimum has been achieved prior to that occurrence. Then, if the minimum percentage is exceeded on any quarterly date, i.e., January 1, April 1, July 1, or October 1, the agency fee plan shall be reinstated, with proper notice to affected Sergeants.

On July 1, in each year of the Agreement, an assessment shall be made to determine if the minimum percentage has been exceeded. If it has, the agency fee shall continue until the following annual assessment. If it has not, the agency fee will be discontinued and eligibility for reinstatement shall be on a quarterly basis as provided above.

**3. Deduction and Transmission of Fee**

After verification by NJIT that Sergeants must pay the representation fee, NJIT will deduct the fee for all eligible Sergeants in accordance with this Article.

The mechanics of the deduction of representation fees and the transmission of such fees to the SOA will, as nearly as possible, be the same as those used for the deduction and transmission of regular membership dues to the SOA.

NJIT shall deduct the representation fee as soon as possible after the tenth day following re-entry into this unit for Sergeants who previously served in a position identified as excluded or confidential, for Sergeants re-employed in this unit from a re-employment list, for Sergeants returning from leave without pay, and for previous Sergeant members who become eligible for the representation fee because of non-member status.

NJIT shall deduct the representation fee from a new Sergeant as soon as practicable after thirty (30) days from the date of employment in a position in this unit.

**4. Demand and Return System**

The representation fee in lieu of dues shall be available to the SOA only if the procedures herein set out, are maintained by the SOA.

The burden of proof under this system is on the SOA.

The representation fee, subject to refund, shall not reflect, however, the costs of support lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure for the Sergeants represented, advantages, in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with NJIT.

The Sergeants shall be entitled to a review of the amount of the representation fee by requesting the SOA to substantiate the amount charged for the representation fee. This review shall be provided in conformance with the internal steps and procedures established by the SOA.

The SOA shall submit a copy of the SOA review system to NJIT. The deduction of the representation fee shall be available only if the SOA establishes and maintains this review system in accordance with law.

If the Sergeant is dissatisfied with the SOA's decision, he/she may appeal to a three (3) member board established by the Governor.

**5. Employer Held Harmless**



The SOA hereby agrees that it will indemnify and hold NJIT from any claims, actions or proceedings brought by any Sergeant in the negotiations unit which arises from deductions made by NJIT in accordance with this provision.

**C. Amount of Dues/Fees**

Prior to the beginning of each contract year, the SOA will notify NJIT, in writing, of the amount of regular membership dues, initiation fees and assessments charged by the SOA to its own members for that contract year, and the amount of the representation fee for that contract year. Any changes in the dues, assessments and/or representation fee structure during the contract year shall be certified to NJIT at least thirty (30) days in advance of the requested date of such change. The change will be reflected in payroll deductions at the earliest practicable time after receipt of the request.

The representation fee, in lieu of dues, shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members, less the cost of benefits financed through the dues, fees and assessments and available to or benefiting only its members, but in no event shall such fee exceed eighty-five percent (85%) of the regular membership dues, fees and assessments.

**D. Errors or Omissions**

NJIT shall not be liable to the SOA for any retroactive or past due representation fee or dues for a Sergeant who was identified by NJIT as excluded or confidential or in good faith was mistakenly or inadvertently omitted from deduction of the representation fee or dues.

**E. Legal Requirements**

Provisions in this clause are further conditioned upon all other requirements set by statute.

**ARTICLE V**

**RIGHTS OF THE SOA**

A. NJIT agrees to recognize those Sergeants of the negotiating unit, not to exceed three (3), who are designated by the SOA as representatives for collective negotiations, by written notice of the names of such Sergeants in the negotiating unit given to NJIT. This section shall not preclude either party from inviting others to attend collective negotiations or providing factual knowledge or expertise with respect to a particular subject for collective negotiations. In this event, advance notice, shall be given the other party.

B. Non-Sergeant Representatives of the SOA shall be permitted to transact official

business on NJIT's property at all reasonable hours provided they first have obtained permission in advance from the Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee, and they do not interfere or interrupt normal NJIT operations or work of any Sergeant in the bargaining unit, or other NJIT employees or groups of employees.

C. The SOA shall have the right to post, on mutually agreed bulletin boards, bulletins and notices relevant to official SOA business which affects the Sergeants in the negotiating unit.

## **ARTICLE VI**

### **LABOR/MANAGEMENT COMMITTEE**

A. A committee consisting of NJIT and SOA representatives may meet for the purpose of reviewing the administration of this Agreement and to discuss problems which may arise.

B. Either party to this Agreement may request a meeting and shall submit a written agenda of topics to be discussed seven (7) days prior to such a meeting. Requests by the SOA for such a meeting will be made to the Vice President of Human Resources.

C. A maximum of two (2) Sergeants representatives of the SOA may attend such meetings. Sergeants representatives who attend such meetings, during their scheduled work shift, shall be granted time off to attend without loss of pay.

D. The committee meetings are not intended to bypass the grievance procedure, the normal chain of command, or to be considered collective negotiating meetings, but are intended as a means of fostering good labor relations through an exchange of views between the parties to this Agreement.

## **ARTICLE VII**

### **INVESTIGATION, DUE PROCESS, DISCIPLINE & CHALLENGE**

As members of NJIT's Department of Public Safety, Sergeants are entrusted with the safety and security of university property and its representatives, employees, students, licensees and guests. Failure to perform or negligent performance of a Sergeant's responsibilities could have serious and unacceptable consequences. Misconduct is on its face, unacceptable and often terminable. A high standard of excellence is expected and must be maintained by all Sergeants at all times, exemplifying respect, honor, dignity, commitment, integrity and requisite skills. It is against this purpose and expectation that the conduct of Sergeants will be measured.

**A. Management Meetings:**

The Department of Public Safety, through its supervisory structure and in accordance with the authorized chain of command, retains as a nonnegotiable prerogative, the right to meet with Sergeants, at its discretion, to discuss any matter of pertinent business, including, but not limited to, providing information and/or direction, reviewing and/or altering individual and/or departmental responsibilities and providing performance assessment. Except as otherwise specifically provided for in this Agreement, there is no right to SOA representation for a Sergeant attending any of these meetings. Attendance and participation at these meetings are not optional with the Sergeants, but must be adhered to as directed.

**B. Investigation:**

A Sergeant's conduct is always subject to investigation where there is a real nexus between the conduct and the Sergeant's position at the university. Where the Sergeant is questioned directly as to his/her conduct or his/her knowledge on a matter under investigation and discipline is a foreseeable consequence of the Sergeant's response he shall be afforded SOA representation in accordance with law. This type of meeting is called an "investigatory conference" and is preliminary to any charge of disciplinable conduct. This meeting is not a part of a Sergeant's permanent record except when and unless it is found that the Sergeant engaged in misconduct in the meeting itself, (i.e., provides false evidence). There is no privilege or immunity in employment in providing false statements or refusing to respond to a direct inquiry, except and only as mandated under applicable law.

**C. Due Process:**

Prior to invoking formal, final, employment discipline upon a Sergeant, that is greater in severity than a written reprimand, he/she shall be afforded both notice of any and all charges against him/her and an opportunity to be heard on those charges. A Sergeant may choose to be silent at the meeting or not attend the meeting at all. This meeting is called a due process meeting and all Sergeants shall be afforded SOA representation at due process meetings. Legal counsel representing SOA shall be permitted to attend employment due process meetings only where employment charges include or reasonably may be construed to include criminal behavior in violation of New Jersey's Penal Code, as codified in New Jersey Statutes. Where such criminal behavior is a reasonably foreseeable consequence of such charge, the Sergeant will not be charged or allowed to waive SOA and/or legal representation without first contacting the SOA, who shall have a right to then have a representative, including legal counsel, at the meeting.

**D. Discipline:**

1. Following any investigation deemed necessary by NJIT and requisite due process, where applicable, a Sergeant may be disciplined for just cause.

2. Discipline under this Article means: official written reprimand, suspension without pay and discharge.
3. Any disciplinary action imposed upon a Sergeant may be processed as a grievance through the regular grievance procedure.
4. A Sergeant who is suspended without pay or discharged may file a grievance at Step Two of the grievance procedure.
5. The terms of this Article shall not apply to probationary Sergeants.
6. Drug Screening – Positive Results

Sergeants who are tested and test positive for the presence of drugs under the Drug Screening Policy shall be suspended from duty immediately without pay, pending a due process hearing for dismissal from employment. Such Sergeant may be terminated from employment based upon a confirmed positive result.

The only grievable issues with regard to discipline resulting from a positive drug test are as follows:

- (i.) a challenge to the testing results or procedure;
- or
- (ii.) in the case of drug testing based upon “reasonable individualized suspicion”, a claim that reasonable grounds for testing did not exist.

#### **E. Emergency Suspensions**

Pending an investigation, a Sergeant may be subject to emergency suspension for the following:

- a. The employee is unfit for duty.
- b. The employee is a hazard to any person if permitted to remain on the job.
- c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
- d. The employee has been formally charged with a first, second, or third degree crime.
- e. The employee has been formally charged with a first, second,

third or fourth degree crime while on duty, or a criminal act related to his or her employment.

At the time of the suspension, the individual shall be provided with a written statement of the reasons the actions has been taken. A copy of the written statement shall be provided to the SOA representative.

**F. Grievance Procedure:**

**1. Any Sergeant of the Negotiating Unit May Appeal:**

- (a) A claimed violation or other improper application by the University of the terms of this Agreement, University rules, regulations or governing policy specifically affecting the grieving Sergeant's negotiable terms and conditions of employment.

**2. Time Limits:**

- (a) Failure of a grievant to meet any of the calendar limitations stipulated in the procedure below will constitute a waiver of his/her rights to claim a grievance on the basis of the same alleged factual situation. Likewise, a failure on the part of the designated representative of NJIT to meet the procedural obligations of any step in the grievance procedure, within the prescribed period of time, will give the grievant an automatic right to proceed to the next available step in the procedure. It is understood that nothing contained in this procedure should be construed as limiting the right or propriety of a Sergeant of the negotiating unit to informally discuss any problem with an appropriate member of NJIT administration.

**3. Procedure for Handling Grievances:**

**(a) Informal Conference**

A grievant may first discuss his/her grievance informally with the appropriate command Lieutenant. The grievant may at his/her option, be accompanied by a representative of SOA. All informal resolutions shall be without precedent

**(b) Step One**

- (i) Within ten (10) workdays of the occurrence causing the grievance or of the time the grievant should have reasonably known of the occurrence causing the grievance, the grievant shall, if he is not satisfied through informal conference discussion, submit in writing to the Chief of Police/Director of Public Safety, whichever is applicable, with copies to the Vice President of Human Resources, the claimed facts behind, and basis of the grievance and the desired remedy. Time limits, which begin after the written grievance is submitted, may be mutually extended by the parties only in writing.
- (ii) SOA shall be notified by the Chief of Police/Director of Public Safety, whichever is applicable in the event the grievant is not represented by SOA, and a representative shall have the right to be present, at this time and all subsequent steps in the grievance procedure, to present the views of SOA. The Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee which may be a representative from the Department of Human Resources or other University official, within ten (10) calendar days after receipt of the written grievance, shall meet with the grievant and the representative of SOA in an effort to resolve the grievance. The Chief of Police/Director of Public Safety, whichever is applicable, or designee shall indicate his/her disposition of the grievance, in writing, within five (5) calendar days of said meeting to the grievant and SOA and Vice President of Human Resources.

(c) **Step Two**

- (i) If the grievant and/or SOA is dissatisfied with the decision at Step One of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the second step of the grievance procedure, the grievant and/or SOA shall, within seven (7) calendar

days of the date of the decision at Step One (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Vice President for Real Estate Development and Capital Operations, with copies to the Vice President of Human Resources. The grievance shall contain: (1) a brief and concise factual statement of the action grieved, (2) the section(s) of the collective bargaining agreement allegedly violated, (3) the specific policy and/or rule or regulation allegedly violated and (4) the desired remedy.

- (ii) Within thirty (30) days of receipt of the written grievance at Step Two, the Vice President for Real Estate Development and Capital Operations or his/her designee shall schedule and hold a hearing for the purpose of determining the standing and merits of the grievance. If the grievance involves a challenge to an imposed disciplinary sanction the grievant may be represented either by their local SOA representative or legal counsel, provided the SOA designates such counsel as the representative of the SOA, or there is an appropriate substitution of representation. In no case shall the grievant be entitled to dual representation of both an SOA representative released from active duty for purposes of representation and counsel at the Step Two hearing. An SOA representative, other than legal counsel may be present and represent the grievant at all non-disciplinary grievance hearings.
- (iii) At least one (1) week prior to the date of the grievance hearing concerning an imposed disciplinary sanction, the University and the grievant shall exchange the following information:
  - (1) All documents which the University relied upon in imposing the disciplinary sanction(s) and all documents relied upon by the grievant in challenging the

- sanction(s).
- (2) A list of all witnesses they intend to call at the grievance hearing, and a brief summary of the substance of the anticipated testimony.
  - (3) If there is any tangible evidence which forms the basis of the disciplinary action, it shall be described and provided to the grievant's representative for inspection and/or testing, providing that such inspection can be conducted without damaging or compromising the integrity of the evidence.
  - (4) Copies of the grievant's personnel file within the Department of Human Resources.

There shall be no other pre-hearing discovery authorized, including interrogatories, document production, depositions, or similar procedures.

**(d) Hearing Procedure:**

- (i) The grievance hearing shall be held before the Vice President for Real Estate Development and Capital Operations or his/her designee. Such hearing is not intended to be judicial in nature, and therefore rules of evidence applicable in judicial or quasi-judicial hearings shall not be applied. The hearing officer controls the hearing and in so doing determines what evidence to hear and the manner of presentation of evidence, and advocacy witnesses may be subjected to a relevancy review and determination by the hearing officer. All allowed witnesses will be given paid release time from university duty to testify when called upon. Testimony may be in the form of reply to direct questioning, or may be narrative.
- (ii) A transcript of the proceeding shall be arranged for and made by the University in cases of grievances of disciplinary terminations. The grievant and/or SOA shall be entitled to a copy provided that they agree, in advance, to share



the cost of transcription. No other recordings of the termination or other disciplinary grievance proceedings may be made (e.g. tape recordings) unless the parties specifically agree, in which case copies of any tapes shall be made available to the non-taping party.

- (iii) The grievant bears the burden of proving their grievance (e.g. that there was a violation of agreement, policy, rule or regulation) by a preponderance of the credible evidence. In the case of a disciplinary sanction of a non-probationary Sergeant, alleging discipline without just cause, the University bears the burden of demonstrating just cause by a preponderance of the credible evidence. Each party shall be permitted to make an opening statement, provided that same is not testimonial in nature.
  
- (iv) In grievances of disciplinary sanctions, witnesses shall testify under oath, and where the proposed disciplinary penalty is termination, witnesses shall be duly sworn by the certified short hand reporter transcribing their testimony. The other party may cross-examine the witness upon completion of direct testimony; there will be an opportunity for redirect testimony and recross examination. The Step Two hearing officer may, in his/her discretion, limit testimony and rule upon admissibility of evidence based upon relevancy of the testimony, its probative value, the potential for redundancy in cumulative effect, giving due regard both for grievant's opportunity to be heard and the necessity to conduct an efficient hearing that is neither unduly time consuming to the public entity nor directed to matters of limited or no substantial relevancy. Witnesses' testimony shall be factual and not based on hearsay. Only in exceptional circumstances, may expert and/or character testimony be presented by either party, and then only upon a significant proffer that such testimony is directly relevant to a necessary finding in resolution of the underlying grievance, and the relevancy of such testimony

would outweigh the administrative burden of hearing such testimony.

- (v) All procedural or evidentiary rulings of the hearing officer shall be final and binding for purposes of this hearing. Upon the close of testimony, the parties may present closing statements summarizing their positions. Upon mutual agreement of the parties, or upon the request of the hearing officer, written briefs will be provided.
  
- (vi) The hearing officer may render his/her decision orally at the time of hearing if there is no transcript of the hearing taken and briefs are not submitted, otherwise, he will reserve the decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to the Vice President for Real Estate Development and Capital Operations, SOA, grievant, and Vice President of Human Resources. Absent agreement by the parties this will occur within thirty (30) days of the receipt of the transcript and/or briefs.
  
- (vii) In the event the grievance is one that is both appealable and, in fact appealed to either an arbitrator at Step Three or another appropriate forum, the arbitrator (or other appropriate third party) shall be provided a copy of the transcript below and briefs (where such exist) and the written determination of the Vice President for Real Estate Development and Capital Operations or his/her designee. In the case of grievances of disciplinary sanctions, the sole issue before this Step Three forum, which shall be limited solely to a review of the record below, shall be whether the grievant by clear and convincing evidence of record carried his/her burden; the record thereby demonstrating that the hearing officer, in his/her determination, (1) committed a substantial violation of contractual procedure of significant

effect or impact or (2) the decisional findings of the hearing officer were wholly arbitrary, capricious or unreasonable, based upon the evidence before him/her, giving due regard for the hearing officer's ability and authority to assess the credibility of witnesses.

(e) **Step Three**

- (i) If the SOA is dissatisfied with the decision at Step Two, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in F., Grievance Procedure, 1.(a.), Any Sergeant of the Negotiating Unit May Appeal; above, and the SOA desires and is authorized by law to institute arbitration or other appeal proceedings, it must, within fourteen (14) calendar days of receipt of the Vice President for Real Estate Development and Capital Operations or his/her designee's reply, give proper notice to either the New Jersey Public Employment Relations Commission, hereinafter referred to as PERC, or to the Board of Trustees, consistent with the procedures set forth by statute, with a copy to the Vice President of Human Resources and the General Counsel. Any arbitration proceedings shall be in accordance with the rules and regulations of PERC, and for grievances of disciplinary sanctions, subject to the parameters limiting the scope of review set forth in (d.) vii., Hearing Procedures, above.
- (ii) The recommendation or decision of the reviewing individual or body shall not in any manner modify or cause anything to be added to or subtracted from this Agreement or any policy of the University.
- (iii) Fees and expenses of an arbitrator where such proceedings are authorized, shall be shared equally by the University and the SOA. Only with prior written agreement of the parties, shall any other expense or fee contained in this grievance procedure be shared.

4. NJIT will give written notification to the President of the SOA of grievance hearings or meetings beginning with Step Two for all Sergeants of the negotiating unit. The President of the SOA shall also be sent copies of all grievance answers.

5. Decisions of an arbitrator involving minor discipline, as defined by law, shall be final and binding. Arbitration of major discipline is not available under law and not authorized by this Agreement.

## **ARTICLE VIII**

### **NON-DISCRIMINATION**

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination in accordance with all State and Federal laws.

B. All references to Sergeants in the negotiating unit or agents of NJIT in this Agreement are expressly gender neutral and wherever one gender is used it shall be construed to include both male and female Sergeants and/or NJIT agents.

C. NJIT agrees not to interfere with the right of Sergeants to become members of this unit, and there shall be no discrimination, interference, restraint, or coercion, by either NJIT or any representative of the SOA against any Sergeants because of SOA membership or lack of membership or because of any Sergeant's activity or lack of activity in any capacity pertaining to any authorized, legal activities of the SOA.

D. The SOA recognizes its responsibilities as negotiating agent and agrees to represent all Sergeants in the negotiating unit without discrimination, interference, restraint, or coercion regardless of membership or lack of membership in the SOA.

## **ARTICLE IX**

### **SENIORITY**

A. **Recognition:**

1. **Probationary Exclusion:** All Sergeants shall be considered as probationary appointments for a period of one hundred and eight (180) days from the date of appointment as commissioned police Sergeant.

2. **Retroactive Recognition and Tie Breakers:** Upon completion of such probationary period, seniority as a Sergeant will be dated as of the initial date of appointment as a Sergeant. In the event that two (2) or more Sergeants have the same initial date of appointment, continuous prior commissioned police officer service, continuous university service, and the alphabetical order of their last names, in that order,

shall be used to determine their seniority with regard to each other.

3. The Office of Human Resources shall maintain a seniority list of all Sergeants, a copy of which shall be furnished to the SOA every six (6) months, normally in January and July.

4. A Sergeant's seniority shall cease and his/her employment status shall terminate for any of the following reasons:

- (a) Resignation or retirement.
- (b) Discharge for cause.
- (c) Continuous lay-off for a period of two (2) years.
- (d) Failure of a recalled Sergeant to notify NJIT in writing, within seven (7) calendar days of receipt of notification of recall that he/she intends to accept such offer of re-employment. A Sergeant accepting such an offer of re-employment must return to active service within fourteen (14) calendar days of such notice of recall unless a later date is agreed to by NJIT. Written notice of recall to work shall be sent by NJIT, by certified mail, return receipt requested, to the Sergeant's last known address as shown on NJIT records.
- (e) Failure to report for work for a period of three (3) consecutive, scheduled working days without subsequent notification to NJIT of a justifiable excuse for such absence.
- (f) Failure to report back to work immediately upon expiration of vacation, leave of absence, or any renewal thereof, unless failure to return to work is excused by NJIT. Excused failure to return shall not be unreasonably withheld by NJIT.
- (g) Failure to return to work immediately with appropriate, formal certification of the elimination of the disability (or other intervening cause for absences) following exhaustion of authorized leave afforded under and pursuant to this Agreement (Job Abandonment).

**B. Application:**

1. **Layoff:**

- (a) If a reduction in force is necessary, layoffs shall take place in the inverse order of the date of hire into the Sergeant's job classification.
- (b) NJIT shall simultaneously provide the SOA and the Sergeant(s) concerned a two (2) week notice of layoff. SOA may request and have scheduled a meeting with the Manager of Labor Relations to discuss possible alternatives; however, the final discretion rests with NJIT.
- (c) When a Sergeant is scheduled for a layoff due to reduction or reorganization in the workforce, he/she shall be permitted, to the extent permitted by law, to exercise his/her seniority rights to replace (bump) a Sergeant or other commissioned police officer with less seniority provided the Sergeant with greater seniority is qualified in all respects to perform the work of the bumped officer.
  - (i) For the purpose of this Agreement "qualifications" shall be determined by NJIT. However, the SOA may discuss any questions of "qualifications" with the Manager of Labor Relations through the labor management committee established under Article VI, Labor/Management Committee, of this Agreement.
  - (ii) A Sergeant with no previous commissioned police officer experience at NJIT, who successfully exercises his/her bumping privileges into a commissioned police officer position, shall serve a ninety (90) day performance based probationary period. During said period, if NJIT is not satisfied with the Sergeant's performance, but not earlier than sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which

he/she is again laid off. Existence of the probationary period satisfies the notice of layoff requirement. Nothing herein waives or modifies the right of NJIT to terminate a Sergeant for just cause at any time. Discharge during the probationary period is not grievable.

(iii) Salary Range and Step placement for a Sergeant, successfully exercising the contractually authorized bumping privilege, shall be as follows:

(1) The Sergeant shall be placed at the same or nearest higher step on the commissioned police officer salary range from that step occupied prior to layoff, if available in the range. If not available within the range, then the Sergeant shall be placed at the closest step available within the appropriate range.

(d) The parties hereto commit to work together toward minimization of departmental, university and bargaining unit disruption caused by implementation of the contractually authorized layoff and bumping scheme.

2. **Recall:**

(a) The recall period shall be for twenty-four (24) calendar months from the date of original layoff.

(b) For the period of recall, Sergeants laid off from their positions shall be entitled to recall, by seniority, to the job classification of Sergeant. Additionally, for the period of recall, Sergeants laid off from their positions shall be eligible for probationary recall into the commissioned police officer job classification. However, for recall to such classification the Sergeant must first be considered qualified to perform in the position to which recall is desired and second must serve a ninety (90) day performance based probationary period, during which time the Sergeant may be discharged without resort to the grievance procedure. During said period, if NJIT is not satisfied with the probationary Sergeant's performance but no earlier than

sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which he/she is again laid off.

- (c) Sergeants laid off, pursuant to this Agreement, shall retain, in addition to the twenty-four (24) month recall potential, only those contractual benefits required by law.
- (d) All Sergeants on recall roster must be recalled to their former jobs, if the job is reinstated, prior to the hiring of new Sergeants into such positions.

## **ARTICLE X**

### **OUT OF TITLE WORK**

A. When a Sergeant is temporarily assigned to work in another job title within the negotiating unit, such assignment may be made for periods up to sixty (60) calendar days unless mutually extended by NJIT and the SOA. NJIT is not restricted to filling the assignment from only those who apply and in filling such opening shall first consider the qualifications of the applicant and providing such qualifications are equal shall then consider the length of continuous service of the applicant.

1. If NJIT assigns a Sergeant to temporary work in another job title having a higher salary range, he shall, after ten (10) continuous working days in that position, be considered to be working in an “acting capacity” and shall then receive the rate of pay for that position, retroactive to the first day of the temporary assignment. For purposes of this provision only, rate of pay shall be defined as the Salary Step in the reassigned position which value is at least one (1) step higher than the salary step occupied by the Sergeant in his/her permanent position. In the case of an assignment to a position without salary steps, the adjustment shall be equivalent to the value of one (1) salary step higher than that occupied by the Sergeant in his/her permanent position. Upon being assigned to his/her permanent position, the Sergeant shall immediately receive the rate of pay for his/her permanent position.

## **ARTICLE XI**

### **POSTING, HIRING AND PROMOTION**

In keeping with NJIT’s commitment to affirmative action and equal employment



opportunities, all recruitment efforts will conform with the application sections of NJIT's Equal Employment Opportunity/Affirmative Action policies. Accordingly, a permanent job opening which represents a promotional opportunity shall be posted in accord with applicable University policies. Copies of such postings shall be available to SOA on line at the NJIT Human Resources Career Site webpage.

**ARTICLE XII**

**SICK LEAVE**

**A. Accrual:**

<u>Eligibility</u>	<u>Hours Earned</u>	<u>Which Equates to</u>
Sergeants hired prior to March 5, 2003	Ten (10) hours per month for a 40 hour work week	One and one-quarter (1¼) day per month to the end of that fiscal year
Sergeants hired on or after March 5, 2003	Eight (8) hours per month for a 40 hour work week	One (1) day per month to the end of that fiscal year

**B. Utilization:**

1. Sick leave may be utilized by Sergeants when they are unable to perform their work by reason of personal illness, injury or exposure to contagious disease or for the attendance of the Sergeant upon a member of the immediate family who is seriously ill, or whose spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively) is hospitalized due to pregnancy.

2. Accumulated sick leave may be used to grieve the death and/or attend the funeral of the Sergeant's immediate family: father, mother, spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively), child, foster child, sister or brother of Sergeant and relatives of Sergeant residing in the same household as Sergeant. Leave utilized for bereavement shall be limited to three (3) days per occurrence unless exception for extraordinary reason is made by and at the discretion of the Vice President of Human Resources or his/her designee.

**C. Authorization:**

1. **Anticipated Leave:** Any proper utilization of sick leave anticipated in advanced must be requested as far in advance as practicable and approved by the Sergeant's immediate supervisor prior to utilization. Approval will not be unreasonably denied. Examples of anticipated leave, by way of illustration but not limitation, include physician appointments, dentist appointments, scheduled surgery and short-term care for an ill member of the immediate family. Within a reasonable period of time following

utilization of sick leave for this purpose the Sergeant, upon request by NJIT, must validate the reason for scheduled leave by means of written proof that the scheduled purpose for the sick leave did occur.

2. **Unanticipated Leave:** Utilization of sick leave that cannot be anticipated in advance, such as sudden illness, must be validated by contacting, as soon as possible and, to the extent possible, within one-half (½) hour after the beginning of the Sergeant's scheduled workday, the Sergeant's supervisor or by utilizing such method specifically directed by the Sergeant's supervisor to notify NJIT of unanticipated sick leave.

**D. Validation:**

1. If absent for five (5) or more consecutive working days, the Sergeant must present a physician's statement specifically validating the duration and nature of illness or injury enabling sick leave usage. A Sergeant absent for unanticipated sick leave for any and all periods totaling more than ten (10) days in one (1) fiscal year may be required to submit a physician's statement validating the duration and nature of illness enabling sick leave usage. Upon receipt of a specific diagnostic statement from a physician describing a chronic, debilitating illness of a Sergeant, the five (5) and ten (10) day validation requirement shall be waived as a matter of regular course.

2. Sick leave taken for purposes of bereavement, pursuant to provision B.2., Utilization, above, shall not be counted for purposes of either the five (5) or ten (10) day validation requirement, however, bereavement utilization of sick leave must, upon request, be validated through independent written documentation whether anticipated or unanticipated.

3. Upon reasonable suspicion of abuse or patterned absenteeism and/or following fifteen (15) days usage of sick leave during a fiscal year, NJIT, SOA and the Sergeant shall meet for the purpose of either investigating potential abuse and/or to discuss the absenteeism in attempt to avoid disciplinary action. As a result of that meeting, the Employer may require the Sergeant to provide medical certification for future single day or multiple day absences.

4. A Sergeant suffering from a certified chronic illness must, at least once every six (6) months, provide NJIT with medical re-certification and following fifteen (15) days usage in a fiscal year on account of said illness, provide additional re-certification of the chronic illness.

5. Confidentiality of Records: - All medical reports and diagnosis, provided pursuant to this Article, shall remain confidential within the Department of Human Resources only subject to disclosure to such officers or agents of the university with a direct business need to know.

**E. Unused Sick Leave – Retirement:**

Subject to the provision of N.J.S.A. 11A:6-17 and rules and regulations promulgated thereunder, a full-time Sergeant who enters retirement, pursuant to the provisions of a State administered or approved retirement system, and has to his/her credit any earned and unused accumulated sick leave shall be entitled to receive supplemental compensation for such earned and unused accumulated sick leave only to the extent such is funded by the State.

The supplemental compensation to be paid shall be computed at the rate of one-half (½) of the eligible Sergeant's daily rate of pay for each day of earned and unused accumulated sick leave based upon the average annual compensation received during the last year of his/her employment prior to the effective date of his/her retirement, provided, however, that no such supplemental compensation payment shall exceed the statutory limit. This supplemental compensation shall be paid in a lump sum after the effective date of retirement. It may be deferred by the Sergeant for payment within one (1) year of the effective date of retirement.

### **ARTICLE XIII**

#### **FAMILY LEAVE**

NJIT has long recognized the importance of family issues as an integral component of a responsive human resource environment in which its Sergeants will prosper. It has heretofore provided a number of benefits including leaves of absence for personal and family reasons. Both State and Federal government have determined to specifically legislate in this regard by affording unpaid leave to Sergeants under certain specific circumstances. The result demands that NJIT policies, state law and federal law be properly recognized and promulgated in a lawful, equitable and contemporary policy. NJIT, therefore, hereby certifies that the University Family Leave Policy (available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf)) meets these demands (and shall be interpreted consistent with) NJIT's other standing leave policies.

It is agreed that the University may preliminarily designate an employee's absence as Family Leave when:

1. An employee (or a spokesperson on behalf of an employee) notifies the Department of Human Resources or the immediate supervisor of a personal serious health condition or the serious health condition of an eligible family member as set forth in the University Family Leave Policy.
2. Upon the employee or the supervisor's notification to the Department of Human Resources after 3 consecutive days of paid or unpaid absence.

Family Leave runs consecutively after accumulated sick leave banks are exhausted for an Officer's own serious health condition and Family Leave shall run concurrently with accumulated sick leave for an Officer's eligible family member. Accumulated sick leave balances that exceed the 60 days of Family Leave may continue

to be utilized thereafter upon submission of medical certification updates to be provided in intervals of not less than every 30 days.

Family Leave shall be administered in accordance with the University's Family Leave Policy, available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf). . It is understood that the Family Leave Policy shall be revised and updated to include mandatory provisions required by State and Federal Law.

## **ARTICLE XIV**

### **ADMINISTRATIVE LEAVE**

#### **A. Administrative Leave**

1. Three (3) administrative leave days per calendar year are granted to all full-time Sergeants entering their first full fiscal year of employment and annually thereafter. Priorities for granting of leaves are:

- (a) Emergencies;
- (b) Observation of religious or other days of celebration but not public holidays;
- (c) Personal business;
- (d) Attendance at the funeral of an individual other than a member of the immediate family. Absences related to funerals of immediate family members are considered under other provisions of this Agreement; and
- (e) Other personal affairs.

2. Newly hired, full-time Sergeants shall be granted one-half (½) day of administrative leave after each full calendar month of employment to a maximum of three (3) days during the remainder of the first fiscal year of employment. Sergeants promoted from the ranks of commissioned police officer shall not be treated as new hires for purposes of this provision.

3. Administrative leave shall not be cumulative, and any such leave credit remaining unused by an officer at the end of the fiscal year and/or upon separation of employment shall be cancelled.

4. Requests for administrative leave must be approved by the Chief of

Police/Director of Public Safety, whichever is applicable in advance, except in emergency situations. Emergency situations shall be reasonably verified by the Sergeant on leave as soon as practicable following utilization of the leave, upon the request of NJIT. Unapproved emergencies are limited to health and safety related matters.

5. Administrative leave days cannot be used during a Sergeant's probationary period.

## **ARTICLE XV**

### **MILITARY LEAVE**

#### **A. Military Leave, Without Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or the New Jersey State militia or the organized militia of another State, a leave of absence, without pay, for Inactive Duty Service. (An example of Inactive Duty Service is weekend drills.)

2. A qualifying employee granted Military Leave of Absence, without pay, that is less than two (2) consecutive weeks, shall continue to accrue vacation, personal, and sick leave. A qualifying employee granted a Military Leave of Absence, without pay, that is more than two (2) consecutive weeks, shall not accrue vacation, personal, and/or sick leave during such leave of absence

3. A qualifying employee granted a Military Leave of Absence, without pay, may, with advance notice, use accrued vacation, personal leave, or floating holidays. Sick Leave shall not be used for Military Leave of Absence.

#### **B. Military Leave, With Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or a member of the organized militia of another State, a leave of absence for up to 30 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service. NJIT shall grant a qualifying employee who is a member of the New Jersey State organized militia a leave of absence for up to 90 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service.

2. Should the employee be called to active duty service for a national or state emergency or foreign conflict which exceeds the 30 or 90 working days described in A above, NJIT shall grant a leave of absence through the end of that calendar year without loss of benefits and shall pay the employee the difference between their applicable NJIT

base salary and their military “base pay” provided the employee provides proof of military service and “base pay”. This is often referred to as Differential Pay and is not currently mandated by Federal or State regulations.

3. If a qualifying employee is eligible for a Military Leave with pay or a Military Leave with differential pay as described above, he/she continue to accrue vacation, personal, and sick leave. Qualifying employees eligible for Military Leave with pay or Military Leave with differential pay shall be entitled to all health and welfare benefits.

C. A qualifying employee who is called to New Jersey State Active Duty Service, for example during a natural disaster or New Jersey State emergency, shall be eligible for a Military Leave of Absence as required by New Jersey State or Federal regulations.

D. A qualifying employee for purposes of this Article shall be defined as any employee who has achieved non-probationary status at least once during his/her current employment with NJIT or a temporary employee who has been employed more than one (1) year. A non-qualifying employee is eligible for Military Leave of Absence, without pay, only.

E. A qualifying employee eligible for Military Leave of Absence, with or without pay, shall not suffer any loss of seniority.

F. Extensions of Military Leave

1. Should a qualifying employee be called to Federal Active Duty Service beyond the first calendar year or subsequent consecutive years, he/she shall be eligible for the paid leave as described in B. 1. above effective each January 1<sup>st</sup>.

2. Should a qualifying employee be called to Federal Active Duty Service beyond the 30 or 90 working days described above in the second calendar year or subsequent consecutive years, NJIT, at its sole discretion, may extend the Military Leave of Absence with differential pay, as described in B. 2. above, for the remainder of that second calendar year or subsequent consecutive years. If NJIT decides not to grant a Military Leave of Absence with differential pay, NJIT shall grant a Military Leave of Absence, without pay, for the remainder of that calendar year.

G. Failure to provide advance notice of call to duty, except in emergency situations, could result in loss of protections under Federal and/or State regulations and shall be just cause for disciplinary action up to termination of employment. Failure to provide verification of attendance or military pay records may result in delay in pay or benefits until such verification is provided.

H. In the event that Federal and/or State law may be amended to provide a greater benefit to the employee than set forth herein, such law shall supersede the terms of this

contract.

## **ARTICLE XVI**

### **LEAVE FOR SOA ACTIVITY**

NJIT agrees to provide time off without loss of pay for delegates of the SOA to attend formal union activities provided that the total amount of time without loss of pay during the period of this Agreement shall not exceed a total of twelve (12) days during each year of this Agreement and provided such activities are not, by their nature and content, adversarial to NJIT.

The total number of days of such leave which may be used in each year shall be exclusive of leave provided under the provision of New Jersey law and ordinarily granted under that statute. Leaves for such activities of more than five (5) days duration in each year of the Agreement shall be at the sole discretion of NJIT. Such approval will not be unreasonably withheld.

The SOA shall request, in writing, approval from the Vice President of Human Resources or his/her designee, with copies to the Chief of Police/Director of Public Safety, whichever is applicable to use such leave. Such requests shall be made, in writing, no less than two (2) weeks in advance by the SOA specifying the type of SOA activity for which time off is sought, the individual(s) to be granted the time off and the maximum amount of time to be utilized.

## **ARTICLE XVII**

### **OTHER LEAVES OF ABSENCE**

#### **A. Extraordinary Leave:**

##### **1. Eligibility:**

- (a) Any Sergeant, not entitled to or after having exhausted the other leave benefits provided by this Agreement but desiring to remain employed by NJIT may apply for an unpaid leave of absence. This leave is considered an extraordinary leave and will not be routinely granted. A minimum prerequisite to consideration of leave is a significant period of consistently outstanding service to NJIT.

- (b) In reviewing requests for unpaid leave of absence NJIT will ensure that Article XIII, Family Leave Policy, is fully complied with as prerequisite to its discretionary determination as to whether to grant a request and the parameters on such grant when given. Unless and except as expressly provided for in writing, there shall be no benefits bank accrual during any unpaid leave, nor shall there be any monetary contribution by NJIT on behalf of such Sergeant except as may be mandated by law, or as otherwise expressly provided for by this Agreement.

**2. Procedure:**

- (a) Any and all requests for leave of absence under this provision must be made in writing, with specific statement of need for leave, as far in advance of the desired leave as possible. Application for leave must be submitted to the Sergeant's immediate supervisor, except in such cases where the specific statement of need recites a personal, medical or other extraordinary confidential basis, in which case the full application shall be submitted to the Office of Human Resources, with notice to the immediate supervisor that a request has been made for the duration stated on the application. Following review of the request, a recommendation to either grant or deny the leave will be made and forwarded to the Vice President of Human Resources or his/her designee who will issue the determination.
- (b) Approval, denial or modified approval of the requested leave shall, except in the case of emergency, be provided within two (2) weeks by NJIT. Reason for denial of unpaid leave shall be provided with a denial of leave by NJIT.
- (c) Accepting a position with another employer, while on a leave of absence, except as may be expressly understood as part of the reason for leave and approved by NJIT in advance, will result in forfeiture of the leave of absence and all benefits derived therefrom or maintained during said leave and immediate termination of NJIT employment.
- (d) Administration of this Article is grievable only on the limited basis that NJIT held no rational basis to deny the requested leave. Problems arising out of the



administration of this Article may be referred to the Labor/Management forum for discussion and attempted resolution.

**B. Bereavement Leave:**

In addition to leave available pursuant to Article XII B.2., Sick Leave Utilization, above, all Sergeants hired after ratification of this agreement, shall be entitled to up to three (3) paid days and up to three (3) additional unpaid days of leave each year of this Agreement, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family. "Immediate Family" shall be as defined in Article XII B.2., above.

All other Sergeants shall be entitled to up to two (2) unpaid days of leave each year of this agreement, in addition to such leave as set out in Article XII B.2. above, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family, as defined herein.

Unused Bereavement Leave is not cumulative year to year and NJIT reserves its right to require validation of the need for Bereavement Leave. Finally, Bereavement Leave must be taken within ten (10) days of the death of the immediate family member unless exception is authorized for extraordinary circumstances by and at the discretion of the Vice President for Human Resources or his/her designee.

**ARTICLE XVIII**

**HOLIDAYS**

**A. Program Benefit**

1. Each Sergeant shall be entitled to the following named, paid holidays:
  - (a) New Year's Day
  - (b) Independence Day
  - (c) Labor Day
  - (d) Thanksgiving Day
  - (e) Christmas Day
2. Each Sergeant shall receive four (4) paid holidays as designated by NJIT.
3. Each Sergeant shall receive two (2) floating holidays, providing such "floating" holidays shall be taken at a time agreeable to the supervisor.
4. Each Sergeant shall receive two (2) additional, restricted floating holidays that must be scheduled and taken between December 26<sup>th</sup> and January 2<sup>nd</sup> inclusive, of

the Christmas holiday season.

- (a) Any Sergeant whose service and attendance is necessary, as determined by NJIT, resulting in an inability to mutually schedule either one (1) or both of such restricted floating holidays, shall receive one (1) floating holiday for each day of service.
- (b) There shall be no holiday premium pay for restricted, floating holidays worked during this period. Other contractual provisions and those relevant mandates of the Fair Labor Standards Act, pertaining to overtime, are unaffected and continue.

B. In the event any of the regular paid holidays fall on a Sergeant's scheduled day off, they shall be observed on the following scheduled day of work.

C. Sergeants on an unpaid leave of absence or layoff are not entitled to pay for a holiday falling during leave or layoff.

D. NJIT shall continue its requirements for eligibility for holiday pay, however, a Sergeant who is not on the payroll shall not be eligible for holiday pay.

E. A holiday which occurs during a vacation period is considered a holiday and will not be charged as a vacation day.

F. Any Sergeant who is required to work any of the days designated by NJIT as a paid holiday, pursuant to provision A.1., or A.2., shall be afforded the following premium pay in addition to the holiday pay:

- 1. For the first eight (8) hours, time-and-one half for all hours worked.
- 2. For all hours in excess of eight, double-time for all hours worked.

G. For the purposes of computing overtime, all holiday hours, whether worked or unworked, for which a Sergeant is compensated, shall be regarded as hours worked.

H. The thirteen (13) holidays, annually provided pursuant to this Agreement, constitute the entire paid holiday schedule provided by NJIT.

I. It is expressly intended and understood that there are no additional paid days available to SOA represented Sergeants, except as expressly provided by other provisions of the controlling Collective Bargaining Agreement.

## ARTICLE XIX

### WORKERS' COMPENSATION

A Sergeant on Workers' Compensation shall receive that payment to which he/she is entitled by law, in accordance with benefit regulation and accompanying procedure in effect at the time of eligibility for Workers' Compensation. Should a Sergeant wish to supplement that compensation received under New Jersey Workers' Compensation law and regulation to receive the same total salary compensation received when not on Workers' Compensation, he/she may elect to utilize, on an hour for hour basis, his/her sick leave accrual for a period not to exceed six (6) calendar months. The election to supplement Workers' Compensation must be made in a signed writing to the Department of Human Resources, with a copy to the Director, Benefits Administration and supplementation will be progressive only from the time the request is received by the Department of Human Resources.

## ARTICLE XX

### EDUCATIONAL BENEFITS

All Officers, and where applicable their dependents, are eligible to participate in the University's Tuition Remission Plan as set forth in the University Tuition Remission Policy available at <http://www.njit.edu/policies/pdf/tuition-remission-unaligned-2008-03-27.pdf> and subject to the applicable rules and regulations governing the Plan.

## ARTICLE XXI

### VACATION

#### **A. Allotment**

A Sergeant is entitled to a vacation with pay. Such vacation is scheduled as requested by the Sergeant, provided departmental staffing and workload permit. Vacation entitlements are as follows:

	<b>Allotment</b>	<b>Which Equates to</b>
Date of University Hire through the end of the Fiscal Year*	10 hours per month (40 hour work week) available as accrued	1¼ day per month, available as accrued

One through five years of University service	120 hours per year (40 hour work week) available on July 1 <sup>st</sup>	15 days per year available on July 1 <sup>st</sup>
After 8 years of University service	160 hours per year (40 hour work week) available on July 1 <sup>st</sup>	20 days per year available on July 1 <sup>st</sup>

\*A Sergeant who was promoted and was eligible for the full annual allotment of vacation as an officer shall be eligible for the full annual allotment as outlined above. A Sergeant who is hired without prior eligibility for the full annual allotment shall accrue vacation at 1¼ days per month through the end of the first Fiscal Year.

**B. Utilization**

1. While utilization of vacation is based upon mutual agreement of NJIT and Sergeants, full utilization is both expected and encouraged in a properly scheduled manner, giving appropriate consideration for workload issues. NJIT supervisors and Sergeants will maintain a fully updated vacation record, showing unused allotment and usage. Supervisors will take a proactive role in scheduling vacation usage in a manner that is mutually beneficial to NJIT and its Sergeants.

2. Vacation may be used in hourly increments, partial days, full days or consecutive days.

3. Vacation may not be unilaterally scheduled or taken and neither may it be used to provide payment for an unauthorized absence.

4. If the nature of the workload makes it necessary to limit the number of Sergeants on vacations at the same time, the Sergeant with the greatest seniority shall be given his/her choice of vacation, provided that another qualified Sergeant is available to assume the work.

5. If because of an emergency situation, pre-approved time cannot be allowed, either a salary payment will be made equal to the compensation that would have been earned during the vacation period, and the vacation bank will be accordingly reduced or vacation will be rescheduled to a later, mutual time. Arrangements for such payment must be authorized by the Chief of Police/Director of Public Safety, whichever is applicable and approved by the Department of Human Resources.

6. Under normal conditions, vacation periods must not exceed three (3) consecutive weeks.

7. A Sergeant on any unpaid leave of absence does not accrue vacation time.

8. If a regular paid holiday occurs during a Sergeant's vacation period, an additional vacation day may be scheduled at a time mutually agreeable to the Sergeant and the Chief of Police/Director of Public Safety, whichever is applicable.

**C. Carryover**

1. Up to ten (10) days of unused vacation allotment, remaining on June 30<sup>th</sup> of each fiscal year may be carried over for use in the ensuing year.

2. Unused vacation, in excess of that allowed to be carried over will be forfeited.

**D. Vacation Upon Separation**

Upon Separation from employment, unused vacation allotment, computed at the daily rate of the salary of the separating Sergeant at the time of separation will be handled as follows:

<u>Reason</u>	<u>Pay Out</u>
Termination for Cause, including job abandonment,	None
Voluntary Separation	None
Death which is not employment related	None
Employment related Death	Up to a maximum of 25 unused vacation days
Layoff	Up to a maximum of 15 unused vacation days

Upon retirement or resignation an employee shall be permitted to utilize up to ten (10) days (80 hours for 40 hour work week) of accumulated but unused vacation time if the employee gives at least ten (10) days, (two (2) weeks) written notice of resignation or retirement prior to the utilization of any such unused time. For example, if employee X has 10 vacation days (2 weeks), employee X must give at least 20 days (4 weeks) notice of resignation or retirement in order to utilize unused vacation.

**ARTICLE XXII**

**UNIFORMS**

A. Newly hired Sergeants shall be required to purchase their own University, standard issue uniform. After six (6) months of continuous employment in good standing, as a New Jersey Institute of Technology commissioned police Sergeant, the entire cost of the initial issue shall be reimbursed to said Sergeants.

