

2448

NJIT/SOA AGREEMENT

JULY 1, 1995 - JUNE 30, 2001

Agreement Between:

NEW JERSEY INSTITUTE OF TECHNOLOGY
and
NJIT SUPERIOR OFFICERS' ASSOCIATION

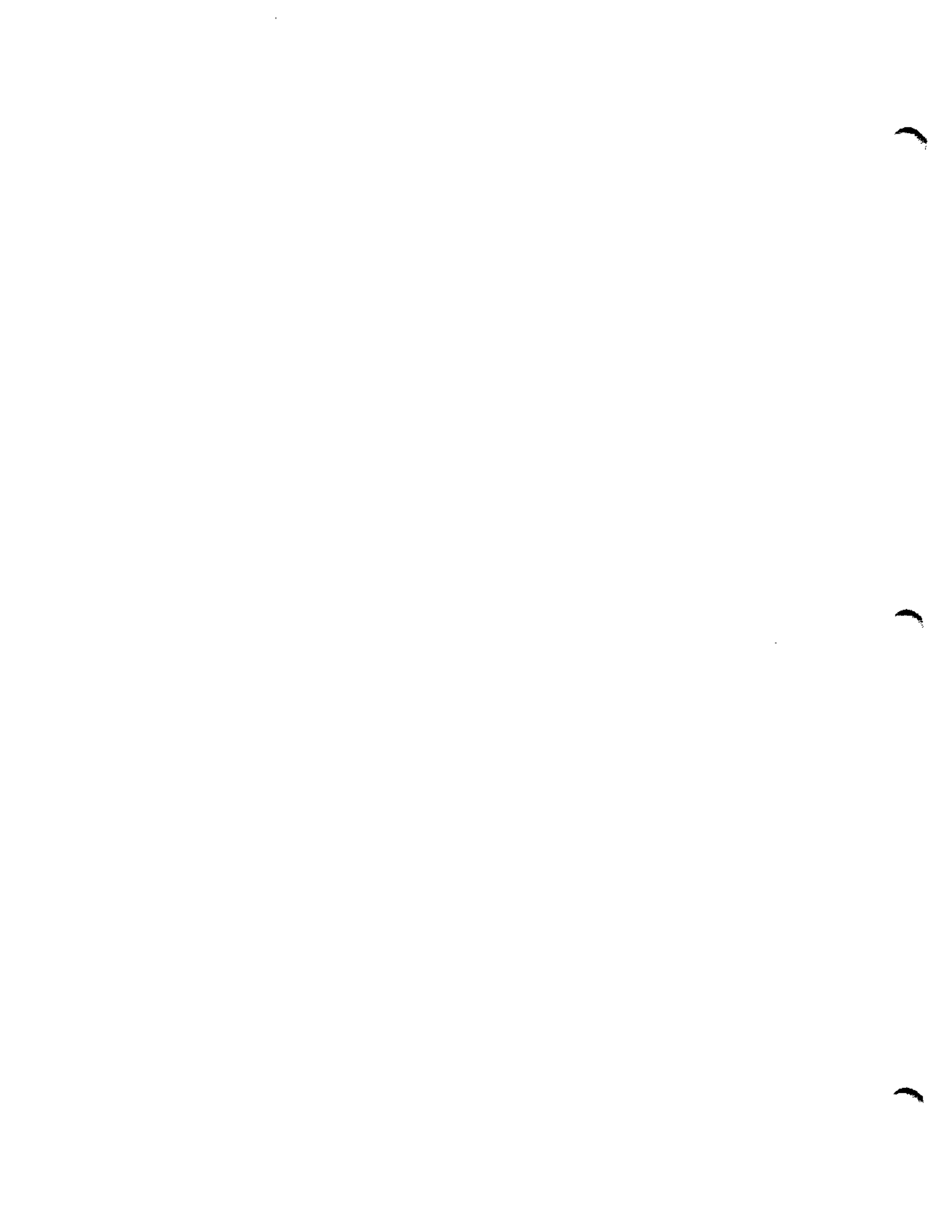


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NJIT/SOA AGREEMENT

This Agreement is entered into by New Jersey Institute of Technology, hereinafter ("NJIT") and NJIT Superior Officers' Association, hereinafter referred to as ("SOA").

ARTICLE I

RECOGNITION

NJIT recognizes SOA 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.

ARTICLE IV

DUES/FEE DEDUCTION

A. Dues

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (NJSA 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 be begun.
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, for services rendered by the majority representative until June 30, 2003. 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 of 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/Fee**

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 Director of Public Safety or his designee, and they do not interfere or interrupt normal NJIT operations or work of any Sergeant in the bargaining unit, or other NJIT Sergeants or group of Sergeants.

C. The SOA shall have the right to post, on mutually agreed bulletin boards, bulletins and notices relevant to official SOA business which affect 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 Office of Legal and Employment Affairs.

C. A maximum of two (2) Sergeant representatives of the SOA may attend such meetings. Sergeant 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 conduct or his 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). This 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 shall be afforded both notice of any and all charges against him and an opportunity to be heard on those charges. No Sergeant shall be prejudiced in the determination of discipline based upon a decision to remain 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 Three of the grievance procedure.
5. The terms of this Article shall not apply to probationary Sergeants.