B. Each Sergeant shall be entirely responsible for repair and/or replacement of

damaged and/or worn out uniform articles. This responsibility includes the cost of such necessary repair and/or replacement. The Department of Public Safety uniform standards must be maintained and will be enforced.

C. Maintenance of the New Jersey Institute of Technology Sergeant’s uniform shall be the entire responsibility of each Sergeant, including the cost of cleaning and pressing as necessary.

D. NJIT shall provide the following scheduled annual uniform allowance:

<b>Fiscal Year</b>	<b>Uniform Allowance</b>	<b>Bike Uniform Allowance (if applicable)</b>
2016	\$1500	\$300
2017	\$1500	\$300
2018	\$1500	\$300
2019	\$1500	\$300

Payment of the scheduled uniform allowance shall be semi-annually as follows:

1. A Sergeant, with less than six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program, shall receive one-half (½) of the allowance, further prorated as appropriate, to the nearest month of service, payable the last payroll of the calendar year and one-half (½) of the allowance further prorated as appropriate, and payable the last payroll of that fiscal year.

2. A Sergeant, with at least six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program shall receive one-half (½) of the allowance in the first payroll of that fiscal year and the remainder in the last payroll of that calendar year.

E. The allowance is interchangeable and usable for maintenance and repair and replacement, as needed, on an individual basis.

**F. Payment Conditions:**

1. All uniform allowance payments, accrued in accordance with provision D. above, and due and owing at the time of ratification of this Agreement, shall be paid in one (1) lump sum to each eligible Sergeant within one (1) full pay period following mutual written ratification of this Agreement.

2. A condition precedent to eligibility for uniform allowance shall be active or approved inactive employment status at the time of scheduled payment.

**ARTICLE XXIII**

**RETIREMENT\***

Sergeants shall be eligible to participate in available State authorized retirement system(s), consistent with applicable rules and regulations. Should there be changes made in such Plan(s), by legislation, during the terms of this Agreement, all such changes, appropriate to members of the negotiating unit, shall be made in accordance with the provision of such legislation.

\*For information only.

**ARTICLE XXIV**

**OVERTIME /SHIFT DIFFERENTIAL**

A. Overtime requested and authorized by the Department of Public Safety shall be compensated at time and one-half for hours worked in excess of forty (40) hours in the workweek.

B. NJIT will, insofar as possible, provide equal opportunity for overtime work and shall maintain an overtime log for this purpose which shall be available to the SOA for review.

1. In the event that there are an insufficient number of Sergeants willing to cover a given overtime assignment, NJIT will assign the necessary number of Sergeants to cover the assignment.

2. Any Sergeant called back to work after he/she has completed his/her regular work shift and has left his/her place of work shall be guaranteed a minimum of four (4) hours pay at the overtime rate. Such Sergeants shall be required to work all hours which are required. If the Sergeant elects to leave before the end of the four (4) hours, and the supervisor approves, the Sergeant will be paid only for the time actually worked.

Effective upon execution of this Agreement by all parties, such Sergeant shall also be reimbursed one (1) meal allowance amount not to exceed \$11.00 for the balance of fiscal years 2016 and 2017 and \$12.00 in fiscal years 2018, and 2019 where the Sergeant is called back to work if the Officer works at least three (3) hours beyond his/her normal work hours without the opportunity to go to his/her residence. Meals eligible for reimbursement shall be ordered from NJIT dining facilities, and eaten on campus when NJIT dining facilities are available. .

C. Only during the term of this Agreement, as restricted by the following parameters, a Shift Premium shall be affected for eligible Officers in the bargaining unit:

1. For members following a five day on, two day off schedule:

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and sixty (160) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift beginning after 10:00 p.m. on a given day and before 5:00 a.m. on a given day.

2 For members following a four day on, three day off schedule (Pitman Schedule):

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and three (103) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift which is inclusive of the hours between 12:00 a.m. and 7:00 a.m. on a given day.

3. Shift Premium eligibility is conditioned upon actually working the designated number of shifts, as set out above, in the prescribed time period. Further, an extended workday into a first shift, from any other shift, and for which overtime compensation is paid pursuant to Agreement, does not count toward Shift Premium qualification.

4. Payment for Shift Premium will be made in the second full pay period in August of the fiscal year following the year of shift premium qualification.

## **ARTICLE XXV**

### **SHIFT COVERAGE**

At NJIT's discretion any and/or all Sergeants may be scheduled for presence at NJIT up to eight and one-half (8½) hours per day with up to one-half (½) hour as noncompensable break time as set by NJIT, in order that proper coverage of the workforce may be provided NJIT. There will not be a change in scheduled shift span unless preceded by seventy-two (72) hours notice to the affected Sergeant(s).

## **ARTICLE XXVI**

### **SALARY PROGRAM AND COMPENSATION**

#### **A. Salary Program: July 1, 2015 through June 30, 2019:**

It is agreed that during the term of this Agreement, for the period July 1, 2015



through June 30, 2019, the following salary and fringe benefit improvements shall be provided to eligible Sergeants in the unit, within the applicable policies and practices of NJIT and in keeping with the conditions set forth herein. In order to receive the benefits, as set out hereunder, the Sergeants must be employed by NJIT at the time of ratification of this Agreement or thereafter.

Subject to the State Legislature enacting appropriation of funds for these specific purposes, NJIT agrees to provide the following benefits, effective at the time stated herein.

**1. Salary Band for Sergeants**

Effective the first full pay period in Fiscal Year 2016 and throughout the term of this Agreement, the annual salary band for sergeants shall be \$86,757 to \$101,100

**2. Across-the-Board Salary Guide Adjustments:**

The following across the board salary increases shall be incorporated:

Fiscal Year 2016 (First full pay period in July 2015) – no increase  
Fiscal Year 2017 (First full pay period in July 2016) – 1% to base  
Fiscal Year 2018 (First full pay period in July 2017) - 1% to base  
Fiscal Year 2019 (First full pay period in July 2018 – 1% to base

**3. Merit Compensation Program:**

A merit compensation program shall be available to all Sergeants with at least six full months of service prior to July 1<sup>st</sup> of the year of awarding each year during the salary program and compensation term beginning with July 1, 2015. The program shall be administered as follows:

(a) Performance Standards: All merit compensation shall be based upon total adherence to quality service during the past fiscal year's performance as it relates to the following specific performance standards:

(i) Attendance: It is vital to both the integrity and the efficacy of the NJIT Department of Public Safety that Sergeants are punctual in arriving at work, at dedicated posts, in responding to regular duties and in responding to unexpected circumstances, as well as accountable for their whereabouts at all times while on shift. This reliability, in

full uniform and authorized armament is an essential, elementary component of performance as an NJIT Sergeant.

- (ii) Appearance: Each Sergeant represents NJIT's image and that of a New Jersey Police Officer, demonstrating in their appearance, the same respect for NJIT and their chosen profession as they appropriately demand and expect relative to adherence to the law and NJIT's promulgated code of conduct. Uniforms must be maintained in excellent condition. All uniform attire must be worn in the manner and time designated. Sergeants shall present themselves, without deviation, in a ready, alert, neat, properly groomed and fully uniformed manner at all times when formally representing NJIT.
- (iii) Attention to Duty: Each Sergeant must demonstrate a maturity and acuity in gaining and maintaining appropriate, continually enhanced knowledge of his/her duties, responsibilities and the surrounding environment, as well as an uncompromised focus on assigned tasks and departmental and university policy and procedures. Unauthorized breaks, ignoring of general and/or specified duties, absence from assigned posts or less than fully responsive protocol in carrying out the duties of NJIT Supervisory Police Officers are, by way of illustration disqualifying of meritorious attention to duty.
- (iv) Absence of Discipline: No Sergeant who within a given year is suspended and/or who receives more than one written reprimand will be eligible for a merit increase. A formal investigation into the propriety of a Sergeant's conduct by the State of New Jersey or a State sponsored authority that could lead to suspension or loss of commissioned officer status will disqualify the Sergeant from consideration for merit until such time as the investigation fully exonerates said Sergeant. Less than full

exoneration disqualifies the Sergeant from consideration for merit during the time period that is both the focus of and that which is covered by the investigation. In this regard, less than full exoneration equates to disqualifying discipline. Neither NJIT's imposed disciplinary charges nor NJIT's implemented disciplinary action are of, themselves, "of record", disqualifying a Sergeant from merit consideration, as long as formal, authorized appeal/grievance procedures are actively and properly utilized and a decision is not yet final and binding.

(v) Record Keeping and Reporting: A Sergeant's verbal and written recordings and reporting, both in the ordinary course of law enforcement and in accordance with specific police operation direction must be timely and properly served and/or filed, accurately depicted, thorough in all respects and where written, proofed. Deviation from the standard, in any respect, and to any degree derogates the law enforcement process, the credibility of the Department of Public Safety and is not worthy of merit pay consideration.

(vi) Professional Conduct & Demeanor: Respect for and resolute honesty in dealing with those served, fellow Officers, supervisors, subordinates, property, weaponry and self is benchmark to the integrity bestowed by the commissioning of NJIT Police Officers. Only the utmost of dignity, humility with honor, concern for the position, post, commission and department and demonstrated aptitude in dealing with an atypical population demographic will be considered meritorious. Any instance of breach of this standard will be cause for disqualification for merit pay consideration. By way of illustration only, vulgar language, violation of any university or departmental regulation or protocol, theft of service or time, unauthorized action, arguing with a superior Officer, condoning poor conduct or

misconduct from subordinates, excessive force (as defined and regulated by the law enforcement community and/or the law itself) and personal mingling (defined as engaging in conduct relegating the Sergeant's professional law enforcement responsibilities to a subordinate position as compared to non-job related personal activity[ies]) with students or other university constituents will disqualify merit pay consideration.

(b) Award Procedure.

(i) Review of Performance: No earlier than forty-five (45) days before the end of the fiscal year of performance review and no later than fifteen (15) days following the end of the fiscal year of performance review, each eligible Sergeant's performance shall be reviewed against those "Performance Standards" set out above.

(1) The standards set out herein, mark categorized attributes of the prototype Sergeant's professional and personal characteristics that should lead to excellent performance as an NJIT Sergeant. Those standards will be qualitatively assessed, given the record of performance of each eligible Sergeant over the preceding year of eligibility and cumulatively over the Sergeant's term of commissioned police employment. Verbal and written, evaluative correspondence between departmental supervision, and each Sergeant is pertinent contextual material in qualitative performance assessment against those pronounced standards and will be weighed in ultimate merit determination.

(2) The evaluation of performance

against the published standards will be in writing and provided to each eligible Sergeant within the annual evaluation period. Specific descriptions, commendations, and examples of meritorious performance must be set out and verified for merit step awards to be provided to eligible Sergeants as well as formal certification of the evaluating supervisor(s) (e.g. Shift Lieutenant, Deputy Chief, Chief) that there are no instances of conduct that would either lead to or cause disqualification from meritorious performance as measured against the published standard.

- (3) There is no minimum conferral of merit awarding mandated, and all merit shall be applied to base salary.

For Fiscal Year 2016, there is no merit program.

For Fiscal Year 2017 the maximum number of awards available, following careful scrutiny of the performance standards, shall not exceed the value of one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30 of the year of the evaluation.

For Fiscal Year 2018 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

For Fiscal Year 2019 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

This percentage limitation means that no

award must be given that would cause the limit on awarding to be exceeded and, there are no partial awards available under this program. However, upon contest by the SOA on behalf of a Sergeant, as set out below, no more than one (1) supervisory evaluation of non-meritorious performance may be overturned per year of the program. Awards granted on appeal will be charged against the maximum expenditure of monies in the year of award. If sufficient monies are not available, the expenditure due to appeals will be charged against the subsequent merit pool, including the compounded value of the merit award as it affects salary creating the subsequent pool.

- (4) A merit award will be based upon a Sergeant strictly meeting all performance standards set out herein.
- (c) Appeal Procedure: There will be a limited appeal procedure available to the SOA on behalf of one (1) Sergeant annually, to seek reconsideration of non-awarding of merit to an eligible Sergeant as follows:
- (i) The SOA may, within thirty (30) days of the published conferral of awards to Sergeants, file a written appeal on behalf of a Sergeant's denial of merit pay, based upon the past year's performance, as it relates to the published performance standards and the comparative performance of other Sergeants receiving merit pay. The appeal must state, with particularity, the factual basis for a finding of substantial error or misjudgment in the evaluation that lead directly to a denial of the award. The appeal shall be filed with the Department of Public Safety and copied to the Department of Human Resources.

- (ii) The burden of proof in the appeal rests with the SOA; it must demonstrate, based upon the record of credible evidence, that it is more likely than not that all performance standards were met or exceeded, including a reasonable finding that there are no instances of conduct that would allow a reasonable person to find such conduct disqualifying of meeting or exceeding the full breadth and depth of performance as set out by the published performance standards. In addition to this finding, where all merit funds have been spent, it must also be established that the Sergeant whose performance is being appealed, compared favorably, in meeting or exceeding performance standards, to one or more Sergeants who received merit.
  
- (iii) A Merit Appeals Board, consisting of the Vice President for Real Estate Development and Capital Operations, the Vice President of Human Resources, or their respective designees and a supervisory, superior Officer, including the Director of Public Safety/Chief of Police, whichever is applicable, above the level of Police Sergeant, that has not taken part in the evaluation appealed (as selected by the SOA) will review the written submission and, at its sole discretion, either review and respond to the record as it stands or call a hearing, within thirty (30) days of submission of the written appeal, to hear oral argument, question the advocates, direct the gathering and submission of evidence not in the record, recess the hearing until all materials it deems necessary are before it or disallow any further gathering or submission of evidence, as it deems most appropriate to efficacious resolution to the controversy and allow for closing statements as it deems relevant to a proper finding.

- (iv) The Merit Appeals Board will issue its decision in writing, to the SOA, within sixty (60) days of the close of hearing or within ninety (90) days of the SOA's written submission, if no hearing is called. The decision of the Merit Appeals Board will be final, binding and the exclusive avenue for redress of the administration of the merit pay program.

4. **Stipends for Special Assignments**

a. Sergeant-Recruiter Assignment

- i. In an effort to enhance community relations and expand the department's ability to provide opportunity and connect with a larger applicant pool, supervisor(s) will be assigned to work as a liaison on recruiting efforts in conjunction with members of Career Development and Air Force ROTC. This will be a collaborative effort and outreach to solicit and attract interest in entry level careers and all levels of law enforcement and security such as, but not limited to: candidates in Alternate Route Programs at surrounding Police Academies, Special Law Enforcement Officers, Auxiliary Police Officers, 911 Tele-Communicators, Security Officers and Dispatchers.
- ii. For the duration of this agreement, the stipend for each Sergeant-Recruiter shall be one thousand dollars (\$1000) per fiscal year.
- iii. For the duration of this agreement, there shall be a minimum of two (2) Sergeants assigned to this position.
- iv. For the duration of this agreement, first priority for the assignment will be given to the two most senior Sergeants on the current NJIT roster, contingent upon their interest and their meeting the qualifications of the assignment in all other respects, as set forth below.
- v. Recruitment initiatives will involve representation by Public Safety at Career Fairs, Recruitment Seminars and Career Development Services Student Information Sessions both internally on a university wide-basis as well as at off-campus venues, such as trade shows, that are specifically organized and designed to attract law enforcement and security career minded individuals. The supervisor-recruiter will provide information, answer questions, and discuss the importance of law enforcement safety tenets, awareness and differences as applicable and pertinent to municipal and campus policing.



- vi. Additionally, the supervisor/recruiter will actively assist in locating the venues conducive for law enforcement recruitment.
- vii. Sergeants interested in this assignment shall have held the position of Institutional Police Sergeant in good standing.
- viii. Sergeants must have a positive and productive attitude and be capable of expressing and sharing the philosophy and goals of the department.
- ix. Sergeants must possess knowledge and information about entry-level departmental job descriptions.
- x. Sergeants must have proficient communication skills, including excellent public speaking ability.
- xi. The Department encourages officers to volunteer to be considered for the selection process.
- xii. When an opening occurs for Recruitment Sergeant assignment, Sergeant(s) shall complete an administrative submission to the Chief of Police, expressing their desire to become a Recruitment Sergeant.
- xiii. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police.
- xiv. This review will include, but is not limited to; seniority, annual evaluations, time and attendance record, departmental commendations, and disciplinary history.

b. Detective-Sergeant Assignment

- i. For the duration of this agreement, there shall be at least one (1) Sergeant assigned to this position.
- ii. For the duration of this agreement, the stipend for the Detective-Sergeant shall be two thousand two hundred dollars (\$2200) per fiscal year.
- iii. Candidate is required to have a minimum of 1 year experience as a NJIT Police Sergeant and/or experience as an investigator for the department.
- iv. Candidate(s) with investigative experience will be given preference.
- v. Candidate must display high moral character and knowledge of his/her job.

- vi. The Sergeant candidate(s) will be encouraged by the department to volunteer for the position.
- vii. Candidates must display a high proficiency in report writing and time management skills.
- viii. Candidates must have an extensive history of self-initiated proactive policing, including community policing, arrests, field inquiries, motor vehicle stops, and demonstration of time management skills.
- ix. Candidate(s) must display leadership qualities and the ability to successfully delegate responsibilities to their detective(s).
- x. When an opening occurs for Detective Sergeant Assignment, a Sergeant shall submit an administrative submission to the Investigations unit Commander.
- xi. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police. This review will include, but is not limited to; seniority, annual evaluations, time and attendance history, departmental commendations, and disciplinary history.

## **ARTICLE XXVII**

### **HEALTH BENEFITS**

#### **A. State Health Benefits Program**

It is agreed that the State Health Benefits Program, and any rules and regulations governing its application, including amendments or revisions thereto shall be applicable to employees covered by this Agreement. The University agrees to continue to participate in the State Health Benefits Program for the duration of this agreement.

It is agreed that changes in benefits or open enrollment periods adopted by the State Division of Pensions and Benefits for State employees are a requirement for continued participation in the State Health Benefits Program and the parties recognize that such changes shall apply to employees represented by the Union. It is agreed that changes, corrections or reinterpretations of the Program promulgated by the State including changes in plan operators, in co-payments and contributions, or other changes or modifications, are applicable to employees covered by this Agreement and shall be incorporated into the Agreement and thereafter be applicable to all employees. It is specifically understood that the provisions of the Pension and Health Benefits Reform 2011 legislation under Chapter 78, P.L. shall be applicable to all employees covered by this agreement.

Where an employee utilizes any type of leave, whether paid or unpaid, he or she shall continue payment of health plan premiums at the same level as those that he paid prior to the leave as applicable under the State Health Benefits Program. If the

premiums are raised or lowered, the employee will be required to pay the then-applicable premium rates.

If the employee charges his accrued vacation, sick, and/or administrative leave accruals for any leave, his share of premiums will be paid by payroll deductions continued in the same method as utilized during active employment status,

If the leave is unpaid, NJIT will advance payment of the employee's health plan premiums for the period of leave (up to three full months) and will bill the employee for those premiums. Prior to the employee's return from leave to active employment status, the Department of Human Resources will advise the employee in writing of the full amount of health plan premiums advanced on his or her behalf by NJIT. Within seven (7) business days of his return to active employment status, the employee must indicate, in writing, his or her selected method of repayment of the health plan premiums: (1) full repayment through the Bursar's Office within ten (10) business days, (2) additional payroll deduction at the same amount and rate as that of the employee's biweekly payroll deduction for health plan premium payment, or (3) a repayment plan approved, in writing, by the Vice President of Human Resources. If the employee fails to select a repayment option or does not make timely payments, NJIT, upon written notice, may charge additional payroll deductions until the full amount of health plan premiums paid on the employee's behalf during his unpaid leave has been repaid in full.

## **B. Eye Care Program**

1. It is agreed that Eye Care Program shall include all employees and their eligible dependents (spouse, domestic partner, civil union partner and unmarried children under 26 years of age who live with the employee in the regular parent-child relationship). The coverage shall be \$35 for regular glasses and \$40 for bifocal the current plan.
2. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.
3. Full-time employees and eligible dependents as defined above shall be eligible for a maximum payment of \$35 on the cost, whichever is less, of an eye examination by an Ophthalmologist or an Optometrist.
4. Each eligible employee and dependent may receive only one (1) payment for glasses and one payment for examinations during the period of July 1, 2015 to June 30, 2017, and one (1) payment for the period July 1, 2018 to June 30, 2019. This program ends on June 30, 2019. Proper affidavit and submission of receipts are required of the employee in order to receive payment.

## ARTICLE XXVIII

### DEFERRED COMPENSATION

**A.** It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested and the interest or other income return on the investments are intended to be exempt from current Federal Income Taxation until the individual Sergeant withdraws or otherwise receives such funds as provided in the Plan.

**B.** It is understood that the State shall be solely responsible for the administration of the Plan and the determination of policies, conditions and regulations governing its implementation and use.

**C.** The State shall provide literature describing the Plan as well as a required enrollment or other forms to all employees when the Plan has been established.

**D.** It is further understood that the maximum amount of deferrable income under this Plan shall be as follows:

1. January 1, 2015 through December 31, 2015, and January 1, 2016 through December 31, 2016 Eighteen Thousand dollars (\$18,000) for all employees less than 50 years of age and Twenty Four Thousand dollars (\$24,000) for those employees 50 years of age or older.

2. Tax deferred annuity amounts for calendar years 2018 through calendar year 2019 are subject to revision and determination by the Federal Internal Revenue Service (IRS).

## ARTICLE XXIX

### DRUG SCREENING POLICY AND PROCEDURE

NJIT and SOA agree to the NJIT/SOA Drug Screening Policy and Procedure as set out in Appendix A, SOPP of the Department of Public Safety, herein. This Policy shall be deemed to include all **mandatory** provisions of the State of New Jersey Law Enforcement Drug Testing Manual as promulgated and updated from time to time.

## **ARTICLE XXX**

### **JOB ACTION**

It is recognized by both NJIT and SOA that the continued and uninterrupted operation of the University is of paramount importance. Therefore the SOA agrees that it will refrain from any act contrary to law such as strike, work stoppage, slow down, or other job action during the life of this Agreement and will eschew any threat, encouragement, support or condoning of any such job action.

## **ARTICLE XXXI**

### **PARKING**

#### **A. Program and Fees**

The following parking fees shall be charged and collected through payroll deduction for all members of the bargaining unit desiring to park and duly registering his/her motor vehicle with the University according to published University regulations, enabling and entitling him/her to daily parking privileges on University premises:

1. All parking at all available locations, including NJIT's parking deck, shall be on a first come, first served basis following registration or a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the fee schedule rate set out below.
2. Parking fees for all bargaining unit members shall be calculated as .4% (.004) of the member's annual salary, and shall be deducted in twenty-four (24) installments throughout the academic year.
3. For the length of this contract, the following university parking rules will be applicable:
  - a. It will be assumed that all employees currently utilizing NJIT parking will continue to park at NJIT during the upcoming parking permit period and permits will renew automatically.
  - b. Employees who wish to opt-out of parking must notify the Office of Security Systems, Photo Identification, & Parking Services and return their parking permit by no later than June 15th for the July 1- December 31 parking period, and/or no later than December 15th for the January 1 – June 30 parking period.
  - c. There will be no rebates or discounts for partial use of parking permits. Returning a parking permit before the end of

a parking permit period will not eliminate the parking fee. Also, unused parking days cannot be used in a new period.

d. Employees who request a parking permit for the first time will begin incurring fees as of the date their vehicle is registered with the Office of Security Systems, Photo Identification, & Parking Services.

e. New hires who would like to park at NJIT will be provided a parking registration application during their initial onboarding process. The new employee must bring the parking registration application to the Office of Security Systems, Photo Identification, & Parking Services, in order to receive a parking permit. Once the parking permit is issued, the Office of Security Systems, Photo Identification, & Parking Services will notify the Payroll Department to initiate the biweekly parking fee deduction.

f. Requests for a hardship exception must be submitted in writing, with the appropriate supporting documentation, to the Office of Security Systems, Photo Identification & Parking Services and will be reviewed and resolved by the University Parking Committee.

## **ARTICLE XXXII**

### **DURATION**

This Agreement shall be effective as of July 1, 2015, and shall terminate as of June 30, 2019.

## **ARTICLE XXXIII**

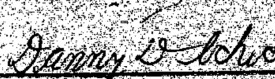
### **SUCCESSOR AGREEMENT**

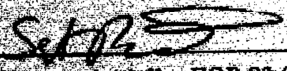
The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2019, subject to the provisions set forth in Article II, Negotiating Procedures.


The parties hereby acknowledge and agree to the terms and conditions of the  
aforementioned Agreement between New Jersey Institute of Technology and the NJIT  
Superior Officer Association, entered into, as of July 1, 2015 and which will terminate  
June 30, 2019.

Signed this 23<sup>rd</sup> day of December, 2015.

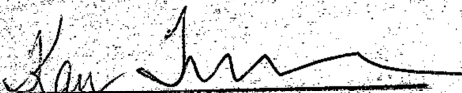
**FOR SOA:**

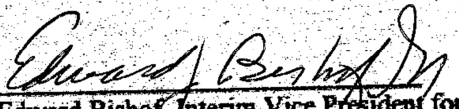
  
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Danny D. Schick, Sr.  
Chief Negotiator  
FOP Staff Representative

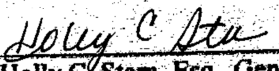
  
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Raymond Aiello, FOP 93 SOA  
Trustee, Negotiating Team Member

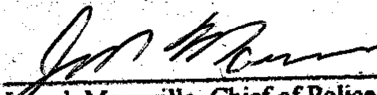
  
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Michael Villani,  
FOP 93 SOA  
Negotiating Team Member

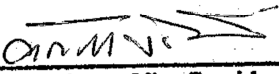
**FOR NJIT:**

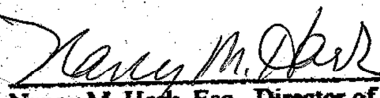
  
\_\_\_\_\_  
Kay Turner, Esq. SPHR, Chief Negotiator  
Vice President for Human Resources

  
\_\_\_\_\_  
Edward Bishop, Interim Vice President for Finance  
and Treasurer, Negotiating Team Member

  
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Holly C. Stern, Esq., General Counsel  
Negotiating Team Member

  
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Joseph Marswillo, Chief of Police  
Negotiating Team Member

  
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Kamal Joshi, Assistant Vice President,  
Human Resources  
Negotiating Team Member

  
\_\_\_\_\_  
Nancy M. Hark, Esq., Director of  
Labor/Employee Relations  
Negotiating Team Member

**Appendix A**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**  
**PUBLIC SAFETY DEPARTMENT**  
**DRUG SCREENING POLICY AND PROCEDURE**  
**FOR**  
**POLICE SERGEANTS**



**Standard Operating  
Policy & Procedure**

NJ Institute of Technology Department of Public Safety		Title: Law Enforcement Officer Drug Testing		
Issuing Authority: Director Robert Sabattis		Volume: 2	Chapter 16	Pages: 13
References: N.J. Attorney General's Policies		Distribution/ Special Instruction: All		
Effective Date: *	Review Date:	Revised Date:		

I. **Purpose**

The purpose of this policy is to deter illegal drug use by law enforcement officers and provides the New Jersey Institute of Department of Public Safety (hereinafter "NJIT DPS") with a mechanism to identify and remove those law enforcement officers engaged in the illegal use of drugs. Because illegal drug use is inconsistent with the duties, obligations and responsibilities of sworn law enforcement officers, this policy mandates that officers who test positive must be terminated from employment. This



policy sets forth uniform methods and procedures for implementing and administering drug testing as well as outlining the duties and responsibilities of the NJIT DPS with respect to the drug testing process. This policy further ensures that procedures for the drug testing of NJIT police personnel are in compliance with the NJ Attorney General's Law Enforcement Drug Testing Policy.

## II. **Policy**

It is the policy of the NJIT DPS to conduct drug testing of sworn law enforcement officers, law enforcement officer trainees, and applicants for law enforcement officer employment in order to maintain professional standards of performance and to help ensure the trust of the community in those who enforce the laws

## III. **Definitions**

- A. **Law Enforcement Officer**: Sworn law enforcement personnel who are responsible for the enforcement of the criminal laws of this State, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under NJS 2C:39-6.
- B. **Law Enforcement Trainee**: Personnel subject to the Police Training Act while attending a mandatory basic training course.
- C. **Applicants For Law Enforcement Employment**: Persons who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under NJS 2C:39-6
- D. **Random Selection Process**: Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

## IV. **Procedure**

This policy sets forth uniform methods and procedures for implementing and administering drug testing. This policy also outlines the duties and responsibilities of the State's law enforcement agencies with respect to the drug testing process.

## V. **Types of Drug Testing**

Law enforcement drug testing may be categorized according to the employment status of the individual being tested and the method by which the individual was selected for testing. These methods include applicant testing, trainee testing, reasonable suspicion testing and random testing.

- A. Applicant Testing

1. This policy recognizes that drug testing is an essential component of a pre-employment background investigation. All being considered for employment by NJIT as a police officer must submit to drug testing as part of a pre-employment background investigation. Candidates for employment may be tested as many times as deemed necessary to ensure that the candidates are not engaged in the illegal use of drugs. For example, applicants who have been drug tested as part of the application process may be tested again if a significant amount of time has elapsed since the previous step in the employment process.
2. During the pre-employment process, NJIT DPS must ensure that it complies with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the medication information form should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

#### B. Trainee Testing

1. Individuals hired as law enforcement officers by NJIT who are required to attend and successfully complete a mandatory basic training course approved by the Police Training Commission are subject to drug testing during their attendance at a police academy. The drug testing of law enforcement trainees will be conducted by the police academy staff under rules and regulations adopted by the Police Training Commission.

#### C. Sworn Law Enforcement Officers: Reasonable Suspicion Testing

1. NJIT DPS will undertake reasonable suspicion testing when there is reasonable suspicion to believe that a law enforcement officer, prospective law enforcement officer, or law enforcement officer trainee is engaged in the illegal use of controlled substances.
2. Unlike applicant and trainee testing, reasonable suspicion testing requires a decision as to whether the appropriate basis for conducting a test exists (i.e. reasonable suspicion). Reasonable suspicion "requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking, or has taken place and that a particular individual is involved in that drug activity". The reasonable suspicion standard is "less demanding" than the probable cause standard in two ways. First, the amount of evidence needed to satisfy the reasonable suspicion standard is less than that needed to satisfy the probable cause standard. Second, the type of information used to satisfy the reasonable suspicion standard may be "less reliable than that required to show

probable cause”. The following factors should be evaluated to determine the quality and relevance of the information acquired by NJIT DPS.

- a. The nature and source of the information;
  - b. Whether the information constitutes direct evidence or is hearsay in nature;
  - c. The reliability of the informant or source;
  - d. Whether corroborating information exists and the degree to which it corroborates the accusation; and
  - e. Whether and to what extent the information may be stale.
3. Before a law enforcement officer is ordered to undergo reasonable suspicion testing, the agency shall prepare a written report documenting the basis for the test.

D. Sworn Law Enforcement Officers: Random Drug Testing

1. All sworn members of the NJIT Police Department are eligible for random drug testing regardless of rank or assignment.
2. An officer who has been selected on one or more previous occasions for a random drug test is not excused from future tests.
3. No more than 15 percent (15%) of sworn officers will be selected each time random selection takes place. Random selection will take place on dates chosen by the Chief of Police/Director of Public Safety, whichever is applicable. There will be no prior notice given of the dates of the selection process or the collection of the samples.
4. Officers will be selected for drug testing through the use of random selection process. A representative of the collective bargaining unit shall be permitted to witness the selection process.
5. The selection process and the names of the officers selected will be documented in a written report. The report will be stored in the Internal Affairs File.
6. Officers selected for random drug testing will be notified by a supervisor appointed by the Chief of Police/Director of Public Safety, whichever is applicable and required to submit a urine specimen. The specimen acquisition process will be kept confidential.

7. Any member of this department who discloses the identity of an officer selected for random testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline up to and including termination.
8. Officers who refuse to submit to a drug test when randomly selected are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

## VI. Specimen Collection Procedures

### A. Preliminary Collection of Specimens

1. The NJIT DPS will designate staff members to serve as monitors of the specimen acquisition process. The monitors should always be of the same sex as the individual being tested. However, in the event there is no member of the same sex available from the NJIT PD to collect the specimens, this agency may request that a member of the same sex from another law enforcement agency serve as monitor of the process.
2. The monitor of the specimen acquisition process shall be responsible for:
  - a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
  - b. Ensuring that the collection of specimens is done in a manner that provides for individual privacy while ensuring the integrity of the specimen.
  - c. Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for analysis.
  - d. Ensuring that prior to the submission of a urine specimen, sworn law enforcement officers and law enforcement trainees shall complete a medication information form (Attachment A) by listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past 14 days. Candidates for law enforcement employment are not required to complete a medication information form at this time.

## B. Collection of Specimens

1. Throughout the testing process, the identity of individual law enforcement officers shall remain confidential. Individual specimens and forms shall be identified throughout the process by the use of social security numbers. At no time shall a name appear on any form or specimen container sent to the State Toxicology Laboratory.
2. Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.
3. The procedures for labeling, collecting and sealing urine specimen containers are set forth in Attachment B.
4. Every effort shall be made to ensure the privacy of individual officers who have been directed to provide a specimen. Therefore, individual officers will void without the direct observation of monitors. This means that while the monitor may be present in the area where individuals void, there can be no direct observation of the officer's production of a specimen. However, it is the responsibility of the monitors to ensure the accuracy and integrity of the test. Therefore, monitors can, among other things, direct an individual officer who has been selected for drug testing to remove outer clothing (jackets, sweaters etc.), empty their pockets, and wash their hands under running water, before they produce a specimen. In addition, monitors may wish to add tinting agents to toilet water and secure the area where the specimens are to be collected prior to conducting individual drug tests.
5. If the monitor has reason to believe that an individual officer will attempt to adulterate or contaminate a specimen, substitute another substance or liquid for their specimen, or compromise the integrity of the test process, the monitor may conduct a direct observation of the individual officer. If a monitor concludes that direct observation is necessary, he or she must document the facts supporting the belief that the officer will attempt to compromise the integrity of the test process before there can be direct observation.
6. After a specimen has been produced, the officer shall seal the specimen container and deliver it to the monitor. The monitor shall take possession of the specimen and ensure that it has been properly labeled and sealed. The monitor must check the temperature tape on the specimen container within five minutes of collection. A reading between 90° and 100° F is acceptable. If the temperature tape does not indicate the acceptable temperature, the monitor must examine the possibility that the officer attempted to tamper with the collection.

7. At the conclusion of the test process, the monitor shall ensure that all chain of custody documentation has been properly completed and make arrangements for the specimen to be delivered to the State Toxicology Laboratory.
8. Individuals who are unable to produce a urine specimen may remain under the supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under supervision, the monitor may direct the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to provide a specimen after a reasonable period of time, the monitor may have the individual examined by a doctor to determine whether the inability to produce a specimen is the result of a medical or physical infirmity. If there is no valid reason why an individual officer cannot produce a specimen, the inability to produce a specimen shall be deemed a refusal to cooperate with the test process and the appropriate action taken against the officer.

C. Second Specimen

1. NJIT Police Officers and trainees have the option to provide the monitor with a second urine specimen. This second specimen must be collected at the same time and the same place as the first specimen. The second specimen must be given contemporaneous with the first specimen, in other words, during the same void. The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area.
2. The NJIT Police Department shall maintain possession of the second specimen for a period of 60 days or until the agency receives notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of controlled substances.
3. The second specimen shall be released for analysis by the law enforcement agency under the following circumstances:
  - a. The agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
  - b. The agency is informed by the officer whose specimen tested positive that the officer wishes to have the specimen independently tested; and
  - c. The officer designates a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New

Jersey Clinical Laboratory Improvement Act to conduct the independent test; and

- d. A representative of the licensed clinical laboratory takes possession of the second specimen in accordance with accepted chain of custody procedures within 60 days of the date the specimen was produced.

## VII. Submission of Specimens for Analysis

- A. The State Toxicology Laboratory within the Division of Criminal Justice is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy.
- B. Urine specimens shall be submitted to the State Toxicology Laboratory as soon as possible after collection. In the event a specimen cannot be submitted to the laboratory within one working day of collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
  1. The submission of specimens to the State Toxicology Laboratory will be accomplished by NJIT DPS personnel.
  2. All specimens must be accompanied by a medical information form and a specimen submission record (Attachment C). The State Toxicology Laboratory will inspect all documentation to ensure that it has been properly completed.
  3. In addition to ensuring that the appropriate documentation has been completed and submitted for each specimen, the State Toxicology Laboratory shall inspect each specimen for damage and evidence of tampering. The Laboratory may reject any specimen it has reason to believe has been tampered with or damaged.

## VIII. Analysis of Specimens

- A. The analysis of each specimen shall be done in accordance with procedures adopted by the State Toxicology Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, metabolite cut-off levels and the issuance of test reports.
- B. Candidates for law enforcement employment are not required to submit a medication information form with their specimen. Therefore, if a candidate's specimen tests positive, the NJIT PD, following notification from the State Toxicology Laboratory, must have the candidate complete the medication information form. Once the form has been completed, the agency is responsible

for transmitting the form to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above in addition to the testing outlined.

**IX. Reporting Drug Test Results**

- A. The State Toxicology Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the Chief of Police/Director of Public Safety, whichever is applicable by overnight express mail.
- B. In some cases, the State Toxicology Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a specimen tested positive for barbiturates and that a prescription medication listed on the form by the officer explains the test result. At this point, it is the responsibility of NJIT to determine whether the officer had a valid prescription. Officers who do not have a valid prescription are subject to disciplinary action including termination by the agency.
- C. Under no circumstances, will the State Toxicology Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed by the Laboratory.

**X. Consequences of a Positive Test Result**

- A. Applicants
  - 1. When an applicant tests positive for illegal drug use, the applicant shall be immediately removed from consideration for employment by NJIT PD. In addition, the applicant shall be reported to the Central Drug Registry maintained by the Division of State Police. Any applicant who tests positive will be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years from the date of the test.
  - 2. Where an applicant is currently employed by another agency as a sworn law enforcement officer, the officer's current employer shall be notified of the positive test result. Under these circumstances, the officer's current employer is required to dismiss the officer from employment and also report his or her name to the Central Drug Registry maintained by the Division of State Police.



B. Trainees

1. When a trainee tests positive for illegal drug use, the trainee shall be immediately dismissed from basic training subject to rules adopted by the Police Training Commission. In addition, the trainee shall be suspended from employment by his or her appointing authority. Upon final disciplinary action by the appointing authority, the trainee shall be terminated from employment as a law enforcement officer, and be reported to the Central Drug Registry. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

C. Sworn Law Enforcement Officers

1. In the event of a positive test result, the submitting agency shall notify the officer of the results as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the officer may receive a copy of the laboratory report.
2. The officer shall be immediately suspended from all duties. The officer shall be administratively charged and, upon final disciplinary action, terminated from employment as a law enforcement officer.
3. The officer shall be reported to Central Drug Registry maintained by the Division of State Police by his or her employer. In addition, the officer shall be permanently barred from future law enforcement employment in New Jersey.

XI. **Consequences of Refusal to Submit to a Drug Test**

- A. Applicants for NJIT law enforcement officer employment who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement officer employment and barred from consideration for future NJIT law enforcement officer employment. In addition, NJIT shall forward the applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- B. NJIT law enforcement officer trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from NJIT law enforcement employment and permanently barred from future law enforcement employment with the NJIT PD. In addition, NJIT PD shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

- C. NJIT PD sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the officer did in fact refuse to submit a sample, the officer shall be terminated from NJIT PD law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, NJIT PD shall forward the officer's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- D. If there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

**XII. Central Drug Registry**

- A. NJIT PD shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees, and sworn law enforcement officers who test positive for the illegal use of drugs or who refuse an order to submit to a drug test.
- B. A sworn law enforcement officer who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.
- C. Notifications to the Central Drug Registry shall be made on the form in Attachment E, and shall be signed by the Chief of Police/Director of Public Safety, whichever is applicable and notarized with a raised seal. The following information shall be included:
  - 1. name and address of the submitting agency;
  - 2. name of the individual who tested positive;
  - 3. last known address of the individual;
  - 4. date of birth;
  - 5. social security number;
  - 6. SBI number (if applicable);
  - 7. gender;
  - 8. race;
  - 9. eye color;
  - 10. substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
  - 11. date of the drug test or refusal;
  - 12. date of final dismissal or separation from the agency; and

13. whether the individual was an applicant, trainee or sworn law enforcement officer.

**Notifications to the Central Drug Registry shall be sent to:**

Division of State Police  
Records and Identification Section  
P.O. Box 7068  
West Trenton, New Jersey 08628-0068

**XIII. Record Keeping**

- A. The NJIT DPS Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.
- B. For all drug testing, the records shall include but not be limited to:
  1. the identity of those ordered to submit urine samples;
  2. the reason for that order;
  3. the date the urine was collected;
  4. the monitor of the collection process;
  5. the chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
  6. the results of the drug testing;
  7. copies of notifications to the subject officer; and
  8. for any positive result or refusal, appropriate documentation of disciplinary action.

For random drug testing, the records will also include the following information:

9. a description of the process used to randomly select officers for drug testing;
10. the date selection was made;

11. a copy of the document listing the identities of those selected for drug testing;
12. a list of those who were actually tested; and
13. the date(s) those officers were tested

References:

Attachment	A	“Drug Testing Medication Information”
Attachment	B	“Instructions For Using the DOX Container”
Attachment	C	“NJ State Specimen Submission Record”
Attachment	D	“Directions to State Toxicology Laboratory”
Attachment	E	“Notification to the Central Drug Registry”

**APPENDIX B**

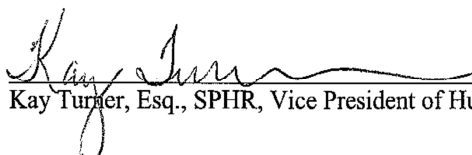
**LETTER OF AGREEMENT**

New Jersey Institute of Technology ("NJIT") and NJIT Superior Officers' Association, hereinafter referred to as ("SOA") in consideration of the mutual exchange of covenants made and enforceable in the parties' successor collective negotiations agreement with the term July 1, 2015 through June 30, 2019 hereby agree to discuss and/or negotiate as applicable:

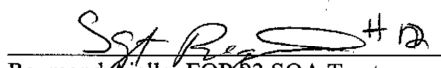
- 1 A university-wide Donated Sick Leave Bank policy.
- 2 Modification of the current overtime policy, so that in the event a Sergeant volunteers for at least an eight (8) hour shift of overtime, his or her name will move to the bottom of the list for mandatorily assigned overtime.
- 3 Current practice of assigning construction/road work security to members of the Newark police force, rather than the NJIT police force.

Executed this 7 day of January, 2016

FOR NJIT:

  
\_\_\_\_\_  
Kay Turner, Esq., SPHR, Vice President of Human Resources

FOR SOA:

  
\_\_\_\_\_  
Raymond Aiello, FOR93 SOA Trustee  
Raymond Aiello

# **NJIT/SOA AGREEMENT**

**July 1, 2015 – June 30, 2019**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**

**and**

**NJIT SUPERIOR OFFICERS' ASSOCIATION, affiliated  
with the Fraternal Order of Police Labor Council  
Inc.**

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**NJIT/SOA**  
**AGREEMENT**

This Agreement is entered into by New Jersey Institute of Technology, hereinafter (“NJIT” or “the University”) and NJIT Superior Officers’ Association, affiliated with the Fraternal Order of Police Labor Council, hereinafter referred to as (“SOA”).

**ARTICLE I**

**RECOGNITION**

NJIT recognizes SOA/FOP Labor Council as the sole and exclusive negotiating agent for the purpose of negotiating terms and conditions of employment for all full-time commissioned Police Sergeants, hereinafter referred to as “Sergeant(s)”; specifically excluding all other Commissioned Police Officers above and below the rank of Sergeant and all other employees of NJIT.

**ARTICLE II**

**NEGOTIATING PROCEDURE**

A. The SOA shall present its demands for a successor Agreement to NJIT, in writing, related to terms and conditions of employment on or before October 1, prior to the expiration of this Agreement. On or before November 1, NJIT shall meet with the SOA for the purpose of negotiating, in good faith, a mutually acceptable Agreement.

B. Should any provision in or portion of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction or unenforceable by the Public Employment Relations Commission (PERC), such decision of the court/PERC shall only apply to the specific provision or portion thereof, directly specified in the decision. Upon the issuance of final determination, after any and all appeals, the parties agree immediately to meet and discuss a substitute for the invalidated provision or portion thereof.

C. This Agreement incorporates the entire understanding of the parties on all matters which were or could have been the subject of negotiations, and shall not be changed except by an amendment mutually agreed upon between the parties in writing.

## **ARTICLE III**

### **MANAGEMENT RIGHTS**

- A. NJIT retains and reserves unto itself all rights, powers, duties, authority, and responsibilities conferred upon and vested in it by the law and constitutions of the State of New Jersey and the United States of America.
- B. All such rights, powers, duties, authority, and responsibilities possessed by NJIT may be exercised without restrictions, subject to the limitations imposed by law and except as they are specifically abridged and modified by this Agreement.
- C. NJIT retains its responsibility to promulgate and enforce the rules and regulations, subject to limitations imposed by law, governing the conduct of and activities of those Sergeants subject to this Agreement and not inconsistent with the express provisions of this Agreement, recognizing that proposed new rules, policies or modifications of existing rules/policies governing negotiable terms and conditions of employment shall be presented to the SOA and negotiated upon the request of the SOA as may be required pursuant to the New Jersey Public Employer –Employee Relations Act, as amended. Request for negotiations shall be made in writing and within thirty (30) days after receipt of notice of the proposed new or modified rule(s) and/or policy(ies).

## **ARTICLE IV**

### **DUES/FEE DEDUCTION**

#### **A. Dues**

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (N.J.S.A. 52:14-15(9)(e), as amended), NJIT agrees to deduct from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, the SOA dues and regular assessments of each member of the negotiating unit who furnishes a voluntary written authorization of such deduction on a form acceptable to NJIT.
2. The right of dues deductions for any Sergeant of the negotiating unit shall be limited to the SOA and each Sergeant in the negotiating unit shall be eligible to withdraw such authorization only as of July 1 of each year provided the notice of withdrawal has been timely filed.

3. The amount of the SOA dues shall be such amount as shall be certified to NJIT by the SOA at least thirty (30) days prior to the date on which deduction of dues are to begin.

4. The deduction of SOA dues made from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, pursuant hereto, shall be submitted by NJIT to the SOA before the fifteenth day of the calendar month succeeding that in which such deductions are made, together with a list of names of negotiating unit members from whose pay such deductions are made.

5. The SOA agrees to save NJIT, its trustees, officers, Sergeants and representatives, harmless from any action or actions commenced by any member(s) of the negotiating unit against NJIT, for any claim arising out of such deduction and the SOA assumes full responsibility for the disposition of any such funds once they have been turned over to them as provided.

6. Errors made by NJIT in the deduction and/or remittance of monies under this Agreement shall not be considered by the SOA as a violation of this Agreement.

**B. Representation Fee (Agency Shop)**

**1. Purpose of Fee**

Subject to the conditions set forth in number 2. below, Fee Assessment, all eligible nonmember Sergeants in this unit will be required to pay to the majority representative a representation fee, in lieu of dues, of services rendered by the majority representative until June 30, 2010. Nothing herein shall be deemed to require any Sergeant to become a member of the majority representative.

**2. Fee Assessment**

It is understood that the implementation of the agency fee program is predicated on the demonstration by the SOA that more than fifty percent (50%) of the eligible Sergeants in the negotiating unit are dues paying members of the SOA.

If, at the signing of this Agreement, the above percentage has not been achieved, the agency fee plan will be continued through the calendar year, after which it shall be discontinued unless the minimum has been achieved prior to that occurrence. Then, if the minimum percentage is exceeded on any quarterly date, i.e., January 1, April 1, July 1, or October 1, the agency fee plan shall be reinstated, with proper notice to affected Sergeants.

On July 1, in each year of the Agreement, an assessment shall be made to determine if the minimum percentage has been exceeded. If it has, the agency fee shall continue until the following annual assessment. If it has not, the agency fee will be discontinued and eligibility for reinstatement shall be on a quarterly basis as provided above.

**3. Deduction and Transmission of Fee**

After verification by NJIT that Sergeants must pay the representation fee, NJIT will deduct the fee for all eligible Sergeants in accordance with this Article.

The mechanics of the deduction of representation fees and the transmission of such fees to the SOA will, as nearly as possible, be the same as those used for the deduction and transmission of regular membership dues to the SOA.

NJIT shall deduct the representation fee as soon as possible after the tenth day following re-entry into this unit for Sergeants who previously served in a position identified as excluded or confidential, for Sergeants re-employed in this unit from a re-employment list, for Sergeants returning from leave without pay, and for previous Sergeant members who become eligible for the representation fee because of non-member status.

NJIT shall deduct the representation fee from a new Sergeant as soon as practicable after thirty (30) days from the date of employment in a position in this unit.

**4. Demand and Return System**

The representation fee in lieu of dues shall be available to the SOA only if the procedures herein set out, are maintained by the SOA.

The burden of proof under this system is on the SOA.

The representation fee, subject to refund, shall not reflect, however, the costs of support lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure for the Sergeants represented, advantages, in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with NJIT.

The Sergeants shall be entitled to a review of the amount of the representation fee by requesting the SOA to substantiate the amount charged for the representation fee. This review shall be provided in conformance with the internal steps and procedures established by the SOA.

The SOA shall submit a copy of the SOA review system to NJIT. The deduction of the representation fee shall be available only if the SOA establishes and maintains this review system in accordance with law.

If the Sergeant is dissatisfied with the SOA's decision, he/she may appeal to a three (3) member board established by the Governor.

**5. Employer Held Harmless**

The SOA hereby agrees that it will indemnify and hold NJIT from any claims, actions or proceedings brought by any Sergeant in the negotiations unit which arises from deductions made by NJIT in accordance with this provision.

**C. Amount of Dues/Fees**

Prior to the beginning of each contract year, the SOA will notify NJIT, in writing, of the amount of regular membership dues, initiation fees and assessments charged by the SOA to its own members for that contract year, and the amount of the representation fee for that contract year. Any changes in the dues, assessments and/or representation fee structure during the contract year shall be certified to NJIT at least thirty (30) days in advance of the requested date of such change. The change will be reflected in payroll deductions at the earliest practicable time after receipt of the request.

The representation fee, in lieu of dues, shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members, less the cost of benefits financed through the dues, fees and assessments and available to or benefiting only its members, but in no event shall such fee exceed eighty-five percent (85%) of the regular membership dues, fees and assessments.

**D. Errors or Omissions**

NJIT shall not be liable to the SOA for any retroactive or past due representation fee or dues for a Sergeant who was identified by NJIT as excluded or confidential or in good faith was mistakenly or inadvertently omitted from deduction of the representation fee or dues.

**E. Legal Requirements**

Provisions in this clause are further conditioned upon all other requirements set by statute.

**ARTICLE V**

**RIGHTS OF THE SOA**

A. NJIT agrees to recognize those Sergeants of the negotiating unit, not to exceed three (3), who are designated by the SOA as representatives for collective negotiations, by written notice of the names of such Sergeants in the negotiating unit given to NJIT. This section shall not preclude either party from inviting others to attend collective negotiations or providing factual knowledge or expertise with respect to a particular subject for collective negotiations. In this event, advance notice, shall be given the other party.

B. Non-Sergeant Representatives of the SOA shall be permitted to transact official

business on NJIT's property at all reasonable hours provided they first have obtained permission in advance from the Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee, and they do not interfere or interrupt normal NJIT operations or work of any Sergeant in the bargaining unit, or other NJIT employees or groups of employees.

C. The SOA shall have the right to post, on mutually agreed bulletin boards, bulletins and notices relevant to official SOA business which affects the Sergeants in the negotiating unit.

## **ARTICLE VI**

### **LABOR/MANAGEMENT COMMITTEE**

A. A committee consisting of NJIT and SOA representatives may meet for the purpose of reviewing the administration of this Agreement and to discuss problems which may arise.

B. Either party to this Agreement may request a meeting and shall submit a written agenda of topics to be discussed seven (7) days prior to such a meeting. Requests by the SOA for such a meeting will be made to the Vice President of Human Resources.

C. A maximum of two (2) Sergeants representatives of the SOA may attend such meetings. Sergeants representatives who attend such meetings, during their scheduled work shift, shall be granted time off to attend without loss of pay.

D. The committee meetings are not intended to bypass the grievance procedure, the normal chain of command, or to be considered collective negotiating meetings, but are intended as a means of fostering good labor relations through an exchange of views between the parties to this Agreement.

## **ARTICLE VII**

### **INVESTIGATION, DUE PROCESS, DISCIPLINE & CHALLENGE**

As members of NJIT's Department of Public Safety, Sergeants are entrusted with the safety and security of university property and its representatives, employees, students, licensees and guests. Failure to perform or negligent performance of a Sergeant's responsibilities could have serious and unacceptable consequences. Misconduct is on its face, unacceptable and often terminable. A high standard of excellence is expected and must be maintained by all Sergeants at all times, exemplifying respect, honor, dignity, commitment, integrity and requisite skills. It is against this purpose and expectation that the conduct of Sergeants will be measured.

**A. Management Meetings:**

The Department of Public Safety, through its supervisory structure and in accordance with the authorized chain of command, retains as a nonnegotiable prerogative, the right to meet with Sergeants, at its discretion, to discuss any matter of pertinent business, including, but not limited to, providing information and/or direction, reviewing and/or altering individual and/or departmental responsibilities and providing performance assessment. Except as otherwise specifically provided for in this Agreement, there is no right to SOA representation for a Sergeant attending any of these meetings. Attendance and participation at these meetings are not optional with the Sergeants, but must be adhered to as directed.

**B. Investigation:**

A Sergeant's conduct is always subject to investigation where there is a real nexus between the conduct and the Sergeant's position at the university. Where the Sergeant is questioned directly as to his/her conduct or his/her knowledge on a matter under investigation and discipline is a foreseeable consequence of the Sergeant's response he shall be afforded SOA representation in accordance with law. This type of meeting is called an "investigatory conference" and is preliminary to any charge of disciplinable conduct. This meeting is not a part of a Sergeant's permanent record except when and unless it is found that the Sergeant engaged in misconduct in the meeting itself, (i.e., provides false evidence). There is no privilege or immunity in employment in providing false statements or refusing to respond to a direct inquiry, except and only as mandated under applicable law.

**C. Due Process:**

Prior to invoking formal, final, employment discipline upon a Sergeant, that is greater in severity than a written reprimand, he/she shall be afforded both notice of any and all charges against him/her and an opportunity to be heard on those charges. A Sergeant may choose to be silent at the meeting or not attend the meeting at all. This meeting is called a due process meeting and all Sergeants shall be afforded SOA representation at due process meetings. Legal counsel representing SOA shall be permitted to attend employment due process meetings only where employment charges include or reasonably may be construed to include criminal behavior in violation of New Jersey's Penal Code, as codified in New Jersey Statutes. Where such criminal behavior is a reasonably foreseeable consequence of such charge, the Sergeant will not be charged or allowed to waive SOA and/or legal representation without first contacting the SOA, who shall have a right to then have a representative, including legal counsel, at the meeting.

**D. Discipline:**

1. Following any investigation deemed necessary by NJIT and requisite due process, where applicable, a Sergeant may be disciplined for just cause.



2. Discipline under this Article means: official written reprimand, suspension without pay and discharge.
3. Any disciplinary action imposed upon a Sergeant may be processed as a grievance through the regular grievance procedure.
4. A Sergeant who is suspended without pay or discharged may file a grievance at Step Two of the grievance procedure.
5. The terms of this Article shall not apply to probationary Sergeants.
6. Drug Screening – Positive Results

Sergeants who are tested and test positive for the presence of drugs under the Drug Screening Policy shall be suspended from duty immediately without pay, pending a due process hearing for dismissal from employment. Such Sergeant may be terminated from employment based upon a confirmed positive result.

The only grievable issues with regard to discipline resulting from a positive drug test are as follows:

- (i.) a challenge to the testing results or procedure;
- or
- (ii.) in the case of drug testing based upon “reasonable individualized suspicion”, a claim that reasonable grounds for testing did not exist.

#### **E. Emergency Suspensions**

Pending an investigation, a Sergeant may be subject to emergency suspension for the following:

- a. The employee is unfit for duty.
- b. The employee is a hazard to any person if permitted to remain on the job.
- c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
- d. The employee has been formally charged with a first, second, or third degree crime.
- e. The employee has been formally charged with a first, second,

third or fourth degree crime while on duty, or a criminal act related to his or her employment.

At the time of the suspension, the individual shall be provided with a written statement of the reasons the actions has been taken. A copy of the written statement shall be provided to the SOA representative.

**F. Grievance Procedure:**

**1. Any Sergeant of the Negotiating Unit May Appeal:**

- (a) A claimed violation or other improper application by the University of the terms of this Agreement, University rules, regulations or governing policy specifically affecting the grieving Sergeant's negotiable terms and conditions of employment.

**2. Time Limits:**

- (a) Failure of a grievant to meet any of the calendar limitations stipulated in the procedure below will constitute a waiver of his/her rights to claim a grievance on the basis of the same alleged factual situation. Likewise, a failure on the part of the designated representative of NJIT to meet the procedural obligations of any step in the grievance procedure, within the prescribed period of time, will give the grievant an automatic right to proceed to the next available step in the procedure. It is understood that nothing contained in this procedure should be construed as limiting the right or propriety of a Sergeant of the negotiating unit to informally discuss any problem with an appropriate member of NJIT administration.

**3. Procedure for Handling Grievances:**

**(a) Informal Conference**

A grievant may first discuss his/her grievance informally with the appropriate command Lieutenant. The grievant may at his/her option, be accompanied by a representative of SOA. All informal resolutions shall be without precedent

**(b) Step One**

- (i) Within ten (10) workdays of the occurrence causing the grievance or of the time the grievant should have reasonably known of the occurrence causing the grievance, the grievant shall, if he is not satisfied through informal conference discussion, submit in writing to the Chief of Police/Director of Public Safety, whichever is applicable, with copies to the Vice President of Human Resources, the claimed facts behind, and basis of the grievance and the desired remedy. Time limits, which begin after the written grievance is submitted, may be mutually extended by the parties only in writing.
- (ii) SOA shall be notified by the Chief of Police/Director of Public Safety, whichever is applicable in the event the grievant is not represented by SOA, and a representative shall have the right to be present, at this time and all subsequent steps in the grievance procedure, to present the views of SOA. The Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee which may be a representative from the Department of Human Resources or other University official, within ten (10) calendar days after receipt of the written grievance, shall meet with the grievant and the representative of SOA in an effort to resolve the grievance. The Chief of Police/Director of Public Safety, whichever is applicable, or designee shall indicate his/her disposition of the grievance, in writing, within five (5) calendar days of said meeting to the grievant and SOA and Vice President of Human Resources.

(c) **Step Two**

- (i) If the grievant and/or SOA is dissatisfied with the decision at Step One of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the second step of the grievance procedure, the grievant and/or SOA shall, within seven (7) calendar

days of the date of the decision at Step One (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Vice President for Real Estate Development and Capital Operations, with copies to the Vice President of Human Resources. The grievance shall contain: (1) a brief and concise factual statement of the action grieved, (2) the section(s) of the collective bargaining agreement allegedly violated, (3) the specific policy and/or rule or regulation allegedly violated and (4) the desired remedy.

- (ii) Within thirty (30) days of receipt of the written grievance at Step Two, the Vice President for Real Estate Development and Capital Operations or his/her designee shall schedule and hold a hearing for the purpose of determining the standing and merits of the grievance. If the grievance involves a challenge to an imposed disciplinary sanction the grievant may be represented either by their local SOA representative or legal counsel, provided the SOA designates such counsel as the representative of the SOA, or there is an appropriate substitution of representation. In no case shall the grievant be entitled to dual representation of both an SOA representative released from active duty for purposes of representation and counsel at the Step Two hearing. An SOA representative, other than legal counsel may be present and represent the grievant at all non-disciplinary grievance hearings.
- (iii) At least one (1) week prior to the date of the grievance hearing concerning an imposed disciplinary sanction, the University and the grievant shall exchange the following information:
  - (1) All documents which the University relied upon in imposing the disciplinary sanction(s) and all documents relied upon by the grievant in challenging the

- sanction(s).
- (2) A list of all witnesses they intend to call at the grievance hearing, and a brief summary of the substance of the anticipated testimony.
  - (3) If there is any tangible evidence which forms the basis of the disciplinary action, it shall be described and provided to the grievant's representative for inspection and/or testing, providing that such inspection can be conducted without damaging or compromising the integrity of the evidence.
  - (4) Copies of the grievant's personnel file within the Department of Human Resources.

There shall be no other pre-hearing discovery authorized, including interrogatories, document production, depositions, or similar procedures.

**(d) Hearing Procedure:**

- (i) The grievance hearing shall be held before the Vice President for Real Estate Development and Capital Operations or his/her designee. Such hearing is not intended to be judicial in nature, and therefore rules of evidence applicable in judicial or quasi-judicial hearings shall not be applied. The hearing officer controls the hearing and in so doing determines what evidence to hear and the manner of presentation of evidence, and advocacy witnesses may be subjected to a relevancy review and determination by the hearing officer. All allowed witnesses will be given paid release time from university duty to testify when called upon. Testimony may be in the form of reply to direct questioning, or may be narrative.
- (ii) A transcript of the proceeding shall be arranged for and made by the University in cases of grievances of disciplinary terminations. The grievant and/or SOA shall be entitled to a copy provided that they agree, in advance, to share

the cost of transcription. No other recordings of the termination or other disciplinary grievance proceedings may be made (e.g. tape recordings) unless the parties specifically agree, in which case copies of any tapes shall be made available to the non-taping party.

- (iii) The grievant bears the burden of proving their grievance (e.g. that there was a violation of agreement, policy, rule or regulation) by a preponderance of the credible evidence. In the case of a disciplinary sanction of a non-probationary Sergeant, alleging discipline without just cause, the University bears the burden of demonstrating just cause by a preponderance of the credible evidence. Each party shall be permitted to make an opening statement, provided that same is not testimonial in nature.
  
- (iv) In grievances of disciplinary sanctions, witnesses shall testify under oath, and where the proposed disciplinary penalty is termination, witnesses shall be duly sworn by the certified short hand reporter transcribing their testimony. The other party may cross-examine the witness upon completion of direct testimony; there will be an opportunity for redirect testimony and recross examination. The Step Two hearing officer may, in his/her discretion, limit testimony and rule upon admissibility of evidence based upon relevancy of the testimony, its probative value, the potential for redundancy in cumulative effect, giving due regard both for grievant's opportunity to be heard and the necessity to conduct an efficient hearing that is neither unduly time consuming to the public entity nor directed to matters of limited or no substantial relevancy. Witnesses' testimony shall be factual and not based on hearsay. Only in exceptional circumstances, may expert and/or character testimony be presented by either party, and then only upon a significant proffer that such testimony is directly relevant to a necessary finding in resolution of the underlying grievance, and the relevancy of such testimony

would outweigh the administrative burden of hearing such testimony.

- (v) All procedural or evidentiary rulings of the hearing officer shall be final and binding for purposes of this hearing. Upon the close of testimony, the parties may present closing statements summarizing their positions. Upon mutual agreement of the parties, or upon the request of the hearing officer, written briefs will be provided.
  
- (vi) The hearing officer may render his/her decision orally at the time of hearing if there is no transcript of the hearing taken and briefs are not submitted, otherwise, he will reserve the decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to the Vice President for Real Estate Development and Capital Operations, SOA, grievant, and Vice President of Human Resources. Absent agreement by the parties this will occur within thirty (30) days of the receipt of the transcript and/or briefs.
  
- (vii) In the event the grievance is one that is both appealable and, in fact appealed to either an arbitrator at Step Three or another appropriate forum, the arbitrator (or other appropriate third party) shall be provided a copy of the transcript below and briefs (where such exist) and the written determination of the Vice President for Real Estate Development and Capital Operations or his/her designee. In the case of grievances of disciplinary sanctions, the sole issue before this Step Three forum, which shall be limited solely to a review of the record below, shall be whether the grievant by clear and convincing evidence of record carried his/her burden; the record thereby demonstrating that the hearing officer, in his/her determination, (1) committed a substantial violation of contractual procedure of significant

effect or impact or (2) the decisional findings of the hearing officer were wholly arbitrary, capricious or unreasonable, based upon the evidence before him/her, giving due regard for the hearing officer's ability and authority to assess the credibility of witnesses.

(e) **Step Three**

- (i) If the SOA is dissatisfied with the decision at Step Two, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in F., Grievance Procedure, 1.(a.), Any Sergeant of the Negotiating Unit May Appeal; above, and the SOA desires and is authorized by law to institute arbitration or other appeal proceedings, it must, within fourteen (14) calendar days of receipt of the Vice President for Real Estate Development and Capital Operations or his/her designee's reply, give proper notice to either the New Jersey Public Employment Relations Commission, hereinafter referred to as PERC, or to the Board of Trustees, consistent with the procedures set forth by statute, with a copy to the Vice President of Human Resources and the General Counsel. Any arbitration proceedings shall be in accordance with the rules and regulations of PERC, and for grievances of disciplinary sanctions, subject to the parameters limiting the scope of review set forth in (d.) vii., Hearing Procedures, above.
- (ii) The recommendation or decision of the reviewing individual or body shall not in any manner modify or cause anything to be added to or subtracted from this Agreement or any policy of the University.
- (iii) Fees and expenses of an arbitrator where such proceedings are authorized, shall be shared equally by the University and the SOA. Only with prior written agreement of the parties, shall any other expense or fee contained in this grievance procedure be shared.



4. NJIT will give written notification to the President of the SOA of grievance hearings or meetings beginning with Step Two for all Sergeants of the negotiating unit. The President of the SOA shall also be sent copies of all grievance answers.

5. Decisions of an arbitrator involving minor discipline, as defined by law, shall be final and binding. Arbitration of major discipline is not available under law and not authorized by this Agreement.

## **ARTICLE VIII**

### **NON-DISCRIMINATION**

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination in accordance with all State and Federal laws.

B. All references to Sergeants in the negotiating unit or agents of NJIT in this Agreement are expressly gender neutral and wherever one gender is used it shall be construed to include both male and female Sergeants and/or NJIT agents.

C. NJIT agrees not to interfere with the right of Sergeants to become members of this unit, and there shall be no discrimination, interference, restraint, or coercion, by either NJIT or any representative of the SOA against any Sergeants because of SOA membership or lack of membership or because of any Sergeant's activity or lack of activity in any capacity pertaining to any authorized, legal activities of the SOA.

D. The SOA recognizes its responsibilities as negotiating agent and agrees to represent all Sergeants in the negotiating unit without discrimination, interference, restraint, or coercion regardless of membership or lack of membership in the SOA.

## **ARTICLE IX**

### **SENIORITY**

A. **Recognition:**

1. **Probationary Exclusion:** All Sergeants shall be considered as probationary appointments for a period of one hundred and eight (180) days from the date of appointment as commissioned police Sergeant.

2. **Retroactive Recognition and Tie Breakers:** Upon completion of such probationary period, seniority as a Sergeant will be dated as of the initial date of appointment as a Sergeant. In the event that two (2) or more Sergeants have the same initial date of appointment, continuous prior commissioned police officer service, continuous university service, and the alphabetical order of their last names, in that order,

shall be used to determine their seniority with regard to each other.

3. The Office of Human Resources shall maintain a seniority list of all Sergeants, a copy of which shall be furnished to the SOA every six (6) months, normally in January and July.

4. A Sergeant's seniority shall cease and his/her employment status shall terminate for any of the following reasons:

- (a) Resignation or retirement.
- (b) Discharge for cause.
- (c) Continuous lay-off for a period of two (2) years.
- (d) Failure of a recalled Sergeant to notify NJIT in writing, within seven (7) calendar days of receipt of notification of recall that he/she intends to accept such offer of re-employment. A Sergeant accepting such an offer of re-employment must return to active service within fourteen (14) calendar days of such notice of recall unless a later date is agreed to by NJIT. Written notice of recall to work shall be sent by NJIT, by certified mail, return receipt requested, to the Sergeant's last known address as shown on NJIT records.
- (e) Failure to report for work for a period of three (3) consecutive, scheduled working days without subsequent notification to NJIT of a justifiable excuse for such absence.
- (f) Failure to report back to work immediately upon expiration of vacation, leave of absence, or any renewal thereof, unless failure to return to work is excused by NJIT. Excused failure to return shall not be unreasonably withheld by NJIT.
- (g) Failure to return to work immediately with appropriate, formal certification of the elimination of the disability (or other intervening cause for absences) following exhaustion of authorized leave afforded under and pursuant to this Agreement (Job Abandonment).

**B. Application:**

1. **Layoff:**

- (a) If a reduction in force is necessary, layoffs shall take place in the inverse order of the date of hire into the Sergeant's job classification.
- (b) NJIT shall simultaneously provide the SOA and the Sergeant(s) concerned a two (2) week notice of layoff. SOA may request and have scheduled a meeting with the Manager of Labor Relations to discuss possible alternatives; however, the final discretion rests with NJIT.
- (c) When a Sergeant is scheduled for a layoff due to reduction or reorganization in the workforce, he/she shall be permitted, to the extent permitted by law, to exercise his/her seniority rights to replace (bump) a Sergeant or other commissioned police officer with less seniority provided the Sergeant with greater seniority is qualified in all respects to perform the work of the bumped officer.
  - (i) For the purpose of this Agreement "qualifications" shall be determined by NJIT. However, the SOA may discuss any questions of "qualifications" with the Manager of Labor Relations through the labor management committee established under Article VI, Labor/Management Committee, of this Agreement.
  - (ii) A Sergeant with no previous commissioned police officer experience at NJIT, who successfully exercises his/her bumping privileges into a commissioned police officer position, shall serve a ninety (90) day performance based probationary period. During said period, if NJIT is not satisfied with the Sergeant's performance, but not earlier than sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which

he/she is again laid off. Existence of the probationary period satisfies the notice of layoff requirement. Nothing herein waives or modifies the right of NJIT to terminate a Sergeant for just cause at any time. Discharge during the probationary period is not grievable.

(iii) Salary Range and Step placement for a Sergeant, successfully exercising the contractually authorized bumping privilege, shall be as follows:

(1) The Sergeant shall be placed at the same or nearest higher step on the commissioned police officer salary range from that step occupied prior to layoff, if available in the range. If not available within the range, then the Sergeant shall be placed at the closest step available within the appropriate range.

(d) The parties hereto commit to work together toward minimization of departmental, university and bargaining unit disruption caused by implementation of the contractually authorized layoff and bumping scheme.

2. **Recall:**

(a) The recall period shall be for twenty-four (24) calendar months from the date of original layoff.

(b) For the period of recall, Sergeants laid off from their positions shall be entitled to recall, by seniority, to the job classification of Sergeant. Additionally, for the period of recall, Sergeants laid off from their positions shall be eligible for probationary recall into the commissioned police officer job classification. However, for recall to such classification the Sergeant must first be considered qualified to perform in the position to which recall is desired and second must serve a ninety (90) day performance based probationary period, during which time the Sergeant may be discharged without resort to the grievance procedure. During said period, if NJIT is not satisfied with the probationary Sergeant's performance but no earlier than

sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which he/she is again laid off.

- (c) Sergeants laid off, pursuant to this Agreement, shall retain, in addition to the twenty-four (24) month recall potential, only those contractual benefits required by law.
- (d) All Sergeants on recall roster must be recalled to their former jobs, if the job is reinstated, prior to the hiring of new Sergeants into such positions.

## **ARTICLE X**

### **OUT OF TITLE WORK**

A. When a Sergeant is temporarily assigned to work in another job title within the negotiating unit, such assignment may be made for periods up to sixty (60) calendar days unless mutually extended by NJIT and the SOA. NJIT is not restricted to filling the assignment from only those who apply and in filling such opening shall first consider the qualifications of the applicant and providing such qualifications are equal shall then consider the length of continuous service of the applicant.

1. If NJIT assigns a Sergeant to temporary work in another job title having a higher salary range, he shall, after ten (10) continuous working days in that position, be considered to be working in an “acting capacity” and shall then receive the rate of pay for that position, retroactive to the first day of the temporary assignment. For purposes of this provision only, rate of pay shall be defined as the Salary Step in the reassigned position which value is at least one (1) step higher than the salary step occupied by the Sergeant in his/her permanent position. In the case of an assignment to a position without salary steps, the adjustment shall be equivalent to the value of one (1) salary step higher than that occupied by the Sergeant in his/her permanent position. Upon being assigned to his/her permanent position, the Sergeant shall immediately receive the rate of pay for his/her permanent position.

## **ARTICLE XI**

### **POSTING, HIRING AND PROMOTION**

In keeping with NJIT’s commitment to affirmative action and equal employment

opportunities, all recruitment efforts will conform with the application sections of NJIT's Equal Employment Opportunity/Affirmative Action policies. Accordingly, a permanent job opening which represents a promotional opportunity shall be posted in accord with applicable University policies. Copies of such postings shall be available to SOA on line at the NJIT Human Resources Career Site webpage.

**ARTICLE XII**

**SICK LEAVE**

**A. Accrual:**

<u>Eligibility</u>	<u>Hours Earned</u>	<u>Which Equates to</u>
Sergeants hired prior to March 5, 2003	Ten (10) hours per month for a 40 hour work week	One and one-quarter (1¼) day per month to the end of that fiscal year
Sergeants hired on or after March 5, 2003	Eight (8) hours per month for a 40 hour work week	One (1) day per month to the end of that fiscal year

**B. Utilization:**

1. Sick leave may be utilized by Sergeants when they are unable to perform their work by reason of personal illness, injury or exposure to contagious disease or for the attendance of the Sergeant upon a member of the immediate family who is seriously ill, or whose spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively) is hospitalized due to pregnancy.

2. Accumulated sick leave may be used to grieve the death and/or attend the funeral of the Sergeant's immediate family: father, mother, spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively), child, foster child, sister or brother of Sergeant and relatives of Sergeant residing in the same household as Sergeant. Leave utilized for bereavement shall be limited to three (3) days per occurrence unless exception for extraordinary reason is made by and at the discretion of the Vice President of Human Resources or his/her designee.

**C. Authorization:**

1. **Anticipated Leave:** Any proper utilization of sick leave anticipated in advanced must be requested as far in advance as practicable and approved by the Sergeant's immediate supervisor prior to utilization. Approval will not be unreasonably denied. Examples of anticipated leave, by way of illustration but not limitation, include physician appointments, dentist appointments, scheduled surgery and short-term care for an ill member of the immediate family. Within a reasonable period of time following

utilization of sick leave for this purpose the Sergeant, upon request by NJIT, must validate the reason for scheduled leave by means of written proof that the scheduled purpose for the sick leave did occur.

2. **Unanticipated Leave:** Utilization of sick leave that cannot be anticipated in advance, such as sudden illness, must be validated by contacting, as soon as possible and, to the extent possible, within one-half (½) hour after the beginning of the Sergeant's scheduled workday, the Sergeant's supervisor or by utilizing such method specifically directed by the Sergeant's supervisor to notify NJIT of unanticipated sick leave.

**D. Validation:**

1. If absent for five (5) or more consecutive working days, the Sergeant must present a physician's statement specifically validating the duration and nature of illness or injury enabling sick leave usage. A Sergeant absent for unanticipated sick leave for any and all periods totaling more than ten (10) days in one (1) fiscal year may be required to submit a physician's statement validating the duration and nature of illness enabling sick leave usage. Upon receipt of a specific diagnostic statement from a physician describing a chronic, debilitating illness of a Sergeant, the five (5) and ten (10) day validation requirement shall be waived as a matter of regular course.

2. Sick leave taken for purposes of bereavement, pursuant to provision B.2., Utilization, above, shall not be counted for purposes of either the five (5) or ten (10) day validation requirement, however, bereavement utilization of sick leave must, upon request, be validated through independent written documentation whether anticipated or unanticipated.

3. Upon reasonable suspicion of abuse or patterned absenteeism and/or following fifteen (15) days usage of sick leave during a fiscal year, NJIT, SOA and the Sergeant shall meet for the purpose of either investigating potential abuse and/or to discuss the absenteeism in attempt to avoid disciplinary action. As a result of that meeting, the Employer may require the Sergeant to provide medical certification for future single day or multiple day absences.

4. A Sergeant suffering from a certified chronic illness must, at least once every six (6) months, provide NJIT with medical re-certification and following fifteen (15) days usage in a fiscal year on account of said illness, provide additional re-certification of the chronic illness.

5. Confidentiality of Records: - All medical reports and diagnosis, provided pursuant to this Article, shall remain confidential within the Department of Human Resources only subject to disclosure to such officers or agents of the university with a direct business need to know.

**E. Unused Sick Leave – Retirement:**

Subject to the provision of N.J.S.A. 11A:6-17 and rules and regulations promulgated thereunder, a full-time Sergeant who enters retirement, pursuant to the provisions of a State administered or approved retirement system, and has to his/her credit any earned and unused accumulated sick leave shall be entitled to receive supplemental compensation for such earned and unused accumulated sick leave only to the extent such is funded by the State.

The supplemental compensation to be paid shall be computed at the rate of one-half (½) of the eligible Sergeant's daily rate of pay for each day of earned and unused accumulated sick leave based upon the average annual compensation received during the last year of his/her employment prior to the effective date of his/her retirement, provided, however, that no such supplemental compensation payment shall exceed the statutory limit. This supplemental compensation shall be paid in a lump sum after the effective date of retirement. It may be deferred by the Sergeant for payment within one (1) year of the effective date of retirement.

### **ARTICLE XIII**

#### **FAMILY LEAVE**

NJIT has long recognized the importance of family issues as an integral component of a responsive human resource environment in which its Sergeants will prosper. It has heretofore provided a number of benefits including leaves of absence for personal and family reasons. Both State and Federal government have determined to specifically legislate in this regard by affording unpaid leave to Sergeants under certain specific circumstances. The result demands that NJIT policies, state law and federal law be properly recognized and promulgated in a lawful, equitable and contemporary policy. NJIT, therefore, hereby certifies that the University Family Leave Policy (available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf)) meets these demands (and shall be interpreted consistent with) NJIT's other standing leave policies.

It is agreed that the University may preliminarily designate an employee's absence as Family Leave when:

1. An employee (or a spokesperson on behalf of an employee) notifies the Department of Human Resources or the immediate supervisor of a personal serious health condition or the serious health condition of an eligible family member as set forth in the University Family Leave Policy.
2. Upon the employee or the supervisor's notification to the Department of Human Resources after 3 consecutive days of paid or unpaid absence.

Family Leave runs consecutively after accumulated sick leave banks are exhausted for an Officer's own serious health condition and Family Leave shall run concurrently with accumulated sick leave for an Officer's eligible family member. Accumulated sick leave balances that exceed the 60 days of Family Leave may continue



to be utilized thereafter upon submission of medical certification updates to be provided in intervals of not less than every 30 days.

Family Leave shall be administered in accordance with the University's Family Leave Policy, available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf). . It is understood that the Family Leave Policy shall be revised and updated to include mandatory provisions required by State and Federal Law.

## **ARTICLE XIV**

### **ADMINISTRATIVE LEAVE**

#### **A. Administrative Leave**

1. Three (3) administrative leave days per calendar year are granted to all full-time Sergeants entering their first full fiscal year of employment and annually thereafter. Priorities for granting of leaves are:

- (a) Emergencies;
- (b) Observation of religious or other days of celebration but not public holidays;
- (c) Personal business;
- (d) Attendance at the funeral of an individual other than a member of the immediate family. Absences related to funerals of immediate family members are considered under other provisions of this Agreement; and
- (e) Other personal affairs.

2. Newly hired, full-time Sergeants shall be granted one-half (½) day of administrative leave after each full calendar month of employment to a maximum of three (3) days during the remainder of the first fiscal year of employment. Sergeants promoted from the ranks of commissioned police officer shall not be treated as new hires for purposes of this provision.

3. Administrative leave shall not be cumulative, and any such leave credit remaining unused by an officer at the end of the fiscal year and/or upon separation of employment shall be cancelled.

4. Requests for administrative leave must be approved by the Chief of

Police/Director of Public Safety, whichever is applicable in advance, except in emergency situations. Emergency situations shall be reasonably verified by the Sergeant on leave as soon as practicable following utilization of the leave, upon the request of NJIT. Unapproved emergencies are limited to health and safety related matters.

5. Administrative leave days cannot be used during a Sergeant's probationary period.

## **ARTICLE XV**

### **MILITARY LEAVE**

#### **A. Military Leave, Without Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or the New Jersey State militia or the organized militia of another State, a leave of absence, without pay, for Inactive Duty Service. (An example of Inactive Duty Service is weekend drills.)

2. A qualifying employee granted Military Leave of Absence, without pay, that is less than two (2) consecutive weeks, shall continue to accrue vacation, personal, and sick leave. A qualifying employee granted a Military Leave of Absence, without pay, that is more than two (2) consecutive weeks, shall not accrue vacation, personal, and/or sick leave during such leave of absence

3. A qualifying employee granted a Military Leave of Absence, without pay, may, with advance notice, use accrued vacation, personal leave, or floating holidays. Sick Leave shall not be used for Military Leave of Absence.

#### **B. Military Leave, With Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or a member of the organized militia of another State, a leave of absence for up to 30 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service. NJIT shall grant a qualifying employee who is a member of the New Jersey State organized militia a leave of absence for up to 90 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service.

2. Should the employee be called to active duty service for a national or state emergency or foreign conflict which exceeds the 30 or 90 working days described in A above, NJIT shall grant a leave of absence through the end of that calendar year without loss of benefits and shall pay the employee the difference between their applicable NJIT

base salary and their military “base pay” provided the employee provides proof of military service and “base pay”. This is often referred to as Differential Pay and is not currently mandated by Federal or State regulations.

3. If a qualifying employee is eligible for a Military Leave with pay or a Military Leave with differential pay as described above, he/she continue to accrue vacation, personal, and sick leave. Qualifying employees eligible for Military Leave with pay or Military Leave with differential pay shall be entitled to all health and welfare benefits.

C. A qualifying employee who is called to New Jersey State Active Duty Service, for example during a natural disaster or New Jersey State emergency, shall be eligible for a Military Leave of Absence as required by New Jersey State or Federal regulations.

D. A qualifying employee for purposes of this Article shall be defined as any employee who has achieved non-probationary status at least once during his/her current employment with NJIT or a temporary employee who has been employed more than one (1) year. A non-qualifying employee is eligible for Military Leave of Absence, without pay, only.

E. A qualifying employee eligible for Military Leave of Absence, with or without pay, shall not suffer any loss of seniority.

F. Extensions of Military Leave

1. Should a qualifying employee be called to Federal Active Duty Service beyond the first calendar year or subsequent consecutive years, he/she shall be eligible for the paid leave as described in B. 1. above effective each January 1<sup>st</sup>.

2. Should a qualifying employee be called to Federal Active Duty Service beyond the 30 or 90 working days described above in the second calendar year or subsequent consecutive years, NJIT, at its sole discretion, may extend the Military Leave of Absence with differential pay, as described in B. 2. above, for the remainder of that second calendar year or subsequent consecutive years. If NJIT decides not to grant a Military Leave of Absence with differential pay, NJIT shall grant a Military Leave of Absence, without pay, for the remainder of that calendar year.

G. Failure to provide advance notice of call to duty, except in emergency situations, could result in loss of protections under Federal and/or State regulations and shall be just cause for disciplinary action up to termination of employment. Failure to provide verification of attendance or military pay records may result in delay in pay or benefits until such verification is provided.

H. In the event that Federal and/or State law may be amended to provide a greater benefit to the employee than set forth herein, such law shall supersede the terms of this

contract.

## **ARTICLE XVI**

### **LEAVE FOR SOA ACTIVITY**

NJIT agrees to provide time off without loss of pay for delegates of the SOA to attend formal union activities provided that the total amount of time without loss of pay during the period of this Agreement shall not exceed a total of twelve (12) days during each year of this Agreement and provided such activities are not, by their nature and content, adversarial to NJIT.

The total number of days of such leave which may be used in each year shall be exclusive of leave provided under the provision of New Jersey law and ordinarily granted under that statute. Leaves for such activities of more than five (5) days duration in each year of the Agreement shall be at the sole discretion of NJIT. Such approval will not be unreasonably withheld.

The SOA shall request, in writing, approval from the Vice President of Human Resources or his/her designee, with copies to the Chief of Police/Director of Public Safety, whichever is applicable to use such leave. Such requests shall be made, in writing, no less than two (2) weeks in advance by the SOA specifying the type of SOA activity for which time off is sought, the individual(s) to be granted the time off and the maximum amount of time to be utilized.

## **ARTICLE XVII**

### **OTHER LEAVES OF ABSENCE**

#### **A. Extraordinary Leave:**

##### **1. Eligibility:**

- (a) Any Sergeant, not entitled to or after having exhausted the other leave benefits provided by this Agreement but desiring to remain employed by NJIT may apply for an unpaid leave of absence. This leave is considered an extraordinary leave and will not be routinely granted. A minimum prerequisite to consideration of leave is a significant period of consistently outstanding service to NJIT.

- (b) In reviewing requests for unpaid leave of absence NJIT will ensure that Article XIII, Family Leave Policy, is fully complied with as prerequisite to its discretionary determination as to whether to grant a request and the parameters on such grant when given. Unless and except as expressly provided for in writing, there shall be no benefits bank accrual during any unpaid leave, nor shall there be any monetary contribution by NJIT on behalf of such Sergeant except as may be mandated by law, or as otherwise expressly provided for by this Agreement.

**2. Procedure:**

- (a) Any and all requests for leave of absence under this provision must be made in writing, with specific statement of need for leave, as far in advance of the desired leave as possible. Application for leave must be submitted to the Sergeant's immediate supervisor, except in such cases where the specific statement of need recites a personal, medical or other extraordinary confidential basis, in which case the full application shall be submitted to the Office of Human Resources, with notice to the immediate supervisor that a request has been made for the duration stated on the application. Following review of the request, a recommendation to either grant or deny the leave will be made and forwarded to the Vice President of Human Resources or his/her designee who will issue the determination.
- (b) Approval, denial or modified approval of the requested leave shall, except in the case of emergency, be provided within two (2) weeks by NJIT. Reason for denial of unpaid leave shall be provided with a denial of leave by NJIT.
- (c) Accepting a position with another employer, while on a leave of absence, except as may be expressly understood as part of the reason for leave and approved by NJIT in advance, will result in forfeiture of the leave of absence and all benefits derived therefrom or maintained during said leave and immediate termination of NJIT employment.
- (d) Administration of this Article is grievable only on the limited basis that NJIT held no rational basis to deny the requested leave. Problems arising out of the

administration of this Article may be referred to the Labor/Management forum for discussion and attempted resolution.

**B. Bereavement Leave:**

In addition to leave available pursuant to Article XII B.2., Sick Leave Utilization, above, all Sergeants hired after ratification of this agreement, shall be entitled to up to three (3) paid days and up to three (3) additional unpaid days of leave each year of this Agreement, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family. "Immediate Family" shall be as defined in Article XII B.2., above.

All other Sergeants shall be entitled to up to two (2) unpaid days of leave each year of this agreement, in addition to such leave as set out in Article XII B.2. above, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family, as defined herein.

Unused Bereavement Leave is not cumulative year to year and NJIT reserves its right to require validation of the need for Bereavement Leave. Finally, Bereavement Leave must be taken within ten (10) days of the death of the immediate family member unless exception is authorized for extraordinary circumstances by and at the discretion of the Vice President for Human Resources or his/her designee.

**ARTICLE XVIII**

**HOLIDAYS**

**A. Program Benefit**

1. Each Sergeant shall be entitled to the following named, paid holidays:
  - (a) New Year's Day
  - (b) Independence Day
  - (c) Labor Day
  - (d) Thanksgiving Day
  - (e) Christmas Day
2. Each Sergeant shall receive four (4) paid holidays as designated by NJIT.
3. Each Sergeant shall receive two (2) floating holidays, providing such "floating" holidays shall be taken at a time agreeable to the supervisor.
4. Each Sergeant shall receive two (2) additional, restricted floating holidays that must be scheduled and taken between December 26<sup>th</sup> and January 2<sup>nd</sup> inclusive, of

the Christmas holiday season.

- (a) Any Sergeant whose service and attendance is necessary, as determined by NJIT, resulting in an inability to mutually schedule either one (1) or both of such restricted floating holidays, shall receive one (1) floating holiday for each day of service.
- (b) There shall be no holiday premium pay for restricted, floating holidays worked during this period. Other contractual provisions and those relevant mandates of the Fair Labor Standards Act, pertaining to overtime, are unaffected and continue.

B. In the event any of the regular paid holidays fall on a Sergeant's scheduled day off, they shall be observed on the following scheduled day of work.

C. Sergeants on an unpaid leave of absence or layoff are not entitled to pay for a holiday falling during leave or layoff.

D. NJIT shall continue its requirements for eligibility for holiday pay, however, a Sergeant who is not on the payroll shall not be eligible for holiday pay.

E. A holiday which occurs during a vacation period is considered a holiday and will not be charged as a vacation day.

F. Any Sergeant who is required to work any of the days designated by NJIT as a paid holiday, pursuant to provision A.1., or A.2., shall be afforded the following premium pay in addition to the holiday pay:

- 1. For the first eight (8) hours, time-and-one half for all hours worked.
- 2. For all hours in excess of eight, double-time for all hours worked.

G. For the purposes of computing overtime, all holiday hours, whether worked or unworked, for which a Sergeant is compensated, shall be regarded as hours worked.

H. The thirteen (13) holidays, annually provided pursuant to this Agreement, constitute the entire paid holiday schedule provided by NJIT.

I. It is expressly intended and understood that there are no additional paid days available to SOA represented Sergeants, except as expressly provided by other provisions of the controlling Collective Bargaining Agreement.

## ARTICLE XIX

### WORKERS' COMPENSATION

A Sergeant on Workers' Compensation shall receive that payment to which he/she is entitled by law, in accordance with benefit regulation and accompanying procedure in effect at the time of eligibility for Workers' Compensation. Should a Sergeant wish to supplement that compensation received under New Jersey Workers' Compensation law and regulation to receive the same total salary compensation received when not on Workers' Compensation, he/she may elect to utilize, on an hour for hour basis, his/her sick leave accrual for a period not to exceed six (6) calendar months. The election to supplement Workers' Compensation must be made in a signed writing to the Department of Human Resources, with a copy to the Director, Benefits Administration and supplementation will be progressive only from the time the request is received by the Department of Human Resources.

## ARTICLE XX

### EDUCATIONAL BENEFITS

All Officers, and where applicable their dependents, are eligible to participate in the University's Tuition Remission Plan as set forth in the University Tuition Remission Policy available at <http://www.njit.edu/policies/pdf/tuition-remission-unaligned-2008-03-27.pdf> and subject to the applicable rules and regulations governing the Plan.

## ARTICLE XXI

### VACATION

#### **A. Allotment**

A Sergeant is entitled to a vacation with pay. Such vacation is scheduled as requested by the Sergeant, provided departmental staffing and workload permit. Vacation entitlements are as follows:

	<b>Allotment</b>	<b>Which Equates to</b>
Date of University Hire through the end of the Fiscal Year*	10 hours per month (40 hour work week) available as accrued	1¼ day per month, available as accrued



One through five years of University service	120 hours per year (40 hour work week) available on July 1 <sup>st</sup>	15 days per year available on July 1 <sup>st</sup>
After 8 years of University service	160 hours per year (40 hour work week) available on July 1 <sup>st</sup>	20 days per year available on July 1 <sup>st</sup>

\*A Sergeant who was promoted and was eligible for the full annual allotment of vacation as an officer shall be eligible for the full annual allotment as outlined above. A Sergeant who is hired without prior eligibility for the full annual allotment shall accrue vacation at 1¼ days per month through the end of the first Fiscal Year.

**B. Utilization**

1. While utilization of vacation is based upon mutual agreement of NJIT and Sergeants, full utilization is both expected and encouraged in a properly scheduled manner, giving appropriate consideration for workload issues. NJIT supervisors and Sergeants will maintain a fully updated vacation record, showing unused allotment and usage. Supervisors will take a proactive role in scheduling vacation usage in a manner that is mutually beneficial to NJIT and its Sergeants.

2. Vacation may be used in hourly increments, partial days, full days or consecutive days.

3. Vacation may not be unilaterally scheduled or taken and neither may it be used to provide payment for an unauthorized absence.

4. If the nature of the workload makes it necessary to limit the number of Sergeants on vacations at the same time, the Sergeant with the greatest seniority shall be given his/her choice of vacation, provided that another qualified Sergeant is available to assume the work.

5. If because of an emergency situation, pre-approved time cannot be allowed, either a salary payment will be made equal to the compensation that would have been earned during the vacation period, and the vacation bank will be accordingly reduced or vacation will be rescheduled to a later, mutual time. Arrangements for such payment must be authorized by the Chief of Police/Director of Public Safety, whichever is applicable and approved by the Department of Human Resources.

6. Under normal conditions, vacation periods must not exceed three (3) consecutive weeks.

7. A Sergeant on any unpaid leave of absence does not accrue vacation time.

8. If a regular paid holiday occurs during a Sergeant’s vacation period, an additional vacation day may be scheduled at a time mutually agreeable to the Sergeant and the Chief of Police/Director of Public Safety, whichever is applicable.

**C. Carryover**

1. Up to ten (10) days of unused vacation allotment, remaining on June 30<sup>th</sup> of each fiscal year may be carried over for use in the ensuing year.

2. Unused vacation, in excess of that allowed to be carried over will be forfeited.

**D. Vacation Upon Separation**

Upon Separation from employment, unused vacation allotment, computed at the daily rate of the salary of the separating Sergeant at the time of separation will be handled as follows:

<u>Reason</u>	<u>Pay Out</u>
Termination for Cause, including job abandonment,	None
Voluntary Separation	None
Death which is not employment related	None
Employment related Death	Up to a maximum of 25 unused vacation days
Layoff	Up to a maximum of 15 unused vacation days

Upon retirement or resignation an employee shall be permitted to utilize up to ten (10) days (80 hours for 40 hour work week) of accumulated but unused vacation time if the employee gives at least ten (10) days, (two (2) weeks) written notice of resignation or retirement prior to the utilization of any such unused time. For example, if employee X has 10 vacation days (2 weeks), employee X must give at least 20 days (4 weeks) notice of resignation or retirement in order to utilize unused vacation.