E. 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 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.) **Step One**

A grievant shall first discuss his grievance informally with the appropriate command Lieutenant. The grievant may at his option, be accompanied by a representative of SOA. All grievances resolved at Step One shall be without precedent.

(b.) **Step Two**

- i. Within five (5) 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 discussion provided for in Step One, submit in writing to the Director of Public Safety 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 Director of Public Safety 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 Director of Public Safety, 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 Director of Public Safety shall indicate his disposition of the grievance, in writing, within three (3) calendar days of said meeting to the grievant and SOA.

(c.) **Step Three**

- i. If the grievant and/or SOA is dissatisfied with the decision at Step Two of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the third step of the grievance procedure, the grievant and/or SOA shall, within seven (7) calendar days of the date of the decision at Step Two (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Senior Vice President of Administration and Treasurer ("Vice President"). 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 Three, the Vice President or his 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 grievant be entitled to dual representation of both an SOA representative released from active duty for purposes of representation and counsel at the Step Three 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 grievant's representative for inspection and/or testing, provided that such inspection can be conducted without damaging or compromising the integrity of the evidence.
 - (4) Copies of the grievant's personnel files 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 Procedures:**

- i. The grievance hearing shall be held before the Vice President or his 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 sanctions. 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 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, being 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 Three 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 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 decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to both parties. 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 Four 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 or his designee. In the case of grievances of disciplinary sanctions, the sole issue before this Step Four 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 burden; the record thereby demonstrating that the hearing officer, in his 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, giving due regard for the hearing officer's ability and authority to assess the credibility of witnesses.

(e.) Step Four

- i. If the SOA is dissatisfied with the decision at Step Three, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in E., 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 or his designee's reply, give proper notice to either PERC or the authorized forum for review with a copy to the Executive Director of the Office of Legal and Employment Affairs. 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 Procedure, 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.

ARTICLE VIII

NON-DISCRIMINATION

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination as to age, gender, gender preference, marital status, race, color, creed, national origin, veteran's status or political affiliation.

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 responsibility 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 eighty (180) days from the date of appointment as a 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 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 Legal and Employment Affairs 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 or 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.

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 Director 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 a reduction or reorganization in the work force, 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 designee of the Executive Director of the Office of Legal and Employment Affairs 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 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 permanent position. Upon being reassigned to his permanent position, the Sergeant shall immediately receive the rate of pay for his permanent position.

ARTICLE XI

POSTING, HIRING AND PROMOTION

A. In keeping with NJIT's commitment to affirmative action and equal employment opportunities, all recruitment efforts will conform with the applicable sections of the NJIT Personnel Policies and Procedures Manual and Equal 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 posting shall be furnished to the SOA.

B. Newly hired Sergeants from outside NJIT may not be hired above Step 16 on the 33 step salary matrix.

C. Sergeants promoted from the ranks of commissioned patrol officer shall, prior to placement on the controlling 33 step salary matrix, first have their salaries positively adjusted the value of one (1) step on the commissioned patrol officer matrix and then that value shall be used to find the same or nearest higher salary step on the Sergeant's salary matrix.

ARTICLE XII

SICK LEAVE

A. Accrual:

New Sergeants shall earn one (1) working day per calendar month to the end of the fiscal year and 1-1/4 working days or fifteen (15) working days per fiscal year thereafter.

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 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, 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 University General Counsel.
3. Absences before and after a designated holiday shall be limited to personal illness. Any application for absences during these periods for reasons other than personal illness shall be subject to approval by the immediate supervisor in advance of the proposed absence.

C. Authorization and Validation:

1. **Short-Term Leave:** Sick leave pursuant to this provision, of two (2) workweeks or less is considered a short-term leave and shall be authorized and/or validated as follows:
 - (a.) **Anticipated Leave:** Any proper utilization of sick leave anticipated in advance 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.
 - (b.) **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.

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. 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.

Upon receipt of a specific diagnostic statement from a physician describing a chronic, debilitating illness of an Sergeant, the five (5) and ten (10) day validation requirement shall be waived as a matter of regular course, however, upon reasonable suspicion of abuse 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. In any event, an 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, to provide additional re-certification of the chronic illness.

2. **Long-Term Leave:** Sick leave pursuant to this provision, of over two (2) workweeks is considered a long-term leave and shall be authorized and/or validated as follows:

(a.) **Anticipated Leave:** An anticipated leave must be requested, approved and supported, in advance of utilization, with medical documentation from the Sergeant's physician stating the following:

- i. Nature of illness or injury preventing the Sergeant from working and/or necessitating the absence.
- ii. Prognosis for recovery and anticipated date for return to work.

NJIT may, at its option and expense, direct and secure a second medical opinion from a University selected physician and authorize or refuse the sick leave based thereon.

During a leave secured pursuant to this provision, the Sergeant may be required to submit medical progress reports concerning the illness or injury. NJIT reserves the right, at its own expense, to direct and secure a second opinion from a University selected physician during the long-term leave of absence and continue or reject authorization and utilization of paid sick leave based thereon.

Prior to return to active employment with NJIT an Sergeant on long-term sick leave may, at NJIT's option, be required to secure written medical certification attesting to the Sergeant's ability to perform the regular functions of the position.