**ARTICLE XXII**

**UNIFORMS**

A. Newly hired Sergeants shall be required to purchase their own University, standard issue uniform. After six (6) months of continuous employment in good standing, as a New Jersey Institute of Technology commissioned police Sergeant, the entire cost of the initial issue shall be reimbursed to said Sergeants.

B. Each Sergeant shall be entirely responsible for repair and/or replacement of

damaged and/or worn out uniform articles. This responsibility includes the cost of such necessary repair and/or replacement. The Department of Public Safety uniform standards must be maintained and will be enforced.

C. Maintenance of the New Jersey Institute of Technology Sergeant’s uniform shall be the entire responsibility of each Sergeant, including the cost of cleaning and pressing as necessary.

D. NJIT shall provide the following scheduled annual uniform allowance:

<b>Fiscal Year</b>	<b>Uniform Allowance</b>	<b>Bike Uniform Allowance (if applicable)</b>
2016	\$1500	\$300
2017	\$1500	\$300
2018	\$1500	\$300
2019	\$1500	\$300

Payment of the scheduled uniform allowance shall be semi-annually as follows:

1. A Sergeant, with less than six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program, shall receive one-half (½) of the allowance, further prorated as appropriate, to the nearest month of service, payable the last payroll of the calendar year and one-half (½) of the allowance further prorated as appropriate, and payable the last payroll of that fiscal year.

2. A Sergeant, with at least six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program shall receive one-half (½) of the allowance in the first payroll of that fiscal year and the remainder in the last payroll of that calendar year.

E. The allowance is interchangeable and usable for maintenance and repair and replacement, as needed, on an individual basis.

**F. Payment Conditions:**

1. All uniform allowance payments, accrued in accordance with provision D. above, and due and owing at the time of ratification of this Agreement, shall be paid in one (1) lump sum to each eligible Sergeant within one (1) full pay period following mutual written ratification of this Agreement.

2. A condition precedent to eligibility for uniform allowance shall be active or approved inactive employment status at the time of scheduled payment.

**ARTICLE XXIII**

**RETIREMENT\***

Sergeants shall be eligible to participate in available State authorized retirement system(s), consistent with applicable rules and regulations. Should there be changes made in such Plan(s), by legislation, during the terms of this Agreement, all such changes, appropriate to members of the negotiating unit, shall be made in accordance with the provision of such legislation.

\*For information only.

**ARTICLE XXIV**

**OVERTIME /SHIFT DIFFERENTIAL**

A. Overtime requested and authorized by the Department of Public Safety shall be compensated at time and one-half for hours worked in excess of forty (40) hours in the workweek.

B. NJIT will, insofar as possible, provide equal opportunity for overtime work and shall maintain an overtime log for this purpose which shall be available to the SOA for review.

1. In the event that there are an insufficient number of Sergeants willing to cover a given overtime assignment, NJIT will assign the necessary number of Sergeants to cover the assignment.

2. Any Sergeant called back to work after he/she has completed his/her regular work shift and has left his/her place of work shall be guaranteed a minimum of four (4) hours pay at the overtime rate. Such Sergeants shall be required to work all hours which are required. If the Sergeant elects to leave before the end of the four (4) hours, and the supervisor approves, the Sergeant will be paid only for the time actually worked.

Effective upon execution of this Agreement by all parties, such Sergeant shall also be reimbursed one (1) meal allowance amount not to exceed \$11.00 for the balance of fiscal years 2016 and 2017 and \$12.00 in fiscal years 2018, and 2019 where the Sergeant is called back to work if the Officer works at least three (3) hours beyond his/her normal work hours without the opportunity to go to his/her residence. Meals eligible for reimbursement shall be ordered from NJIT dining facilities, and eaten on campus when NJIT dining facilities are available. .

C. Only during the term of this Agreement, as restricted by the following parameters, a Shift Premium shall be affected for eligible Officers in the bargaining unit:

1. For members following a five day on, two day off schedule:

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and sixty (160) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift beginning after 10:00 p.m. on a given day and before 5:00 a.m. on a given day.

2 For members following a four day on, three day off schedule (Pitman Schedule):

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and three (103) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift which is inclusive of the hours between 12:00 a.m. and 7:00 a.m. on a given day.

3. Shift Premium eligibility is conditioned upon actually working the designated number of shifts, as set out above, in the prescribed time period. Further, an extended workday into a first shift, from any other shift, and for which overtime compensation is paid pursuant to Agreement, does not count toward Shift Premium qualification.

4. Payment for Shift Premium will be made in the second full pay period in August of the fiscal year following the year of shift premium qualification.

## **ARTICLE XXV**

### **SHIFT COVERAGE**

At NJIT's discretion any and/or all Sergeants may be scheduled for presence at NJIT up to eight and one-half (8½) hours per day with up to one-half (½) hour as noncompensable break time as set by NJIT, in order that proper coverage of the workforce may be provided NJIT. There will not be a change in scheduled shift span unless preceded by seventy-two (72) hours notice to the affected Sergeant(s).

## **ARTICLE XXVI**

### **SALARY PROGRAM AND COMPENSATION**

#### **A. Salary Program: July 1, 2015 through June 30, 2019:**

It is agreed that during the term of this Agreement, for the period July 1, 2015

through June 30, 2019, the following salary and fringe benefit improvements shall be provided to eligible Sergeants in the unit, within the applicable policies and practices of NJIT and in keeping with the conditions set forth herein. In order to receive the benefits, as set out hereunder, the Sergeants must be employed by NJIT at the time of ratification of this Agreement or thereafter.

Subject to the State Legislature enacting appropriation of funds for these specific purposes, NJIT agrees to provide the following benefits, effective at the time stated herein.

**1. Salary Band for Sergeants**

Effective the first full pay period in Fiscal Year 2016 and throughout the term of this Agreement, the annual salary band for sergeants shall be \$86,757 to \$101,100

**2. Across-the-Board Salary Guide Adjustments:**

The following across the board salary increases shall be incorporated:

Fiscal Year 2016 (First full pay period in July 2015) – no increase  
Fiscal Year 2017 (First full pay period in July 2016) – 1% to base  
Fiscal Year 2018 (First full pay period in July 2017) - 1% to base  
Fiscal Year 2019 (First full pay period in July 2018 – 1% to base

**3. Merit Compensation Program:**

A merit compensation program shall be available to all Sergeants with at least six full months of service prior to July 1<sup>st</sup> of the year of awarding each year during the salary program and compensation term beginning with July 1, 2015. The program shall be administered as follows:

- (a) Performance Standards: All merit compensation shall be based upon total adherence to quality service during the past fiscal year's performance as it relates to the following specific performance standards:
  - (i) Attendance: It is vital to both the integrity and the efficacy of the NJIT Department of Public Safety that Sergeants are punctual in arriving at work, at dedicated posts, in responding to regular duties and in responding to unexpected circumstances, as well as accountable for their whereabouts at all times while on shift. This reliability, in

full uniform and authorized armament is an essential, elementary component of performance as an NJIT Sergeant.

- (ii) Appearance: Each Sergeant represents NJIT's image and that of a New Jersey Police Officer, demonstrating in their appearance, the same respect for NJIT and their chosen profession as they appropriately demand and expect relative to adherence to the law and NJIT's promulgated code of conduct. Uniforms must be maintained in excellent condition. All uniform attire must be worn in the manner and time designated. Sergeants shall present themselves, without deviation, in a ready, alert, neat, properly groomed and fully uniformed manner at all times when formally representing NJIT.
  
- (iii) Attention to Duty: Each Sergeant must demonstrate a maturity and acuity in gaining and maintaining appropriate, continually enhanced knowledge of his/her duties, responsibilities and the surrounding environment, as well as an uncompromised focus on assigned tasks and departmental and university policy and procedures. Unauthorized breaks, ignoring of general and/or specified duties, absence from assigned posts or less than fully responsive protocol in carrying out the duties of NJIT Supervisory Police Officers are, by way of illustration disqualifying of meritorious attention to duty.
  
- (iv) Absence of Discipline: No Sergeant who within a given year is suspended and/or who receives more than one written reprimand will be eligible for a merit increase. A formal investigation into the propriety of a Sergeant's conduct by the State of New Jersey or a State sponsored authority that could lead to suspension or loss of commissioned officer status will disqualify the Sergeant from consideration for merit until such time as the investigation fully exonerates said Sergeant. Less than full

exoneration disqualifies the Sergeant from consideration for merit during the time period that is both the focus of and that which is covered by the investigation. In this regard, less than full exoneration equates to disqualifying discipline. Neither NJIT's imposed disciplinary charges nor NJIT's implemented disciplinary action are of, themselves, "of record", disqualifying a Sergeant from merit consideration, as long as formal, authorized appeal/grievance procedures are actively and properly utilized and a decision is not yet final and binding.

(v) Record Keeping and Reporting: A Sergeant's verbal and written recordings and reporting, both in the ordinary course of law enforcement and in accordance with specific police operation direction must be timely and properly served and/or filed, accurately depicted, thorough in all respects and where written, proofed. Deviation from the standard, in any respect, and to any degree derogates the law enforcement process, the credibility of the Department of Public Safety and is not worthy of merit pay consideration.

(vi) Professional Conduct & Demeanor: Respect for and resolute honesty in dealing with those served, fellow Officers, supervisors, subordinates, property, weaponry and self is benchmark to the integrity bestowed by the commissioning of NJIT Police Officers. Only the utmost of dignity, humility with honor, concern for the position, post, commission and department and demonstrated aptitude in dealing with an atypical population demographic will be considered meritorious. Any instance of breach of this standard will be cause for disqualification for merit pay consideration. By way of illustration only, vulgar language, violation of any university or departmental regulation or protocol, theft of service or time, unauthorized action, arguing with a superior Officer, condoning poor conduct or



misconduct from subordinates, excessive force (as defined and regulated by the law enforcement community and/or the law itself) and personal mingling (defined as engaging in conduct relegating the Sergeant's professional law enforcement responsibilities to a subordinate position as compared to non-job related personal activity[ies]) with students or other university constituents will disqualify merit pay consideration.

(b) Award Procedure.

(i) Review of Performance: No earlier than forty-five (45) days before the end of the fiscal year of performance review and no later than fifteen (15) days following the end of the fiscal year of performance review, each eligible Sergeant's performance shall be reviewed against those "Performance Standards" set out above.

(1) The standards set out herein, mark categorized attributes of the prototype Sergeant's professional and personal characteristics that should lead to excellent performance as an NJIT Sergeant. Those standards will be qualitatively assessed, given the record of performance of each eligible Sergeant over the preceding year of eligibility and cumulatively over the Sergeant's term of commissioned police employment. Verbal and written, evaluative correspondence between departmental supervision, and each Sergeant is pertinent contextual material in qualitative performance assessment against those pronounced standards and will be weighed in ultimate merit determination.

(2) The evaluation of performance

against the published standards will be in writing and provided to each eligible Sergeant within the annual evaluation period. Specific descriptions, commendations, and examples of meritorious performance must be set out and verified for merit step awards to be provided to eligible Sergeants as well as formal certification of the evaluating supervisor(s) (e.g. Shift Lieutenant, Deputy Chief, Chief) that there are no instances of conduct that would either lead to or cause disqualification from meritorious performance as measured against the published standard.

- (3) There is no minimum conferral of merit awarding mandated, and all merit shall be applied to base salary.

For Fiscal Year 2016, there is no merit program.

For Fiscal Year 2017 the maximum number of awards available, following careful scrutiny of the performance standards, shall not exceed the value of one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30 of the year of the evaluation.

For Fiscal Year 2018 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

For Fiscal Year 2019 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

This percentage limitation means that no

award must be given that would cause the limit on awarding to be exceeded and, there are no partial awards available under this program. However, upon contest by the SOA on behalf of a Sergeant, as set out below, no more than one (1) supervisory evaluation of non-meritorious performance may be overturned per year of the program. Awards granted on appeal will be charged against the maximum expenditure of monies in the year of award. If sufficient monies are not available, the expenditure due to appeals will be charged against the subsequent merit pool, including the compounded value of the merit award as it affects salary creating the subsequent pool.

- (4) A merit award will be based upon a Sergeant strictly meeting all performance standards set out herein.
- (c) Appeal Procedure: There will be a limited appeal procedure available to the SOA on behalf of one (1) Sergeant annually, to seek reconsideration of non-awarding of merit to an eligible Sergeant as follows:
- (i) The SOA may, within thirty (30) days of the published conferral of awards to Sergeants, file a written appeal on behalf of a Sergeant's denial of merit pay, based upon the past year's performance, as it relates to the published performance standards and the comparative performance of other Sergeants receiving merit pay. The appeal must state, with particularity, the factual basis for a finding of substantial error or misjudgment in the evaluation that lead directly to a denial of the award. The appeal shall be filed with the Department of Public Safety and copied to the Department of Human Resources.

- (ii) The burden of proof in the appeal rests with the SOA; it must demonstrate, based upon the record of credible evidence, that it is more likely than not that all performance standards were met or exceeded, including a reasonable finding that there are no instances of conduct that would allow a reasonable person to find such conduct disqualifying of meeting or exceeding the full breadth and depth of performance as set out by the published performance standards. In addition to this finding, where all merit funds have been spent, it must also be established that the Sergeant whose performance is being appealed, compared favorably, in meeting or exceeding performance standards, to one or more Sergeants who received merit.
  
- (iii) A Merit Appeals Board, consisting of the Vice President for Real Estate Development and Capital Operations, the Vice President of Human Resources, or their respective designees and a supervisory, superior Officer, including the Director of Public Safety/Chief of Police, whichever is applicable, above the level of Police Sergeant, that has not taken part in the evaluation appealed (as selected by the SOA) will review the written submission and, at its sole discretion, either review and respond to the record as it stands or call a hearing, within thirty (30) days of submission of the written appeal, to hear oral argument, question the advocates, direct the gathering and submission of evidence not in the record, recess the hearing until all materials it deems necessary are before it or disallow any further gathering or submission of evidence, as it deems most appropriate to efficacious resolution to the controversy and allow for closing statements as it deems relevant to a proper finding.

- (iv) The Merit Appeals Board will issue its decision in writing, to the SOA, within sixty (60) days of the close of hearing or within ninety (90) days of the SOA's written submission, if no hearing is called. The decision of the Merit Appeals Board will be final, binding and the exclusive avenue for redress of the administration of the merit pay program.

4. **Stipends for Special Assignments**

a. Sergeant-Recruiter Assignment

- i. In an effort to enhance community relations and expand the department's ability to provide opportunity and connect with a larger applicant pool, supervisor(s) will be assigned to work as a liaison on recruiting efforts in conjunction with members of Career Development and Air Force ROTC. This will be a collaborative effort and outreach to solicit and attract interest in entry level careers and all levels of law enforcement and security such as, but not limited to: candidates in Alternate Route Programs at surrounding Police Academies, Special Law Enforcement Officers, Auxiliary Police Officers, 911 Tele-Communicators, Security Officers and Dispatchers.
- ii. For the duration of this agreement, the stipend for each Sergeant-Recruiter shall be one thousand dollars (\$1000) per fiscal year.
- iii. For the duration of this agreement, there shall be a minimum of two (2) Sergeants assigned to this position.
- iv. For the duration of this agreement, first priority for the assignment will be given to the two most senior Sergeants on the current NJIT roster, contingent upon their interest and their meeting the qualifications of the assignment in all other respects, as set forth below.
- v. Recruitment initiatives will involve representation by Public Safety at Career Fairs, Recruitment Seminars and Career Development Services Student Information Sessions both internally on a university wide-basis as well as at off-campus venues, such as trade shows, that are specifically organized and designed to attract law enforcement and security career minded individuals. The supervisor-recruiter will provide information, answer questions, and discuss the importance of law enforcement safety tenets, awareness and differences as applicable and pertinent to municipal and campus policing.

- vi. Additionally, the supervisor/recruiter will actively assist in locating the venues conducive for law enforcement recruitment.
- vii. Sergeants interested in this assignment shall have held the position of Institutional Police Sergeant in good standing.
- viii. Sergeants must have a positive and productive attitude and be capable of expressing and sharing the philosophy and goals of the department.
- ix. Sergeants must possess knowledge and information about entry-level departmental job descriptions.
- x. Sergeants must have proficient communication skills, including excellent public speaking ability.
- xi. The Department encourages officers to volunteer to be considered for the selection process.
- xii. When an opening occurs for Recruitment Sergeant assignment, Sergeant(s) shall complete an administrative submission to the Chief of Police, expressing their desire to become a Recruitment Sergeant.
- xiii. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police.
- xiv. This review will include, but is not limited to; seniority, annual evaluations, time and attendance record, departmental commendations, and disciplinary history.

b. Detective-Sergeant Assignment

- i. For the duration of this agreement, there shall be at least one (1) Sergeant assigned to this position.
- ii. For the duration of this agreement, the stipend for the Detective-Sergeant shall be two thousand two hundred dollars (\$2200) per fiscal year.
- iii. Candidate is required to have a minimum of 1 year experience as a NJIT Police Sergeant and/or experience as an investigator for the department.
- iv. Candidate(s) with investigative experience will be given preference.
- v. Candidate must display high moral character and knowledge of his/her job.

- vi. The Sergeant candidate(s) will be encouraged by the department to volunteer for the position.
- vii. Candidates must display a high proficiency in report writing and time management skills.
- viii. Candidates must have an extensive history of self-initiated proactive policing, including community policing, arrests, field inquiries, motor vehicle stops, and demonstration of time management skills.
- ix. Candidate(s) must display leadership qualities and the ability to successfully delegate responsibilities to their detective(s).
- x. When an opening occurs for Detective Sergeant Assignment, a Sergeant shall submit an administrative submission to the Investigations unit Commander.
- xi. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police. This review will include, but is not limited to; seniority, annual evaluations, time and attendance history, departmental commendations, and disciplinary history.

## **ARTICLE XXVII**

### **HEALTH BENEFITS**

#### **A. State Health Benefits Program**

It is agreed that the State Health Benefits Program, and any rules and regulations governing its application, including amendments or revisions thereto shall be applicable to employees covered by this Agreement. The University agrees to continue to participate in the State Health Benefits Program for the duration of this agreement.

It is agreed that changes in benefits or open enrollment periods adopted by the State Division of Pensions and Benefits for State employees are a requirement for continued participation in the State Health Benefits Program and the parties recognize that such changes shall apply to employees represented by the Union. It is agreed that changes, corrections or reinterpretations of the Program promulgated by the State including changes in plan operators, in co-payments and contributions, or other changes or modifications, are applicable to employees covered by this Agreement and shall be incorporated into the Agreement and thereafter be applicable to all employees. It is specifically understood that the provisions of the Pension and Health Benefits Reform 2011 legislation under Chapter 78, P.L. shall be applicable to all employees covered by this agreement.

Where an employee utilizes any type of leave, whether paid or unpaid, he or she shall continue payment of health plan premiums at the same level as those that he paid prior to the leave as applicable under the State Health Benefits Program. If the

premiums are raised or lowered, the employee will be required to pay the then-applicable premium rates.

If the employee charges his accrued vacation, sick, and/or administrative leave accruals for any leave, his share of premiums will be paid by payroll deductions continued in the same method as utilized during active employment status,

If the leave is unpaid, NJIT will advance payment of the employee's health plan premiums for the period of leave (up to three full months) and will bill the employee for those premiums. Prior to the employee's return from leave to active employment status, the Department of Human Resources will advise the employee in writing of the full amount of health plan premiums advanced on his or her behalf by NJIT. Within seven (7) business days of his return to active employment status, the employee must indicate, in writing, his or her selected method of repayment of the health plan premiums: (1) full repayment through the Bursar's Office within ten (10) business days, (2) additional payroll deduction at the same amount and rate as that of the employee's biweekly payroll deduction for health plan premium payment, or (3) a repayment plan approved, in writing, by the Vice President of Human Resources. If the employee fails to select a repayment option or does not make timely payments, NJIT, upon written notice, may charge additional payroll deductions until the full amount of health plan premiums paid on the employee's behalf during his unpaid leave has been repaid in full.

## **B. Eye Care Program**

1. It is agreed that Eye Care Program shall include all employees and their eligible dependents (spouse, domestic partner, civil union partner and unmarried children under 26 years of age who live with the employee in the regular parent-child relationship). The coverage shall be \$35 for regular glasses and \$40 for bifocal the current plan.
2. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.
3. Full-time employees and eligible dependents as defined above shall be eligible for a maximum payment of \$35 on the cost, whichever is less, of an eye examination by an Ophthalmologist or an Optometrist.
4. Each eligible employee and dependent may receive only one (1) payment for glasses and one payment for examinations during the period of July 1, 2015 to June 30, 2017, and one (1) payment for the period July 1, 2018 to June 30, 2019. This program ends on June 30, 2019. Proper affidavit and submission of receipts are required of the employee in order to receive payment.



## **ARTICLE XXVIII**

### **DEFERRED COMPENSATION**

**A.** It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested and the interest or other income return on the investments are intended to be exempt from current Federal Income Taxation until the individual Sergeant withdraws or otherwise receives such funds as provided in the Plan.

**B.** It is understood that the State shall be solely responsible for the administration of the Plan and the determination of policies, conditions and regulations governing its implementation and use.

**C.** The State shall provide literature describing the Plan as well as a required enrollment or other forms to all employees when the Plan has been established.

**D.** It is further understood that the maximum amount of deferrable income under this Plan shall be as follows:

1. January 1, 2015 through December 31, 2015, and January 1, 2016 through December 31, 2016 Eighteen Thousand dollars (\$18,000) for all employees less than 50 years of age and Twenty Four Thousand dollars (\$24,000) for those employees 50 years of age or older.

2. Tax deferred annuity amounts for calendar years 2018 through calendar year 2019 are subject to revision and determination by the Federal Internal Revenue Service (IRS).

## **ARTICLE XXIX**

### **DRUG SCREENING POLICY AND PROCEDURE**

NJIT and SOA agree to the NJIT/SOA Drug Screening Policy and Procedure as set out in Appendix A, SOPP of the Department of Public Safety, herein. This Policy shall be deemed to include all **mandatory** provisions of the State of New Jersey Law Enforcement Drug Testing Manual as promulgated and updated from time to time.

## **ARTICLE XXX**

### **JOB ACTION**

It is recognized by both NJIT and SOA that the continued and uninterrupted operation of the University is of paramount importance. Therefore the SOA agrees that it will refrain from any act contrary to law such as strike, work stoppage, slow down, or other job action during the life of this Agreement and will eschew any threat, encouragement, support or condoning of any such job action.

## **ARTICLE XXXI**

### **PARKING**

#### **A. Program and Fees**

The following parking fees shall be charged and collected through payroll deduction for all members of the bargaining unit desiring to park and duly registering his/her motor vehicle with the University according to published University regulations, enabling and entitling him/her to daily parking privileges on University premises:

1. All parking at all available locations, including NJIT's parking deck, shall be on a first come, first served basis following registration or a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the fee schedule rate set out below.
2. Parking fees for all bargaining unit members shall be calculated as .4% (.004) of the member's annual salary, and shall be deducted in twenty-four (24) installments throughout the academic year.
3. For the length of this contract, the following university parking rules will be applicable:
  - a. It will be assumed that all employees currently utilizing NJIT parking will continue to park at NJIT during the upcoming parking permit period and permits will renew automatically.
  - b. Employees who wish to opt-out of parking must notify the Office of Security Systems, Photo Identification, & Parking Services and return their parking permit by no later than June 15th for the July 1- December 31 parking period, and/or no later than December 15th for the January 1 – June 30 parking period.
  - c. There will be no rebates or discounts for partial use of parking permits. Returning a parking permit before the end of

a parking permit period will not eliminate the parking fee. Also, unused parking days cannot be used in a new period.

d. Employees who request a parking permit for the first time will begin incurring fees as of the date their vehicle is registered with the Office of Security Systems, Photo Identification, & Parking Services.

e. New hires who would like to park at NJIT will be provided a parking registration application during their initial onboarding process. The new employee must bring the parking registration application to the Office of Security Systems, Photo Identification, & Parking Services, in order to receive a parking permit. Once the parking permit is issued, the Office of Security Systems, Photo Identification, & Parking Services will notify the Payroll Department to initiate the biweekly parking fee deduction.

f. Requests for a hardship exception must be submitted in writing, with the appropriate supporting documentation, to the Office of Security Systems, Photo Identification & Parking Services and will be reviewed and resolved by the University Parking Committee.

## **ARTICLE XXXII**

### **DURATION**

This Agreement shall be effective as of July 1, 2015, and shall terminate as of June 30, 2019.

## **ARTICLE XXXIII**

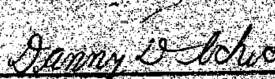
### **SUCCESSOR AGREEMENT**

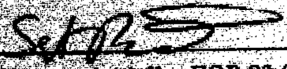
The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2019, subject to the provisions set forth in Article II, Negotiating Procedures.

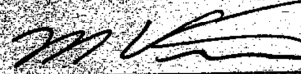
The parties hereby acknowledge and agree to the terms and conditions of the  
aforementioned Agreement between New Jersey Institute of Technology and the NJIT  
Superior Officer Association, entered into, as of July 1, 2015 and which will terminate  
June 30, 2019.

Signed this 23<sup>rd</sup> day of December, 2015.

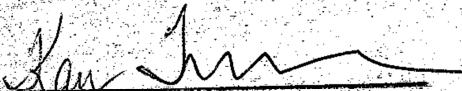
**FOR SOA:**

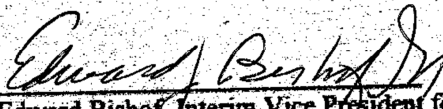
  
\_\_\_\_\_  
Danny D. Schick, Sr.  
Chief Negotiator  
FOP Staff Representative

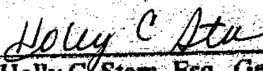
  
\_\_\_\_\_  
Raymond Aiello, FOP 93 SOA  
Trustee, Negotiating Team Member

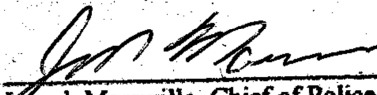
  
\_\_\_\_\_  
Michael Villani,  
FOP 93 SOA  
Negotiating Team Member

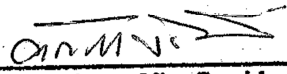
**FOR NJIT:**

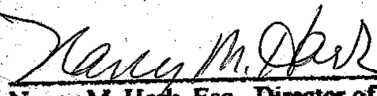
  
\_\_\_\_\_  
Kay Turner, Esq. SPHR, Chief Negotiator  
Vice President for Human Resources

  
\_\_\_\_\_  
Edward Bishop, Interim Vice President for Finance  
and Treasurer, Negotiating Team Member

  
\_\_\_\_\_  
Holly C. Stern, Esq., General Counsel  
Negotiating Team Member

  
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Joseph Marswillo, Chief of Police  
Negotiating Team Member

  
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Kamal Joshi, Assistant Vice President,  
Human Resources  
Negotiating Team Member

  
\_\_\_\_\_  
Nancy M. Hark, Esq., Director of  
Labor/Employee Relations  
Negotiating Team Member

**Appendix A**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**  
**PUBLIC SAFETY DEPARTMENT**  
**DRUG SCREENING POLICY AND PROCEDURE**  
**FOR**  
**POLICE SERGEANTS**



**Standard Operating  
Policy & Procedure**

NJ Institute of Technology Department of Public Safety		Title: Law Enforcement Officer Drug Testing		
Issuing Authority: Director Robert Sabattis		Volume: 2	Chapter 16	Pages: 13
References: N.J. Attorney General's Policies		Distribution/ Special Instruction: All		
Effective Date: *	Review Date:	Revised Date:		

I. **Purpose**

The purpose of this policy is to deter illegal drug use by law enforcement officers and provides the New Jersey Institute of Department of Public Safety (hereinafter "NJIT DPS") with a mechanism to identify and remove those law enforcement officers engaged in the illegal use of drugs. Because illegal drug use is inconsistent with the duties, obligations and responsibilities of sworn law enforcement officers, this policy mandates that officers who test positive must be terminated from employment. This

policy sets forth uniform methods and procedures for implementing and administering drug testing as well as outlining the duties and responsibilities of the NJIT DPS with respect to the drug testing process. This policy further ensures that procedures for the drug testing of NJIT police personnel are in compliance with the NJ Attorney General's Law Enforcement Drug Testing Policy.

## II. **Policy**

It is the policy of the NJIT DPS to conduct drug testing of sworn law enforcement officers, law enforcement officer trainees, and applicants for law enforcement officer employment in order to maintain professional standards of performance and to help ensure the trust of the community in those who enforce the laws

## III. **Definitions**

- A. **Law Enforcement Officer**: Sworn law enforcement personnel who are responsible for the enforcement of the criminal laws of this State, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under NJSA 2C:39-6.
- B. **Law Enforcement Trainee**: Personnel subject to the Police Training Act while attending a mandatory basic training course.
- C. **Applicants For Law Enforcement Employment**: Persons who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under NJSA 2C:39-6
- D. **Random Selection Process**: Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

## IV. **Procedure**

This policy sets forth uniform methods and procedures for implementing and administering drug testing. This policy also outlines the duties and responsibilities of the State's law enforcement agencies with respect to the drug testing process.

## V. **Types of Drug Testing**

Law enforcement drug testing may be categorized according to the employment status of the individual being tested and the method by which the individual was selected for testing. These methods include applicant testing, trainee testing, reasonable suspicion testing and random testing.

- A. Applicant Testing

1. This policy recognizes that drug testing is an essential component of a pre-employment background investigation. All being considered for employment by NJIT as a police officer must submit to drug testing as part of a pre-employment background investigation. Candidates for employment may be tested as many times as deemed necessary to ensure that the candidates are not engaged in the illegal use of drugs. For example, applicants who have been drug tested as part of the application process may be tested again if a significant amount of time has elapsed since the previous step in the employment process.
2. During the pre-employment process, NJIT DPS must ensure that it complies with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the medication information form should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

#### B. Trainee Testing

1. Individuals hired as law enforcement officers by NJIT who are required to attend and successfully complete a mandatory basic training course approved by the Police Training Commission are subject to drug testing during their attendance at a police academy. The drug testing of law enforcement trainees will be conducted by the police academy staff under rules and regulations adopted by the Police Training Commission.

#### C. Sworn Law Enforcement Officers: Reasonable Suspicion Testing

1. NJIT DPS will undertake reasonable suspicion testing when there is reasonable suspicion to believe that a law enforcement officer, prospective law enforcement officer, or law enforcement officer trainee is engaged in the illegal use of controlled substances.
2. Unlike applicant and trainee testing, reasonable suspicion testing requires a decision as to whether the appropriate basis for conducting a test exists (i.e. reasonable suspicion). Reasonable suspicion "requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking, or has taken place and that a particular individual is involved in that drug activity". The reasonable suspicion standard is "less demanding" than the probable cause standard in two ways. First, the amount of evidence needed to satisfy the reasonable suspicion standard is less than that needed to satisfy the probable cause standard. Second, the type of information used to satisfy the reasonable suspicion standard may be "less reliable than that required to show

probable cause”. The following factors should be evaluated to determine the quality and relevance of the information acquired by NJIT DPS.

- a. The nature and source of the information;
  - b. Whether the information constitutes direct evidence or is hearsay in nature;
  - c. The reliability of the informant or source;
  - d. Whether corroborating information exists and the degree to which it corroborates the accusation; and
  - e. Whether and to what extent the information may be stale.
3. Before a law enforcement officer is ordered to undergo reasonable suspicion testing, the agency shall prepare a written report documenting the basis for the test.

D. Sworn Law Enforcement Officers: Random Drug Testing

1. All sworn members of the NJIT Police Department are eligible for random drug testing regardless of rank or assignment.
2. An officer who has been selected on one or more previous occasions for a random drug test is not excused from future tests.
3. No more than 15 percent (15%) of sworn officers will be selected each time random selection takes place. Random selection will take place on dates chosen by the Chief of Police/Director of Public Safety, whichever is applicable. There will be no prior notice given of the dates of the selection process or the collection of the samples.
4. Officers will be selected for drug testing through the use of random selection process. A representative of the collective bargaining unit shall be permitted to witness the selection process.
5. The selection process and the names of the officers selected will be documented in a written report. The report will be stored in the Internal Affairs File.
6. Officers selected for random drug testing will be notified by a supervisor appointed by the Chief of Police/Director of Public Safety, whichever is applicable and required to submit a urine specimen. The specimen acquisition process will be kept confidential.



7. Any member of this department who discloses the identity of an officer selected for random testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline up to and including termination.
8. Officers who refuse to submit to a drug test when randomly selected are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

## VI. Specimen Collection Procedures

### A. Preliminary Collection of Specimens

1. The NJIT DPS will designate staff members to serve as monitors of the specimen acquisition process. The monitors should always be of the same sex as the individual being tested. However, in the event there is no member of the same sex available from the NJIT PD to collect the specimens, this agency may request that a member of the same sex from another law enforcement agency serve as monitor of the process.
2. The monitor of the specimen acquisition process shall be responsible for:
  - a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
  - b. Ensuring that the collection of specimens is done in a manner that provides for individual privacy while ensuring the integrity of the specimen.
  - c. Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for analysis.
  - d. Ensuring that prior to the submission of a urine specimen, sworn law enforcement officers and law enforcement trainees shall complete a medication information form (Attachment A) by listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past 14 days. Candidates for law enforcement employment are not required to complete a medication information form at this time.

## B. Collection of Specimens

1. Throughout the testing process, the identity of individual law enforcement officers shall remain confidential. Individual specimens and forms shall be identified throughout the process by the use of social security numbers. At no time shall a name appear on any form or specimen container sent to the State Toxicology Laboratory.
2. Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.
3. The procedures for labeling, collecting and sealing urine specimen containers are set forth in Attachment B.
4. Every effort shall be made to ensure the privacy of individual officers who have been directed to provide a specimen. Therefore, individual officers will void without the direct observation of monitors. This means that while the monitor may be present in the area where individuals void, there can be no direct observation of the officer's production of a specimen. However, it is the responsibility of the monitors to ensure the accuracy and integrity of the test. Therefore, monitors can, among other things, direct an individual officer who has been selected for drug testing to remove outer clothing (jackets, sweaters etc.), empty their pockets, and wash their hands under running water, before they produce a specimen. In addition, monitors may wish to add tinting agents to toilet water and secure the area where the specimens are to be collected prior to conducting individual drug tests.
5. If the monitor has reason to believe that an individual officer will attempt to adulterate or contaminate a specimen, substitute another substance or liquid for their specimen, or compromise the integrity of the test process, the monitor may conduct a direct observation of the individual officer. If a monitor concludes that direct observation is necessary, he or she must document the facts supporting the belief that the officer will attempt to compromise the integrity of the test process before there can be direct observation.
6. After a specimen has been produced, the officer shall seal the specimen container and deliver it to the monitor. The monitor shall take possession of the specimen and ensure that it has been properly labeled and sealed. The monitor must check the temperature tape on the specimen container within five minutes of collection. A reading between 90° and 100° F is acceptable. If the temperature tape does not indicate the acceptable temperature, the monitor must examine the possibility that the officer attempted to tamper with the collection.

7. At the conclusion of the test process, the monitor shall ensure that all chain of custody documentation has been properly completed and make arrangements for the specimen to be delivered to the State Toxicology Laboratory.
8. Individuals who are unable to produce a urine specimen may remain under the supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under supervision, the monitor may direct the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to provide a specimen after a reasonable period of time, the monitor may have the individual examined by a doctor to determine whether the inability to produce a specimen is the result of a medical or physical infirmity. If there is no valid reason why an individual officer cannot produce a specimen, the inability to produce a specimen shall be deemed a refusal to cooperate with the test process and the appropriate action taken against the officer.

C. Second Specimen

1. NJIT Police Officers and trainees have the option to provide the monitor with a second urine specimen. This second specimen must be collected at the same time and the same place as the first specimen. The second specimen must be given contemporaneous with the first specimen, in other words, during the same void. The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area.
2. The NJIT Police Department shall maintain possession of the second specimen for a period of 60 days or until the agency receives notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of controlled substances.
3. The second specimen shall be released for analysis by the law enforcement agency under the following circumstances:
  - a. The agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
  - b. The agency is informed by the officer whose specimen tested positive that the officer wishes to have the specimen independently tested; and
  - c. The officer designates a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New

Jersey Clinical Laboratory Improvement Act to conduct the independent test; and

- d. A representative of the licensed clinical laboratory takes possession of the second specimen in accordance with accepted chain of custody procedures within 60 days of the date the specimen was produced.

## VII. Submission of Specimens for Analysis

- A. The State Toxicology Laboratory within the Division of Criminal Justice is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy.
- B. Urine specimens shall be submitted to the State Toxicology Laboratory as soon as possible after collection. In the event a specimen cannot be submitted to the laboratory within one working day of collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
  - 1. The submission of specimens to the State Toxicology Laboratory will be accomplished by NJIT DPS personnel.
  - 2. All specimens must be accompanied by a medical information form and a specimen submission record (Attachment C). The State Toxicology Laboratory will inspect all documentation to ensure that it has been properly completed.
  - 3. In addition to ensuring that the appropriate documentation has been completed and submitted for each specimen, the State Toxicology Laboratory shall inspect each specimen for damage and evidence of tampering. The Laboratory may reject any specimen it has reason to believe has been tampered with or damaged.

## VIII. Analysis of Specimens

- A. The analysis of each specimen shall be done in accordance with procedures adopted by the State Toxicology Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, metabolite cut-off levels and the issuance of test reports.
- B. Candidates for law enforcement employment are not required to submit a medication information form with their specimen. Therefore, if a candidate's specimen tests positive, the NJIT PD, following notification from the State Toxicology Laboratory, must have the candidate complete the medication information form. Once the form has been completed, the agency is responsible

for transmitting the form to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above in addition to the testing outlined.

**IX. Reporting Drug Test Results**

- A. The State Toxicology Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the Chief of Police/Director of Public Safety, whichever is applicable by overnight express mail.
- B. In some cases, the State Toxicology Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a specimen tested positive for barbiturates and that a prescription medication listed on the form by the officer explains the test result. At this point, it is the responsibility of NJIT to determine whether the officer had a valid prescription. Officers who do not have a valid prescription are subject to disciplinary action including termination by the agency.
- C. Under no circumstances, will the State Toxicology Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed by the Laboratory.

**X. Consequences of a Positive Test Result**

- A. Applicants
  - 1. When an applicant tests positive for illegal drug use, the applicant shall be immediately removed from consideration for employment by NJIT PD. In addition, the applicant shall be reported to the Central Drug Registry maintained by the Division of State Police. Any applicant who tests positive will be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years from the date of the test.
  - 2. Where an applicant is currently employed by another agency as a sworn law enforcement officer, the officer's current employer shall be notified of the positive test result. Under these circumstances, the officer's current employer is required to dismiss the officer from employment and also report his or her name to the Central Drug Registry maintained by the Division of State Police.

B. Trainees

1. When a trainee tests positive for illegal drug use, the trainee shall be immediately dismissed from basic training subject to rules adopted by the Police Training Commission. In addition, the trainee shall be suspended from employment by his or her appointing authority. Upon final disciplinary action by the appointing authority, the trainee shall be terminated from employment as a law enforcement officer, and be reported to the Central Drug Registry. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

C. Sworn Law Enforcement Officers

1. In the event of a positive test result, the submitting agency shall notify the officer of the results as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the officer may receive a copy of the laboratory report.
2. The officer shall be immediately suspended from all duties. The officer shall be administratively charged and, upon final disciplinary action, terminated from employment as a law enforcement officer.
3. The officer shall be reported to Central Drug Registry maintained by the Division of State Police by his or her employer. In addition, the officer shall be permanently barred from future law enforcement employment in New Jersey.

XI. **Consequences of Refusal to Submit to a Drug Test**

- A. Applicants for NJIT law enforcement officer employment who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement officer employment and barred from consideration for future NJIT law enforcement officer employment. In addition, NJIT shall forward the applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- B. NJIT law enforcement officer trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from NJIT law enforcement employment and permanently barred from future law enforcement employment with the NJIT PD. In addition, NJIT PD shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

- C. NJIT PD sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the officer did in fact refuse to submit a sample, the officer shall be terminated from NJIT PD law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, NJIT PD shall forward the officer's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- D. If there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

**XII. Central Drug Registry**

- A. NJIT PD shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees, and sworn law enforcement officers who test positive for the illegal use of drugs or who refuse an order to submit to a drug test.
- B. A sworn law enforcement officer who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.
- C. Notifications to the Central Drug Registry shall be made on the form in Attachment E, and shall be signed by the Chief of Police/Director of Public Safety, whichever is applicable and notarized with a raised seal. The following information shall be included:
  - 1. name and address of the submitting agency;
  - 2. name of the individual who tested positive;
  - 3. last known address of the individual;
  - 4. date of birth;
  - 5. social security number;
  - 6. SBI number (if applicable);
  - 7. gender;
  - 8. race;
  - 9. eye color;
  - 10. substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
  - 11. date of the drug test or refusal;
  - 12. date of final dismissal or separation from the agency; and

13. whether the individual was an applicant, trainee or sworn law enforcement officer.

**Notifications to the Central Drug Registry shall be sent to:**

Division of State Police  
Records and Identification Section  
P.O. Box 7068  
West Trenton, New Jersey 08628-0068

**XIII. Record Keeping**

- A. The NJIT DPS Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.
- B. For all drug testing, the records shall include but not be limited to:
  1. the identity of those ordered to submit urine samples;
  2. the reason for that order;
  3. the date the urine was collected;
  4. the monitor of the collection process;
  5. the chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
  6. the results of the drug testing;
  7. copies of notifications to the subject officer; and
  8. for any positive result or refusal, appropriate documentation of disciplinary action.

For random drug testing, the records will also include the following information:

9. a description of the process used to randomly select officers for drug testing;
10. the date selection was made;



11. a copy of the document listing the identities of those selected for drug testing;
12. a list of those who were actually tested; and
13. the date(s) those officers were tested

References:

Attachment	A	“Drug Testing Medication Information”
Attachment	B	“Instructions For Using the DOX Container”
Attachment	C	“NJ State Specimen Submission Record”
Attachment	D	“Directions to State Toxicology Laboratory”
Attachment	E	“Notification to the Central Drug Registry”

**APPENDIX B**

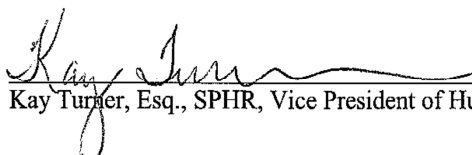
**LETTER OF AGREEMENT**

New Jersey Institute of Technology ("NJIT") and NJIT Superior Officers' Association, hereinafter referred to as ("SOA") in consideration of the mutual exchange of covenants made and enforceable in the parties' successor collective negotiations agreement with the term July 1, 2015 through June 30, 2019 hereby agree to discuss and/or negotiate as applicable:

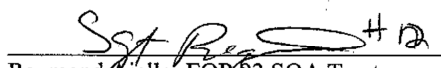
- 1 A university-wide Donated Sick Leave Bank policy.
- 2 Modification of the current overtime policy, so that in the event a Sergeant volunteers for at least an eight (8) hour shift of overtime, his or her name will move to the bottom of the list for mandatorily assigned overtime.
- 3 Current practice of assigning construction/road work security to members of the Newark police force, rather than the NJIT police force.

Executed this 7 day of January, 2016

FOR NJIT:

  
\_\_\_\_\_  
Kay Turner, Esq., SPHR, Vice President of Human Resources

FOR SOA:

  
\_\_\_\_\_  
Raymond Aiello, FOR 93 SOA Trustee  
Raymond Aiello

# **NJIT/SOA AGREEMENT**

**July 1, 2015 – June 30, 2019**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**

**and**

**NJIT SUPERIOR OFFICERS' ASSOCIATION, affiliated  
with the Fraternal Order of Police Labor Council  
Inc.**

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**NJIT/SOA**  
**AGREEMENT**

This Agreement is entered into by New Jersey Institute of Technology, hereinafter (“NJIT” or “the University”) and NJIT Superior Officers’ Association, affiliated with the Fraternal Order of Police Labor Council, hereinafter referred to as (“SOA”).

**ARTICLE I**  
**RECOGNITION**

NJIT recognizes SOA/FOP Labor Council as the sole and exclusive negotiating agent for the purpose of negotiating terms and conditions of employment for all full-time commissioned Police Sergeants, hereinafter referred to as “Sergeant(s)”; specifically excluding all other Commissioned Police Officers above and below the rank of Sergeant and all other employees of NJIT.

**ARTICLE II**  
**NEGOTIATING PROCEDURE**

A. The SOA shall present its demands for a successor Agreement to NJIT, in writing, related to terms and conditions of employment on or before October 1, prior to the expiration of this Agreement. On or before November 1, NJIT shall meet with the SOA for the purpose of negotiating, in good faith, a mutually acceptable Agreement.

B. Should any provision in or portion of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction or unenforceable by the Public Employment Relations Commission (PERC), such decision of the court/PERC shall only apply to the specific provision or portion thereof, directly specified in the decision. Upon the issuance of final determination, after any and all appeals, the parties agree immediately to meet and discuss a substitute for the invalidated provision or portion thereof.

C. This Agreement incorporates the entire understanding of the parties on all matters which were or could have been the subject of negotiations, and shall not be changed except by an amendment mutually agreed upon between the parties in writing.

## **ARTICLE III**

### **MANAGEMENT RIGHTS**

- A. NJIT retains and reserves unto itself all rights, powers, duties, authority, and responsibilities conferred upon and vested in it by the law and constitutions of the State of New Jersey and the United States of America.
- B. All such rights, powers, duties, authority, and responsibilities possessed by NJIT may be exercised without restrictions, subject to the limitations imposed by law and except as they are specifically abridged and modified by this Agreement.
- C. NJIT retains its responsibility to promulgate and enforce the rules and regulations, subject to limitations imposed by law, governing the conduct of and activities of those Sergeants subject to this Agreement and not inconsistent with the express provisions of this Agreement, recognizing that proposed new rules, policies or modifications of existing rules/policies governing negotiable terms and conditions of employment shall be presented to the SOA and negotiated upon the request of the SOA as may be required pursuant to the New Jersey Public Employer –Employee Relations Act, as amended. Request for negotiations shall be made in writing and within thirty (30) days after receipt of notice of the proposed new or modified rule(s) and/or policy(ies).

## **ARTICLE IV**

### **DUES/FEE DEDUCTION**

#### **A. Dues**

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (N.J.S.A. 52:14-15(9)(e), as amended), NJIT agrees to deduct from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, the SOA dues and regular assessments of each member of the negotiating unit who furnishes a voluntary written authorization of such deduction on a form acceptable to NJIT.
2. The right of dues deductions for any Sergeant of the negotiating unit shall be limited to the SOA and each Sergeant in the negotiating unit shall be eligible to withdraw such authorization only as of July 1 of each year provided the notice of withdrawal has been timely filed.



3. The amount of the SOA dues shall be such amount as shall be certified to NJIT by the SOA at least thirty (30) days prior to the date on which deduction of dues are to begin.

4. The deduction of SOA dues made from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, pursuant hereto, shall be submitted by NJIT to the SOA before the fifteenth day of the calendar month succeeding that in which such deductions are made, together with a list of names of negotiating unit members from whose pay such deductions are made.

5. The SOA agrees to save NJIT, its trustees, officers, Sergeants and representatives, harmless from any action or actions commenced by any member(s) of the negotiating unit against NJIT, for any claim arising out of such deduction and the SOA assumes full responsibility for the disposition of any such funds once they have been turned over to them as provided.

6. Errors made by NJIT in the deduction and/or remittance of monies under this Agreement shall not be considered by the SOA as a violation of this Agreement.

**B. Representation Fee (Agency Shop)**

**1. Purpose of Fee**

Subject to the conditions set forth in number 2. below, Fee Assessment, all eligible nonmember Sergeants in this unit will be required to pay to the majority representative a representation fee, in lieu of dues, of services rendered by the majority representative until June 30, 2010. Nothing herein shall be deemed to require any Sergeant to become a member of the majority representative.

**2. Fee Assessment**

It is understood that the implementation of the agency fee program is predicated on the demonstration by the SOA that more than fifty percent (50%) of the eligible Sergeants in the negotiating unit are dues paying members of the SOA.

If, at the signing of this Agreement, the above percentage has not been achieved, the agency fee plan will be continued through the calendar year, after which it shall be discontinued unless the minimum has been achieved prior to that occurrence. Then, if the minimum percentage is exceeded on any quarterly date, i.e., January 1, April 1, July 1, or October 1, the agency fee plan shall be reinstated, with proper notice to affected Sergeants.

On July 1, in each year of the Agreement, an assessment shall be made to determine if the minimum percentage has been exceeded. If it has, the agency fee shall continue until the following annual assessment. If it has not, the agency fee will be discontinued and eligibility for reinstatement shall be on a quarterly basis as provided above.

**3. Deduction and Transmission of Fee**

After verification by NJIT that Sergeants must pay the representation fee, NJIT will deduct the fee for all eligible Sergeants in accordance with this Article.

The mechanics of the deduction of representation fees and the transmission of such fees to the SOA will, as nearly as possible, be the same as those used for the deduction and transmission of regular membership dues to the SOA.

NJIT shall deduct the representation fee as soon as possible after the tenth day following re-entry into this unit for Sergeants who previously served in a position identified as excluded or confidential, for Sergeants re-employed in this unit from a re-employment list, for Sergeants returning from leave without pay, and for previous Sergeant members who become eligible for the representation fee because of non-member status.

NJIT shall deduct the representation fee from a new Sergeant as soon as practicable after thirty (30) days from the date of employment in a position in this unit.

**4. Demand and Return System**

The representation fee in lieu of dues shall be available to the SOA only if the procedures herein set out, are maintained by the SOA.

The burden of proof under this system is on the SOA.

The representation fee, subject to refund, shall not reflect, however, the costs of support lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure for the Sergeants represented, advantages, in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with NJIT.

The Sergeants shall be entitled to a review of the amount of the representation fee by requesting the SOA to substantiate the amount charged for the representation fee. This review shall be provided in conformance with the internal steps and procedures established by the SOA.

The SOA shall submit a copy of the SOA review system to NJIT. The deduction of the representation fee shall be available only if the SOA establishes and maintains this review system in accordance with law.

If the Sergeant is dissatisfied with the SOA's decision, he/she may appeal to a three (3) member board established by the Governor.

**5. Employer Held Harmless**

The SOA hereby agrees that it will indemnify and hold NJIT from any claims, actions or proceedings brought by any Sergeant in the negotiations unit which arises from deductions made by NJIT in accordance with this provision.

**C. Amount of Dues/Fees**

Prior to the beginning of each contract year, the SOA will notify NJIT, in writing, of the amount of regular membership dues, initiation fees and assessments charged by the SOA to its own members for that contract year, and the amount of the representation fee for that contract year. Any changes in the dues, assessments and/or representation fee structure during the contract year shall be certified to NJIT at least thirty (30) days in advance of the requested date of such change. The change will be reflected in payroll deductions at the earliest practicable time after receipt of the request.

The representation fee, in lieu of dues, shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members, less the cost of benefits financed through the dues, fees and assessments and available to or benefiting only its members, but in no event shall such fee exceed eighty-five percent (85%) of the regular membership dues, fees and assessments.

**D. Errors or Omissions**

NJIT shall not be liable to the SOA for any retroactive or past due representation fee or dues for a Sergeant who was identified by NJIT as excluded or confidential or in good faith was mistakenly or inadvertently omitted from deduction of the representation fee or dues.

**E. Legal Requirements**

Provisions in this clause are further conditioned upon all other requirements set by statute.

**ARTICLE V**

**RIGHTS OF THE SOA**

A. NJIT agrees to recognize those Sergeants of the negotiating unit, not to exceed three (3), who are designated by the SOA as representatives for collective negotiations, by written notice of the names of such Sergeants in the negotiating unit given to NJIT. This section shall not preclude either party from inviting others to attend collective negotiations or providing factual knowledge or expertise with respect to a particular subject for collective negotiations. In this event, advance notice, shall be given the other party.

B. Non-Sergeant Representatives of the SOA shall be permitted to transact official

business on NJIT's property at all reasonable hours provided they first have obtained permission in advance from the Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee, and they do not interfere or interrupt normal NJIT operations or work of any Sergeant in the bargaining unit, or other NJIT employees or groups of employees.

C. The SOA shall have the right to post, on mutually agreed bulletin boards, bulletins and notices relevant to official SOA business which affects the Sergeants in the negotiating unit.

## **ARTICLE VI**

### **LABOR/MANAGEMENT COMMITTEE**

A. A committee consisting of NJIT and SOA representatives may meet for the purpose of reviewing the administration of this Agreement and to discuss problems which may arise.

B. Either party to this Agreement may request a meeting and shall submit a written agenda of topics to be discussed seven (7) days prior to such a meeting. Requests by the SOA for such a meeting will be made to the Vice President of Human Resources.

C. A maximum of two (2) Sergeants representatives of the SOA may attend such meetings. Sergeants representatives who attend such meetings, during their scheduled work shift, shall be granted time off to attend without loss of pay.

D. The committee meetings are not intended to bypass the grievance procedure, the normal chain of command, or to be considered collective negotiating meetings, but are intended as a means of fostering good labor relations through an exchange of views between the parties to this Agreement.

## **ARTICLE VII**

### **INVESTIGATION, DUE PROCESS, DISCIPLINE & CHALLENGE**

As members of NJIT's Department of Public Safety, Sergeants are entrusted with the safety and security of university property and its representatives, employees, students, licensees and guests. Failure to perform or negligent performance of a Sergeant's responsibilities could have serious and unacceptable consequences. Misconduct is on its face, unacceptable and often terminable. A high standard of excellence is expected and must be maintained by all Sergeants at all times, exemplifying respect, honor, dignity, commitment, integrity and requisite skills. It is against this purpose and expectation that the conduct of Sergeants will be measured.

**A. Management Meetings:**

The Department of Public Safety, through its supervisory structure and in accordance with the authorized chain of command, retains as a nonnegotiable prerogative, the right to meet with Sergeants, at its discretion, to discuss any matter of pertinent business, including, but not limited to, providing information and/or direction, reviewing and/or altering individual and/or departmental responsibilities and providing performance assessment. Except as otherwise specifically provided for in this Agreement, there is no right to SOA representation for a Sergeant attending any of these meetings. Attendance and participation at these meetings are not optional with the Sergeants, but must be adhered to as directed.

**B. Investigation:**

A Sergeant's conduct is always subject to investigation where there is a real nexus between the conduct and the Sergeant's position at the university. Where the Sergeant is questioned directly as to his/her conduct or his/her knowledge on a matter under investigation and discipline is a foreseeable consequence of the Sergeant's response he shall be afforded SOA representation in accordance with law. This type of meeting is called an "investigatory conference" and is preliminary to any charge of disciplinable conduct. This meeting is not a part of a Sergeant's permanent record except when and unless it is found that the Sergeant engaged in misconduct in the meeting itself, (i.e., provides false evidence). There is no privilege or immunity in employment in providing false statements or refusing to respond to a direct inquiry, except and only as mandated under applicable law.

**C. Due Process:**

Prior to invoking formal, final, employment discipline upon a Sergeant, that is greater in severity than a written reprimand, he/she shall be afforded both notice of any and all charges against him/her and an opportunity to be heard on those charges. A Sergeant may choose to be silent at the meeting or not attend the meeting at all. This meeting is called a due process meeting and all Sergeants shall be afforded SOA representation at due process meetings. Legal counsel representing SOA shall be permitted to attend employment due process meetings only where employment charges include or reasonably may be construed to include criminal behavior in violation of New Jersey's Penal Code, as codified in New Jersey Statutes. Where such criminal behavior is a reasonably foreseeable consequence of such charge, the Sergeant will not be charged or allowed to waive SOA and/or legal representation without first contacting the SOA, who shall have a right to then have a representative, including legal counsel, at the meeting.

**D. Discipline:**

1. Following any investigation deemed necessary by NJIT and requisite due process, where applicable, a Sergeant may be disciplined for just cause.

2. Discipline under this Article means: official written reprimand, suspension without pay and discharge.
3. Any disciplinary action imposed upon a Sergeant may be processed as a grievance through the regular grievance procedure.
4. A Sergeant who is suspended without pay or discharged may file a grievance at Step Two of the grievance procedure.
5. The terms of this Article shall not apply to probationary Sergeants.
6. Drug Screening – Positive Results

Sergeants who are tested and test positive for the presence of drugs under the Drug Screening Policy shall be suspended from duty immediately without pay, pending a due process hearing for dismissal from employment. Such Sergeant may be terminated from employment based upon a confirmed positive result.

The only grievable issues with regard to discipline resulting from a positive drug test are as follows:

- (i.) a challenge to the testing results or procedure;
- or
- (ii.) in the case of drug testing based upon “reasonable individualized suspicion”, a claim that reasonable grounds for testing did not exist.

#### **E. Emergency Suspensions**

Pending an investigation, a Sergeant may be subject to emergency suspension for the following:

- a. The employee is unfit for duty.
- b. The employee is a hazard to any person if permitted to remain on the job.
- c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
- d. The employee has been formally charged with a first, second, or third degree crime.
- e. The employee has been formally charged with a first, second,

third or fourth degree crime while on duty, or a criminal act related to his or her employment.

At the time of the suspension, the individual shall be provided with a written statement of the reasons the actions has been taken. A copy of the written statement shall be provided to the SOA representative.

**F. Grievance Procedure:**

**1. Any Sergeant of the Negotiating Unit May Appeal:**

- (a) A claimed violation or other improper application by the University of the terms of this Agreement, University rules, regulations or governing policy specifically affecting the grieving Sergeant's negotiable terms and conditions of employment.

**2. Time Limits:**

- (a) Failure of a grievant to meet any of the calendar limitations stipulated in the procedure below will constitute a waiver of his/her rights to claim a grievance on the basis of the same alleged factual situation. Likewise, a failure on the part of the designated representative of NJIT to meet the procedural obligations of any step in the grievance procedure, within the prescribed period of time, will give the grievant an automatic right to proceed to the next available step in the procedure. It is understood that nothing contained in this procedure should be construed as limiting the right or propriety of a Sergeant of the negotiating unit to informally discuss any problem with an appropriate member of NJIT administration.

**3. Procedure for Handling Grievances:**

**(a) Informal Conference**

A grievant may first discuss his/her grievance informally with the appropriate command Lieutenant. The grievant may at his/her option, be accompanied by a representative of SOA. All informal resolutions shall be without precedent

**(b) Step One**

- (i) Within ten (10) workdays of the occurrence causing the grievance or of the time the grievant should have reasonably known of the occurrence causing the grievance, the grievant shall, if he is not satisfied through informal conference discussion, submit in writing to the Chief of Police/Director of Public Safety, whichever is applicable, with copies to the Vice President of Human Resources, the claimed facts behind, and basis of the grievance and the desired remedy. Time limits, which begin after the written grievance is submitted, may be mutually extended by the parties only in writing.
- (ii) SOA shall be notified by the Chief of Police/Director of Public Safety, whichever is applicable in the event the grievant is not represented by SOA, and a representative shall have the right to be present, at this time and all subsequent steps in the grievance procedure, to present the views of SOA. The Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee which may be a representative from the Department of Human Resources or other University official, within ten (10) calendar days after receipt of the written grievance, shall meet with the grievant and the representative of SOA in an effort to resolve the grievance. The Chief of Police/Director of Public Safety, whichever is applicable, or designee shall indicate his/her disposition of the grievance, in writing, within five (5) calendar days of said meeting to the grievant and SOA and Vice President of Human Resources.

(c) **Step Two**

- (i) If the grievant and/or SOA is dissatisfied with the decision at Step One of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the second step of the grievance procedure, the grievant and/or SOA shall, within seven (7) calendar



days of the date of the decision at Step One (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Vice President for Real Estate Development and Capital Operations, with copies to the Vice President of Human Resources. The grievance shall contain: (1) a brief and concise factual statement of the action grieved, (2) the section(s) of the collective bargaining agreement allegedly violated, (3) the specific policy and/or rule or regulation allegedly violated and (4) the desired remedy.

- (ii) Within thirty (30) days of receipt of the written grievance at Step Two, the Vice President for Real Estate Development and Capital Operations or his/her designee shall schedule and hold a hearing for the purpose of determining the standing and merits of the grievance. If the grievance involves a challenge to an imposed disciplinary sanction the grievant may be represented either by their local SOA representative or legal counsel, provided the SOA designates such counsel as the representative of the SOA, or there is an appropriate substitution of representation. In no case shall the grievant be entitled to dual representation of both an SOA representative released from active duty for purposes of representation and counsel at the Step Two hearing. An SOA representative, other than legal counsel may be present and represent the grievant at all non-disciplinary grievance hearings.
- (iii) At least one (1) week prior to the date of the grievance hearing concerning an imposed disciplinary sanction, the University and the grievant shall exchange the following information:
  - (1) All documents which the University relied upon in imposing the disciplinary sanction(s) and all documents relied upon by the grievant in challenging the

- sanction(s).
- (2) A list of all witnesses they intend to call at the grievance hearing, and a brief summary of the substance of the anticipated testimony.
  - (3) If there is any tangible evidence which forms the basis of the disciplinary action, it shall be described and provided to the grievant's representative for inspection and/or testing, providing that such inspection can be conducted without damaging or compromising the integrity of the evidence.
  - (4) Copies of the grievant's personnel file within the Department of Human Resources.

There shall be no other pre-hearing discovery authorized, including interrogatories, document production, depositions, or similar procedures.

**(d) Hearing Procedure:**

- (i) The grievance hearing shall be held before the Vice President for Real Estate Development and Capital Operations or his/her designee. Such hearing is not intended to be judicial in nature, and therefore rules of evidence applicable in judicial or quasi-judicial hearings shall not be applied. The hearing officer controls the hearing and in so doing determines what evidence to hear and the manner of presentation of evidence, and advocacy witnesses may be subjected to a relevancy review and determination by the hearing officer. All allowed witnesses will be given paid release time from university duty to testify when called upon. Testimony may be in the form of reply to direct questioning, or may be narrative.
- (ii) A transcript of the proceeding shall be arranged for and made by the University in cases of grievances of disciplinary terminations. The grievant and/or SOA shall be entitled to a copy provided that they agree, in advance, to share

the cost of transcription. No other recordings of the termination or other disciplinary grievance proceedings may be made (e.g. tape recordings) unless the parties specifically agree, in which case copies of any tapes shall be made available to the non-taping party.

- (iii) The grievant bears the burden of proving their grievance (e.g. that there was a violation of agreement, policy, rule or regulation) by a preponderance of the credible evidence. In the case of a disciplinary sanction of a non-probationary Sergeant, alleging discipline without just cause, the University bears the burden of demonstrating just cause by a preponderance of the credible evidence. Each party shall be permitted to make an opening statement, provided that same is not testimonial in nature.
  
- (iv) In grievances of disciplinary sanctions, witnesses shall testify under oath, and where the proposed disciplinary penalty is termination, witnesses shall be duly sworn by the certified short hand reporter transcribing their testimony. The other party may cross-examine the witness upon completion of direct testimony; there will be an opportunity for redirect testimony and recross examination. The Step Two hearing officer may, in his/her discretion, limit testimony and rule upon admissibility of evidence based upon relevancy of the testimony, its probative value, the potential for redundancy in cumulative effect, giving due regard both for grievant's opportunity to be heard and the necessity to conduct an efficient hearing that is neither unduly time consuming to the public entity nor directed to matters of limited or no substantial relevancy. Witnesses' testimony shall be factual and not based on hearsay. Only in exceptional circumstances, may expert and/or character testimony be presented by either party, and then only upon a significant proffer that such testimony is directly relevant to a necessary finding in resolution of the underlying grievance, and the relevancy of such testimony

would outweigh the administrative burden of hearing such testimony.

- (v) All procedural or evidentiary rulings of the hearing officer shall be final and binding for purposes of this hearing. Upon the close of testimony, the parties may present closing statements summarizing their positions. Upon mutual agreement of the parties, or upon the request of the hearing officer, written briefs will be provided.
  
- (vi) The hearing officer may render his/her decision orally at the time of hearing if there is no transcript of the hearing taken and briefs are not submitted, otherwise, he will reserve the decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to the Vice President for Real Estate Development and Capital Operations, SOA, grievant, and Vice President of Human Resources. Absent agreement by the parties this will occur within thirty (30) days of the receipt of the transcript and/or briefs.
  
- (vii) In the event the grievance is one that is both appealable and, in fact appealed to either an arbitrator at Step Three or another appropriate forum, the arbitrator (or other appropriate third party) shall be provided a copy of the transcript below and briefs (where such exist) and the written determination of the Vice President for Real Estate Development and Capital Operations or his/her designee. In the case of grievances of disciplinary sanctions, the sole issue before this Step Three forum, which shall be limited solely to a review of the record below, shall be whether the grievant by clear and convincing evidence of record carried his/her burden; the record thereby demonstrating that the hearing officer, in his/her determination, (1) committed a substantial violation of contractual procedure of significant

effect or impact or (2) the decisional findings of the hearing officer were wholly arbitrary, capricious or unreasonable, based upon the evidence before him/her, giving due regard for the hearing officer's ability and authority to assess the credibility of witnesses.

(e) **Step Three**

- (i) If the SOA is dissatisfied with the decision at Step Two, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in F., Grievance Procedure, 1.(a.), Any Sergeant of the Negotiating Unit May Appeal; above, and the SOA desires and is authorized by law to institute arbitration or other appeal proceedings, it must, within fourteen (14) calendar days of receipt of the Vice President for Real Estate Development and Capital Operations or his/her designee's reply, give proper notice to either the New Jersey Public Employment Relations Commission, hereinafter referred to as PERC, or to the Board of Trustees, consistent with the procedures set forth by statute, with a copy to the Vice President of Human Resources and the General Counsel. Any arbitration proceedings shall be in accordance with the rules and regulations of PERC, and for grievances of disciplinary sanctions, subject to the parameters limiting the scope of review set forth in (d.) vii., Hearing Procedures, above.
- (ii) The recommendation or decision of the reviewing individual or body shall not in any manner modify or cause anything to be added to or subtracted from this Agreement or any policy of the University.
- (iii) Fees and expenses of an arbitrator where such proceedings are authorized, shall be shared equally by the University and the SOA. Only with prior written agreement of the parties, shall any other expense or fee contained in this grievance procedure be shared.

4. NJIT will give written notification to the President of the SOA of grievance hearings or meetings beginning with Step Two for all Sergeants of the negotiating unit. The President of the SOA shall also be sent copies of all grievance answers.

5. Decisions of an arbitrator involving minor discipline, as defined by law, shall be final and binding. Arbitration of major discipline is not available under law and not authorized by this Agreement.

## **ARTICLE VIII**

### **NON-DISCRIMINATION**

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination in accordance with all State and Federal laws.

B. All references to Sergeants in the negotiating unit or agents of NJIT in this Agreement are expressly gender neutral and wherever one gender is used it shall be construed to include both male and female Sergeants and/or NJIT agents.

C. NJIT agrees not to interfere with the right of Sergeants to become members of this unit, and there shall be no discrimination, interference, restraint, or coercion, by either NJIT or any representative of the SOA against any Sergeants because of SOA membership or lack of membership or because of any Sergeant's activity or lack of activity in any capacity pertaining to any authorized, legal activities of the SOA.

D. The SOA recognizes its responsibilities as negotiating agent and agrees to represent all Sergeants in the negotiating unit without discrimination, interference, restraint, or coercion regardless of membership or lack of membership in the SOA.

## **ARTICLE IX**

### **SENIORITY**

**A. Recognition:**

1. **Probationary Exclusion:** All Sergeants shall be considered as probationary appointments for a period of one hundred and eight (180) days from the date of appointment as commissioned police Sergeant.

2. **Retroactive Recognition and Tie Breakers:** Upon completion of such probationary period, seniority as a Sergeant will be dated as of the initial date of appointment as a Sergeant. In the event that two (2) or more Sergeants have the same initial date of appointment, continuous prior commissioned police officer service, continuous university service, and the alphabetical order of their last names, in that order,

shall be used to determine their seniority with regard to each other.

3. The Office of Human Resources shall maintain a seniority list of all Sergeants, a copy of which shall be furnished to the SOA every six (6) months, normally in January and July.

4. A Sergeant's seniority shall cease and his/her employment status shall terminate for any of the following reasons:

- (a) Resignation or retirement.
- (b) Discharge for cause.
- (c) Continuous lay-off for a period of two (2) years.
- (d) Failure of a recalled Sergeant to notify NJIT in writing, within seven (7) calendar days of receipt of notification of recall that he/she intends to accept such offer of re-employment. A Sergeant accepting such an offer of re-employment must return to active service within fourteen (14) calendar days of such notice of recall unless a later date is agreed to by NJIT. Written notice of recall to work shall be sent by NJIT, by certified mail, return receipt requested, to the Sergeant's last known address as shown on NJIT records.
- (e) Failure to report for work for a period of three (3) consecutive, scheduled working days without subsequent notification to NJIT of a justifiable excuse for such absence.
- (f) Failure to report back to work immediately upon expiration of vacation, leave of absence, or any renewal thereof, unless failure to return to work is excused by NJIT. Excused failure to return shall not be unreasonably withheld by NJIT.
- (g) Failure to return to work immediately with appropriate, formal certification of the elimination of the disability (or other intervening cause for absences) following exhaustion of authorized leave afforded under and pursuant to this Agreement (Job Abandonment).

**B. Application:**

1. **Layoff:**

- (a) If a reduction in force is necessary, layoffs shall take place in the inverse order of the date of hire into the Sergeant's job classification.
- (b) NJIT shall simultaneously provide the SOA and the Sergeant(s) concerned a two (2) week notice of layoff. SOA may request and have scheduled a meeting with the Manager of Labor Relations to discuss possible alternatives; however, the final discretion rests with NJIT.
- (c) When a Sergeant is scheduled for a layoff due to reduction or reorganization in the workforce, he/she shall be permitted, to the extent permitted by law, to exercise his/her seniority rights to replace (bump) a Sergeant or other commissioned police officer with less seniority provided the Sergeant with greater seniority is qualified in all respects to perform the work of the bumped officer.
  - (i) For the purpose of this Agreement "qualifications" shall be determined by NJIT. However, the SOA may discuss any questions of "qualifications" with the Manager of Labor Relations through the labor management committee established under Article VI, Labor/Management Committee, of this Agreement.
  - (ii) A Sergeant with no previous commissioned police officer experience at NJIT, who successfully exercises his/her bumping privileges into a commissioned police officer position, shall serve a ninety (90) day performance based probationary period. During said period, if NJIT is not satisfied with the Sergeant's performance, but not earlier than sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which



he/she is again laid off. Existence of the probationary period satisfies the notice of layoff requirement. Nothing herein waives or modifies the right of NJIT to terminate a Sergeant for just cause at any time. Discharge during the probationary period is not grievable.

(iii) Salary Range and Step placement for a Sergeant, successfully exercising the contractually authorized bumping privilege, shall be as follows:

(1) The Sergeant shall be placed at the same or nearest higher step on the commissioned police officer salary range from that step occupied prior to layoff, if available in the range. If not available within the range, then the Sergeant shall be placed at the closest step available within the appropriate range.

(d) The parties hereto commit to work together toward minimization of departmental, university and bargaining unit disruption caused by implementation of the contractually authorized layoff and bumping scheme.

2. **Recall:**

(a) The recall period shall be for twenty-four (24) calendar months from the date of original layoff.

(b) For the period of recall, Sergeants laid off from their positions shall be entitled to recall, by seniority, to the job classification of Sergeant. Additionally, for the period of recall, Sergeants laid off from their positions shall be eligible for probationary recall into the commissioned police officer job classification. However, for recall to such classification the Sergeant must first be considered qualified to perform in the position to which recall is desired and second must serve a ninety (90) day performance based probationary period, during which time the Sergeant may be discharged without resort to the grievance procedure. During said period, if NJIT is not satisfied with the probationary Sergeant's performance but no earlier than

sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which he/she is again laid off.

- (c) Sergeants laid off, pursuant to this Agreement, shall retain, in addition to the twenty-four (24) month recall potential, only those contractual benefits required by law.
- (d) All Sergeants on recall roster must be recalled to their former jobs, if the job is reinstated, prior to the hiring of new Sergeants into such positions.

## **ARTICLE X**

### **OUT OF TITLE WORK**

A. When a Sergeant is temporarily assigned to work in another job title within the negotiating unit, such assignment may be made for periods up to sixty (60) calendar days unless mutually extended by NJIT and the SOA. NJIT is not restricted to filling the assignment from only those who apply and in filling such opening shall first consider the qualifications of the applicant and providing such qualifications are equal shall then consider the length of continuous service of the applicant.

1. If NJIT assigns a Sergeant to temporary work in another job title having a higher salary range, he shall, after ten (10) continuous working days in that position, be considered to be working in an “acting capacity” and shall then receive the rate of pay for that position, retroactive to the first day of the temporary assignment. For purposes of this provision only, rate of pay shall be defined as the Salary Step in the reassigned position which value is at least one (1) step higher than the salary step occupied by the Sergeant in his/her permanent position. In the case of an assignment to a position without salary steps, the adjustment shall be equivalent to the value of one (1) salary step higher than that occupied by the Sergeant in his/her permanent position. Upon being assigned to his/her permanent position, the Sergeant shall immediately receive the rate of pay for his/her permanent position.

## **ARTICLE XI**

### **POSTING, HIRING AND PROMOTION**

In keeping with NJIT’s commitment to affirmative action and equal employment

opportunities, all recruitment efforts will conform with the application sections of NJIT's Equal Employment Opportunity/Affirmative Action policies. Accordingly, a permanent job opening which represents a promotional opportunity shall be posted in accord with applicable University policies. Copies of such postings shall be available to SOA on line at the NJIT Human Resources Career Site webpage.

**ARTICLE XII**

**SICK LEAVE**

**A. Accrual:**

<u>Eligibility</u>	<u>Hours Earned</u>	<u>Which Equates to</u>
Sergeants hired prior to March 5, 2003	Ten (10) hours per month for a 40 hour work week	One and one-quarter (1¼) day per month to the end of that fiscal year
Sergeants hired on or after March 5, 2003	Eight (8) hours per month for a 40 hour work week	One (1) day per month to the end of that fiscal year

**B. Utilization:**

1. Sick leave may be utilized by Sergeants when they are unable to perform their work by reason of personal illness, injury or exposure to contagious disease or for the attendance of the Sergeant upon a member of the immediate family who is seriously ill, or whose spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively) is hospitalized due to pregnancy.

2. Accumulated sick leave may be used to grieve the death and/or attend the funeral of the Sergeant's immediate family: father, mother, spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively), child, foster child, sister or brother of Sergeant and relatives of Sergeant residing in the same household as Sergeant. Leave utilized for bereavement shall be limited to three (3) days per occurrence unless exception for extraordinary reason is made by and at the discretion of the Vice President of Human Resources or his/her designee.

**C. Authorization:**

1. **Anticipated Leave:** Any proper utilization of sick leave anticipated in advanced must be requested as far in advance as practicable and approved by the Sergeant's immediate supervisor prior to utilization. Approval will not be unreasonably denied. Examples of anticipated leave, by way of illustration but not limitation, include physician appointments, dentist appointments, scheduled surgery and short-term care for an ill member of the immediate family. Within a reasonable period of time following

utilization of sick leave for this purpose the Sergeant, upon request by NJIT, must validate the reason for scheduled leave by means of written proof that the scheduled purpose for the sick leave did occur.

2. **Unanticipated Leave:** Utilization of sick leave that cannot be anticipated in advance, such as sudden illness, must be validated by contacting, as soon as possible and, to the extent possible, within one-half (½) hour after the beginning of the Sergeant's scheduled workday, the Sergeant's supervisor or by utilizing such method specifically directed by the Sergeant's supervisor to notify NJIT of unanticipated sick leave.

**D. Validation:**

1. If absent for five (5) or more consecutive working days, the Sergeant must present a physician's statement specifically validating the duration and nature of illness or injury enabling sick leave usage. A Sergeant absent for unanticipated sick leave for any and all periods totaling more than ten (10) days in one (1) fiscal year may be required to submit a physician's statement validating the duration and nature of illness enabling sick leave usage. Upon receipt of a specific diagnostic statement from a physician describing a chronic, debilitating illness of a Sergeant, the five (5) and ten (10) day validation requirement shall be waived as a matter of regular course.

2. Sick leave taken for purposes of bereavement, pursuant to provision B.2., Utilization, above, shall not be counted for purposes of either the five (5) or ten (10) day validation requirement, however, bereavement utilization of sick leave must, upon request, be validated through independent written documentation whether anticipated or unanticipated.

3. Upon reasonable suspicion of abuse or patterned absenteeism and/or following fifteen (15) days usage of sick leave during a fiscal year, NJIT, SOA and the Sergeant shall meet for the purpose of either investigating potential abuse and/or to discuss the absenteeism in attempt to avoid disciplinary action. As a result of that meeting, the Employer may require the Sergeant to provide medical certification for future single day or multiple day absences.

4. A Sergeant suffering from a certified chronic illness must, at least once every six (6) months, provide NJIT with medical re-certification and following fifteen (15) days usage in a fiscal year on account of said illness, provide additional re-certification of the chronic illness.

5. Confidentiality of Records: - All medical reports and diagnosis, provided pursuant to this Article, shall remain confidential within the Department of Human Resources only subject to disclosure to such officers or agents of the university with a direct business need to know.

**E. Unused Sick Leave – Retirement:**

Subject to the provision of N.J.S.A. 11A:6-17 and rules and regulations promulgated thereunder, a full-time Sergeant who enters retirement, pursuant to the provisions of a State administered or approved retirement system, and has to his/her credit any earned and unused accumulated sick leave shall be entitled to receive supplemental compensation for such earned and unused accumulated sick leave only to the extent such is funded by the State.

The supplemental compensation to be paid shall be computed at the rate of one-half (½) of the eligible Sergeant's daily rate of pay for each day of earned and unused accumulated sick leave based upon the average annual compensation received during the last year of his/her employment prior to the effective date of his/her retirement, provided, however, that no such supplemental compensation payment shall exceed the statutory limit. This supplemental compensation shall be paid in a lump sum after the effective date of retirement. It may be deferred by the Sergeant for payment within one (1) year of the effective date of retirement.

### **ARTICLE XIII**

#### **FAMILY LEAVE**

NJIT has long recognized the importance of family issues as an integral component of a responsive human resource environment in which its Sergeants will prosper. It has heretofore provided a number of benefits including leaves of absence for personal and family reasons. Both State and Federal government have determined to specifically legislate in this regard by affording unpaid leave to Sergeants under certain specific circumstances. The result demands that NJIT policies, state law and federal law be properly recognized and promulgated in a lawful, equitable and contemporary policy. NJIT, therefore, hereby certifies that the University Family Leave Policy (available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf)) meets these demands (and shall be interpreted consistent with) NJIT's other standing leave policies.

It is agreed that the University may preliminarily designate an employee's absence as Family Leave when:

1. An employee (or a spokesperson on behalf of an employee) notifies the Department of Human Resources or the immediate supervisor of a personal serious health condition or the serious health condition of an eligible family member as set forth in the University Family Leave Policy.
2. Upon the employee or the supervisor's notification to the Department of Human Resources after 3 consecutive days of paid or unpaid absence.

Family Leave runs consecutively after accumulated sick leave banks are exhausted for an Officer's own serious health condition and Family Leave shall run concurrently with accumulated sick leave for an Officer's eligible family member. Accumulated sick leave balances that exceed the 60 days of Family Leave may continue

to be utilized thereafter upon submission of medical certification updates to be provided in intervals of not less than every 30 days.

Family Leave shall be administered in accordance with the University's Family Leave Policy, available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf). . It is understood that the Family Leave Policy shall be revised and updated to include mandatory provisions required by State and Federal Law.

## **ARTICLE XIV**

### **ADMINISTRATIVE LEAVE**

#### **A. Administrative Leave**

1. Three (3) administrative leave days per calendar year are granted to all full-time Sergeants entering their first full fiscal year of employment and annually thereafter. Priorities for granting of leaves are:

- (a) Emergencies;
- (b) Observation of religious or other days of celebration but not public holidays;
- (c) Personal business;
- (d) Attendance at the funeral of an individual other than a member of the immediate family. Absences related to funerals of immediate family members are considered under other provisions of this Agreement; and
- (e) Other personal affairs.

2. Newly hired, full-time Sergeants shall be granted one-half (½) day of administrative leave after each full calendar month of employment to a maximum of three (3) days during the remainder of the first fiscal year of employment. Sergeants promoted from the ranks of commissioned police officer shall not be treated as new hires for purposes of this provision.

3. Administrative leave shall not be cumulative, and any such leave credit remaining unused by an officer at the end of the fiscal year and/or upon separation of employment shall be cancelled.

4. Requests for administrative leave must be approved by the Chief of

Police/Director of Public Safety, whichever is applicable in advance, except in emergency situations. Emergency situations shall be reasonably verified by the Sergeant on leave as soon as practicable following utilization of the leave, upon the request of NJIT. Unapproved emergencies are limited to health and safety related matters.

5. Administrative leave days cannot be used during a Sergeant's probationary period.

## **ARTICLE XV**

### **MILITARY LEAVE**

#### **A. Military Leave, Without Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or the New Jersey State militia or the organized militia of another State, a leave of absence, without pay, for Inactive Duty Service. (An example of Inactive Duty Service is weekend drills.)

2. A qualifying employee granted Military Leave of Absence, without pay, that is less than two (2) consecutive weeks, shall continue to accrue vacation, personal, and sick leave. A qualifying employee granted a Military Leave of Absence, without pay, that is more than two (2) consecutive weeks, shall not accrue vacation, personal, and/or sick leave during such leave of absence

3. A qualifying employee granted a Military Leave of Absence, without pay, may, with advance notice, use accrued vacation, personal leave, or floating holidays. Sick Leave shall not be used for Military Leave of Absence.

#### **B. Military Leave, With Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or a member of the organized militia of another State, a leave of absence for up to 30 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service. NJIT shall grant a qualifying employee who is a member of the New Jersey State organized militia a leave of absence for up to 90 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service.

2. Should the employee be called to active duty service for a national or state emergency or foreign conflict which exceeds the 30 or 90 working days described in A above, NJIT shall grant a leave of absence through the end of that calendar year without loss of benefits and shall pay the employee the difference between their applicable NJIT

base salary and their military “base pay” provided the employee provides proof of military service and “base pay”. This is often referred to as Differential Pay and is not currently mandated by Federal or State regulations.

3. If a qualifying employee is eligible for a Military Leave with pay or a Military Leave with differential pay as described above, he/she continue to accrue vacation, personal, and sick leave. Qualifying employees eligible for Military Leave with pay or Military Leave with differential pay shall be entitled to all health and welfare benefits.

C. A qualifying employee who is called to New Jersey State Active Duty Service, for example during a natural disaster or New Jersey State emergency, shall be eligible for a Military Leave of Absence as required by New Jersey State or Federal regulations.

D. A qualifying employee for purposes of this Article shall be defined as any employee who has achieved non-probationary status at least once during his/her current employment with NJIT or a temporary employee who has been employed more than one (1) year. A non-qualifying employee is eligible for Military Leave of Absence, without pay, only.

E. A qualifying employee eligible for Military Leave of Absence, with or without pay, shall not suffer any loss of seniority.

F. Extensions of Military Leave

1. Should a qualifying employee be called to Federal Active Duty Service beyond the first calendar year or subsequent consecutive years, he/she shall be eligible for the paid leave as described in B. 1. above effective each January 1<sup>st</sup>.

2. Should a qualifying employee be called to Federal Active Duty Service beyond the 30 or 90 working days described above in the second calendar year or subsequent consecutive years, NJIT, at its sole discretion, may extend the Military Leave of Absence with differential pay, as described in B. 2. above, for the remainder of that second calendar year or subsequent consecutive years. If NJIT decides not to grant a Military Leave of Absence with differential pay, NJIT shall grant a Military Leave of Absence, without pay, for the remainder of that calendar year.

G. Failure to provide advance notice of call to duty, except in emergency situations, could result in loss of protections under Federal and/or State regulations and shall be just cause for disciplinary action up to termination of employment. Failure to provide verification of attendance or military pay records may result in delay in pay or benefits until such verification is provided.

H. In the event that Federal and/or State law may be amended to provide a greater benefit to the employee than set forth herein, such law shall supersede the terms of this



contract.

## **ARTICLE XVI**

### **LEAVE FOR SOA ACTIVITY**

NJIT agrees to provide time off without loss of pay for delegates of the SOA to attend formal union activities provided that the total amount of time without loss of pay during the period of this Agreement shall not exceed a total of twelve (12) days during each year of this Agreement and provided such activities are not, by their nature and content, adversarial to NJIT.

The total number of days of such leave which may be used in each year shall be exclusive of leave provided under the provision of New Jersey law and ordinarily granted under that statute. Leaves for such activities of more than five (5) days duration in each year of the Agreement shall be at the sole discretion of NJIT. Such approval will not be unreasonably withheld.

The SOA shall request, in writing, approval from the Vice President of Human Resources or his/her designee, with copies to the Chief of Police/Director of Public Safety, whichever is applicable to use such leave. Such requests shall be made, in writing, no less than two (2) weeks in advance by the SOA specifying the type of SOA activity for which time off is sought, the individual(s) to be granted the time off and the maximum amount of time to be utilized.

## **ARTICLE XVII**

### **OTHER LEAVES OF ABSENCE**

#### **A. Extraordinary Leave:**

##### **1. Eligibility:**

- (a) Any Sergeant, not entitled to or after having exhausted the other leave benefits provided by this Agreement but desiring to remain employed by NJIT may apply for an unpaid leave of absence. This leave is considered an extraordinary leave and will not be routinely granted. A minimum prerequisite to consideration of leave is a significant period of consistently outstanding service to NJIT.

- (b) In reviewing requests for unpaid leave of absence NJIT will ensure that Article XIII, Family Leave Policy, is fully complied with as prerequisite to its discretionary determination as to whether to grant a request and the parameters on such grant when given. Unless and except as expressly provided for in writing, there shall be no benefits bank accrual during any unpaid leave, nor shall there be any monetary contribution by NJIT on behalf of such Sergeant except as may be mandated by law, or as otherwise expressly provided for by this Agreement.

**2. Procedure:**

- (a) Any and all requests for leave of absence under this provision must be made in writing, with specific statement of need for leave, as far in advance of the desired leave as possible. Application for leave must be submitted to the Sergeant's immediate supervisor, except in such cases where the specific statement of need recites a personal, medical or other extraordinary confidential basis, in which case the full application shall be submitted to the Office of Human Resources, with notice to the immediate supervisor that a request has been made for the duration stated on the application. Following review of the request, a recommendation to either grant or deny the leave will be made and forwarded to the Vice President of Human Resources or his/her designee who will issue the determination.
- (b) Approval, denial or modified approval of the requested leave shall, except in the case of emergency, be provided within two (2) weeks by NJIT. Reason for denial of unpaid leave shall be provided with a denial of leave by NJIT.
- (c) Accepting a position with another employer, while on a leave of absence, except as may be expressly understood as part of the reason for leave and approved by NJIT in advance, will result in forfeiture of the leave of absence and all benefits derived therefrom or maintained during said leave and immediate termination of NJIT employment.
- (d) Administration of this Article is grievable only on the limited basis that NJIT held no rational basis to deny the requested leave. Problems arising out of the

administration of this Article may be referred to the Labor/Management forum for discussion and attempted resolution.

**B. Bereavement Leave:**

In addition to leave available pursuant to Article XII B.2., Sick Leave Utilization, above, all Sergeants hired after ratification of this agreement, shall be entitled to up to three (3) paid days and up to three (3) additional unpaid days of leave each year of this Agreement, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family. "Immediate Family" shall be as defined in Article XII B.2., above.

All other Sergeants shall be entitled to up to two (2) unpaid days of leave each year of this agreement, in addition to such leave as set out in Article XII B.2. above, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family, as defined herein.

Unused Bereavement Leave is not cumulative year to year and NJIT reserves its right to require validation of the need for Bereavement Leave. Finally, Bereavement Leave must be taken within ten (10) days of the death of the immediate family member unless exception is authorized for extraordinary circumstances by and at the discretion of the Vice President for Human Resources or his/her designee.

**ARTICLE XVIII**

**HOLIDAYS**

**A. Program Benefit**

1. Each Sergeant shall be entitled to the following named, paid holidays:
  - (a) New Year's Day
  - (b) Independence Day
  - (c) Labor Day
  - (d) Thanksgiving Day
  - (e) Christmas Day
2. Each Sergeant shall receive four (4) paid holidays as designated by NJIT.
3. Each Sergeant shall receive two (2) floating holidays, providing such "floating" holidays shall be taken at a time agreeable to the supervisor.
4. Each Sergeant shall receive two (2) additional, restricted floating holidays that must be scheduled and taken between December 26<sup>th</sup> and January 2<sup>nd</sup> inclusive, of

the Christmas holiday season.

- (a) Any Sergeant whose service and attendance is necessary, as determined by NJIT, resulting in an inability to mutually schedule either one (1) or both of such restricted floating holidays, shall receive one (1) floating holiday for each day of service.
- (b) There shall be no holiday premium pay for restricted, floating holidays worked during this period. Other contractual provisions and those relevant mandates of the Fair Labor Standards Act, pertaining to overtime, are unaffected and continue.

B. In the event any of the regular paid holidays fall on a Sergeant's scheduled day off, they shall be observed on the following scheduled day of work.

C. Sergeants on an unpaid leave of absence or layoff are not entitled to pay for a holiday falling during leave or layoff.

D. NJIT shall continue its requirements for eligibility for holiday pay, however, a Sergeant who is not on the payroll shall not be eligible for holiday pay.

E. A holiday which occurs during a vacation period is considered a holiday and will not be charged as a vacation day.

F. Any Sergeant who is required to work any of the days designated by NJIT as a paid holiday, pursuant to provision A.1., or A.2., shall be afforded the following premium pay in addition to the holiday pay:

- 1. For the first eight (8) hours, time-and-one half for all hours worked.
- 2. For all hours in excess of eight, double-time for all hours worked.

G. For the purposes of computing overtime, all holiday hours, whether worked or unworked, for which a Sergeant is compensated, shall be regarded as hours worked.

H. The thirteen (13) holidays, annually provided pursuant to this Agreement, constitute the entire paid holiday schedule provided by NJIT.

I. It is expressly intended and understood that there are no additional paid days available to SOA represented Sergeants, except as expressly provided by other provisions of the controlling Collective Bargaining Agreement.

## ARTICLE XIX

### WORKERS' COMPENSATION

A Sergeant on Workers' Compensation shall receive that payment to which he/she is entitled by law, in accordance with benefit regulation and accompanying procedure in effect at the time of eligibility for Workers' Compensation. Should a Sergeant wish to supplement that compensation received under New Jersey Workers' Compensation law and regulation to receive the same total salary compensation received when not on Workers' Compensation, he/she may elect to utilize, on an hour for hour basis, his/her sick leave accrual for a period not to exceed six (6) calendar months. The election to supplement Workers' Compensation must be made in a signed writing to the Department of Human Resources, with a copy to the Director, Benefits Administration and supplementation will be progressive only from the time the request is received by the Department of Human Resources.

## ARTICLE XX

### EDUCATIONAL BENEFITS

All Officers, and where applicable their dependents, are eligible to participate in the University's Tuition Remission Plan as set forth in the University Tuition Remission Policy available at <http://www.njit.edu/policies/pdf/tuition-remission-unaligned-2008-03-27.pdf> and subject to the applicable rules and regulations governing the Plan.

## ARTICLE XXI

### VACATION

#### **A. Allotment**

A Sergeant is entitled to a vacation with pay. Such vacation is scheduled as requested by the Sergeant, provided departmental staffing and workload permit. Vacation entitlements are as follows:

	<b>Allotment</b>	<b>Which Equates to</b>
Date of University Hire through the end of the Fiscal Year*	10 hours per month (40 hour work week) available as accrued	1¼ day per month, available as accrued

One through five years of University service	120 hours per year (40 hour work week) available on July 1 <sup>st</sup>	15 days per year available on July 1 <sup>st</sup>
After 8 years of University service	160 hours per year (40 hour work week) available on July 1 <sup>st</sup>	20 days per year available on July 1 <sup>st</sup>

\*A Sergeant who was promoted and was eligible for the full annual allotment of vacation as an officer shall be eligible for the full annual allotment as outlined above. A Sergeant who is hired without prior eligibility for the full annual allotment shall accrue vacation at 1¼ days per month through the end of the first Fiscal Year.

**B. Utilization**

1. While utilization of vacation is based upon mutual agreement of NJIT and Sergeants, full utilization is both expected and encouraged in a properly scheduled manner, giving appropriate consideration for workload issues. NJIT supervisors and Sergeants will maintain a fully updated vacation record, showing unused allotment and usage. Supervisors will take a proactive role in scheduling vacation usage in a manner that is mutually beneficial to NJIT and its Sergeants.

2. Vacation may be used in hourly increments, partial days, full days or consecutive days.

3. Vacation may not be unilaterally scheduled or taken and neither may it be used to provide payment for an unauthorized absence.

4. If the nature of the workload makes it necessary to limit the number of Sergeants on vacations at the same time, the Sergeant with the greatest seniority shall be given his/her choice of vacation, provided that another qualified Sergeant is available to assume the work.

5. If because of an emergency situation, pre-approved time cannot be allowed, either a salary payment will be made equal to the compensation that would have been earned during the vacation period, and the vacation bank will be accordingly reduced or vacation will be rescheduled to a later, mutual time. Arrangements for such payment must be authorized by the Chief of Police/Director of Public Safety, whichever is applicable and approved by the Department of Human Resources.

6. Under normal conditions, vacation periods must not exceed three (3) consecutive weeks.

7. A Sergeant on any unpaid leave of absence does not accrue vacation time.

8. If a regular paid holiday occurs during a Sergeant's vacation period, an additional vacation day may be scheduled at a time mutually agreeable to the Sergeant and the Chief of Police/Director of Public Safety, whichever is applicable.