- (c.) **Unanticipated Leave:** While prior notification and approval may, in extraordinary circumstances, be impossible or impracticable for every circumstance and condition enabling long-term paid sick leave, the same procedures and reciprocal rights of NJIT and the Sergeant as outlined in C., Authorization and Validation, 2., Long-Term Leave, (a.), Anticipated Leave, above shall apply to unanticipated leave except that the notification to NJIT must be approved as soon as possible and to the extent possible no later than three (3) days from the occurrence of the enabling event. Approval for a long-term leave must then be secured through those procedures outlined in C., Authorization and Validation, 2., Long-Term Leave, (a.), Anticipated Leave above.

3. **Confidentiality of Records:** All medical reports and diagnosis provided pursuant to this Article shall remain confidential with the designees of the Department of Human Resources and the Executive Director of the Office of Legal and Employment Affairs (or express designee) only.
4. **Article XIV – Family Leave:** These procedures shall be administered consistent with Article XIV, Family Leave Policy, below. If and where conflict arises, Article XV, Administrative Leave, shall take precedence.

D. Unused Sick Leave – Retirement:

Subject to the provision of N.J.S.A 11:14-9 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 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 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

MATERNITY LEAVE

A. Maternity Leave Policy at NJIT is fully merged with and hereby incorporated in Article XIV, Family Leave Policy, of this Agreement.

ARTICLE XIV

FAMILY LEAVE POLICY

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 lawful, equitable and contemporary policy. NJIT, therefore, hereby certifies the following Family Leave Policy which incorporates as appropriate (and shall be interpreted consistent with) NJIT's other standing leave policies.

A. Available Leave

Under prescribed parameters as set out hereafter, an eligible Sergeant may take a leave of absence from employment for up to twelve (12) weeks during a defined twelve (12) month period for anyone of the following reasons:

1. Birth and child care of an Sergeant's biological child during the child's first year of life.
2. Adoption or foster care placement and care for the infant/child in his/her first year following adoption or foster care placement.
3. Serious illness or health related, disabling condition of a spouse, child(ren), or parent.
- 4.. Serious illness or health related, work disabling condition of the Sergeant.

B. Twelve Week Period (Parameters)

1. While NJIT may, under other provisions of employment or of its own discretion, authorize leaves of absence greater than twelve (12) weeks and for other purposes, under this policy a maximum of twelve (12) weeks leave for any and all enabling reasons may be taken during the same twelve (12) month period for leaves pursuant to A.1.2. or 3., Available Leave, above. One twelve (12) week leave pursuant to A.4., Available Leave, above may also be taken in each defined twelve (12) month period. The twelve (12) month period is defined in provision E., Leave Year, below.
2. For leaves taken pursuant to A.1. or 2., Available Leave, above the maximum twelve week period must commence prior to the child's first year following birth (A.1., Available Leave) or prior to the first anniversary date of an adoption or foster care placement (A. 2. Available Leave).
3. The twelve (12) week period amounts to sixty (60) work days that may be taken as set out below.
4. The leave may be taken on a consecutive week, intermittent weeks or reduced time basis as follows:
 - (a.) Intermittent leave consists of a least one (1) week intervals that are not necessarily consecutive, and within the twelve (12) month period. Intermittent leave may only be scheduled and taken with the consent of NJIT, when invoking leave under provisions A.1. or 2., Available Leave, above.
 - (b.) Reduced time leave consists of a work reporting schedule that allows a shortened work day or shortened work week. Reduced time leave may only be scheduled and taken with the consent of NJIT when invoking provisions A.1. or 2., Available Leave, above. A Sergeant on reduced time leave may, at the discretion of NJIT, be transferred for the term of leave, to another position of equivalent pay and benefits that better accommodates NJIT. Leave under this provision shall be accounted for and charged on an hour for hour basis.
 - (c.) Requests for reduced time leave or intermittent leave under provisions A.1. and 2., Available Leave, above, shall be forwarded to the Department of Human Resources for a case by case review and determination following consultation with the department head or other appropriate supervisor of the applicant.
 - (d.) All leaves, for all reasons, are predicated upon the Sergeant providing NJIT as much notice as possible. Absent extraordinary circumstances, at least fifteen (15) days advance notice of leave is required. Failure to provide such notice except where appropriately waived, shall result in a delay in commencement of leave, if otherwise entitled, for the requisite fifteen (15) day period.

C. Leave Validation

Each leave, as set out in provision A., Available Leave, above, is subject to the prerequisite validation as follows:

1. Both A.1. and 2., Available Leave, leaves must be validated, at NJIT's request, as to the enabling facts of the leave. For example, it must be established by the applicant for leave hereunder that he/she is the parent, within the express meaning of that term as hereinafter defined.
2. Leave, under A.3., Available Leave, above, must be validated by a written certification from a qualified, licensed, health care provider, that the Sergeant is needed and able to provide care directly related to and on account of an acutely or chronically debilitating health condition requiring hospitalization and/or continuing licensed health provider intervention and treatment. The certification must also specify the debilitating condition and the prognosis for abatement or recovery with medical opinion as to time anticipated for abatement or recovery. Finally, upon request by NJIT, the Sergeant must validate, through reasonable means, the enabling family relationship.
3. Leave, under A.4., Available Leave, above, must be validated by a written certification of expert opinion by a qualified, licensed health care provider, describing the work debilitating illness or other work debilitating health related condition and its disabling onset, affect and anticipated duration.
4. Under leave enabling provisions A.3. and 4., Available Leave, above, when NJIT reasonably believes a submitted certification is suspect, in significant degree, it may require a second opinion from a licensed health care provider who is qualified in the field of the contended disability/illness. An opinion concurring with the Sergeant's submitted validation shall result in leave validation. An opinion dissenting from a suspect/faulty validation shall result in referral, as set out hereunder, to a third, independent health care provider, qualified in the field of the contended disability/illness, for final, binding opinion either validating or invalidating the leave.
 - (a.) Referral for a third, binding health care professional's opinion shall be by agreement of the Sergeant selected health care provider and NJIT selected health care provider. Failing agreement, referral shall be by agreement of the Sergeant and NJIT. Failing secondary agreement, referral shall be made by NJIT.
 - (b.) Both second and third health care provider's opinions shall be arranged and paid for by NJIT.
 - (c.) Failure by a Sergeant to provide a certification which, on its face, purports to meet the primary validation requirements set out above, shall result in denial of leave and its benefits, and not a second or third opinion, as the original certification is the sole responsibility of the Sergeant as prerequisite to either any leave entitlement or a second or third opinion by a licensed health care provider.

5. While a Sergeant is on Family Leave, pursuant to provisions A.3. or 4., Available Leave, above, NJIT may request and is then entitled to periodic formal updates or re-certifications as appropriate to the original certification parameters. NJIT imposed requirement for update or re-certification hereunder shall not be unreasonably applied, and NJIT will consider, in good faith, the necessity and frequency of update or revalidation unique to each individual leave based upon the nature and parameters of the original certification and any factual change in individual circumstance.
6. Prior to a Sergeant's return to NJIT from leave provided pursuant to provision A. 4., Available Leave, above, NJIT may request and receive health care provided certification that the Sergeant on leave is no longer work disabled from the originally certified health condition and can return to the workplace as sufficiently recovered to perform the regular, necessary functions of the job. NJIT will cooperate fully with the health care provider in making this assessment by providing, if necessary, a position description and/or thorough discussion of the dimensions of the position not easily gleaned from such position description.
7. All medical records provided in accordance with policy and consistent with law shall remain confidential with NJIT and within NJIT, shall remain disclosable only to the Department of Human Resources or those officers of NJIT with a need to know the certified rationale, including by way of illustration, the President, Senior Vice President for Administration and Treasurer, the General Counsel and the Executive Director of the Office of Legal and Employment Affairs. The Sergeant may choose to disclose the health condition diagnosis to his/her immediate supervisor or others in which case the legal confidentiality of the information is waived with respect to such agents to which such information is disclosed or to which disclosure is reasonably to be anticipated by the Sergeant's disclosure.

D. Leave Prerequisites

1. Prerequisite to family leave:
 - (a.) A Sergeant must have worked for NJIT at least one (1) year (365 days) prior to commencement of leave. However, the time need not be consecutive nor need it be full-time.
 - (b.) A Sergeant must have worked a minimum of 1,000 hours in the year (12 consecutive months) immediately preceding the leave for leaves under provision A. 1. 2. & 3., Available Leave, above.
 - (c.) A Sergeant must have worked a minimum of 1,250 hours in the year (12 consecutive months) immediately preceding the leave for leave pursuant to A. 4., Available Leave, above.
2. The hours prerequisites set out above refer to actual hours worked at NJIT and do not refer to excused or unexcused absences.

E. Leave Year

NJIT will calculate available leave by the "rolling" method. This means that when requesting otherwise available leave under this policy, NJIT will calculate the amount of leave used within the immediately preceding twelve (12) months of employment and subtract that number from the total number of days equal to twelve (12) workweeks (60 days). Each leave year is then unique to each Sergeant of NJIT.

F. Leave Entitlements

1. **Compensation:** Family Leave is, of itself, an unpaid leave.
 - (a.) For leave under provisions A.1. and 2., Available Leave, above, a Sergeant will be afforded an option to charge accrued vacation and/or administrative day leave for the absence.
 - (b.) For leave under provisions A.3. and 4., Available Leave, above, a Sergeant will be required to charge any and all accrued sick leave, until exhausted, as prerequisite to taking unpaid leave under this policy. Following exhaustion of accrued sick leave, a Sergeant will be afforded the election of charging vacation and/or administrative leave accruals while on an authorized validated family leave.
 - (c.) Charged vacation, administrative day or sick leave banked accruals will be taken in hour for hour increments of time taken to time charged for FLSA non-exempt Sergeants.
 - (d.) Elected or required utilization of paid vacation, administrative day, or sick leave accruals does not extend family leave or otherwise modify those other leaves available to Sergeants of NJIT.
2. **Health Benefits:** That health benefits coverage in effect and covering the Sergeant immediately prior to leave shall be maintained throughout the period of family leave subject only to program participation and parameters alteration as appropriately negotiated and/or implemented, consistent with law.
3. **Other Benefits:** Other benefits available to Sergeants on leave shall be governed by the provision applicable to the leave. If for example, the Sergeant is drawing paid sick leave while depleting family leave, the provisions of sick leave policy not inconsistent with this policy shall govern, while the provisions of unpaid leave policy that are not inconsistent with this policy shall govern an unpaid family leave or any portion thereof.
4. **Worker's Compensation:** Time away from regular employment reporting appropriately governed by Worker's Compensation Law and program regulation is, if and when all enabling prerequisites are met, chargeable as family leave pursuant to enabling provision A. 4., Available Leave, above.
5. **Reinstatement:** A Sergeant ready and able to return to his/her position of employment immediately following exhaustion of family leave will be returned to his/her position or, at NJIT's discretion, to an equivalent position with equivalent pay and benefits unless the Sergeant would have been terminated in the absence of any leave (e.g., layoff, contractual non-reappointment, or natural term expiration of a terminal or temporary position of employment).
 - (a.) **Key Employee Exception:**
 - i. Sergeants of NJIT who, during a period of family leave taken pursuant to A. 1., 2. or 3., Available Leave, above, are within the top five percent (5%) of NJIT's employees with respect to gross income paid by NJIT, are "Key Employees" and may be denied leave as set out above if such leave will, as can be established by NJIT, cause substantial and grievous economic or other organizational harm to NJIT.

- ii. Sergeants of NJIT who, during a period of family leave taken pursuant to A.4., Available Leave, above, are within the top ten percent (10%) of NJIT's Employees with respect to gross income paid by NJIT are also "Key Employees" and may be denied reinstatement as set out above, if such reinstatement will, as can be established by NJIT, cause substantial and grievous economic or other organizational harm to NJIT.
- iii. Key Employees must be individually noticed by NJIT, prior to taking leave, that they are Key Employees and that leave and/or position restoration may be denied them depending upon their Key Employee status and type of leave desired.
- iv. A Sergeant on leave who, during the leave, becomes a Key Employee or a Key Employee who failed to receive such notice prior to commencement of leave and who would not otherwise be entitled to leave or would not otherwise be reinstated pursuant to this provision, will be notified by NJIT immediately and given an opportunity to immediately return from leave with full restoration to his/her position prior to denial of further leave or denial of reinstatement.

G. Definitions

- 1. **Child**: A child is the biological, adopted or formally placed, foster care child, step child or legal ward of the Sergeant requesting leave and under eighteen (18) years of age or eighteen (18) years and over but certifiably incapable of self-care because of mental or physical impairment.
- 2. **Parent**: A parent is the biological or legally recognized parent of a child. For leave pursuant to provision A.3., Available Leave, above, a parent shall include parents-in-law.
- 3. **Spouse**: A spouse is the legally recognized, married partner of the Sergeant requesting leave.
- 4. **Serious illness or health related condition**: This is defined as an illness, injury or physical or mental impairment that involves a period of incapacity or treatment following in-patient care in a hospital, hospice, or residential medical care facility; a period of incapacity requiring more than three (3) days' absence from work and continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated would likely result in incapacity of more than three (3) days; or continuing treatment by or under the supervision of a health care provider of a chronic or long-term condition or disability that is incurable.
- 5. **Health Care Provider**: A "health care provider" is defined as any doctor of medicine or osteopathy, podiatry, optometry, or psychiatry or any nurse practitioner or psychologist performing within the scope of their licensed practice as defined under law.

H. Jurisdiction

This policy applies to all Sergeants of NJIT and shall be administered consistent with other NJIT policies, including collectively negotiated policies, and the law.

ARTICLE XV

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 sick leave; 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 Director of Public Safety 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 XVI

MILITARY LEAVE

A. A permanent full-time Sergeant who is a member of the National Guard, or an organized reserve component of the Armed Forces of the United States will be granted a leave of absence, with full pay, to attend mandatory training sessions or required duty.

1. This leave time will be in addition to vacation, sick and administrative leave.

B. Except and limited to such provisions as expressly granted by law, Sergeants who are drafted or voluntarily enlist in the Armed Forces are not eligible for paid military leave during the period of service. Reemployment rights, as granted by law, will be adhered to by NJIT.

C. Written notification of the requirement to take military leave must be sent to the Department of Human Resources, by the Sergeant, with copy to the Director of Public Safety.

ARTICLE XVII

LEAVE FOR SOA ACTIVITY

A. 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 Office of Legal and Employment Affairs 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 XVIII

OTHER LEAVES OF ABSENCE

A. Eligibility:

1. 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.
2. In reviewing requests for unpaid leave of absence NJIT will ensure that Article XIV, 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. 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.

B. Procedure:

1. 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 extraordinarily confidential basis, in which case the full application shall be submitted to the Department of Human Resources, with notice to the immediate supervisor that a request has been made for the duration stated on the application.
2. 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.
3. 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.

C. Reinstatement:

1. Should NJIT reasonably determine that a Sergeant's return to work might jeopardize his/her health or safety or that of NJIT's students or other Sergeant, NJIT may require a written medical, psychological or other licensed professional's certification, appropriate under the circumstances, attesting to the Sergeant's fitness to return to work, as a prerequisite to such return. NJIT may, upon reasonable evidence of such jeopardy, require examination and certification, at its expense, for return to work by a physician of its choosing.

2. A Sergeant, ready and able to return to work from a short-term leave, permitted pursuant to the above provisions, will be returned to his/her former position or an equivalent position with equivalent pay, and fringe benefits, including retirement system benefits. Accumulated seniority will be maintained and reinstated if and when necessary. A short-term leave is, in total consecutive duration, ninety (90) calendar days or less.
3. While NJIT will make every reasonable effort to place a Sergeant ready and able to return from long-term leave of absence in his/her former position or a comparable position, there is no entitlement to a position with NJIT following a long-term leave of absence. A long-term leave of absence is, in total consecutive duration, ninety-one (91) calendar days or more.
4. 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.