**C. Carryover**

1. Up to ten (10) days of unused vacation allotment, remaining on June 30<sup>th</sup> of each fiscal year may be carried over for use in the ensuing year.

2. Unused vacation, in excess of that allowed to be carried over will be forfeited.

**D. Vacation Upon Separation**

Upon Separation from employment, unused vacation allotment, computed at the daily rate of the salary of the separating Sergeant at the time of separation will be handled as follows:

<u>Reason</u>	<u>Pay Out</u>
Termination for Cause, including job abandonment,	None
Voluntary Separation	None
Death which is not employment related	None
Employment related Death	Up to a maximum of 25 unused vacation days
Layoff	Up to a maximum of 15 unused vacation days

Upon retirement or resignation an employee shall be permitted to utilize up to ten (10) days (80 hours for 40 hour work week) of accumulated but unused vacation time if the employee gives at least ten (10) days, (two (2) weeks) written notice of resignation or retirement prior to the utilization of any such unused time. For example, if employee X has 10 vacation days (2 weeks), employee X must give at least 20 days (4 weeks) notice of resignation or retirement in order to utilize unused vacation.

**ARTICLE XXII**

**UNIFORMS**

A. Newly hired Sergeants shall be required to purchase their own University, standard issue uniform. After six (6) months of continuous employment in good standing, as a New Jersey Institute of Technology commissioned police Sergeant, the entire cost of the initial issue shall be reimbursed to said Sergeants.

B. Each Sergeant shall be entirely responsible for repair and/or replacement of

damaged and/or worn out uniform articles. This responsibility includes the cost of such necessary repair and/or replacement. The Department of Public Safety uniform standards must be maintained and will be enforced.

C. Maintenance of the New Jersey Institute of Technology Sergeant’s uniform shall be the entire responsibility of each Sergeant, including the cost of cleaning and pressing as necessary.

D. NJIT shall provide the following scheduled annual uniform allowance:

<b>Fiscal Year</b>	<b>Uniform Allowance</b>	<b>Bike Uniform Allowance (if applicable)</b>
2016	\$1500	\$300
2017	\$1500	\$300
2018	\$1500	\$300
2019	\$1500	\$300

Payment of the scheduled uniform allowance shall be semi-annually as follows:

1. A Sergeant, with less than six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program, shall receive one-half (½) of the allowance, further prorated as appropriate, to the nearest month of service, payable the last payroll of the calendar year and one-half (½) of the allowance further prorated as appropriate, and payable the last payroll of that fiscal year.

2. A Sergeant, with at least six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program shall receive one-half (½) of the allowance in the first payroll of that fiscal year and the remainder in the last payroll of that calendar year.

E. The allowance is interchangeable and usable for maintenance and repair and replacement, as needed, on an individual basis.

**F. Payment Conditions:**

1. All uniform allowance payments, accrued in accordance with provision D. above, and due and owing at the time of ratification of this Agreement, shall be paid in one (1) lump sum to each eligible Sergeant within one (1) full pay period following mutual written ratification of this Agreement.

2. A condition precedent to eligibility for uniform allowance shall be active or approved inactive employment status at the time of scheduled payment.



**ARTICLE XXIII**

**RETIREMENT\***

Sergeants shall be eligible to participate in available State authorized retirement system(s), consistent with applicable rules and regulations. Should there be changes made in such Plan(s), by legislation, during the terms of this Agreement, all such changes, appropriate to members of the negotiating unit, shall be made in accordance with the provision of such legislation.

\*For information only.

**ARTICLE XXIV**

**OVERTIME /SHIFT DIFFERENTIAL**

A. Overtime requested and authorized by the Department of Public Safety shall be compensated at time and one-half for hours worked in excess of forty (40) hours in the workweek.

B. NJIT will, insofar as possible, provide equal opportunity for overtime work and shall maintain an overtime log for this purpose which shall be available to the SOA for review.

1. In the event that there are an insufficient number of Sergeants willing to cover a given overtime assignment, NJIT will assign the necessary number of Sergeants to cover the assignment.

2. Any Sergeant called back to work after he/she has completed his/her regular work shift and has left his/her place of work shall be guaranteed a minimum of four (4) hours pay at the overtime rate. Such Sergeants shall be required to work all hours which are required. If the Sergeant elects to leave before the end of the four (4) hours, and the supervisor approves, the Sergeant will be paid only for the time actually worked.

Effective upon execution of this Agreement by all parties, such Sergeant shall also be reimbursed one (1) meal allowance amount not to exceed \$11.00 for the balance of fiscal years 2016 and 2017 and \$12.00 in fiscal years 2018, and 2019 where the Sergeant is called back to work if the Officer works at least three (3) hours beyond his/her normal work hours without the opportunity to go to his/her residence. Meals eligible for reimbursement shall be ordered from NJIT dining facilities, and eaten on campus when NJIT dining facilities are available. .

C. Only during the term of this Agreement, as restricted by the following parameters, a Shift Premium shall be affected for eligible Officers in the bargaining unit:

1. For members following a five day on, two day off schedule:

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and sixty (160) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift beginning after 10:00 p.m. on a given day and before 5:00 a.m. on a given day.

2 For members following a four day on, three day off schedule (Pitman Schedule):

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and three (103) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift which is inclusive of the hours between 12:00 a.m. and 7:00 a.m. on a given day.

3. Shift Premium eligibility is conditioned upon actually working the designated number of shifts, as set out above, in the prescribed time period. Further, an extended workday into a first shift, from any other shift, and for which overtime compensation is paid pursuant to Agreement, does not count toward Shift Premium qualification.

4. Payment for Shift Premium will be made in the second full pay period in August of the fiscal year following the year of shift premium qualification.

## **ARTICLE XXV**

### **SHIFT COVERAGE**

At NJIT's discretion any and/or all Sergeants may be scheduled for presence at NJIT up to eight and one-half (8½) hours per day with up to one-half (½) hour as noncompensable break time as set by NJIT, in order that proper coverage of the workforce may be provided NJIT. There will not be a change in scheduled shift span unless preceded by seventy-two (72) hours notice to the affected Sergeant(s).

## **ARTICLE XXVI**

### **SALARY PROGRAM AND COMPENSATION**

#### **A. Salary Program: July 1, 2015 through June 30, 2019:**

It is agreed that during the term of this Agreement, for the period July 1, 2015

through June 30, 2019, the following salary and fringe benefit improvements shall be provided to eligible Sergeants in the unit, within the applicable policies and practices of NJIT and in keeping with the conditions set forth herein. In order to receive the benefits, as set out hereunder, the Sergeants must be employed by NJIT at the time of ratification of this Agreement or thereafter.

Subject to the State Legislature enacting appropriation of funds for these specific purposes, NJIT agrees to provide the following benefits, effective at the time stated herein.

**1. Salary Band for Sergeants**

Effective the first full pay period in Fiscal Year 2016 and throughout the term of this Agreement, the annual salary band for sergeants shall be \$86,757 to \$101,100

**2. Across-the-Board Salary Guide Adjustments:**

The following across the board salary increases shall be incorporated:

Fiscal Year 2016 (First full pay period in July 2015) – no increase  
Fiscal Year 2017 (First full pay period in July 2016) – 1% to base  
Fiscal Year 2018 (First full pay period in July 2017) - 1% to base  
Fiscal Year 2019 (First full pay period in July 2018 – 1% to base

**3. Merit Compensation Program:**

A merit compensation program shall be available to all Sergeants with at least six full months of service prior to July 1<sup>st</sup> of the year of awarding each year during the salary program and compensation term beginning with July 1, 2015. The program shall be administered as follows:

- (a) Performance Standards: All merit compensation shall be based upon total adherence to quality service during the past fiscal year's performance as it relates to the following specific performance standards:
  - (i) Attendance: It is vital to both the integrity and the efficacy of the NJIT Department of Public Safety that Sergeants are punctual in arriving at work, at dedicated posts, in responding to regular duties and in responding to unexpected circumstances, as well as accountable for their whereabouts at all times while on shift. This reliability, in

full uniform and authorized armament is an essential, elementary component of performance as an NJIT Sergeant.

- (ii) Appearance: Each Sergeant represents NJIT's image and that of a New Jersey Police Officer, demonstrating in their appearance, the same respect for NJIT and their chosen profession as they appropriately demand and expect relative to adherence to the law and NJIT's promulgated code of conduct. Uniforms must be maintained in excellent condition. All uniform attire must be worn in the manner and time designated. Sergeants shall present themselves, without deviation, in a ready, alert, neat, properly groomed and fully uniformed manner at all times when formally representing NJIT.
  
- (iii) Attention to Duty: Each Sergeant must demonstrate a maturity and acuity in gaining and maintaining appropriate, continually enhanced knowledge of his/her duties, responsibilities and the surrounding environment, as well as an uncompromised focus on assigned tasks and departmental and university policy and procedures. Unauthorized breaks, ignoring of general and/or specified duties, absence from assigned posts or less than fully responsive protocol in carrying out the duties of NJIT Supervisory Police Officers are, by way of illustration disqualifying of meritorious attention to duty.
  
- (iv) Absence of Discipline: No Sergeant who within a given year is suspended and/or who receives more than one written reprimand will be eligible for a merit increase. A formal investigation into the propriety of a Sergeant's conduct by the State of New Jersey or a State sponsored authority that could lead to suspension or loss of commissioned officer status will disqualify the Sergeant from consideration for merit until such time as the investigation fully exonerates said Sergeant. Less than full

exoneration disqualifies the Sergeant from consideration for merit during the time period that is both the focus of and that which is covered by the investigation. In this regard, less than full exoneration equates to disqualifying discipline. Neither NJIT's imposed disciplinary charges nor NJIT's implemented disciplinary action are of, themselves, "of record", disqualifying a Sergeant from merit consideration, as long as formal, authorized appeal/grievance procedures are actively and properly utilized and a decision is not yet final and binding.

(v) Record Keeping and Reporting: A Sergeant's verbal and written recordings and reporting, both in the ordinary course of law enforcement and in accordance with specific police operation direction must be timely and properly served and/or filed, accurately depicted, thorough in all respects and where written, proofed. Deviation from the standard, in any respect, and to any degree derogates the law enforcement process, the credibility of the Department of Public Safety and is not worthy of merit pay consideration.

(vi) Professional Conduct & Demeanor: Respect for and resolute honesty in dealing with those served, fellow Officers, supervisors, subordinates, property, weaponry and self is benchmark to the integrity bestowed by the commissioning of NJIT Police Officers. Only the utmost of dignity, humility with honor, concern for the position, post, commission and department and demonstrated aptitude in dealing with an atypical population demographic will be considered meritorious. Any instance of breach of this standard will be cause for disqualification for merit pay consideration. By way of illustration only, vulgar language, violation of any university or departmental regulation or protocol, theft of service or time, unauthorized action, arguing with a superior Officer, condoning poor conduct or

misconduct from subordinates, excessive force (as defined and regulated by the law enforcement community and/or the law itself) and personal mingling (defined as engaging in conduct relegating the Sergeant's professional law enforcement responsibilities to a subordinate position as compared to non-job related personal activity[ies]) with students or other university constituents will disqualify merit pay consideration.

(b) Award Procedure.

(i) Review of Performance: No earlier than forty-five (45) days before the end of the fiscal year of performance review and no later than fifteen (15) days following the end of the fiscal year of performance review, each eligible Sergeant's performance shall be reviewed against those "Performance Standards" set out above.

(1) The standards set out herein, mark categorized attributes of the prototype Sergeant's professional and personal characteristics that should lead to excellent performance as an NJIT Sergeant. Those standards will be qualitatively assessed, given the record of performance of each eligible Sergeant over the preceding year of eligibility and cumulatively over the Sergeant's term of commissioned police employment. Verbal and written, evaluative correspondence between departmental supervision, and each Sergeant is pertinent contextual material in qualitative performance assessment against those pronounced standards and will be weighed in ultimate merit determination.

(2) The evaluation of performance

against the published standards will be in writing and provided to each eligible Sergeant within the annual evaluation period. Specific descriptions, commendations, and examples of meritorious performance must be set out and verified for merit step awards to be provided to eligible Sergeants as well as formal certification of the evaluating supervisor(s) (e.g. Shift Lieutenant, Deputy Chief, Chief) that there are no instances of conduct that would either lead to or cause disqualification from meritorious performance as measured against the published standard.

- (3) There is no minimum conferral of merit awarding mandated, and all merit shall be applied to base salary.

For Fiscal Year 2016, there is no merit program.

For Fiscal Year 2017 the maximum number of awards available, following careful scrutiny of the performance standards, shall not exceed the value of one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30 of the year of the evaluation.

For Fiscal Year 2018 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

For Fiscal Year 2019 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

This percentage limitation means that no

award must be given that would cause the limit on awarding to be exceeded and, there are no partial awards available under this program. However, upon contest by the SOA on behalf of a Sergeant, as set out below, no more than one (1) supervisory evaluation of non-meritorious performance may be overturned per year of the program. Awards granted on appeal will be charged against the maximum expenditure of monies in the year of award. If sufficient monies are not available, the expenditure due to appeals will be charged against the subsequent merit pool, including the compounded value of the merit award as it affects salary creating the subsequent pool.

- (4) A merit award will be based upon a Sergeant strictly meeting all performance standards set out herein.
- (c) Appeal Procedure: There will be a limited appeal procedure available to the SOA on behalf of one (1) Sergeant annually, to seek reconsideration of non-awarding of merit to an eligible Sergeant as follows:
- (i) The SOA may, within thirty (30) days of the published conferral of awards to Sergeants, file a written appeal on behalf of a Sergeant's denial of merit pay, based upon the past year's performance, as it relates to the published performance standards and the comparative performance of other Sergeants receiving merit pay. The appeal must state, with particularity, the factual basis for a finding of substantial error or misjudgment in the evaluation that lead directly to a denial of the award. The appeal shall be filed with the Department of Public Safety and copied to the Department of Human Resources.



- (ii) The burden of proof in the appeal rests with the SOA; it must demonstrate, based upon the record of credible evidence, that it is more likely than not that all performance standards were met or exceeded, including a reasonable finding that there are no instances of conduct that would allow a reasonable person to find such conduct disqualifying of meeting or exceeding the full breadth and depth of performance as set out by the published performance standards. In addition to this finding, where all merit funds have been spent, it must also be established that the Sergeant whose performance is being appealed, compared favorably, in meeting or exceeding performance standards, to one or more Sergeants who received merit.
  
- (iii) A Merit Appeals Board, consisting of the Vice President for Real Estate Development and Capital Operations, the Vice President of Human Resources, or their respective designees and a supervisory, superior Officer, including the Director of Public Safety/Chief of Police, whichever is applicable, above the level of Police Sergeant, that has not taken part in the evaluation appealed (as selected by the SOA) will review the written submission and, at its sole discretion, either review and respond to the record as it stands or call a hearing, within thirty (30) days of submission of the written appeal, to hear oral argument, question the advocates, direct the gathering and submission of evidence not in the record, recess the hearing until all materials it deems necessary are before it or disallow any further gathering or submission of evidence, as it deems most appropriate to efficacious resolution to the controversy and allow for closing statements as it deems relevant to a proper finding.

- (iv) The Merit Appeals Board will issue its decision in writing, to the SOA, within sixty (60) days of the close of hearing or within ninety (90) days of the SOA's written submission, if no hearing is called. The decision of the Merit Appeals Board will be final, binding and the exclusive avenue for redress of the administration of the merit pay program.

4. **Stipends for Special Assignments**

a. Sergeant-Recruiter Assignment

- i. In an effort to enhance community relations and expand the department's ability to provide opportunity and connect with a larger applicant pool, supervisor(s) will be assigned to work as a liaison on recruiting efforts in conjunction with members of Career Development and Air Force ROTC. This will be a collaborative effort and outreach to solicit and attract interest in entry level careers and all levels of law enforcement and security such as, but not limited to: candidates in Alternate Route Programs at surrounding Police Academies, Special Law Enforcement Officers, Auxiliary Police Officers, 911 Tele-Communicators, Security Officers and Dispatchers.
- ii. For the duration of this agreement, the stipend for each Sergeant-Recruiter shall be one thousand dollars (\$1000) per fiscal year.
- iii. For the duration of this agreement, there shall be a minimum of two (2) Sergeants assigned to this position.
- iv. For the duration of this agreement, first priority for the assignment will be given to the two most senior Sergeants on the current NJIT roster, contingent upon their interest and their meeting the qualifications of the assignment in all other respects, as set forth below.
- v. Recruitment initiatives will involve representation by Public Safety at Career Fairs, Recruitment Seminars and Career Development Services Student Information Sessions both internally on a university wide-basis as well as at off-campus venues, such as trade shows, that are specifically organized and designed to attract law enforcement and security career minded individuals. The supervisor-recruiter will provide information, answer questions, and discuss the importance of law enforcement safety tenets, awareness and differences as applicable and pertinent to municipal and campus policing.

- vi. Additionally, the supervisor/recruiter will actively assist in locating the venues conducive for law enforcement recruitment.
- vii. Sergeants interested in this assignment shall have held the position of Institutional Police Sergeant in good standing.
- viii. Sergeants must have a positive and productive attitude and be capable of expressing and sharing the philosophy and goals of the department.
- ix. Sergeants must possess knowledge and information about entry-level departmental job descriptions.
- x. Sergeants must have proficient communication skills, including excellent public speaking ability.
- xi. The Department encourages officers to volunteer to be considered for the selection process.
- xii. When an opening occurs for Recruitment Sergeant assignment, Sergeant(s) shall complete an administrative submission to the Chief of Police, expressing their desire to become a Recruitment Sergeant.
- xiii. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police.
- xiv. This review will include, but is not limited to; seniority, annual evaluations, time and attendance record, departmental commendations, and disciplinary history.

b. Detective-Sergeant Assignment

- i. For the duration of this agreement, there shall be at least one (1) Sergeant assigned to this position.
- ii. For the duration of this agreement, the stipend for the Detective-Sergeant shall be two thousand two hundred dollars (\$2200) per fiscal year.
- iii. Candidate is required to have a minimum of 1 year experience as a NJIT Police Sergeant and/or experience as an investigator for the department.
- iv. Candidate(s) with investigative experience will be given preference.
- v. Candidate must display high moral character and knowledge of his/her job.

- vi. The Sergeant candidate(s) will be encouraged by the department to volunteer for the position.
- vii. Candidates must display a high proficiency in report writing and time management skills.
- viii. Candidates must have an extensive history of self-initiated proactive policing, including community policing, arrests, field inquiries, motor vehicle stops, and demonstration of time management skills.
- ix. Candidate(s) must display leadership qualities and the ability to successfully delegate responsibilities to their detective(s).
- x. When an opening occurs for Detective Sergeant Assignment, a Sergeant shall submit an administrative submission to the Investigations unit Commander.
- xi. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police. This review will include, but is not limited to; seniority, annual evaluations, time and attendance history, departmental commendations, and disciplinary history.

## **ARTICLE XXVII**

### **HEALTH BENEFITS**

#### **A. State Health Benefits Program**

It is agreed that the State Health Benefits Program, and any rules and regulations governing its application, including amendments or revisions thereto shall be applicable to employees covered by this Agreement. The University agrees to continue to participate in the State Health Benefits Program for the duration of this agreement.

It is agreed that changes in benefits or open enrollment periods adopted by the State Division of Pensions and Benefits for State employees are a requirement for continued participation in the State Health Benefits Program and the parties recognize that such changes shall apply to employees represented by the Union. It is agreed that changes, corrections or reinterpretations of the Program promulgated by the State including changes in plan operators, in co-payments and contributions, or other changes or modifications, are applicable to employees covered by this Agreement and shall be incorporated into the Agreement and thereafter be applicable to all employees. It is specifically understood that the provisions of the Pension and Health Benefits Reform 2011 legislation under Chapter 78, P.L. shall be applicable to all employees covered by this agreement.

Where an employee utilizes any type of leave, whether paid or unpaid, he or she shall continue payment of health plan premiums at the same level as those that he paid prior to the leave as applicable under the State Health Benefits Program. If the

premiums are raised or lowered, the employee will be required to pay the then-applicable premium rates.

If the employee charges his accrued vacation, sick, and/or administrative leave accruals for any leave, his share of premiums will be paid by payroll deductions continued in the same method as utilized during active employment status,

If the leave is unpaid, NJIT will advance payment of the employee's health plan premiums for the period of leave (up to three full months) and will bill the employee for those premiums. Prior to the employee's return from leave to active employment status, the Department of Human Resources will advise the employee in writing of the full amount of health plan premiums advanced on his or her behalf by NJIT. Within seven (7) business days of his return to active employment status, the employee must indicate, in writing, his or her selected method of repayment of the health plan premiums: (1) full repayment through the Bursar's Office within ten (10) business days, (2) additional payroll deduction at the same amount and rate as that of the employee's biweekly payroll deduction for health plan premium payment, or (3) a repayment plan approved, in writing, by the Vice President of Human Resources. If the employee fails to select a repayment option or does not make timely payments, NJIT, upon written notice, may charge additional payroll deductions until the full amount of health plan premiums paid on the employee's behalf during his unpaid leave has been repaid in full.

## **B. Eye Care Program**

1. It is agreed that Eye Care Program shall include all employees and their eligible dependents (spouse, domestic partner, civil union partner and unmarried children under 26 years of age who live with the employee in the regular parent-child relationship). The coverage shall be \$35 for regular glasses and \$40 for bifocal the current plan.
2. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.
3. Full-time employees and eligible dependents as defined above shall be eligible for a maximum payment of \$35 on the cost, whichever is less, of an eye examination by an Ophthalmologist or an Optometrist.
4. Each eligible employee and dependent may receive only one (1) payment for glasses and one payment for examinations during the period of July 1, 2015 to June 30, 2017, and one (1) payment for the period July 1, 2018 to June 30, 2019. This program ends on June 30, 2019. Proper affidavit and submission of receipts are required of the employee in order to receive payment.

## ARTICLE XXVIII

### DEFERRED COMPENSATION

**A.** It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested and the interest or other income return on the investments are intended to be exempt from current Federal Income Taxation until the individual Sergeant withdraws or otherwise receives such funds as provided in the Plan.

**B.** It is understood that the State shall be solely responsible for the administration of the Plan and the determination of policies, conditions and regulations governing its implementation and use.

**C.** The State shall provide literature describing the Plan as well as a required enrollment or other forms to all employees when the Plan has been established.

**D.** It is further understood that the maximum amount of deferrable income under this Plan shall be as follows:

1. January 1, 2015 through December 31, 2015, and January 1, 2016 through December 31, 2016 Eighteen Thousand dollars (\$18,000) for all employees less than 50 years of age and Twenty Four Thousand dollars (\$24,000) for those employees 50 years of age or older.

2. Tax deferred annuity amounts for calendar years 2018 through calendar year 2019 are subject to revision and determination by the Federal Internal Revenue Service (IRS).

## ARTICLE XXIX

### DRUG SCREENING POLICY AND PROCEDURE

NJIT and SOA agree to the NJIT/SOA Drug Screening Policy and Procedure as set out in Appendix A, SOPP of the Department of Public Safety, herein. This Policy shall be deemed to include all **mandatory** provisions of the State of New Jersey Law Enforcement Drug Testing Manual as promulgated and updated from time to time.

## **ARTICLE XXX**

### **JOB ACTION**

It is recognized by both NJIT and SOA that the continued and uninterrupted operation of the University is of paramount importance. Therefore the SOA agrees that it will refrain from any act contrary to law such as strike, work stoppage, slow down, or other job action during the life of this Agreement and will eschew any threat, encouragement, support or condoning of any such job action.

## **ARTICLE XXXI**

### **PARKING**

#### **A. Program and Fees**

The following parking fees shall be charged and collected through payroll deduction for all members of the bargaining unit desiring to park and duly registering his/her motor vehicle with the University according to published University regulations, enabling and entitling him/her to daily parking privileges on University premises:

1. All parking at all available locations, including NJIT's parking deck, shall be on a first come, first served basis following registration or a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the fee schedule rate set out below.
2. Parking fees for all bargaining unit members shall be calculated as .4% (.004) of the member's annual salary, and shall be deducted in twenty-four (24) installments throughout the academic year.
3. For the length of this contract, the following university parking rules will be applicable:
  - a. It will be assumed that all employees currently utilizing NJIT parking will continue to park at NJIT during the upcoming parking permit period and permits will renew automatically.
  - b. Employees who wish to opt-out of parking must notify the Office of Security Systems, Photo Identification, & Parking Services and return their parking permit by no later than June 15th for the July 1- December 31 parking period, and/or no later than December 15th for the January 1 – June 30 parking period.
  - c. There will be no rebates or discounts for partial use of parking permits. Returning a parking permit before the end of

a parking permit period will not eliminate the parking fee. Also, unused parking days cannot be used in a new period.

d. Employees who request a parking permit for the first time will begin incurring fees as of the date their vehicle is registered with the Office of Security Systems, Photo Identification, & Parking Services.

e. New hires who would like to park at NJIT will be provided a parking registration application during their initial onboarding process. The new employee must bring the parking registration application to the Office of Security Systems, Photo Identification, & Parking Services, in order to receive a parking permit. Once the parking permit is issued, the Office of Security Systems, Photo Identification, & Parking Services will notify the Payroll Department to initiate the biweekly parking fee deduction.

f. Requests for a hardship exception must be submitted in writing, with the appropriate supporting documentation, to the Office of Security Systems, Photo Identification & Parking Services and will be reviewed and resolved by the University Parking Committee.

## **ARTICLE XXXII**

### **DURATION**

This Agreement shall be effective as of July 1, 2015, and shall terminate as of June 30, 2019.

## **ARTICLE XXXIII**

### **SUCCESSOR AGREEMENT**

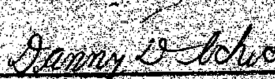
The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2019, subject to the provisions set forth in Article II, Negotiating Procedures.

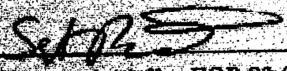



The parties hereby acknowledge and agree to the terms and conditions of the  
aforementioned Agreement between New Jersey Institute of Technology and the NJIT  
Superior Officer Association, entered into, as of July 1, 2015 and which will terminate  
June 30, 2019.

Signed this 23<sup>rd</sup> day of December, 2015.

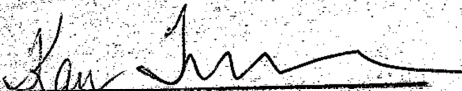
**FOR SOA:**

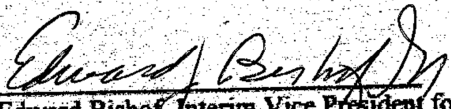
  
\_\_\_\_\_  
Danny D. Schick, Sr.  
Chief Negotiator  
FOP Staff Representative

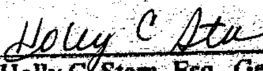
  
\_\_\_\_\_  
Raymond Aiello, FOP 93 SOA  
Trustee, Negotiating Team Member

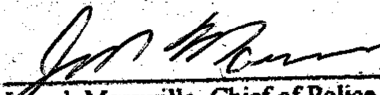
  
\_\_\_\_\_  
Michael Villani,  
FOP 93 SOA  
Negotiating Team Member

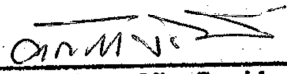
**FOR NJIT:**

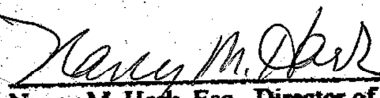
  
\_\_\_\_\_  
Kay Turner, Esq. SPHR, Chief Negotiator  
Vice President for Human Resources

  
\_\_\_\_\_  
Edward Bishop, Interim Vice President for Finance  
and Treasurer, Negotiating Team Member

  
\_\_\_\_\_  
Holly C. Stern, Esq., General Counsel  
Negotiating Team Member

  
\_\_\_\_\_  
Joseph Marswillo, Chief of Police  
Negotiating Team Member

  
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Kamal Joshi, Assistant Vice President,  
Human Resources  
Negotiating Team Member

  
\_\_\_\_\_  
Nancy M. Hark, Esq., Director of  
Labor/Employee Relations  
Negotiating Team Member

**Appendix A**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**  
**PUBLIC SAFETY DEPARTMENT**  
**DRUG SCREENING POLICY AND PROCEDURE**  
**FOR**  
**POLICE SERGEANTS**



**Standard Operating  
Policy & Procedure**

NJ Institute of Technology Department of Public Safety		Title: Law Enforcement Officer Drug Testing		
Issuing Authority: Director Robert Sabattis		Volume: 2	Chapter 16	Pages: 13
References: N.J. Attorney General’s Policies		Distribution/ Special Instruction: All		
Effective Date: *	Review Date:	Revised Date:		

I. **Purpose**

The purpose of this policy is to deter illegal drug use by law enforcement officers and provides the New Jersey Institute of Department of Public Safety (hereinafter “NJIT DPS”) with a mechanism to identify and remove those law enforcement officers engaged in the illegal use of drugs. Because illegal drug use is inconsistent with the duties, obligations and responsibilities of sworn law enforcement officers, this policy mandates that officers who test positive must be terminated from employment. This

policy sets forth uniform methods and procedures for implementing and administering drug testing as well as outlining the duties and responsibilities of the NJIT DPS with respect to the drug testing process. This policy further ensures that procedures for the drug testing of NJIT police personnel are in compliance with the NJ Attorney General's Law Enforcement Drug Testing Policy.

## II. **Policy**

It is the policy of the NJIT DPS to conduct drug testing of sworn law enforcement officers, law enforcement officer trainees, and applicants for law enforcement officer employment in order to maintain professional standards of performance and to help ensure the trust of the community in those who enforce the laws

## III. **Definitions**

- A. **Law Enforcement Officer**: Sworn law enforcement personnel who are responsible for the enforcement of the criminal laws of this State, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under NJSA 2C:39-6.
- B. **Law Enforcement Trainee**: Personnel subject to the Police Training Act while attending a mandatory basic training course.
- C. **Applicants For Law Enforcement Employment**: Persons who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under NJSA 2C:39-6
- D. **Random Selection Process**: Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

## IV. **Procedure**

This policy sets forth uniform methods and procedures for implementing and administering drug testing. This policy also outlines the duties and responsibilities of the State's law enforcement agencies with respect to the drug testing process.

## V. **Types of Drug Testing**

Law enforcement drug testing may be categorized according to the employment status of the individual being tested and the method by which the individual was selected for testing. These methods include applicant testing, trainee testing, reasonable suspicion testing and random testing.

- A. Applicant Testing

1. This policy recognizes that drug testing is an essential component of a pre-employment background investigation. All being considered for employment by NJIT as a police officer must submit to drug testing as part of a pre-employment background investigation. Candidates for employment may be tested as many times as deemed necessary to ensure that the candidates are not engaged in the illegal use of drugs. For example, applicants who have been drug tested as part of the application process may be tested again if a significant amount of time has elapsed since the previous step in the employment process.
2. During the pre-employment process, NJIT DPS must ensure that it complies with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the medication information form should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

#### B. Trainee Testing

1. Individuals hired as law enforcement officers by NJIT who are required to attend and successfully complete a mandatory basic training course approved by the Police Training Commission are subject to drug testing during their attendance at a police academy. The drug testing of law enforcement trainees will be conducted by the police academy staff under rules and regulations adopted by the Police Training Commission.

#### C. Sworn Law Enforcement Officers: Reasonable Suspicion Testing

1. NJIT DPS will undertake reasonable suspicion testing when there is reasonable suspicion to believe that a law enforcement officer, prospective law enforcement officer, or law enforcement officer trainee is engaged in the illegal use of controlled substances.
2. Unlike applicant and trainee testing, reasonable suspicion testing requires a decision as to whether the appropriate basis for conducting a test exists (i.e. reasonable suspicion). Reasonable suspicion "requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking, or has taken place and that a particular individual is involved in that drug activity". The reasonable suspicion standard is "less demanding" than the probable cause standard in two ways. First, the amount of evidence needed to satisfy the reasonable suspicion standard is less than that needed to satisfy the probable cause standard. Second, the type of information used to satisfy the reasonable suspicion standard may be "less reliable than that required to show

probable cause”. The following factors should be evaluated to determine the quality and relevance of the information acquired by NJIT DPS.

- a. The nature and source of the information;
  - b. Whether the information constitutes direct evidence or is hearsay in nature;
  - c. The reliability of the informant or source;
  - d. Whether corroborating information exists and the degree to which it corroborates the accusation; and
  - e. Whether and to what extent the information may be stale.
3. Before a law enforcement officer is ordered to undergo reasonable suspicion testing, the agency shall prepare a written report documenting the basis for the test.

D. Sworn Law Enforcement Officers: Random Drug Testing

1. All sworn members of the NJIT Police Department are eligible for random drug testing regardless of rank or assignment.
2. An officer who has been selected on one or more previous occasions for a random drug test is not excused from future tests.
3. No more than 15 percent (15%) of sworn officers will be selected each time random selection takes place. Random selection will take place on dates chosen by the Chief of Police/Director of Public Safety, whichever is applicable. There will be no prior notice given of the dates of the selection process or the collection of the samples.
4. Officers will be selected for drug testing through the use of random selection process. A representative of the collective bargaining unit shall be permitted to witness the selection process.
5. The selection process and the names of the officers selected will be documented in a written report. The report will be stored in the Internal Affairs File.
6. Officers selected for random drug testing will be notified by a supervisor appointed by the Chief of Police/Director of Public Safety, whichever is applicable and required to submit a urine specimen. The specimen acquisition process will be kept confidential.

7. Any member of this department who discloses the identity of an officer selected for random testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline up to and including termination.
8. Officers who refuse to submit to a drug test when randomly selected are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

## VI. **Specimen Collection Procedures**

### A. Preliminary Collection of Specimens

1. The NJIT DPS will designate staff members to serve as monitors of the specimen acquisition process. The monitors should always be of the same sex as the individual being tested. However, in the event there is no member of the same sex available from the NJIT PD to collect the specimens, this agency may request that a member of the same sex from another law enforcement agency serve as monitor of the process.
2. The monitor of the specimen acquisition process shall be responsible for:
  - a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
  - b. Ensuring that the collection of specimens is done in a manner that provides for individual privacy while ensuring the integrity of the specimen.
  - c. Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for analysis.
  - d. Ensuring that prior to the submission of a urine specimen, sworn law enforcement officers and law enforcement trainees shall complete a medication information form (Attachment A) by listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past 14 days. Candidates for law enforcement employment are not required to complete a medication information form at this time.

## B. Collection of Specimens

1. Throughout the testing process, the identity of individual law enforcement officers shall remain confidential. Individual specimens and forms shall be identified throughout the process by the use of social security numbers. At no time shall a name appear on any form or specimen container sent to the State Toxicology Laboratory.
2. Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.
3. The procedures for labeling, collecting and sealing urine specimen containers are set forth in Attachment B.
4. Every effort shall be made to ensure the privacy of individual officers who have been directed to provide a specimen. Therefore, individual officers will void without the direct observation of monitors. This means that while the monitor may be present in the area where individuals void, there can be no direct observation of the officer's production of a specimen. However, it is the responsibility of the monitors to ensure the accuracy and integrity of the test. Therefore, monitors can, among other things, direct an individual officer who has been selected for drug testing to remove outer clothing (jackets, sweaters etc.), empty their pockets, and wash their hands under running water, before they produce a specimen. In addition, monitors may wish to add tinting agents to toilet water and secure the area where the specimens are to be collected prior to conducting individual drug tests.
5. If the monitor has reason to believe that an individual officer will attempt to adulterate or contaminate a specimen, substitute another substance or liquid for their specimen, or compromise the integrity of the test process, the monitor may conduct a direct observation of the individual officer. If a monitor concludes that direct observation is necessary, he or she must document the facts supporting the belief that the officer will attempt to compromise the integrity of the test process before there can be direct observation.
6. After a specimen has been produced, the officer shall seal the specimen container and deliver it to the monitor. The monitor shall take possession of the specimen and ensure that it has been properly labeled and sealed. The monitor must check the temperature tape on the specimen container within five minutes of collection. A reading between 90° and 100° F is acceptable. If the temperature tape does not indicate the acceptable temperature, the monitor must examine the possibility that the officer attempted to tamper with the collection.

7. At the conclusion of the test process, the monitor shall ensure that all chain of custody documentation has been properly completed and make arrangements for the specimen to be delivered to the State Toxicology Laboratory.
8. Individuals who are unable to produce a urine specimen may remain under the supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under supervision, the monitor may direct the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to provide a specimen after a reasonable period of time, the monitor may have the individual examined by a doctor to determine whether the inability to produce a specimen is the result of a medical or physical infirmity. If there is no valid reason why an individual officer cannot produce a specimen, the inability to produce a specimen shall be deemed a refusal to cooperate with the test process and the appropriate action taken against the officer.

C. Second Specimen

1. NJIT Police Officers and trainees have the option to provide the monitor with a second urine specimen. This second specimen must be collected at the same time and the same place as the first specimen. The second specimen must be given contemporaneous with the first specimen, in other words, during the same void. The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area.
2. The NJIT Police Department shall maintain possession of the second specimen for a period of 60 days or until the agency receives notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of controlled substances.
3. The second specimen shall be released for analysis by the law enforcement agency under the following circumstances:
  - a. The agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
  - b. The agency is informed by the officer whose specimen tested positive that the officer wishes to have the specimen independently tested; and
  - c. The officer designates a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New



Jersey Clinical Laboratory Improvement Act to conduct the independent test; and

- d. A representative of the licensed clinical laboratory takes possession of the second specimen in accordance with accepted chain of custody procedures within 60 days of the date the specimen was produced.

## VII. Submission of Specimens for Analysis

- A. The State Toxicology Laboratory within the Division of Criminal Justice is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy.
- B. Urine specimens shall be submitted to the State Toxicology Laboratory as soon as possible after collection. In the event a specimen cannot be submitted to the laboratory within one working day of collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
  1. The submission of specimens to the State Toxicology Laboratory will be accomplished by NJIT DPS personnel.
  2. All specimens must be accompanied by a medical information form and a specimen submission record (Attachment C). The State Toxicology Laboratory will inspect all documentation to ensure that it has been properly completed.
  3. In addition to ensuring that the appropriate documentation has been completed and submitted for each specimen, the State Toxicology Laboratory shall inspect each specimen for damage and evidence of tampering. The Laboratory may reject any specimen it has reason to believe has been tampered with or damaged.

## VIII. Analysis of Specimens

- A. The analysis of each specimen shall be done in accordance with procedures adopted by the State Toxicology Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, metabolite cut-off levels and the issuance of test reports.
- B. Candidates for law enforcement employment are not required to submit a medication information form with their specimen. Therefore, if a candidate's specimen tests positive, the NJIT PD, following notification from the State Toxicology Laboratory, must have the candidate complete the medication information form. Once the form has been completed, the agency is responsible

for transmitting the form to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above in addition to the testing outlined.

**IX. Reporting Drug Test Results**

- A. The State Toxicology Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the Chief of Police/Director of Public Safety, whichever is applicable by overnight express mail.
- B. In some cases, the State Toxicology Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a specimen tested positive for barbiturates and that a prescription medication listed on the form by the officer explains the test result. At this point, it is the responsibility of NJIT to determine whether the officer had a valid prescription. Officers who do not have a valid prescription are subject to disciplinary action including termination by the agency.
- C. Under no circumstances, will the State Toxicology Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed by the Laboratory.

**X. Consequences of a Positive Test Result**

- A. Applicants
  - 1. When an applicant tests positive for illegal drug use, the applicant shall be immediately removed from consideration for employment by NJIT PD. In addition, the applicant shall be reported to the Central Drug Registry maintained by the Division of State Police. Any applicant who tests positive will be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years from the date of the test.
  - 2. Where an applicant is currently employed by another agency as a sworn law enforcement officer, the officer's current employer shall be notified of the positive test result. Under these circumstances, the officer's current employer is required to dismiss the officer from employment and also report his or her name to the Central Drug Registry maintained by the Division of State Police.

B. Trainees

1. When a trainee tests positive for illegal drug use, the trainee shall be immediately dismissed from basic training subject to rules adopted by the Police Training Commission. In addition, the trainee shall be suspended from employment by his or her appointing authority. Upon final disciplinary action by the appointing authority, the trainee shall be terminated from employment as a law enforcement officer, and be reported to the Central Drug Registry. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

C. Sworn Law Enforcement Officers

1. In the event of a positive test result, the submitting agency shall notify the officer of the results as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the officer may receive a copy of the laboratory report.
2. The officer shall be immediately suspended from all duties. The officer shall be administratively charged and, upon final disciplinary action, terminated from employment as a law enforcement officer.
3. The officer shall be reported to Central Drug Registry maintained by the Division of State Police by his or her employer. In addition, the officer shall be permanently barred from future law enforcement employment in New Jersey.

XI. **Consequences of Refusal to Submit to a Drug Test**

- A. Applicants for NJIT law enforcement officer employment who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement officer employment and barred from consideration for future NJIT law enforcement officer employment. In addition, NJIT shall forward the applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- B. NJIT law enforcement officer trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from NJIT law enforcement employment and permanently barred from future law enforcement employment with the NJIT PD. In addition, NJIT PD shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

- C. NJIT PD sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the officer did in fact refuse to submit a sample, the officer shall be terminated from NJIT PD law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, NJIT PD shall forward the officer's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- D. If there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

**XII. Central Drug Registry**

- A. NJIT PD shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees, and sworn law enforcement officers who test positive for the illegal use of drugs or who refuse an order to submit to a drug test.
- B. A sworn law enforcement officer who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.
- C. Notifications to the Central Drug Registry shall be made on the form in Attachment E, and shall be signed by the Chief of Police/Director of Public Safety, whichever is applicable and notarized with a raised seal. The following information shall be included:
  - 1. name and address of the submitting agency;
  - 2. name of the individual who tested positive;
  - 3. last known address of the individual;
  - 4. date of birth;
  - 5. social security number;
  - 6. SBI number (if applicable);
  - 7. gender;
  - 8. race;
  - 9. eye color;
  - 10. substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
  - 11. date of the drug test or refusal;
  - 12. date of final dismissal or separation from the agency; and

13. whether the individual was an applicant, trainee or sworn law enforcement officer.

**Notifications to the Central Drug Registry shall be sent to:**

Division of State Police  
Records and Identification Section  
P.O. Box 7068  
West Trenton, New Jersey 08628-0068

**XIII. Record Keeping**

- A. The NJIT DPS Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.
- B. For all drug testing, the records shall include but not be limited to:
  1. the identity of those ordered to submit urine samples;
  2. the reason for that order;
  3. the date the urine was collected;
  4. the monitor of the collection process;
  5. the chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
  6. the results of the drug testing;
  7. copies of notifications to the subject officer; and
  8. for any positive result or refusal, appropriate documentation of disciplinary action.

For random drug testing, the records will also include the following information:

9. a description of the process used to randomly select officers for drug testing;
10. the date selection was made;

11. a copy of the document listing the identities of those selected for drug testing;
12. a list of those who were actually tested; and
13. the date(s) those officers were tested

References:

Attachment	A	“Drug Testing Medication Information”
Attachment	B	“Instructions For Using the DOX Container”
Attachment	C	“NJ State Specimen Submission Record”
Attachment	D	“Directions to State Toxicology Laboratory”
Attachment	E	“Notification to the Central Drug Registry”

**APPENDIX B**

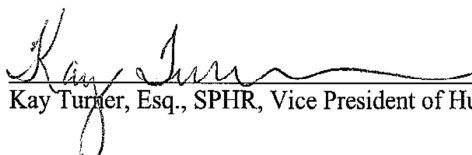
**LETTER OF AGREEMENT**

New Jersey Institute of Technology ("NJIT") and NJIT Superior Officers' Association, hereinafter referred to as ("SOA") in consideration of the mutual exchange of covenants made and enforceable in the parties' successor collective negotiations agreement with the term July 1, 2015 through June 30, 2019 hereby agree to discuss and/or negotiate as applicable:

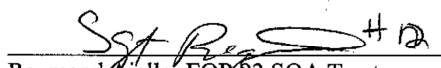
- 1 A university-wide Donated Sick Leave Bank policy.
- 2 Modification of the current overtime policy, so that in the event a Sergeant volunteers for at least an eight (8) hour shift of overtime, his or her name will move to the bottom of the list for mandatorily assigned overtime.
- 3 Current practice of assigning construction/road work security to members of the Newark police force, rather than the NJIT police force.

Executed this 7 day of January, 2016

FOR NJIT:

  
\_\_\_\_\_  
Kay Turner, Esq., SPHR, Vice President of Human Resources

FOR SOA:

  
\_\_\_\_\_  
Raymond Aiello, FOR93 SOA Trustee  
Raymond Aiello

# **NJIT/SOA AGREEMENT**

**July 1, 2015 – June 30, 2019**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**

**and**

**NJIT SUPERIOR OFFICERS' ASSOCIATION, affiliated  
with the Fraternal Order of Police Labor Council  
Inc.**



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**NJIT/SOA**  
**AGREEMENT**

This Agreement is entered into by New Jersey Institute of Technology, hereinafter (“NJIT” or “the University”) and NJIT Superior Officers’ Association, affiliated with the Fraternal Order of Police Labor Council, hereinafter referred to as (“SOA”).

**ARTICLE I**

**RECOGNITION**

NJIT recognizes SOA/FOP Labor Council as the sole and exclusive negotiating agent for the purpose of negotiating terms and conditions of employment for all full-time commissioned Police Sergeants, hereinafter referred to as “Sergeant(s)”; specifically excluding all other Commissioned Police Officers above and below the rank of Sergeant and all other employees of NJIT.

**ARTICLE II**

**NEGOTIATING PROCEDURE**

A. The SOA shall present its demands for a successor Agreement to NJIT, in writing, related to terms and conditions of employment on or before October 1, prior to the expiration of this Agreement. On or before November 1, NJIT shall meet with the SOA for the purpose of negotiating, in good faith, a mutually acceptable Agreement.

B. Should any provision in or portion of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction or unenforceable by the Public Employment Relations Commission (PERC), such decision of the court/PERC shall only apply to the specific provision or portion thereof, directly specified in the decision. Upon the issuance of final determination, after any and all appeals, the parties agree immediately to meet and discuss a substitute for the invalidated provision or portion thereof.

C. This Agreement incorporates the entire understanding of the parties on all matters which were or could have been the subject of negotiations, and shall not be changed except by an amendment mutually agreed upon between the parties in writing.

## **ARTICLE III**

### **MANAGEMENT RIGHTS**

- A. NJIT retains and reserves unto itself all rights, powers, duties, authority, and responsibilities conferred upon and vested in it by the law and constitutions of the State of New Jersey and the United States of America.
- B. All such rights, powers, duties, authority, and responsibilities possessed by NJIT may be exercised without restrictions, subject to the limitations imposed by law and except as they are specifically abridged and modified by this Agreement.
- C. NJIT retains its responsibility to promulgate and enforce the rules and regulations, subject to limitations imposed by law, governing the conduct of and activities of those Sergeants subject to this Agreement and not inconsistent with the express provisions of this Agreement, recognizing that proposed new rules, policies or modifications of existing rules/policies governing negotiable terms and conditions of employment shall be presented to the SOA and negotiated upon the request of the SOA as may be required pursuant to the New Jersey Public Employer –Employee Relations Act, as amended. Request for negotiations shall be made in writing and within thirty (30) days after receipt of notice of the proposed new or modified rule(s) and/or policy(ies).

## **ARTICLE IV**

### **DUES/FEE DEDUCTION**

#### **A. Dues**

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (N.J.S.A. 52:14-15(9)(e), as amended), NJIT agrees to deduct from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, the SOA dues and regular assessments of each member of the negotiating unit who furnishes a voluntary written authorization of such deduction on a form acceptable to NJIT.
2. The right of dues deductions for any Sergeant of the negotiating unit shall be limited to the SOA and each Sergeant in the negotiating unit shall be eligible to withdraw such authorization only as of July 1 of each year provided the notice of withdrawal has been timely filed.

3. The amount of the SOA dues shall be such amount as shall be certified to NJIT by the SOA at least thirty (30) days prior to the date on which deduction of dues are to begin.

4. The deduction of SOA dues made from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, pursuant hereto, shall be submitted by NJIT to the SOA before the fifteenth day of the calendar month succeeding that in which such deductions are made, together with a list of names of negotiating unit members from whose pay such deductions are made.

5. The SOA agrees to save NJIT, its trustees, officers, Sergeants and representatives, harmless from any action or actions commenced by any member(s) of the negotiating unit against NJIT, for any claim arising out of such deduction and the SOA assumes full responsibility for the disposition of any such funds once they have been turned over to them as provided.

6. Errors made by NJIT in the deduction and/or remittance of monies under this Agreement shall not be considered by the SOA as a violation of this Agreement.

**B. Representation Fee (Agency Shop)**

**1. Purpose of Fee**

Subject to the conditions set forth in number 2. below, Fee Assessment, all eligible nonmember Sergeants in this unit will be required to pay to the majority representative a representation fee, in lieu of dues, of services rendered by the majority representative until June 30, 2010. Nothing herein shall be deemed to require any Sergeant to become a member of the majority representative.

**2. Fee Assessment**

It is understood that the implementation of the agency fee program is predicated on the demonstration by the SOA that more than fifty percent (50%) of the eligible Sergeants in the negotiating unit are dues paying members of the SOA.

If, at the signing of this Agreement, the above percentage has not been achieved, the agency fee plan will be continued through the calendar year, after which it shall be discontinued unless the minimum has been achieved prior to that occurrence. Then, if the minimum percentage is exceeded on any quarterly date, i.e., January 1, April 1, July 1, or October 1, the agency fee plan shall be reinstated, with proper notice to affected Sergeants.

On July 1, in each year of the Agreement, an assessment shall be made to determine if the minimum percentage has been exceeded. If it has, the agency fee shall continue until the following annual assessment. If it has not, the agency fee will be discontinued and eligibility for reinstatement shall be on a quarterly basis as provided above.

**3. Deduction and Transmission of Fee**

After verification by NJIT that Sergeants must pay the representation fee, NJIT will deduct the fee for all eligible Sergeants in accordance with this Article.

The mechanics of the deduction of representation fees and the transmission of such fees to the SOA will, as nearly as possible, be the same as those used for the deduction and transmission of regular membership dues to the SOA.

NJIT shall deduct the representation fee as soon as possible after the tenth day following re-entry into this unit for Sergeants who previously served in a position identified as excluded or confidential, for Sergeants re-employed in this unit from a re-employment list, for Sergeants returning from leave without pay, and for previous Sergeant members who become eligible for the representation fee because of non-member status.

NJIT shall deduct the representation fee from a new Sergeant as soon as practicable after thirty (30) days from the date of employment in a position in this unit.

**4. Demand and Return System**

The representation fee in lieu of dues shall be available to the SOA only if the procedures herein set out, are maintained by the SOA.

The burden of proof under this system is on the SOA.

The representation fee, subject to refund, shall not reflect, however, the costs of support lobbying activities designed to foster policy goals in collective negotiations and contract administration or to secure for the Sergeants represented, advantages, in wages, hours, and other conditions of employment in addition to those secured through collective negotiations with NJIT.

The Sergeants shall be entitled to a review of the amount of the representation fee by requesting the SOA to substantiate the amount charged for the representation fee. This review shall be provided in conformance with the internal steps and procedures established by the SOA.

The SOA shall submit a copy of the SOA review system to NJIT. The deduction of the representation fee shall be available only if the SOA establishes and maintains this review system in accordance with law.

If the Sergeant is dissatisfied with the SOA's decision, he/she may appeal to a three (3) member board established by the Governor.

**5. Employer Held Harmless**

The SOA hereby agrees that it will indemnify and hold NJIT from any claims, actions or proceedings brought by any Sergeant in the negotiations unit which arises from deductions made by NJIT in accordance with this provision.

**C. Amount of Dues/Fees**

Prior to the beginning of each contract year, the SOA will notify NJIT, in writing, of the amount of regular membership dues, initiation fees and assessments charged by the SOA to its own members for that contract year, and the amount of the representation fee for that contract year. Any changes in the dues, assessments and/or representation fee structure during the contract year shall be certified to NJIT at least thirty (30) days in advance of the requested date of such change. The change will be reflected in payroll deductions at the earliest practicable time after receipt of the request.

The representation fee, in lieu of dues, shall be in an amount equivalent to the regular membership dues, initiation fees and assessments charged by the majority representative to its own members, less the cost of benefits financed through the dues, fees and assessments and available to or benefiting only its members, but in no event shall such fee exceed eighty-five percent (85%) of the regular membership dues, fees and assessments.

**D. Errors or Omissions**

NJIT shall not be liable to the SOA for any retroactive or past due representation fee or dues for a Sergeant who was identified by NJIT as excluded or confidential or in good faith was mistakenly or inadvertently omitted from deduction of the representation fee or dues.

**E. Legal Requirements**

Provisions in this clause are further conditioned upon all other requirements set by statute.

**ARTICLE V**

**RIGHTS OF THE SOA**

A. NJIT agrees to recognize those Sergeants of the negotiating unit, not to exceed three (3), who are designated by the SOA as representatives for collective negotiations, by written notice of the names of such Sergeants in the negotiating unit given to NJIT. This section shall not preclude either party from inviting others to attend collective negotiations or providing factual knowledge or expertise with respect to a particular subject for collective negotiations. In this event, advance notice, shall be given the other party.

B. Non-Sergeant Representatives of the SOA shall be permitted to transact official



business on NJIT's property at all reasonable hours provided they first have obtained permission in advance from the Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee, and they do not interfere or interrupt normal NJIT operations or work of any Sergeant in the bargaining unit, or other NJIT employees or groups of employees.

C. The SOA shall have the right to post, on mutually agreed bulletin boards, bulletins and notices relevant to official SOA business which affects the Sergeants in the negotiating unit.

## **ARTICLE VI**

### **LABOR/MANAGEMENT COMMITTEE**

A. A committee consisting of NJIT and SOA representatives may meet for the purpose of reviewing the administration of this Agreement and to discuss problems which may arise.

B. Either party to this Agreement may request a meeting and shall submit a written agenda of topics to be discussed seven (7) days prior to such a meeting. Requests by the SOA for such a meeting will be made to the Vice President of Human Resources.

C. A maximum of two (2) Sergeants representatives of the SOA may attend such meetings. Sergeants representatives who attend such meetings, during their scheduled work shift, shall be granted time off to attend without loss of pay.

D. The committee meetings are not intended to bypass the grievance procedure, the normal chain of command, or to be considered collective negotiating meetings, but are intended as a means of fostering good labor relations through an exchange of views between the parties to this Agreement.

## **ARTICLE VII**

### **INVESTIGATION, DUE PROCESS, DISCIPLINE & CHALLENGE**

As members of NJIT's Department of Public Safety, Sergeants are entrusted with the safety and security of university property and its representatives, employees, students, licensees and guests. Failure to perform or negligent performance of a Sergeant's responsibilities could have serious and unacceptable consequences. Misconduct is on its face, unacceptable and often terminable. A high standard of excellence is expected and must be maintained by all Sergeants at all times, exemplifying respect, honor, dignity, commitment, integrity and requisite skills. It is against this purpose and expectation that the conduct of Sergeants will be measured.

**A. Management Meetings:**

The Department of Public Safety, through its supervisory structure and in accordance with the authorized chain of command, retains as a nonnegotiable prerogative, the right to meet with Sergeants, at its discretion, to discuss any matter of pertinent business, including, but not limited to, providing information and/or direction, reviewing and/or altering individual and/or departmental responsibilities and providing performance assessment. Except as otherwise specifically provided for in this Agreement, there is no right to SOA representation for a Sergeant attending any of these meetings. Attendance and participation at these meetings are not optional with the Sergeants, but must be adhered to as directed.

**B. Investigation:**

A Sergeant's conduct is always subject to investigation where there is a real nexus between the conduct and the Sergeant's position at the university. Where the Sergeant is questioned directly as to his/her conduct or his/her knowledge on a matter under investigation and discipline is a foreseeable consequence of the Sergeant's response he shall be afforded SOA representation in accordance with law. This type of meeting is called an "investigatory conference" and is preliminary to any charge of disciplinable conduct. This meeting is not a part of a Sergeant's permanent record except when and unless it is found that the Sergeant engaged in misconduct in the meeting itself, (i.e., provides false evidence). There is no privilege or immunity in employment in providing false statements or refusing to respond to a direct inquiry, except and only as mandated under applicable law.

**C. Due Process:**

Prior to invoking formal, final, employment discipline upon a Sergeant, that is greater in severity than a written reprimand, he/she shall be afforded both notice of any and all charges against him/her and an opportunity to be heard on those charges. A Sergeant may choose to be silent at the meeting or not attend the meeting at all. This meeting is called a due process meeting and all Sergeants shall be afforded SOA representation at due process meetings. Legal counsel representing SOA shall be permitted to attend employment due process meetings only where employment charges include or reasonably may be construed to include criminal behavior in violation of New Jersey's Penal Code, as codified in New Jersey Statutes. Where such criminal behavior is a reasonably foreseeable consequence of such charge, the Sergeant will not be charged or allowed to waive SOA and/or legal representation without first contacting the SOA, who shall have a right to then have a representative, including legal counsel, at the meeting.

**D. Discipline:**

1. Following any investigation deemed necessary by NJIT and requisite due process, where applicable, a Sergeant may be disciplined for just cause.

2. Discipline under this Article means: official written reprimand, suspension without pay and discharge.
3. Any disciplinary action imposed upon a Sergeant may be processed as a grievance through the regular grievance procedure.
4. A Sergeant who is suspended without pay or discharged may file a grievance at Step Two of the grievance procedure.
5. The terms of this Article shall not apply to probationary Sergeants.
6. Drug Screening – Positive Results

Sergeants who are tested and test positive for the presence of drugs under the Drug Screening Policy shall be suspended from duty immediately without pay, pending a due process hearing for dismissal from employment. Such Sergeant may be terminated from employment based upon a confirmed positive result.

The only grievable issues with regard to discipline resulting from a positive drug test are as follows:

- (i.) a challenge to the testing results or procedure;
- or
- (ii.) in the case of drug testing based upon “reasonable individualized suspicion”, a claim that reasonable grounds for testing did not exist.

#### **E. Emergency Suspensions**

Pending an investigation, a Sergeant may be subject to emergency suspension for the following:

- a. The employee is unfit for duty.
- b. The employee is a hazard to any person if permitted to remain on the job.
- c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
- d. The employee has been formally charged with a first, second, or third degree crime.
- e. The employee has been formally charged with a first, second,

third or fourth degree crime while on duty, or a criminal act related to his or her employment.

At the time of the suspension, the individual shall be provided with a written statement of the reasons the actions has been taken. A copy of the written statement shall be provided to the SOA representative.

**F. Grievance Procedure:**

**1. Any Sergeant of the Negotiating Unit May Appeal:**

- (a) A claimed violation or other improper application by the University of the terms of this Agreement, University rules, regulations or governing policy specifically affecting the grieving Sergeant's negotiable terms and conditions of employment.

**2. Time Limits:**

- (a) Failure of a grievant to meet any of the calendar limitations stipulated in the procedure below will constitute a waiver of his/her rights to claim a grievance on the basis of the same alleged factual situation. Likewise, a failure on the part of the designated representative of NJIT to meet the procedural obligations of any step in the grievance procedure, within the prescribed period of time, will give the grievant an automatic right to proceed to the next available step in the procedure. It is understood that nothing contained in this procedure should be construed as limiting the right or propriety of a Sergeant of the negotiating unit to informally discuss any problem with an appropriate member of NJIT administration.

**3. Procedure for Handling Grievances:**

**(a) Informal Conference**

A grievant may first discuss his/her grievance informally with the appropriate command Lieutenant. The grievant may at his/her option, be accompanied by a representative of SOA. All informal resolutions shall be without precedent

**(b) Step One**

- (i) Within ten (10) workdays of the occurrence causing the grievance or of the time the grievant should have reasonably known of the occurrence causing the grievance, the grievant shall, if he is not satisfied through informal conference discussion, submit in writing to the Chief of Police/Director of Public Safety, whichever is applicable, with copies to the Vice President of Human Resources, the claimed facts behind, and basis of the grievance and the desired remedy. Time limits, which begin after the written grievance is submitted, may be mutually extended by the parties only in writing.
- (ii) SOA shall be notified by the Chief of Police/Director of Public Safety, whichever is applicable in the event the grievant is not represented by SOA, and a representative shall have the right to be present, at this time and all subsequent steps in the grievance procedure, to present the views of SOA. The Chief of Police/Director of Public Safety, whichever is applicable, or his/her designee which may be a representative from the Department of Human Resources or other University official, within ten (10) calendar days after receipt of the written grievance, shall meet with the grievant and the representative of SOA in an effort to resolve the grievance. The Chief of Police/Director of Public Safety, whichever is applicable, or designee shall indicate his/her disposition of the grievance, in writing, within five (5) calendar days of said meeting to the grievant and SOA and Vice President of Human Resources.

(c) **Step Two**

- (i) If the grievant and/or SOA is dissatisfied with the decision at Step One of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the second step of the grievance procedure, the grievant and/or SOA shall, within seven (7) calendar

days of the date of the decision at Step One (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Vice President for Real Estate Development and Capital Operations, with copies to the Vice President of Human Resources. The grievance shall contain: (1) a brief and concise factual statement of the action grieved, (2) the section(s) of the collective bargaining agreement allegedly violated, (3) the specific policy and/or rule or regulation allegedly violated and (4) the desired remedy.

- (ii) Within thirty (30) days of receipt of the written grievance at Step Two, the Vice President for Real Estate Development and Capital Operations or his/her designee shall schedule and hold a hearing for the purpose of determining the standing and merits of the grievance. If the grievance involves a challenge to an imposed disciplinary sanction the grievant may be represented either by their local SOA representative or legal counsel, provided the SOA designates such counsel as the representative of the SOA, or there is an appropriate substitution of representation. In no case shall the grievant be entitled to dual representation of both an SOA representative released from active duty for purposes of representation and counsel at the Step Two hearing. An SOA representative, other than legal counsel may be present and represent the grievant at all non-disciplinary grievance hearings.
- (iii) At least one (1) week prior to the date of the grievance hearing concerning an imposed disciplinary sanction, the University and the grievant shall exchange the following information:
  - (1) All documents which the University relied upon in imposing the disciplinary sanction(s) and all documents relied upon by the grievant in challenging the

- sanction(s).
- (2) A list of all witnesses they intend to call at the grievance hearing, and a brief summary of the substance of the anticipated testimony.
  - (3) If there is any tangible evidence which forms the basis of the disciplinary action, it shall be described and provided to the grievant's representative for inspection and/or testing, providing that such inspection can be conducted without damaging or compromising the integrity of the evidence.
  - (4) Copies of the grievant's personnel file within the Department of Human Resources.

There shall be no other pre-hearing discovery authorized, including interrogatories, document production, depositions, or similar procedures.

**(d) Hearing Procedure:**

- (i) The grievance hearing shall be held before the Vice President for Real Estate Development and Capital Operations or his/her designee. Such hearing is not intended to be judicial in nature, and therefore rules of evidence applicable in judicial or quasi-judicial hearings shall not be applied. The hearing officer controls the hearing and in so doing determines what evidence to hear and the manner of presentation of evidence, and advocacy witnesses may be subjected to a relevancy review and determination by the hearing officer. All allowed witnesses will be given paid release time from university duty to testify when called upon. Testimony may be in the form of reply to direct questioning, or may be narrative.
- (ii) A transcript of the proceeding shall be arranged for and made by the University in cases of grievances of disciplinary terminations. The grievant and/or SOA shall be entitled to a copy provided that they agree, in advance, to share

the cost of transcription. No other recordings of the termination or other disciplinary grievance proceedings may be made (e.g. tape recordings) unless the parties specifically agree, in which case copies of any tapes shall be made available to the non-taping party.

- (iii) The grievant bears the burden of proving their grievance (e.g. that there was a violation of agreement, policy, rule or regulation) by a preponderance of the credible evidence. In the case of a disciplinary sanction of a non-probationary Sergeant, alleging discipline without just cause, the University bears the burden of demonstrating just cause by a preponderance of the credible evidence. Each party shall be permitted to make an opening statement, provided that same is not testimonial in nature.
  
- (iv) In grievances of disciplinary sanctions, witnesses shall testify under oath, and where the proposed disciplinary penalty is termination, witnesses shall be duly sworn by the certified short hand reporter transcribing their testimony. The other party may cross-examine the witness upon completion of direct testimony; there will be an opportunity for redirect testimony and recross examination. The Step Two hearing officer may, in his/her discretion, limit testimony and rule upon admissibility of evidence based upon relevancy of the testimony, its probative value, the potential for redundancy in cumulative effect, giving due regard both for grievant's opportunity to be heard and the necessity to conduct an efficient hearing that is neither unduly time consuming to the public entity nor directed to matters of limited or no substantial relevancy. Witnesses' testimony shall be factual and not based on hearsay. Only in exceptional circumstances, may expert and/or character testimony be presented by either party, and then only upon a significant proffer that such testimony is directly relevant to a necessary finding in resolution of the underlying grievance, and the relevancy of such testimony



would outweigh the administrative burden of hearing such testimony.

- (v) All procedural or evidentiary rulings of the hearing officer shall be final and binding for purposes of this hearing. Upon the close of testimony, the parties may present closing statements summarizing their positions. Upon mutual agreement of the parties, or upon the request of the hearing officer, written briefs will be provided.
  
- (vi) The hearing officer may render his/her decision orally at the time of hearing if there is no transcript of the hearing taken and briefs are not submitted, otherwise, he will reserve the decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to the Vice President for Real Estate Development and Capital Operations, SOA, grievant, and Vice President of Human Resources. Absent agreement by the parties this will occur within thirty (30) days of the receipt of the transcript and/or briefs.
  
- (vii) In the event the grievance is one that is both appealable and, in fact appealed to either an arbitrator at Step Three or another appropriate forum, the arbitrator (or other appropriate third party) shall be provided a copy of the transcript below and briefs (where such exist) and the written determination of the Vice President for Real Estate Development and Capital Operations or his/her designee. In the case of grievances of disciplinary sanctions, the sole issue before this Step Three forum, which shall be limited solely to a review of the record below, shall be whether the grievant by clear and convincing evidence of record carried his/her burden; the record thereby demonstrating that the hearing officer, in his/her determination, (1) committed a substantial violation of contractual procedure of significant

effect or impact or (2) the decisional findings of the hearing officer were wholly arbitrary, capricious or unreasonable, based upon the evidence before him/her, giving due regard for the hearing officer's ability and authority to assess the credibility of witnesses.

(e) **Step Three**

- (i) If the SOA is dissatisfied with the decision at Step Two, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in F., Grievance Procedure, 1.(a.), Any Sergeant of the Negotiating Unit May Appeal; above, and the SOA desires and is authorized by law to institute arbitration or other appeal proceedings, it must, within fourteen (14) calendar days of receipt of the Vice President for Real Estate Development and Capital Operations or his/her designee's reply, give proper notice to either the New Jersey Public Employment Relations Commission, hereinafter referred to as PERC, or to the Board of Trustees, consistent with the procedures set forth by statute, with a copy to the Vice President of Human Resources and the General Counsel. Any arbitration proceedings shall be in accordance with the rules and regulations of PERC, and for grievances of disciplinary sanctions, subject to the parameters limiting the scope of review set forth in (d.) vii., Hearing Procedures, above.
- (ii) The recommendation or decision of the reviewing individual or body shall not in any manner modify or cause anything to be added to or subtracted from this Agreement or any policy of the University.
- (iii) Fees and expenses of an arbitrator where such proceedings are authorized, shall be shared equally by the University and the SOA. Only with prior written agreement of the parties, shall any other expense or fee contained in this grievance procedure be shared.

4. NJIT will give written notification to the President of the SOA of grievance hearings or meetings beginning with Step Two for all Sergeants of the negotiating unit. The President of the SOA shall also be sent copies of all grievance answers.

5. Decisions of an arbitrator involving minor discipline, as defined by law, shall be final and binding. Arbitration of major discipline is not available under law and not authorized by this Agreement.

## **ARTICLE VIII**

### **NON-DISCRIMINATION**

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination in accordance with all State and Federal laws.

B. All references to Sergeants in the negotiating unit or agents of NJIT in this Agreement are expressly gender neutral and wherever one gender is used it shall be construed to include both male and female Sergeants and/or NJIT agents.

C. NJIT agrees not to interfere with the right of Sergeants to become members of this unit, and there shall be no discrimination, interference, restraint, or coercion, by either NJIT or any representative of the SOA against any Sergeants because of SOA membership or lack of membership or because of any Sergeant's activity or lack of activity in any capacity pertaining to any authorized, legal activities of the SOA.

D. The SOA recognizes its responsibilities as negotiating agent and agrees to represent all Sergeants in the negotiating unit without discrimination, interference, restraint, or coercion regardless of membership or lack of membership in the SOA.

## **ARTICLE IX**

### **SENIORITY**

**A. Recognition:**

1. **Probationary Exclusion:** All Sergeants shall be considered as probationary appointments for a period of one hundred and eight (180) days from the date of appointment as commissioned police Sergeant.

2. **Retroactive Recognition and Tie Breakers:** Upon completion of such probationary period, seniority as a Sergeant will be dated as of the initial date of appointment as a Sergeant. In the event that two (2) or more Sergeants have the same initial date of appointment, continuous prior commissioned police officer service, continuous university service, and the alphabetical order of their last names, in that order,

shall be used to determine their seniority with regard to each other.

3. The Office of Human Resources shall maintain a seniority list of all Sergeants, a copy of which shall be furnished to the SOA every six (6) months, normally in January and July.

4. A Sergeant's seniority shall cease and his/her employment status shall terminate for any of the following reasons:

- (a) Resignation or retirement.
- (b) Discharge for cause.
- (c) Continuous lay-off for a period of two (2) years.
- (d) Failure of a recalled Sergeant to notify NJIT in writing, within seven (7) calendar days of receipt of notification of recall that he/she intends to accept such offer of re-employment. A Sergeant accepting such an offer of re-employment must return to active service within fourteen (14) calendar days of such notice of recall unless a later date is agreed to by NJIT. Written notice of recall to work shall be sent by NJIT, by certified mail, return receipt requested, to the Sergeant's last known address as shown on NJIT records.
- (e) Failure to report for work for a period of three (3) consecutive, scheduled working days without subsequent notification to NJIT of a justifiable excuse for such absence.
- (f) Failure to report back to work immediately upon expiration of vacation, leave of absence, or any renewal thereof, unless failure to return to work is excused by NJIT. Excused failure to return shall not be unreasonably withheld by NJIT.
- (g) Failure to return to work immediately with appropriate, formal certification of the elimination of the disability (or other intervening cause for absences) following exhaustion of authorized leave afforded under and pursuant to this Agreement (Job Abandonment).

**B. Application:**

1. **Layoff:**

- (a) If a reduction in force is necessary, layoffs shall take place in the inverse order of the date of hire into the Sergeant's job classification.
- (b) NJIT shall simultaneously provide the SOA and the Sergeant(s) concerned a two (2) week notice of layoff. SOA may request and have scheduled a meeting with the Manager of Labor Relations to discuss possible alternatives; however, the final discretion rests with NJIT.
- (c) When a Sergeant is scheduled for a layoff due to reduction or reorganization in the workforce, he/she shall be permitted, to the extent permitted by law, to exercise his/her seniority rights to replace (bump) a Sergeant or other commissioned police officer with less seniority provided the Sergeant with greater seniority is qualified in all respects to perform the work of the bumped officer.
  - (i) For the purpose of this Agreement "qualifications" shall be determined by NJIT. However, the SOA may discuss any questions of "qualifications" with the Manager of Labor Relations through the labor management committee established under Article VI, Labor/Management Committee, of this Agreement.
  - (ii) A Sergeant with no previous commissioned police officer experience at NJIT, who successfully exercises his/her bumping privileges into a commissioned police officer position, shall serve a ninety (90) day performance based probationary period. During said period, if NJIT is not satisfied with the Sergeant's performance, but not earlier than sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which

he/she is again laid off. Existence of the probationary period satisfies the notice of layoff requirement. Nothing herein waives or modifies the right of NJIT to terminate a Sergeant for just cause at any time. Discharge during the probationary period is not grievable.

(iii) Salary Range and Step placement for a Sergeant, successfully exercising the contractually authorized bumping privilege, shall be as follows:

(1) The Sergeant shall be placed at the same or nearest higher step on the commissioned police officer salary range from that step occupied prior to layoff, if available in the range. If not available within the range, then the Sergeant shall be placed at the closest step available within the appropriate range.

(d) The parties hereto commit to work together toward minimization of departmental, university and bargaining unit disruption caused by implementation of the contractually authorized layoff and bumping scheme.

2. **Recall:**

(a) The recall period shall be for twenty-four (24) calendar months from the date of original layoff.

(b) For the period of recall, Sergeants laid off from their positions shall be entitled to recall, by seniority, to the job classification of Sergeant. Additionally, for the period of recall, Sergeants laid off from their positions shall be eligible for probationary recall into the commissioned police officer job classification. However, for recall to such classification the Sergeant must first be considered qualified to perform in the position to which recall is desired and second must serve a ninety (90) day performance based probationary period, during which time the Sergeant may be discharged without resort to the grievance procedure. During said period, if NJIT is not satisfied with the probationary Sergeant's performance but no earlier than

sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which he/she is again laid off.

- (c) Sergeants laid off, pursuant to this Agreement, shall retain, in addition to the twenty-four (24) month recall potential, only those contractual benefits required by law.
- (d) All Sergeants on recall roster must be recalled to their former jobs, if the job is reinstated, prior to the hiring of new Sergeants into such positions.

## **ARTICLE X**

### **OUT OF TITLE WORK**

A. When a Sergeant is temporarily assigned to work in another job title within the negotiating unit, such assignment may be made for periods up to sixty (60) calendar days unless mutually extended by NJIT and the SOA. NJIT is not restricted to filling the assignment from only those who apply and in filling such opening shall first consider the qualifications of the applicant and providing such qualifications are equal shall then consider the length of continuous service of the applicant.

1. If NJIT assigns a Sergeant to temporary work in another job title having a higher salary range, he shall, after ten (10) continuous working days in that position, be considered to be working in an “acting capacity” and shall then receive the rate of pay for that position, retroactive to the first day of the temporary assignment. For purposes of this provision only, rate of pay shall be defined as the Salary Step in the reassigned position which value is at least one (1) step higher than the salary step occupied by the Sergeant in his/her permanent position. In the case of an assignment to a position without salary steps, the adjustment shall be equivalent to the value of one (1) salary step higher than that occupied by the Sergeant in his/her permanent position. Upon being assigned to his/her permanent position, the Sergeant shall immediately receive the rate of pay for his/her permanent position.

## **ARTICLE XI**

### **POSTING, HIRING AND PROMOTION**

In keeping with NJIT’s commitment to affirmative action and equal employment

opportunities, all recruitment efforts will conform with the application sections of NJIT's Equal Employment Opportunity/Affirmative Action policies. Accordingly, a permanent job opening which represents a promotional opportunity shall be posted in accord with applicable University policies. Copies of such postings shall be available to SOA on line at the NJIT Human Resources Career Site webpage.

**ARTICLE XII**

**SICK LEAVE**

**A. Accrual:**

<b><u>Eligibility</u></b>	<b><u>Hours Earned</u></b>	<b><u>Which Equates to</u></b>
Sergeants hired prior to March 5, 2003	Ten (10) hours per month for a 40 hour work week	One and one-quarter (1¼) day per month to the end of that fiscal year
Sergeants hired on or after March 5, 2003	Eight (8) hours per month for a 40 hour work week	One (1) day per month to the end of that fiscal year

**B. Utilization:**

1. Sick leave may be utilized by Sergeants when they are unable to perform their work by reason of personal illness, injury or exposure to contagious disease or for the attendance of the Sergeant upon a member of the immediate family who is seriously ill, or whose spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively) is hospitalized due to pregnancy.

2. Accumulated sick leave may be used to grieve the death and/or attend the funeral of the Sergeant's immediate family: father, mother, spouse, domestic partner or civil union partner (as defined and recognized by State law, respectively), child, foster child, sister or brother of Sergeant and relatives of Sergeant residing in the same household as Sergeant. Leave utilized for bereavement shall be limited to three (3) days per occurrence unless exception for extraordinary reason is made by and at the discretion of the Vice President of Human Resources or his/her designee.

**C. Authorization:**

1. **Anticipated Leave:** Any proper utilization of sick leave anticipated in advanced must be requested as far in advance as practicable and approved by the Sergeant's immediate supervisor prior to utilization. Approval will not be unreasonably denied. Examples of anticipated leave, by way of illustration but not limitation, include physician appointments, dentist appointments, scheduled surgery and short-term care for an ill member of the immediate family. Within a reasonable period of time following



utilization of sick leave for this purpose the Sergeant, upon request by NJIT, must validate the reason for scheduled leave by means of written proof that the scheduled purpose for the sick leave did occur.

2. **Unanticipated Leave:** Utilization of sick leave that cannot be anticipated in advance, such as sudden illness, must be validated by contacting, as soon as possible and, to the extent possible, within one-half (½) hour after the beginning of the Sergeant's scheduled workday, the Sergeant's supervisor or by utilizing such method specifically directed by the Sergeant's supervisor to notify NJIT of unanticipated sick leave.

**D. Validation:**

1. If absent for five (5) or more consecutive working days, the Sergeant must present a physician's statement specifically validating the duration and nature of illness or injury enabling sick leave usage. A Sergeant absent for unanticipated sick leave for any and all periods totaling more than ten (10) days in one (1) fiscal year may be required to submit a physician's statement validating the duration and nature of illness enabling sick leave usage. Upon receipt of a specific diagnostic statement from a physician describing a chronic, debilitating illness of a Sergeant, the five (5) and ten (10) day validation requirement shall be waived as a matter of regular course.

2. Sick leave taken for purposes of bereavement, pursuant to provision B.2., Utilization, above, shall not be counted for purposes of either the five (5) or ten (10) day validation requirement, however, bereavement utilization of sick leave must, upon request, be validated through independent written documentation whether anticipated or unanticipated.

3. Upon reasonable suspicion of abuse or patterned absenteeism and/or following fifteen (15) days usage of sick leave during a fiscal year, NJIT, SOA and the Sergeant shall meet for the purpose of either investigating potential abuse and/or to discuss the absenteeism in attempt to avoid disciplinary action. As a result of that meeting, the Employer may require the Sergeant to provide medical certification for future single day or multiple day absences.

4. A Sergeant suffering from a certified chronic illness must, at least once every six (6) months, provide NJIT with medical re-certification and following fifteen (15) days usage in a fiscal year on account of said illness, provide additional re-certification of the chronic illness.

5. Confidentiality of Records: - All medical reports and diagnosis, provided pursuant to this Article, shall remain confidential within the Department of Human Resources only subject to disclosure to such officers or agents of the university with a direct business need to know.

**E. Unused Sick Leave – Retirement:**

Subject to the provision of N.J.S.A. 11A:6-17 and rules and regulations promulgated thereunder, a full-time Sergeant who enters retirement, pursuant to the provisions of a State administered or approved retirement system, and has to his/her credit any earned and unused accumulated sick leave shall be entitled to receive supplemental compensation for such earned and unused accumulated sick leave only to the extent such is funded by the State.

The supplemental compensation to be paid shall be computed at the rate of one-half (½) of the eligible Sergeant's daily rate of pay for each day of earned and unused accumulated sick leave based upon the average annual compensation received during the last year of his/her employment prior to the effective date of his/her retirement, provided, however, that no such supplemental compensation payment shall exceed the statutory limit. This supplemental compensation shall be paid in a lump sum after the effective date of retirement. It may be deferred by the Sergeant for payment within one (1) year of the effective date of retirement.

### **ARTICLE XIII**

#### **FAMILY LEAVE**

NJIT has long recognized the importance of family issues as an integral component of a responsive human resource environment in which its Sergeants will prosper. It has heretofore provided a number of benefits including leaves of absence for personal and family reasons. Both State and Federal government have determined to specifically legislate in this regard by affording unpaid leave to Sergeants under certain specific circumstances. The result demands that NJIT policies, state law and federal law be properly recognized and promulgated in a lawful, equitable and contemporary policy. NJIT, therefore, hereby certifies that the University Family Leave Policy (available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf)) meets these demands (and shall be interpreted consistent with) NJIT's other standing leave policies.

It is agreed that the University may preliminarily designate an employee's absence as Family Leave when:

1. An employee (or a spokesperson on behalf of an employee) notifies the Department of Human Resources or the immediate supervisor of a personal serious health condition or the serious health condition of an eligible family member as set forth in the University Family Leave Policy.
2. Upon the employee or the supervisor's notification to the Department of Human Resources after 3 consecutive days of paid or unpaid absence.

Family Leave runs consecutively after accumulated sick leave banks are exhausted for an Officer's own serious health condition and Family Leave shall run concurrently with accumulated sick leave for an Officer's eligible family member. Accumulated sick leave balances that exceed the 60 days of Family Leave may continue

to be utilized thereafter upon submission of medical certification updates to be provided in intervals of not less than every 30 days.

Family Leave shall be administered in accordance with the University's Family Leave Policy, available at [http://www.njit.edu/policies/pdf/Family\\_Leave\\_Policy.pdf](http://www.njit.edu/policies/pdf/Family_Leave_Policy.pdf). . It is understood that the Family Leave Policy shall be revised and updated to include mandatory provisions required by State and Federal Law.

## **ARTICLE XIV**

### **ADMINISTRATIVE LEAVE**

#### **A. Administrative Leave**

1. Three (3) administrative leave days per calendar year are granted to all full-time Sergeants entering their first full fiscal year of employment and annually thereafter. Priorities for granting of leaves are:

- (a) Emergencies;
- (b) Observation of religious or other days of celebration but not public holidays;
- (c) Personal business;
- (d) Attendance at the funeral of an individual other than a member of the immediate family. Absences related to funerals of immediate family members are considered under other provisions of this Agreement; and
- (e) Other personal affairs.

2. Newly hired, full-time Sergeants shall be granted one-half (½) day of administrative leave after each full calendar month of employment to a maximum of three (3) days during the remainder of the first fiscal year of employment. Sergeants promoted from the ranks of commissioned police officer shall not be treated as new hires for purposes of this provision.

3. Administrative leave shall not be cumulative, and any such leave credit remaining unused by an officer at the end of the fiscal year and/or upon separation of employment shall be cancelled.

4. Requests for administrative leave must be approved by the Chief of

Police/Director of Public Safety, whichever is applicable in advance, except in emergency situations. Emergency situations shall be reasonably verified by the Sergeant on leave as soon as practicable following utilization of the leave, upon the request of NJIT. Unapproved emergencies are limited to health and safety related matters.

5. Administrative leave days cannot be used during a Sergeant's probationary period.

## **ARTICLE XV**

### **MILITARY LEAVE**

#### **A. Military Leave, Without Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or the New Jersey State militia or the organized militia of another State, a leave of absence, without pay, for Inactive Duty Service. (An example of Inactive Duty Service is weekend drills.)

2. A qualifying employee granted Military Leave of Absence, without pay, that is less than two (2) consecutive weeks, shall continue to accrue vacation, personal, and sick leave. A qualifying employee granted a Military Leave of Absence, without pay, that is more than two (2) consecutive weeks, shall not accrue vacation, personal, and/or sick leave during such leave of absence

3. A qualifying employee granted a Military Leave of Absence, without pay, may, with advance notice, use accrued vacation, personal leave, or floating holidays. Sick Leave shall not be used for Military Leave of Absence.

#### **B. Military Leave, With Pay**

1. In accordance with State and/or Federal regulations, NJIT shall grant a qualifying employee, who is a member of the U.S. military reserves or a member of the organized militia of another State, a leave of absence for up to 30 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service. NJIT shall grant a qualifying employee who is a member of the New Jersey State organized militia a leave of absence for up to 90 working days in any calendar year without loss of pay or benefits for Federal Active Duty Service.

2. Should the employee be called to active duty service for a national or state emergency or foreign conflict which exceeds the 30 or 90 working days described in A above, NJIT shall grant a leave of absence through the end of that calendar year without loss of benefits and shall pay the employee the difference between their applicable NJIT

base salary and their military “base pay” provided the employee provides proof of military service and “base pay”. This is often referred to as Differential Pay and is not currently mandated by Federal or State regulations.

3. If a qualifying employee is eligible for a Military Leave with pay or a Military Leave with differential pay as described above, he/she continue to accrue vacation, personal, and sick leave. Qualifying employees eligible for Military Leave with pay or Military Leave with differential pay shall be entitled to all health and welfare benefits.

C. A qualifying employee who is called to New Jersey State Active Duty Service, for example during a natural disaster or New Jersey State emergency, shall be eligible for a Military Leave of Absence as required by New Jersey State or Federal regulations.

D. A qualifying employee for purposes of this Article shall be defined as any employee who has achieved non-probationary status at least once during his/her current employment with NJIT or a temporary employee who has been employed more than one (1) year. A non-qualifying employee is eligible for Military Leave of Absence, without pay, only.

E. A qualifying employee eligible for Military Leave of Absence, with or without pay, shall not suffer any loss of seniority.

F. Extensions of Military Leave

1. Should a qualifying employee be called to Federal Active Duty Service beyond the first calendar year or subsequent consecutive years, he/she shall be eligible for the paid leave as described in B. 1. above effective each January 1<sup>st</sup>.

2. Should a qualifying employee be called to Federal Active Duty Service beyond the 30 or 90 working days described above in the second calendar year or subsequent consecutive years, NJIT, at its sole discretion, may extend the Military Leave of Absence with differential pay, as described in B. 2. above, for the remainder of that second calendar year or subsequent consecutive years. If NJIT decides not to grant a Military Leave of Absence with differential pay, NJIT shall grant a Military Leave of Absence, without pay, for the remainder of that calendar year.

G. Failure to provide advance notice of call to duty, except in emergency situations, could result in loss of protections under Federal and/or State regulations and shall be just cause for disciplinary action up to termination of employment. Failure to provide verification of attendance or military pay records may result in delay in pay or benefits until such verification is provided.

H. In the event that Federal and/or State law may be amended to provide a greater benefit to the employee than set forth herein, such law shall supersede the terms of this

contract.

## **ARTICLE XVI**

### **LEAVE FOR SOA ACTIVITY**

NJIT agrees to provide time off without loss of pay for delegates of the SOA to attend formal union activities provided that the total amount of time without loss of pay during the period of this Agreement shall not exceed a total of twelve (12) days during each year of this Agreement and provided such activities are not, by their nature and content, adversarial to NJIT.

The total number of days of such leave which may be used in each year shall be exclusive of leave provided under the provision of New Jersey law and ordinarily granted under that statute. Leaves for such activities of more than five (5) days duration in each year of the Agreement shall be at the sole discretion of NJIT. Such approval will not be unreasonably withheld.

The SOA shall request, in writing, approval from the Vice President of Human Resources or his/her designee, with copies to the Chief of Police/Director of Public Safety, whichever is applicable to use such leave. Such requests shall be made, in writing, no less than two (2) weeks in advance by the SOA specifying the type of SOA activity for which time off is sought, the individual(s) to be granted the time off and the maximum amount of time to be utilized.

## **ARTICLE XVII**

### **OTHER LEAVES OF ABSENCE**

#### **A. Extraordinary Leave:**

##### **1. Eligibility:**

- (a) Any Sergeant, not entitled to or after having exhausted the other leave benefits provided by this Agreement but desiring to remain employed by NJIT may apply for an unpaid leave of absence. This leave is considered an extraordinary leave and will not be routinely granted. A minimum prerequisite to consideration of leave is a significant period of consistently outstanding service to NJIT.

- (b) In reviewing requests for unpaid leave of absence NJIT will ensure that Article XIII, Family Leave Policy, is fully complied with as prerequisite to its discretionary determination as to whether to grant a request and the parameters on such grant when given. Unless and except as expressly provided for in writing, there shall be no benefits bank accrual during any unpaid leave, nor shall there be any monetary contribution by NJIT on behalf of such Sergeant except as may be mandated by law, or as otherwise expressly provided for by this Agreement.

**2. Procedure:**

- (a) Any and all requests for leave of absence under this provision must be made in writing, with specific statement of need for leave, as far in advance of the desired leave as possible. Application for leave must be submitted to the Sergeant's immediate supervisor, except in such cases where the specific statement of need recites a personal, medical or other extraordinary confidential basis, in which case the full application shall be submitted to the Office of Human Resources, with notice to the immediate supervisor that a request has been made for the duration stated on the application. Following review of the request, a recommendation to either grant or deny the leave will be made and forwarded to the Vice President of Human Resources or his/her designee who will issue the determination.
- (b) Approval, denial or modified approval of the requested leave shall, except in the case of emergency, be provided within two (2) weeks by NJIT. Reason for denial of unpaid leave shall be provided with a denial of leave by NJIT.
- (c) Accepting a position with another employer, while on a leave of absence, except as may be expressly understood as part of the reason for leave and approved by NJIT in advance, will result in forfeiture of the leave of absence and all benefits derived therefrom or maintained during said leave and immediate termination of NJIT employment.
- (d) Administration of this Article is grievable only on the limited basis that NJIT held no rational basis to deny the requested leave. Problems arising out of the

administration of this Article may be referred to the Labor/Management forum for discussion and attempted resolution.

**B. Bereavement Leave:**

In addition to leave available pursuant to Article XII B.2., Sick Leave Utilization, above, all Sergeants hired after ratification of this agreement, shall be entitled to up to three (3) paid days and up to three (3) additional unpaid days of leave each year of this Agreement, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family. "Immediate Family" shall be as defined in Article XII B.2., above.

All other Sergeants shall be entitled to up to two (2) unpaid days of leave each year of this agreement, in addition to such leave as set out in Article XII B.2. above, to mourn and/or attend to familial responsibilities caused by the death of a member of the Sergeant's immediate family, as defined herein.

Unused Bereavement Leave is not cumulative year to year and NJIT reserves its right to require validation of the need for Bereavement Leave. Finally, Bereavement Leave must be taken within ten (10) days of the death of the immediate family member unless exception is authorized for extraordinary circumstances by and at the discretion of the Vice President for Human Resources or his/her designee.

**ARTICLE XVIII**

**HOLIDAYS**

**A. Program Benefit**

1. Each Sergeant shall be entitled to the following named, paid holidays:
  - (a) New Year's Day
  - (b) Independence Day
  - (c) Labor Day
  - (d) Thanksgiving Day
  - (e) Christmas Day
2. Each Sergeant shall receive four (4) paid holidays as designated by NJIT.
3. Each Sergeant shall receive two (2) floating holidays, providing such "floating" holidays shall be taken at a time agreeable to the supervisor.
4. Each Sergeant shall receive two (2) additional, restricted floating holidays that must be scheduled and taken between December 26<sup>th</sup> and January 2<sup>nd</sup> inclusive, of



the Christmas holiday season.

- (a) Any Sergeant whose service and attendance is necessary, as determined by NJIT, resulting in an inability to mutually schedule either one (1) or both of such restricted floating holidays, shall receive one (1) floating holiday for each day of service.
- (b) There shall be no holiday premium pay for restricted, floating holidays worked during this period. Other contractual provisions and those relevant mandates of the Fair Labor Standards Act, pertaining to overtime, are unaffected and continue.

B. In the event any of the regular paid holidays fall on a Sergeant's scheduled day off, they shall be observed on the following scheduled day of work.

C. Sergeants on an unpaid leave of absence or layoff are not entitled to pay for a holiday falling during leave or layoff.

D. NJIT shall continue its requirements for eligibility for holiday pay, however, a Sergeant who is not on the payroll shall not be eligible for holiday pay.

E. A holiday which occurs during a vacation period is considered a holiday and will not be charged as a vacation day.

F. Any Sergeant who is required to work any of the days designated by NJIT as a paid holiday, pursuant to provision A.1., or A.2., shall be afforded the following premium pay in addition to the holiday pay:

- 1. For the first eight (8) hours, time-and-one half for all hours worked.
- 2. For all hours in excess of eight, double-time for all hours worked.

G. For the purposes of computing overtime, all holiday hours, whether worked or unworked, for which a Sergeant is compensated, shall be regarded as hours worked.

H. The thirteen (13) holidays, annually provided pursuant to this Agreement, constitute the entire paid holiday schedule provided by NJIT.

I. It is expressly intended and understood that there are no additional paid days available to SOA represented Sergeants, except as expressly provided by other provisions of the controlling Collective Bargaining Agreement.

## ARTICLE XIX

### WORKERS' COMPENSATION

A Sergeant on Workers' Compensation shall receive that payment to which he/she is entitled by law, in accordance with benefit regulation and accompanying procedure in effect at the time of eligibility for Workers' Compensation. Should a Sergeant wish to supplement that compensation received under New Jersey Workers' Compensation law and regulation to receive the same total salary compensation received when not on Workers' Compensation, he/she may elect to utilize, on an hour for hour basis, his/her sick leave accrual for a period not to exceed six (6) calendar months. The election to supplement Workers' Compensation must be made in a signed writing to the Department of Human Resources, with a copy to the Director, Benefits Administration and supplementation will be progressive only from the time the request is received by the Department of Human Resources.

## ARTICLE XX

### EDUCATIONAL BENEFITS

All Officers, and where applicable their dependents, are eligible to participate in the University's Tuition Remission Plan as set forth in the University Tuition Remission Policy available at <http://www.njit.edu/policies/pdf/tuition-remission-unaligned-2008-03-27.pdf> and subject to the applicable rules and regulations governing the Plan.

## ARTICLE XXI

### VACATION

#### **A. Allotment**

A Sergeant is entitled to a vacation with pay. Such vacation is scheduled as requested by the Sergeant, provided departmental staffing and workload permit. Vacation entitlements are as follows:

	<b>Allotment</b>	<b>Which Equates to</b>
Date of University Hire through the end of the Fiscal Year*	10 hours per month (40 hour work week) available as accrued	1¼ day per month, available as accrued

One through five years of University service	120 hours per year (40 hour work week) available on July 1 <sup>st</sup>	15 days per year available on July 1 <sup>st</sup>
After 8 years of University service	160 hours per year (40 hour work week) available on July 1 <sup>st</sup>	20 days per year available on July 1 <sup>st</sup>

\*A Sergeant who was promoted and was eligible for the full annual allotment of vacation as an officer shall be eligible for the full annual allotment as outlined above. A Sergeant who is hired without prior eligibility for the full annual allotment shall accrue vacation at 1¼ days per month through the end of the first Fiscal Year.