ARTICLE XIX

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 26th and January 2nd, 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., Available Leave, 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 XX

WORKER'S COMPENSATION

A. A Sergeant on Worker's 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 Worker's Compensation. Should a Sergeant wish to supplement that compensation received under New Jersey Worker's Compensation law and regulation to receive the same total salary compensation received when not on Worker's 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 Worker's Compensation must be made in a

signed writing to the Department of Human Resources, with a copy to the Benefits Office, and supplementation will be progressive only from the time the request is received by the Department of Human Resources.

ARTICLE XXI

EDUCATIONAL BENEFITS

All Sergeants, and where applicable, their dependents are eligible to participate in the existing University Tuition Remission Plan as authorized by the Board of Trustees, and subject to the applicable rules and regulations governing the Plan.

ARTICLE XXII

VACATION

A. 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:

1. Beginning with July 1, 2000 all commissioned Sergeants are entitled to three (3) weeks vacation annually, from years one (1) through five (5) of consecutive service as a Sergeant. Following five (5) years of consecutive service as a Sergeant or eight (8) years of consecutive service as a commissioned police officer at NJIT, of which at least two (2) are at the rank of Sergeant, a Sergeant shall be entitled to four (4) weeks vacation.
2. A Sergeant with less than five (5) year's consecutive service is entitled to vacation accrued at the rate of one and one quarter ($1\frac{1}{4}$) days for each month of service. A Sergeant with at least five (5) years of consecutive service as a Sergeant or eight (8) years of consecutive service as a commissioned police officer at NJIT, of which at least two (2) were at the rank of Sergeant, is entitled to vacation accrued at the rate of one and two thirds ($1\frac{2}{3}$) days per month of service.
3. Vacations shall be granted at a time mutually agreeable to the Sergeant and the Director of Public Safety. If the nature of the work load 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.

4. Upon separation from the university in good standing, all unused vacation, up to one (1) year's accrual shall be paid over to the Sergeant. There will be no payment for unused, banked vacation upon termination from employment during the probationary period or upon termination from employment for just cause.

B. If because of an emergency situation, pre-approved vacation 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 Director of Public Safety and approved by the Office of Legal and Employment Affairs.

C. Unused vacation days may be carried, up to one (1) year's accrual, into the next fiscal year. All other vacation that is not used or carried over shall be lost. No compensation will be paid in lieu of any vacation days except as provided under paragraph B. above.

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

E. The vacation year begins on July 1 and ends on the following June 30. The amount of usable vacation that a Sergeant may take, or receive payment for, is determined by the amount of vacation carryover as of July 1, plus any unused accrual in the bank at the time of requested use/payment. A Sergeant employed on or before the 15th of any month will receive credit for the entire month.

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

G. 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 Director of Public Safety.

ARTICLE XXIII

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 to all eligible Sergeants:

1. A total allowance of One Thousand dollars (\$1,100.00); Six Hundred (\$600.00) for maintenance and Five Hundred dollars (\$500.00) for repair and replacement shall be paid semiannually each of the four (4) years, starting with July 1, 1997 as follows:
 - (a.) A Sergeant, with less than six (6) months full-time service prior to July 1st of each fiscal year of the program, shall receive one-half ($\frac{1}{2}$) of the allowance, further prorated as appropriate, to the nearest month of service, payable the last payroll of the calendar year and one-half ($\frac{1}{2}$) of the allowance further prorated as appropriate, and payable the last payroll of that fiscal year.
 - (b.) A Sergeant, with at least six (6) months full-time service prior to July 1st of each fiscal year of the program shall receive one-half ($\frac{1}{2}$) 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 useable 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 schedule payment.

ARTICLE XXIV

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 XXV

OVERTIME

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, in so far 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. 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.

ARTICLE XXVI

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 XXVII

SALARY PROGRAM AND COMPENSATION

A. Salary Program: July 1, 1995 through June 30, 2001

It is agreed that during the term of this Agreement, for the period July 1, 1995 - June 30, 2001, 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 Sergeant 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. Across-the-Board Salary Guide Adjustment:

- (a.) For the period July 1, 1995 through the last payroll commencing in Fiscal Year 1997, the operative salary guide for Sergeants shall not be adjusted by any across-the-board adjustment.
- (b.) Effective in the first full payroll of Fiscal Year 1998 and continuing through the last payroll commencing in Fiscal Year 1998, the base salary of each Sergeant, reflected by the negotiated across-the-board salary guide adjustment as set out in Appendix A, Salary Schedule, of this Agreement, shall be increased by three and one-half percent (3.5%).
- (c.) Effective in the first full payroll of Fiscal Year 1999 and continuing through the last payroll commencing in Fiscal Year 1999, the base salary of each Sergeant reflected by the negotiated across-the-board salary guide adjustment as set out in Appendix A, Salary Schedule, of this Agreement, shall be increased by three and one-half percent (3.5%).
- (d.) Effective in the first full payroll of Fiscal Year 2000, the base salary of each Sergeant, reflected by the negotiated across-the-board salary guide adjustment as set out in Appendix A, Salary Schedule, of this Agreement shall be increased by two and one-half percent (2.5%).
- (e.) Effective in the first full payroll of Fiscal Year 2001, the base salary of each Sergeant, reflected by the negotiated across-the-board salary guide adjustment as set out in Appendix A, Salary Schedule, of this Agreement shall be increased by two percent (2%). Effective in the first full payroll of January 2001, the base salary of each Sergeant, reflected by the negotiated across-the-board salary guide adjustment as set out in Appendix A, Salary Schedule, of this Agreement shall be increased by one and one half percent (1.5%).