**B. Utilization**

1. While utilization of vacation is based upon mutual agreement of NJIT and Sergeants, full utilization is both expected and encouraged in a properly scheduled manner, giving appropriate consideration for workload issues. NJIT supervisors and Sergeants will maintain a fully updated vacation record, showing unused allotment and usage. Supervisors will take a proactive role in scheduling vacation usage in a manner that is mutually beneficial to NJIT and its Sergeants.

2. Vacation may be used in hourly increments, partial days, full days or consecutive days.

3. Vacation may not be unilaterally scheduled or taken and neither may it be used to provide payment for an unauthorized absence.

4. If the nature of the workload makes it necessary to limit the number of Sergeants on vacations at the same time, the Sergeant with the greatest seniority shall be given his/her choice of vacation, provided that another qualified Sergeant is available to assume the work.

5. If because of an emergency situation, pre-approved time cannot be allowed, either a salary payment will be made equal to the compensation that would have been earned during the vacation period, and the vacation bank will be accordingly reduced or vacation will be rescheduled to a later, mutual time. Arrangements for such payment must be authorized by the Chief of Police/Director of Public Safety, whichever is applicable and approved by the Department of Human Resources.

6. Under normal conditions, vacation periods must not exceed three (3) consecutive weeks.

7. A Sergeant on any unpaid leave of absence does not accrue vacation time.

8. If a regular paid holiday occurs during a Sergeant's vacation period, an additional vacation day may be scheduled at a time mutually agreeable to the Sergeant and the Chief of Police/Director of Public Safety, whichever is applicable.

**C. Carryover**

1. Up to ten (10) days of unused vacation allotment, remaining on June 30<sup>th</sup> of each fiscal year may be carried over for use in the ensuing year.

2. Unused vacation, in excess of that allowed to be carried over will be forfeited.

**D. Vacation Upon Separation**

Upon Separation from employment, unused vacation allotment, computed at the daily rate of the salary of the separating Sergeant at the time of separation will be handled as follows:

<u>Reason</u>	<u>Pay Out</u>
Termination for Cause, including job abandonment,	None
Voluntary Separation	None
Death which is not employment related	None
Employment related Death	Up to a maximum of 25 unused vacation days
Layoff	Up to a maximum of 15 unused vacation days

Upon retirement or resignation an employee shall be permitted to utilize up to ten (10) days (80 hours for 40 hour work week) of accumulated but unused vacation time if the employee gives at least ten (10) days, (two (2) weeks) written notice of resignation or retirement prior to the utilization of any such unused time. For example, if employee X has 10 vacation days (2 weeks), employee X must give at least 20 days (4 weeks) notice of resignation or retirement in order to utilize unused vacation.

**ARTICLE XXII**

**UNIFORMS**

A. Newly hired Sergeants shall be required to purchase their own University, standard issue uniform. After six (6) months of continuous employment in good standing, as a New Jersey Institute of Technology commissioned police Sergeant, the entire cost of the initial issue shall be reimbursed to said Sergeants.

B. Each Sergeant shall be entirely responsible for repair and/or replacement of

damaged and/or worn out uniform articles. This responsibility includes the cost of such necessary repair and/or replacement. The Department of Public Safety uniform standards must be maintained and will be enforced.

C. Maintenance of the New Jersey Institute of Technology Sergeant’s uniform shall be the entire responsibility of each Sergeant, including the cost of cleaning and pressing as necessary.

D. NJIT shall provide the following scheduled annual uniform allowance:

<b>Fiscal Year</b>	<b>Uniform Allowance</b>	<b>Bike Uniform Allowance (if applicable)</b>
2016	\$1500	\$300
2017	\$1500	\$300
2018	\$1500	\$300
2019	\$1500	\$300

Payment of the scheduled uniform allowance shall be semi-annually as follows:

1. A Sergeant, with less than six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program, shall receive one-half (½) of the allowance, further prorated as appropriate, to the nearest month of service, payable the last payroll of the calendar year and one-half (½) of the allowance further prorated as appropriate, and payable the last payroll of that fiscal year.

2. A Sergeant, with at least six (6) months full-time service prior to July 1<sup>st</sup> of each fiscal year of the program shall receive one-half (½) of the allowance in the first payroll of that fiscal year and the remainder in the last payroll of that calendar year.

E. The allowance is interchangeable and usable for maintenance and repair and replacement, as needed, on an individual basis.

**F. Payment Conditions:**

1. All uniform allowance payments, accrued in accordance with provision D. above, and due and owing at the time of ratification of this Agreement, shall be paid in one (1) lump sum to each eligible Sergeant within one (1) full pay period following mutual written ratification of this Agreement.

2. A condition precedent to eligibility for uniform allowance shall be active or approved inactive employment status at the time of scheduled payment.

**ARTICLE XXIII**

**RETIREMENT\***

Sergeants shall be eligible to participate in available State authorized retirement system(s), consistent with applicable rules and regulations. Should there be changes made in such Plan(s), by legislation, during the terms of this Agreement, all such changes, appropriate to members of the negotiating unit, shall be made in accordance with the provision of such legislation.

\*For information only.

**ARTICLE XXIV**

**OVERTIME /SHIFT DIFFERENTIAL**

A. Overtime requested and authorized by the Department of Public Safety shall be compensated at time and one-half for hours worked in excess of forty (40) hours in the workweek.

B. NJIT will, insofar as possible, provide equal opportunity for overtime work and shall maintain an overtime log for this purpose which shall be available to the SOA for review.

1. In the event that there are an insufficient number of Sergeants willing to cover a given overtime assignment, NJIT will assign the necessary number of Sergeants to cover the assignment.

2. Any Sergeant called back to work after he/she has completed his/her regular work shift and has left his/her place of work shall be guaranteed a minimum of four (4) hours pay at the overtime rate. Such Sergeants shall be required to work all hours which are required. If the Sergeant elects to leave before the end of the four (4) hours, and the supervisor approves, the Sergeant will be paid only for the time actually worked.

Effective upon execution of this Agreement by all parties, such Sergeant shall also be reimbursed one (1) meal allowance amount not to exceed \$11.00 for the balance of fiscal years 2016 and 2017 and \$12.00 in fiscal years 2018, and 2019 where the Sergeant is called back to work if the Officer works at least three (3) hours beyond his/her normal work hours without the opportunity to go to his/her residence. Meals eligible for reimbursement shall be ordered from NJIT dining facilities, and eaten on campus when NJIT dining facilities are available. .

C. Only during the term of this Agreement, as restricted by the following parameters, a Shift Premium shall be affected for eligible Officers in the bargaining unit:

1. For members following a five day on, two day off schedule:

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and sixty (160) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift beginning after 10:00 p.m. on a given day and before 5:00 a.m. on a given day.

2 For members following a four day on, three day off schedule (Pitman Schedule):

a. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and three (103) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Eight Hundred Dollars (\$800.00) for each Fiscal Year during which he or she works the requisite number of shifts.

b. First shift shall be defined for purposes of this provision only, as any shift which is inclusive of the hours between 12:00 a.m. and 7:00 a.m. on a given day.

3. Shift Premium eligibility is conditioned upon actually working the designated number of shifts, as set out above, in the prescribed time period. Further, an extended workday into a first shift, from any other shift, and for which overtime compensation is paid pursuant to Agreement, does not count toward Shift Premium qualification.

4. Payment for Shift Premium will be made in the second full pay period in August of the fiscal year following the year of shift premium qualification.

## **ARTICLE XXV**

### **SHIFT COVERAGE**

At NJIT's discretion any and/or all Sergeants may be scheduled for presence at NJIT up to eight and one-half (8½) hours per day with up to one-half (½) hour as noncompensable break time as set by NJIT, in order that proper coverage of the workforce may be provided NJIT. There will not be a change in scheduled shift span unless preceded by seventy-two (72) hours notice to the affected Sergeant(s).

## **ARTICLE XXVI**

### **SALARY PROGRAM AND COMPENSATION**

#### **A. Salary Program: July 1, 2015 through June 30, 2019:**

It is agreed that during the term of this Agreement, for the period July 1, 2015

through June 30, 2019, the following salary and fringe benefit improvements shall be provided to eligible Sergeants in the unit, within the applicable policies and practices of NJIT and in keeping with the conditions set forth herein. In order to receive the benefits, as set out hereunder, the Sergeants must be employed by NJIT at the time of ratification of this Agreement or thereafter.

Subject to the State Legislature enacting appropriation of funds for these specific purposes, NJIT agrees to provide the following benefits, effective at the time stated herein.

**1. Salary Band for Sergeants**

Effective the first full pay period in Fiscal Year 2016 and throughout the term of this Agreement, the annual salary band for sergeants shall be \$86,757 to \$101,100

**2. Across-the-Board Salary Guide Adjustments:**

The following across the board salary increases shall be incorporated:

Fiscal Year 2016 (First full pay period in July 2015) – no increase  
Fiscal Year 2017 (First full pay period in July 2016) – 1% to base  
Fiscal Year 2018 (First full pay period in July 2017) - 1% to base  
Fiscal Year 2019 (First full pay period in July 2018 – 1% to base

**3. Merit Compensation Program:**

A merit compensation program shall be available to all Sergeants with at least six full months of service prior to July 1<sup>st</sup> of the year of awarding each year during the salary program and compensation term beginning with July 1, 2015. The program shall be administered as follows:

- (a) Performance Standards: All merit compensation shall be based upon total adherence to quality service during the past fiscal year's performance as it relates to the following specific performance standards:
  - (i) Attendance: It is vital to both the integrity and the efficacy of the NJIT Department of Public Safety that Sergeants are punctual in arriving at work, at dedicated posts, in responding to regular duties and in responding to unexpected circumstances, as well as accountable for their whereabouts at all times while on shift. This reliability, in



full uniform and authorized armament is an essential, elementary component of performance as an NJIT Sergeant.

- (ii) Appearance: Each Sergeant represents NJIT's image and that of a New Jersey Police Officer, demonstrating in their appearance, the same respect for NJIT and their chosen profession as they appropriately demand and expect relative to adherence to the law and NJIT's promulgated code of conduct. Uniforms must be maintained in excellent condition. All uniform attire must be worn in the manner and time designated. Sergeants shall present themselves, without deviation, in a ready, alert, neat, properly groomed and fully uniformed manner at all times when formally representing NJIT.
  
- (iii) Attention to Duty: Each Sergeant must demonstrate a maturity and acuity in gaining and maintaining appropriate, continually enhanced knowledge of his/her duties, responsibilities and the surrounding environment, as well as an uncompromised focus on assigned tasks and departmental and university policy and procedures. Unauthorized breaks, ignoring of general and/or specified duties, absence from assigned posts or less than fully responsive protocol in carrying out the duties of NJIT Supervisory Police Officers are, by way of illustration disqualifying of meritorious attention to duty.
  
- (iv) Absence of Discipline: No Sergeant who within a given year is suspended and/or who receives more than one written reprimand will be eligible for a merit increase. A formal investigation into the propriety of a Sergeant's conduct by the State of New Jersey or a State sponsored authority that could lead to suspension or loss of commissioned officer status will disqualify the Sergeant from consideration for merit until such time as the investigation fully exonerates said Sergeant. Less than full

exoneration disqualifies the Sergeant from consideration for merit during the time period that is both the focus of and that which is covered by the investigation. In this regard, less than full exoneration equates to disqualifying discipline. Neither NJIT's imposed disciplinary charges nor NJIT's implemented disciplinary action are of, themselves, "of record", disqualifying a Sergeant from merit consideration, as long as formal, authorized appeal/grievance procedures are actively and properly utilized and a decision is not yet final and binding.

(v) Record Keeping and Reporting: A Sergeant's verbal and written recordings and reporting, both in the ordinary course of law enforcement and in accordance with specific police operation direction must be timely and properly served and/or filed, accurately depicted, thorough in all respects and where written, proofed. Deviation from the standard, in any respect, and to any degree derogates the law enforcement process, the credibility of the Department of Public Safety and is not worthy of merit pay consideration.

(vi) Professional Conduct & Demeanor: Respect for and resolute honesty in dealing with those served, fellow Officers, supervisors, subordinates, property, weaponry and self is benchmark to the integrity bestowed by the commissioning of NJIT Police Officers. Only the utmost of dignity, humility with honor, concern for the position, post, commission and department and demonstrated aptitude in dealing with an atypical population demographic will be considered meritorious. Any instance of breach of this standard will be cause for disqualification for merit pay consideration. By way of illustration only, vulgar language, violation of any university or departmental regulation or protocol, theft of service or time, unauthorized action, arguing with a superior Officer, condoning poor conduct or

misconduct from subordinates, excessive force (as defined and regulated by the law enforcement community and/or the law itself) and personal mingling (defined as engaging in conduct relegating the Sergeant's professional law enforcement responsibilities to a subordinate position as compared to non-job related personal activity[ies]) with students or other university constituents will disqualify merit pay consideration.

(b) Award Procedure.

(i) Review of Performance: No earlier than forty-five (45) days before the end of the fiscal year of performance review and no later than fifteen (15) days following the end of the fiscal year of performance review, each eligible Sergeant's performance shall be reviewed against those "Performance Standards" set out above.

(1) The standards set out herein, mark categorized attributes of the prototype Sergeant's professional and personal characteristics that should lead to excellent performance as an NJIT Sergeant. Those standards will be qualitatively assessed, given the record of performance of each eligible Sergeant over the preceding year of eligibility and cumulatively over the Sergeant's term of commissioned police employment. Verbal and written, evaluative correspondence between departmental supervision, and each Sergeant is pertinent contextual material in qualitative performance assessment against those pronounced standards and will be weighed in ultimate merit determination.

(2) The evaluation of performance

against the published standards will be in writing and provided to each eligible Sergeant within the annual evaluation period. Specific descriptions, commendations, and examples of meritorious performance must be set out and verified for merit step awards to be provided to eligible Sergeants as well as formal certification of the evaluating supervisor(s) (e.g. Shift Lieutenant, Deputy Chief, Chief) that there are no instances of conduct that would either lead to or cause disqualification from meritorious performance as measured against the published standard.

- (3) There is no minimum conferral of merit awarding mandated, and all merit shall be applied to base salary.

For Fiscal Year 2016, there is no merit program.

For Fiscal Year 2017 the maximum number of awards available, following careful scrutiny of the performance standards, shall not exceed the value of one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30 of the year of the evaluation.

For Fiscal Year 2018 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

For Fiscal Year 2019 the merit pool shall be one percent (1%) of the base salary of the Sergeants employed by NJIT as of June 30<sup>th</sup> of the year of evaluation of performance standards.

This percentage limitation means that no

award must be given that would cause the limit on awarding to be exceeded and, there are no partial awards available under this program. However, upon contest by the SOA on behalf of a Sergeant, as set out below, no more than one (1) supervisory evaluation of non-meritorious performance may be overturned per year of the program. Awards granted on appeal will be charged against the maximum expenditure of monies in the year of award. If sufficient monies are not available, the expenditure due to appeals will be charged against the subsequent merit pool, including the compounded value of the merit award as it affects salary creating the subsequent pool.

- (4) A merit award will be based upon a Sergeant strictly meeting all performance standards set out herein.
- (c) Appeal Procedure: There will be a limited appeal procedure available to the SOA on behalf of one (1) Sergeant annually, to seek reconsideration of non-awarding of merit to an eligible Sergeant as follows:
- (i) The SOA may, within thirty (30) days of the published conferral of awards to Sergeants, file a written appeal on behalf of a Sergeant's denial of merit pay, based upon the past year's performance, as it relates to the published performance standards and the comparative performance of other Sergeants receiving merit pay. The appeal must state, with particularity, the factual basis for a finding of substantial error or misjudgment in the evaluation that lead directly to a denial of the award. The appeal shall be filed with the Department of Public Safety and copied to the Department of Human Resources.

- (ii) The burden of proof in the appeal rests with the SOA; it must demonstrate, based upon the record of credible evidence, that it is more likely than not that all performance standards were met or exceeded, including a reasonable finding that there are no instances of conduct that would allow a reasonable person to find such conduct disqualifying of meeting or exceeding the full breadth and depth of performance as set out by the published performance standards. In addition to this finding, where all merit funds have been spent, it must also be established that the Sergeant whose performance is being appealed, compared favorably, in meeting or exceeding performance standards, to one or more Sergeants who received merit.
  
- (iii) A Merit Appeals Board, consisting of the Vice President for Real Estate Development and Capital Operations, the Vice President of Human Resources, or their respective designees and a supervisory, superior Officer, including the Director of Public Safety/Chief of Police, whichever is applicable, above the level of Police Sergeant, that has not taken part in the evaluation appealed (as selected by the SOA) will review the written submission and, at its sole discretion, either review and respond to the record as it stands or call a hearing, within thirty (30) days of submission of the written appeal, to hear oral argument, question the advocates, direct the gathering and submission of evidence not in the record, recess the hearing until all materials it deems necessary are before it or disallow any further gathering or submission of evidence, as it deems most appropriate to efficacious resolution to the controversy and allow for closing statements as it deems relevant to a proper finding.

- (iv) The Merit Appeals Board will issue its decision in writing, to the SOA, within sixty (60) days of the close of hearing or within ninety (90) days of the SOA's written submission, if no hearing is called. The decision of the Merit Appeals Board will be final, binding and the exclusive avenue for redress of the administration of the merit pay program.

4. **Stipends for Special Assignments**

a. Sergeant-Recruiter Assignment

- i. In an effort to enhance community relations and expand the department's ability to provide opportunity and connect with a larger applicant pool, supervisor(s) will be assigned to work as a liaison on recruiting efforts in conjunction with members of Career Development and Air Force ROTC. This will be a collaborative effort and outreach to solicit and attract interest in entry level careers and all levels of law enforcement and security such as, but not limited to: candidates in Alternate Route Programs at surrounding Police Academies, Special Law Enforcement Officers, Auxiliary Police Officers, 911 Tele-Communicators, Security Officers and Dispatchers.
- ii. For the duration of this agreement, the stipend for each Sergeant-Recruiter shall be one thousand dollars (\$1000) per fiscal year.
- iii. For the duration of this agreement, there shall be a minimum of two (2) Sergeants assigned to this position.
- iv. For the duration of this agreement, first priority for the assignment will be given to the two most senior Sergeants on the current NJIT roster, contingent upon their interest and their meeting the qualifications of the assignment in all other respects, as set forth below.
- v. Recruitment initiatives will involve representation by Public Safety at Career Fairs, Recruitment Seminars and Career Development Services Student Information Sessions both internally on a university wide-basis as well as at off-campus venues, such as trade shows, that are specifically organized and designed to attract law enforcement and security career minded individuals. The supervisor-recruiter will provide information, answer questions, and discuss the importance of law enforcement safety tenets, awareness and differences as applicable and pertinent to municipal and campus policing.

- vi. Additionally, the supervisor/recruiter will actively assist in locating the venues conducive for law enforcement recruitment.
- vii. Sergeants interested in this assignment shall have held the position of Institutional Police Sergeant in good standing.
- viii. Sergeants must have a positive and productive attitude and be capable of expressing and sharing the philosophy and goals of the department.
- ix. Sergeants must possess knowledge and information about entry-level departmental job descriptions.
- x. Sergeants must have proficient communication skills, including excellent public speaking ability.
- xi. The Department encourages officers to volunteer to be considered for the selection process.
- xii. When an opening occurs for Recruitment Sergeant assignment, Sergeant(s) shall complete an administrative submission to the Chief of Police, expressing their desire to become a Recruitment Sergeant.
- xiii. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police.
- xiv. This review will include, but is not limited to; seniority, annual evaluations, time and attendance record, departmental commendations, and disciplinary history.

b. Detective-Sergeant Assignment

- i. For the duration of this agreement, there shall be at least one (1) Sergeant assigned to this position.
- ii. For the duration of this agreement, the stipend for the Detective-Sergeant shall be two thousand two hundred dollars (\$2200) per fiscal year.
- iii. Candidate is required to have a minimum of 1 year experience as a NJIT Police Sergeant and/or experience as an investigator for the department.
- iv. Candidate(s) with investigative experience will be given preference.
- v. Candidate must display high moral character and knowledge of his/her job.



- vi. The Sergeant candidate(s) will be encouraged by the department to volunteer for the position.
- vii. Candidates must display a high proficiency in report writing and time management skills.
- viii. Candidates must have an extensive history of self-initiated proactive policing, including community policing, arrests, field inquiries, motor vehicle stops, and demonstration of time management skills.
- ix. Candidate(s) must display leadership qualities and the ability to successfully delegate responsibilities to their detective(s).
- x. When an opening occurs for Detective Sergeant Assignment, a Sergeant shall submit an administrative submission to the Investigations unit Commander.
- xi. The selection process will include an intense review by the Patrol and Administrative Divisions, with the final selection resting with the Chief of Police. This review will include, but is not limited to; seniority, annual evaluations, time and attendance history, departmental commendations, and disciplinary history.

## **ARTICLE XXVII**

### **HEALTH BENEFITS**

#### **A. State Health Benefits Program**

It is agreed that the State Health Benefits Program, and any rules and regulations governing its application, including amendments or revisions thereto shall be applicable to employees covered by this Agreement. The University agrees to continue to participate in the State Health Benefits Program for the duration of this agreement.

It is agreed that changes in benefits or open enrollment periods adopted by the State Division of Pensions and Benefits for State employees are a requirement for continued participation in the State Health Benefits Program and the parties recognize that such changes shall apply to employees represented by the Union. It is agreed that changes, corrections or reinterpretations of the Program promulgated by the State including changes in plan operators, in co-payments and contributions, or other changes or modifications, are applicable to employees covered by this Agreement and shall be incorporated into the Agreement and thereafter be applicable to all employees. It is specifically understood that the provisions of the Pension and Health Benefits Reform 2011 legislation under Chapter 78, P.L. shall be applicable to all employees covered by this agreement.

Where an employee utilizes any type of leave, whether paid or unpaid, he or she shall continue payment of health plan premiums at the same level as those that he paid prior to the leave as applicable under the State Health Benefits Program. If the

premiums are raised or lowered, the employee will be required to pay the then-applicable premium rates.

If the employee charges his accrued vacation, sick, and/or administrative leave accruals for any leave, his share of premiums will be paid by payroll deductions continued in the same method as utilized during active employment status,

If the leave is unpaid, NJIT will advance payment of the employee's health plan premiums for the period of leave (up to three full months) and will bill the employee for those premiums. Prior to the employee's return from leave to active employment status, the Department of Human Resources will advise the employee in writing of the full amount of health plan premiums advanced on his or her behalf by NJIT. Within seven (7) business days of his return to active employment status, the employee must indicate, in writing, his or her selected method of repayment of the health plan premiums: (1) full repayment through the Bursar's Office within ten (10) business days, (2) additional payroll deduction at the same amount and rate as that of the employee's biweekly payroll deduction for health plan premium payment, or (3) a repayment plan approved, in writing, by the Vice President of Human Resources. If the employee fails to select a repayment option or does not make timely payments, NJIT, upon written notice, may charge additional payroll deductions until the full amount of health plan premiums paid on the employee's behalf during his unpaid leave has been repaid in full.

## **B. Eye Care Program**

1. It is agreed that Eye Care Program shall include all employees and their eligible dependents (spouse, domestic partner, civil union partner and unmarried children under 26 years of age who live with the employee in the regular parent-child relationship). The coverage shall be \$35 for regular glasses and \$40 for bifocal the current plan.
2. The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.
3. Full-time employees and eligible dependents as defined above shall be eligible for a maximum payment of \$35 on the cost, whichever is less, of an eye examination by an Ophthalmologist or an Optometrist.
4. Each eligible employee and dependent may receive only one (1) payment for glasses and one payment for examinations during the period of July 1, 2015 to June 30, 2017, and one (1) payment for the period July 1, 2018 to June 30, 2019. This program ends on June 30, 2019. Proper affidavit and submission of receipts are required of the employee in order to receive payment.

## ARTICLE XXVIII

### DEFERRED COMPENSATION

**A.** It is understood that the State shall continue the program which will permit eligible employees in this negotiating unit to voluntarily authorize deferment of a portion of their earned base salary so that the funds deferred can be placed in an Internal Revenue Service approved Federal Income Tax exempt investment plan. The deferred income so invested and the interest or other income return on the investments are intended to be exempt from current Federal Income Taxation until the individual Sergeant withdraws or otherwise receives such funds as provided in the Plan.

**B.** It is understood that the State shall be solely responsible for the administration of the Plan and the determination of policies, conditions and regulations governing its implementation and use.

**C.** The State shall provide literature describing the Plan as well as a required enrollment or other forms to all employees when the Plan has been established.

**D.** It is further understood that the maximum amount of deferrable income under this Plan shall be as follows:

1. January 1, 2015 through December 31, 2015, and January 1, 2016 through December 31, 2016 Eighteen Thousand dollars (\$18,000) for all employees less than 50 years of age and Twenty Four Thousand dollars (\$24,000) for those employees 50 years of age or older.

2. Tax deferred annuity amounts for calendar years 2018 through calendar year 2019 are subject to revision and determination by the Federal Internal Revenue Service (IRS).

## ARTICLE XXIX

### DRUG SCREENING POLICY AND PROCEDURE

NJIT and SOA agree to the NJIT/SOA Drug Screening Policy and Procedure as set out in Appendix A, SOPP of the Department of Public Safety, herein. This Policy shall be deemed to include all **mandatory** provisions of the State of New Jersey Law Enforcement Drug Testing Manual as promulgated and updated from time to time.

## **ARTICLE XXX**

### **JOB ACTION**

It is recognized by both NJIT and SOA that the continued and uninterrupted operation of the University is of paramount importance. Therefore the SOA agrees that it will refrain from any act contrary to law such as strike, work stoppage, slow down, or other job action during the life of this Agreement and will eschew any threat, encouragement, support or condoning of any such job action.

## **ARTICLE XXXI**

### **PARKING**

#### **A. Program and Fees**

The following parking fees shall be charged and collected through payroll deduction for all members of the bargaining unit desiring to park and duly registering his/her motor vehicle with the University according to published University regulations, enabling and entitling him/her to daily parking privileges on University premises:

1. All parking at all available locations, including NJIT's parking deck, shall be on a first come, first served basis following registration or a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the fee schedule rate set out below.
2. Parking fees for all bargaining unit members shall be calculated as .4% (.004) of the member's annual salary, and shall be deducted in twenty-four (24) installments throughout the academic year.
3. For the length of this contract, the following university parking rules will be applicable:
  - a. It will be assumed that all employees currently utilizing NJIT parking will continue to park at NJIT during the upcoming parking permit period and permits will renew automatically.
  - b. Employees who wish to opt-out of parking must notify the Office of Security Systems, Photo Identification, & Parking Services and return their parking permit by no later than June 15th for the July 1- December 31 parking period, and/or no later than December 15th for the January 1 – June 30 parking period.
  - c. There will be no rebates or discounts for partial use of parking permits. Returning a parking permit before the end of

a parking permit period will not eliminate the parking fee. Also, unused parking days cannot be used in a new period.

d. Employees who request a parking permit for the first time will begin incurring fees as of the date their vehicle is registered with the Office of Security Systems, Photo Identification, & Parking Services.

e. New hires who would like to park at NJIT will be provided a parking registration application during their initial onboarding process. The new employee must bring the parking registration application to the Office of Security Systems, Photo Identification, & Parking Services, in order to receive a parking permit. Once the parking permit is issued, the Office of Security Systems, Photo Identification, & Parking Services will notify the Payroll Department to initiate the biweekly parking fee deduction.

f. Requests for a hardship exception must be submitted in writing, with the appropriate supporting documentation, to the Office of Security Systems, Photo Identification & Parking Services and will be reviewed and resolved by the University Parking Committee.

## **ARTICLE XXXII**

### **DURATION**

This Agreement shall be effective as of July 1, 2015, and shall terminate as of June 30, 2019.

## **ARTICLE XXXIII**

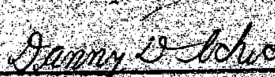
### **SUCCESSOR AGREEMENT**

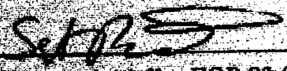
The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2019, subject to the provisions set forth in Article II, Negotiating Procedures.

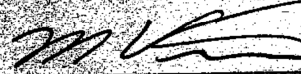
The parties hereby acknowledge and agree to the terms and conditions of the  
aforementioned Agreement between New Jersey Institute of Technology and the NJIT  
Superior Officer Association, entered into, as of July 1, 2015 and which will terminate  
June 30, 2019.

Signed this 23<sup>rd</sup> day of December, 2015.

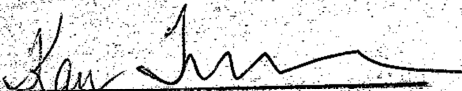
**FOR SOA:**

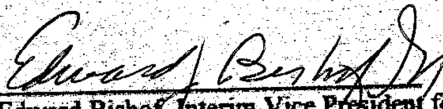
  
\_\_\_\_\_  
Danny D. Schick, Sr.  
Chief Negotiator  
FOP Staff Representative

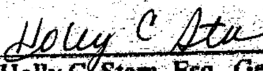
  
\_\_\_\_\_  
Raymond Aiello, FOP 93 SOA  
Trustee, Negotiating Team Member

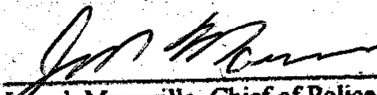
  
\_\_\_\_\_  
Michael Villani,  
FOP 93 SOA  
Negotiating Team Member

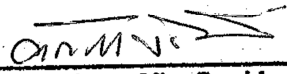
**FOR NJIT:**

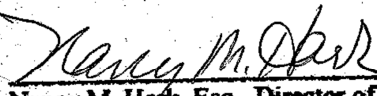
  
\_\_\_\_\_  
Kay Turner, Esq. SPHR, Chief Negotiator  
Vice President for Human Resources

  
\_\_\_\_\_  
Edward Bishop, Interim Vice President for Finance  
and Treasurer, Negotiating Team Member

  
\_\_\_\_\_  
Holly C. Stern, Esq., General Counsel  
Negotiating Team Member

  
\_\_\_\_\_  
Joseph Marswillo, Chief of Police  
Negotiating Team Member

  
\_\_\_\_\_  
Kamal Joshi, Assistant Vice President,  
Human Resources  
Negotiating Team Member

  
\_\_\_\_\_  
Nancy M. Hark, Esq., Director of  
Labor/Employee Relations  
Negotiating Team Member

**Appendix A**

**NEW JERSEY INSTITUTE OF TECHNOLOGY**  
**PUBLIC SAFETY DEPARTMENT**  
**DRUG SCREENING POLICY AND PROCEDURE**  
**FOR**  
**POLICE SERGEANTS**



**Standard Operating  
Policy & Procedure**

NJ Institute of Technology Department of Public Safety		Title: Law Enforcement Officer Drug Testing		
Issuing Authority: Director Robert Sabattis		Volume: 2	Chapter 16	Pages: 13
References: N.J. Attorney General's Policies		Distribution/ Special Instruction: All		
Effective Date: *	Review Date:	Revised Date:		

I. **Purpose**

The purpose of this policy is to deter illegal drug use by law enforcement officers and provides the New Jersey Institute of Department of Public Safety (hereinafter "NJIT DPS") with a mechanism to identify and remove those law enforcement officers engaged in the illegal use of drugs. Because illegal drug use is inconsistent with the duties, obligations and responsibilities of sworn law enforcement officers, this policy mandates that officers who test positive must be terminated from employment. This

policy sets forth uniform methods and procedures for implementing and administering drug testing as well as outlining the duties and responsibilities of the NJIT DPS with respect to the drug testing process. This policy further ensures that procedures for the drug testing of NJIT police personnel are in compliance with the NJ Attorney General's Law Enforcement Drug Testing Policy.

## II. **Policy**

It is the policy of the NJIT DPS to conduct drug testing of sworn law enforcement officers, law enforcement officer trainees, and applicants for law enforcement officer employment in order to maintain professional standards of performance and to help ensure the trust of the community in those who enforce the laws

## III. **Definitions**

- A. **Law Enforcement Officer**: Sworn law enforcement personnel who are responsible for the enforcement of the criminal laws of this State, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under NJSA 2C:39-6.
- B. **Law Enforcement Trainee**: Personnel subject to the Police Training Act while attending a mandatory basic training course.
- C. **Applicants For Law Enforcement Employment**: Persons who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under NJSA 2C:39-6
- D. **Random Selection Process**: Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

## IV. **Procedure**

This policy sets forth uniform methods and procedures for implementing and administering drug testing. This policy also outlines the duties and responsibilities of the State's law enforcement agencies with respect to the drug testing process.

## V. **Types of Drug Testing**

Law enforcement drug testing may be categorized according to the employment status of the individual being tested and the method by which the individual was selected for testing. These methods include applicant testing, trainee testing, reasonable suspicion testing and random testing.

- A. Applicant Testing



1. This policy recognizes that drug testing is an essential component of a pre-employment background investigation. All being considered for employment by NJIT as a police officer must submit to drug testing as part of a pre-employment background investigation. Candidates for employment may be tested as many times as deemed necessary to ensure that the candidates are not engaged in the illegal use of drugs. For example, applicants who have been drug tested as part of the application process may be tested again if a significant amount of time has elapsed since the previous step in the employment process.
2. During the pre-employment process, NJIT DPS must ensure that it complies with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the medication information form should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

#### B. Trainee Testing

1. Individuals hired as law enforcement officers by NJIT who are required to attend and successfully complete a mandatory basic training course approved by the Police Training Commission are subject to drug testing during their attendance at a police academy. The drug testing of law enforcement trainees will be conducted by the police academy staff under rules and regulations adopted by the Police Training Commission.

#### C. Sworn Law Enforcement Officers: Reasonable Suspicion Testing

1. NJIT DPS will undertake reasonable suspicion testing when there is reasonable suspicion to believe that a law enforcement officer, prospective law enforcement officer, or law enforcement officer trainee is engaged in the illegal use of controlled substances.
2. Unlike applicant and trainee testing, reasonable suspicion testing requires a decision as to whether the appropriate basis for conducting a test exists (i.e. reasonable suspicion). Reasonable suspicion "requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking, or has taken place and that a particular individual is involved in that drug activity". The reasonable suspicion standard is "less demanding" than the probable cause standard in two ways. First, the amount of evidence needed to satisfy the reasonable suspicion standard is less than that needed to satisfy the probable cause standard. Second, the type of information used to satisfy the reasonable suspicion standard may be "less reliable than that required to show

probable cause”. The following factors should be evaluated to determine the quality and relevance of the information acquired by NJIT DPS.

- a. The nature and source of the information;
  - b. Whether the information constitutes direct evidence or is hearsay in nature;
  - c. The reliability of the informant or source;
  - d. Whether corroborating information exists and the degree to which it corroborates the accusation; and
  - e. Whether and to what extent the information may be stale.
3. Before a law enforcement officer is ordered to undergo reasonable suspicion testing, the agency shall prepare a written report documenting the basis for the test.

D. Sworn Law Enforcement Officers: Random Drug Testing

1. All sworn members of the NJIT Police Department are eligible for random drug testing regardless of rank or assignment.
2. An officer who has been selected on one or more previous occasions for a random drug test is not excused from future tests.
3. No more than 15 percent (15%) of sworn officers will be selected each time random selection takes place. Random selection will take place on dates chosen by the Chief of Police/Director of Public Safety, whichever is applicable. There will be no prior notice given of the dates of the selection process or the collection of the samples.
4. Officers will be selected for drug testing through the use of random selection process. A representative of the collective bargaining unit shall be permitted to witness the selection process.
5. The selection process and the names of the officers selected will be documented in a written report. The report will be stored in the Internal Affairs File.
6. Officers selected for random drug testing will be notified by a supervisor appointed by the Chief of Police/Director of Public Safety, whichever is applicable and required to submit a urine specimen. The specimen acquisition process will be kept confidential.

7. Any member of this department who discloses the identity of an officer selected for random testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline up to and including termination.
8. Officers who refuse to submit to a drug test when randomly selected are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

## VI. Specimen Collection Procedures

### A. Preliminary Collection of Specimens

1. The NJIT DPS will designate staff members to serve as monitors of the specimen acquisition process. The monitors should always be of the same sex as the individual being tested. However, in the event there is no member of the same sex available from the NJIT PD to collect the specimens, this agency may request that a member of the same sex from another law enforcement agency serve as monitor of the process.
2. The monitor of the specimen acquisition process shall be responsible for:
  - a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
  - b. Ensuring that the collection of specimens is done in a manner that provides for individual privacy while ensuring the integrity of the specimen.
  - c. Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for analysis.
  - d. Ensuring that prior to the submission of a urine specimen, sworn law enforcement officers and law enforcement trainees shall complete a medication information form (Attachment A) by listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past 14 days. Candidates for law enforcement employment are not required to complete a medication information form at this time.

## B. Collection of Specimens

1. Throughout the testing process, the identity of individual law enforcement officers shall remain confidential. Individual specimens and forms shall be identified throughout the process by the use of social security numbers. At no time shall a name appear on any form or specimen container sent to the State Toxicology Laboratory.
2. Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.
3. The procedures for labeling, collecting and sealing urine specimen containers are set forth in Attachment B.
4. Every effort shall be made to ensure the privacy of individual officers who have been directed to provide a specimen. Therefore, individual officers will void without the direct observation of monitors. This means that while the monitor may be present in the area where individuals void, there can be no direct observation of the officer's production of a specimen. However, it is the responsibility of the monitors to ensure the accuracy and integrity of the test. Therefore, monitors can, among other things, direct an individual officer who has been selected for drug testing to remove outer clothing (jackets, sweaters etc.), empty their pockets, and wash their hands under running water, before they produce a specimen. In addition, monitors may wish to add tinting agents to toilet water and secure the area where the specimens are to be collected prior to conducting individual drug tests.
5. If the monitor has reason to believe that an individual officer will attempt to adulterate or contaminate a specimen, substitute another substance or liquid for their specimen, or compromise the integrity of the test process, the monitor may conduct a direct observation of the individual officer. If a monitor concludes that direct observation is necessary, he or she must document the facts supporting the belief that the officer will attempt to compromise the integrity of the test process before there can be direct observation.
6. After a specimen has been produced, the officer shall seal the specimen container and deliver it to the monitor. The monitor shall take possession of the specimen and ensure that it has been properly labeled and sealed. The monitor must check the temperature tape on the specimen container within five minutes of collection. A reading between 90° and 100° F is acceptable. If the temperature tape does not indicate the acceptable temperature, the monitor must examine the possibility that the officer attempted to tamper with the collection.

7. At the conclusion of the test process, the monitor shall ensure that all chain of custody documentation has been properly completed and make arrangements for the specimen to be delivered to the State Toxicology Laboratory.
8. Individuals who are unable to produce a urine specimen may remain under the supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under supervision, the monitor may direct the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to provide a specimen after a reasonable period of time, the monitor may have the individual examined by a doctor to determine whether the inability to produce a specimen is the result of a medical or physical infirmity. If there is no valid reason why an individual officer cannot produce a specimen, the inability to produce a specimen shall be deemed a refusal to cooperate with the test process and the appropriate action taken against the officer.

C. Second Specimen

1. NJIT Police Officers and trainees have the option to provide the monitor with a second urine specimen. This second specimen must be collected at the same time and the same place as the first specimen. The second specimen must be given contemporaneous with the first specimen, in other words, during the same void. The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area.
2. The NJIT Police Department shall maintain possession of the second specimen for a period of 60 days or until the agency receives notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of controlled substances.
3. The second specimen shall be released for analysis by the law enforcement agency under the following circumstances:
  - a. The agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
  - b. The agency is informed by the officer whose specimen tested positive that the officer wishes to have the specimen independently tested; and
  - c. The officer designates a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New

Jersey Clinical Laboratory Improvement Act to conduct the independent test; and

- d. A representative of the licensed clinical laboratory takes possession of the second specimen in accordance with accepted chain of custody procedures within 60 days of the date the specimen was produced.

## VII. Submission of Specimens for Analysis

- A. The State Toxicology Laboratory within the Division of Criminal Justice is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy.
- B. Urine specimens shall be submitted to the State Toxicology Laboratory as soon as possible after collection. In the event a specimen cannot be submitted to the laboratory within one working day of collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
  - 1. The submission of specimens to the State Toxicology Laboratory will be accomplished by NJIT DPS personnel.
  - 2. All specimens must be accompanied by a medical information form and a specimen submission record (Attachment C). The State Toxicology Laboratory will inspect all documentation to ensure that it has been properly completed.
  - 3. In addition to ensuring that the appropriate documentation has been completed and submitted for each specimen, the State Toxicology Laboratory shall inspect each specimen for damage and evidence of tampering. The Laboratory may reject any specimen it has reason to believe has been tampered with or damaged.

## VIII. Analysis of Specimens

- A. The analysis of each specimen shall be done in accordance with procedures adopted by the State Toxicology Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, metabolite cut-off levels and the issuance of test reports.
- B. Candidates for law enforcement employment are not required to submit a medication information form with their specimen. Therefore, if a candidate's specimen tests positive, the NJIT PD, following notification from the State Toxicology Laboratory, must have the candidate complete the medication information form. Once the form has been completed, the agency is responsible

for transmitting the form to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above in addition to the testing outlined.

**IX. Reporting Drug Test Results**

- A. The State Toxicology Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the Chief of Police/Director of Public Safety, whichever is applicable by overnight express mail.
- B. In some cases, the State Toxicology Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a specimen tested positive for barbiturates and that a prescription medication listed on the form by the officer explains the test result. At this point, it is the responsibility of NJIT to determine whether the officer had a valid prescription. Officers who do not have a valid prescription are subject to disciplinary action including termination by the agency.
- C. Under no circumstances, will the State Toxicology Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed by the Laboratory.

**X. Consequences of a Positive Test Result**

- A. Applicants
  - 1. When an applicant tests positive for illegal drug use, the applicant shall be immediately removed from consideration for employment by NJIT PD. In addition, the applicant shall be reported to the Central Drug Registry maintained by the Division of State Police. Any applicant who tests positive will be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years from the date of the test.
  - 2. Where an applicant is currently employed by another agency as a sworn law enforcement officer, the officer's current employer shall be notified of the positive test result. Under these circumstances, the officer's current employer is required to dismiss the officer from employment and also report his or her name to the Central Drug Registry maintained by the Division of State Police.

B. Trainees

1. When a trainee tests positive for illegal drug use, the trainee shall be immediately dismissed from basic training subject to rules adopted by the Police Training Commission. In addition, the trainee shall be suspended from employment by his or her appointing authority. Upon final disciplinary action by the appointing authority, the trainee shall be terminated from employment as a law enforcement officer, and be reported to the Central Drug Registry. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

C. Sworn Law Enforcement Officers

1. In the event of a positive test result, the submitting agency shall notify the officer of the results as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the officer may receive a copy of the laboratory report.
2. The officer shall be immediately suspended from all duties. The officer shall be administratively charged and, upon final disciplinary action, terminated from employment as a law enforcement officer.
3. The officer shall be reported to Central Drug Registry maintained by the Division of State Police by his or her employer. In addition, the officer shall be permanently barred from future law enforcement employment in New Jersey.

XI. Consequences of Refusal to Submit to a Drug Test

- A. Applicants for NJIT law enforcement officer employment who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement officer employment and barred from consideration for future NJIT law enforcement officer employment. In addition, NJIT shall forward the applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- B. NJIT law enforcement officer trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from NJIT law enforcement employment and permanently barred from future law enforcement employment with the NJIT PD. In addition, NJIT PD shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.



- C. NJIT PD sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the officer did in fact refuse to submit a sample, the officer shall be terminated from NJIT PD law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, NJIT PD shall forward the officer's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- D. If there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

**XII. Central Drug Registry**

- A. NJIT PD shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees, and sworn law enforcement officers who test positive for the illegal use of drugs or who refuse an order to submit to a drug test.
- B. A sworn law enforcement officer who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.
- C. Notifications to the Central Drug Registry shall be made on the form in Attachment E, and shall be signed by the Chief of Police/Director of Public Safety, whichever is applicable and notarized with a raised seal. The following information shall be included:
  - 1. name and address of the submitting agency;
  - 2. name of the individual who tested positive;
  - 3. last known address of the individual;
  - 4. date of birth;
  - 5. social security number;
  - 6. SBI number (if applicable);
  - 7. gender;
  - 8. race;
  - 9. eye color;
  - 10. substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
  - 11. date of the drug test or refusal;
  - 12. date of final dismissal or separation from the agency; and

13. whether the individual was an applicant, trainee or sworn law enforcement officer.

**Notifications to the Central Drug Registry shall be sent to:**

Division of State Police  
Records and Identification Section  
P.O. Box 7068  
West Trenton, New Jersey 08628-0068

**XIII. Record Keeping**

- A. The NJIT DPS Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.
- B. For all drug testing, the records shall include but not be limited to:
  1. the identity of those ordered to submit urine samples;
  2. the reason for that order;
  3. the date the urine was collected;
  4. the monitor of the collection process;
  5. the chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
  6. the results of the drug testing;
  7. copies of notifications to the subject officer; and
  8. for any positive result or refusal, appropriate documentation of disciplinary action.

For random drug testing, the records will also include the following information:

9. a description of the process used to randomly select officers for drug testing;
10. the date selection was made;

11. a copy of the document listing the identities of those selected for drug testing;
12. a list of those who were actually tested; and
13. the date(s) those officers were tested

References:

Attachment	A	“Drug Testing Medication Information”
Attachment	B	“Instructions For Using the DOX Container”
Attachment	C	“NJ State Specimen Submission Record”
Attachment	D	“Directions to State Toxicology Laboratory”
Attachment	E	“Notification to the Central Drug Registry”

**APPENDIX B**

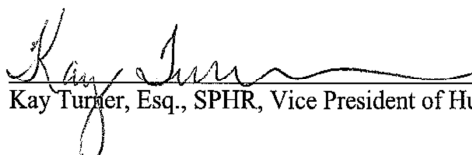
**LETTER OF AGREEMENT**

New Jersey Institute of Technology ("NJIT") and NJIT Superior Officers' Association, hereinafter referred to as ("SOA") in consideration of the mutual exchange of covenants made and enforceable in the parties' successor collective negotiations agreement with the term July 1, 2015 through June 30, 2019 hereby agree to discuss and/or negotiate as applicable:

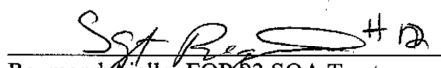
- 1 A university-wide Donated Sick Leave Bank policy.
- 2 Modification of the current overtime policy, so that in the event a Sergeant volunteers for at least an eight (8) hour shift of overtime, his or her name will move to the bottom of the list for mandatorily assigned overtime.
- 3 Current practice of assigning construction/road work security to members of the Newark police force, rather than the NJIT police force.

Executed this 7 day of January, 2016

FOR NJIT:

  
\_\_\_\_\_  
Kay Turner, Esq., SPHR, Vice President of Human Resources

FOR SOA:

  
\_\_\_\_\_  
Raymond Aiello, FOR 93 SOA Trustee  
Raymond Aiello