- (f) The Compensation Plan salary schedules shall be adjusted in accordance with established procedures to incorporate these increases for each step of the FOP salary range. Each Sergeant shall receive the increase by remaining at the step on the range occupied prior to adjustment.

2. **Incremental (Step) Advancement:**

- (a) Three (3) increments, on the 33 step scale, shall annually be paid to all Sergeants eligible for such increments within and subject to the policies of the NJIT Compensation Plan during the term of this Agreement. Payment shall be made in the first full pay period of July following at least one (1) year of employment and every July thereafter.
- (b) Sergeants who have been at the 29th step of the salary range for 18 months or longer shall be eligible for movement on the 33 step salary guide, providing their performance warrants the salary adjustment.
 - i. Final Incremental Advancement beyond Step 29 shall be January 1st following the passage of eighteen (18) months at Step 29.

3. **Merit Compensation Program:**

A merit compensation program shall exist each year for the term of this Agreement, funded from salary guide incremental step movement pooling and redistribution as follows:

(a) **Pooling:**

- i. One (1) step increment for all those eligible and entitled to annual progression on the 33 step salary schedule, will be withheld and pooled for merit redistribution to any Sergeant(s) whose performance in the year of withholding is deemed exemplary.

(e) **Salary Distribution: Step 25**

- i. Merit awards to those whose salary schedule position is below Step 25 shall be to base.
- ii. Merit awards to those whose salary schedule position is at or above Step 25 shall be in non-salary base cash payment. Merit recipients with pre-award base salary below Step 25 shall receive award to base until Step 25 is reached, at which time any remaining award shall be in non-salary base, cash salary payment.

(c.) **Merit Recipient Selection:**

- i. The Sergeants shall each, confidentially, rank order each other for merit consideration. A Sergeant may not rank him/herself but will give one (1) point for the top ranked Sergeant among the others, two (2) points for the second ranked Sergeant and continue adding one (1) point to the ranking until all others considered by each Sergeant are ranked or intentionally passed up. The lowest point total among the Sergeants shall be the number one (1) ranked Sergeant. The second lowest point total among the Sergeants, the number two (2) ranked Sergeant, and so on.
- ii. The rank ordering shall be compiled by the Director of Public Safety, who in consultation with the Lieutenant, shall append comment and recommend distribution of award from the pool but who shall not alter the rank ordering as tabulated. The Director shall forward the ranking and recommendations to the Senior Vice President for Administration and Treasurer for final award determination consistent with the following parameters.
 - (1.) All monies pooled for merit program redistribution shall be paid over to members of the bargaining unit.
 - (2.) Merit Awards will be determined in reasonably efficient fashion and payments made, pursuant thereto, within three (3) months of submission to the Director of Public Safety, of the rank ordering.

ARTICLE XXVIII

HEALTH BENEFITS

A. State Health Benefits Program

1. The State Health Benefits Program is applicable to Sergeants covered by this Agreement. Such employees will have the option, on the open enrollment dates, of selecting one (1) of the following plans: Traditional Indemnity, Managed Care/Point of Service (New Jersey Plus), or an HMO approved by the State Health Benefits Commission. If both spouses are active State employees and eligible to participate in the State Health Benefits Program, the couple may choose only one (1) HMO family policy.
2. (a.) The Managed Care/Point of Service Plan (New Jersey Plus) shall remain without any premium cost to eligible Sergeants and their eligible dependents during the term of this Agreement.

- (b.) Effective January 1, 2001, Sergeants who elect coverage in the Traditional Plan shall pay twenty-five percent (25%) of the cost of the premium of that Plan as established by the State Health Benefits Commission. The premium cost provisions set forth by the State Health Benefits Program for the term July 1, 1995 – June 30, 1999 for the Traditional Plan shall remain in effect until December 31, 2000.
 - (c.) Effective January 1, 2001, Sergeants who elect coverage in an approved HMO Plan shall pay five percent (5%) of the cost of the premium of that Plan as established by the State Health Benefits Commission. The approved HMO Plans shall remain without any premium cost from July 1, 1999 through December 31, 2000.
- 3. Active Sergeants will be able to use pre-tax dollars to pay contribution to health benefits under a Section 125 premium conversion option. All contributions will be by deductions from pay.
 - 4. Effective January 1, 1996, consistent with law, the State will no longer reimburse active employees or their spouses for Medicare part B premium payments.

B. Retirees Health Insurance

- 1. The State agrees to assume upon retirement the full cost of the Health Benefits coverage for State Sergeants and their dependents including the cost of charges under Part B of the Federal Medicare Program for eligible Sergeants and their spouses, but not including survivors, for Sergeants who accrue twenty-five (25) years of pension credit service, as provided under the State plan, by July 1, 1997, and those Sergeants who retire for disability on the basis of fewer years of pension credit in the State plan by July 1, 1997.
- 2. Those Sergeants who accrue twenty-five (25) years of pension credit service or retire on a disability retirement during the period from July 1, 1997 through June 30, 2000 are eligible to receive the following when they retire:
 - (a.) Sergeants in this group who elect to enroll in the Managed Care/Point Service (NJ Plus) or any of the approved HMO Plans shall not have to contribute to the cost of any premium for health insurance coverage.
 - (b.) Sergeants in this group who elect to enroll in the Traditional Plan and earn Forty Thousand dollars (\$40,000) or more in base salary in the year they retire shall pay the difference between the cost of the Traditional Plan and the average of the cost to the State of the Managed Care/Point of Service (NJ Plus) and the approved HMO Plans for health insurance coverage.

- (c.) Sergeants in this group who elect to enroll in the Traditional Plan and earn less than Forty Thousand dollars (\$40,000) in base salary in the year they retire shall pay one percent (1%) of their annual base pay at retirement but not less than Twenty dollars (\$20.00) a month for health insurance coverage.
 - (d.) Sergeants in this group shall receive Medicare Part B reimbursement after retirement up to a cap of Forty-six dollars and ten cents (\$46.10) per month per eligible employee and the employee's spouse.
3. Those Sergeants who accrue twenty-five (25) years of pension credit service or retire on a disability retirement during the period from July 1, 2000 through June 30, 2001 are eligible to receive the following when they retire:
- (a.) Sergeants in this group who elect to enroll in the Managed Care/Point of Service (NJ Plus) or any of the approved HMO Plans in retirement shall not have to contribute to the cost of any premium for health insurance coverage.

C. Prescription Drug Program

1. It is agreed that the State shall continue the Prescription Drug Benefit Program during the period of this Agreement. The Program shall be funded and administered by the State. It shall provide benefits to all eligible unit Sergeants and their eligible dependents. Each prescription required by competent medical authority for Federal legend drugs shall be paid for by the State from funds provided for the Program subject to a deductible provision which shall not exceed Five dollars (\$5.00) per prescription or renewal of such prescription and further subject to specific procedural and administrative rules and regulations which are part of the Program.

D. Eye Care Program

1. It is agreed that Eye Care Program shall include all Sergeants and their eligible dependents (spouse and unmarried children under twenty-three (23) years of age who live with the Sergeant in the regular parent-child relationship). The coverage shall be Thirty-five dollars (\$35) for regular glasses and Forty dollars (\$40) for bifocal glasses with all other conditions for eligibility as in the current plan. The extension of benefits to dependents shall be effective only after the Sergeant has been continuously employed for a minimum of sixty (60) days.
2. Full-time Sergeants and eligible dependents as defined above shall be eligible for a maximum payment of Thirty-five dollars (\$35) or the cost, whichever is less, of an eye examination by an ophthalmologist or an optometrist.

3. Each eligible Sergeant and dependent may receive only one (1) payment for glasses and one (1) payment for examinations for the period, July 1, 1999 to June 30, 2001. Proper affidavit and submission of receipts are required of the employee in order to receive payment.

E. Dental Care Program

During the term of this Agreement, full-time Sergeants and their eligible dependents shall continue to be eligible to participate in the Dental Care Program established by the State.

1. Full-time Sergeants and eligible dependents shall be eligible for the State administered Dental Care Program which shall be continued during the life of this Agreement.
2. Participation in the Program shall be voluntary with a condition of participation being that each participating employee authorize a biweekly salary deduction not to exceed fifty percent (50%) of the cost of the type of coverage elected, e.g., individual Sergeant only, husband and wife, parent and child or family coverage.
3. Each Sergeant shall be provided with a brochure describing the details of the Program and enrollment information and the required forms.
4. Participating Sergeants shall be provided with an identification card to be utilized when covered dental care is required.
5. An optional Group Dental Program which will provide services through specific dental clinics will be made available to Sergeants in this unit. Participation in this Program shall be voluntary with a condition that each participating Sergeant authorize a biweekly salary deduction not to exceed fifty percent (50%) of the cost of the coverage for a one (1) year period. Sergeants will be able to enroll in only one (1) of the two (2) programs or in no program at all.

F. Deferred Compensation

It is understood that the State shall continue the Program which will permit eligible Sergeants 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.

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

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

It is further understood that the maximum amount of deferred income under this plan shall be twenty-five percent (25%) or Eight Thousand dollars (\$8,000), whichever is less.

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 B, Drug Screening Policy and Procedure, herein.

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. 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 of a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the rate of One Hundred and fifty dollars (\$150.00) per semester.

2. Fees shall be collected through payroll deduction and spread over the first five (5) consecutive pay periods following registration of a motor vehicle by a Sergeant. There will be no rebates or discounts for partial use during any semester in which a vehicle is registered and therefore entitled to be parked on NJIT's premises.

ARTICLE XXXII

DURATION

The provisions of this Agreement shall be effective either (1) as of the dates expressly specified herein or (2) upon the date of mutual ratification as attested by execution hereof, and all portions of this Agreement shall terminate as of June 30, 2001.

ARTICLE XXXIII

SUCCESSOR AGREEMENT

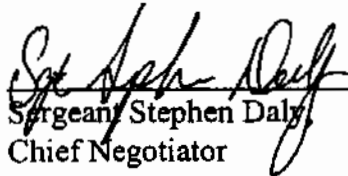
The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2001, subject to the provisions set forth in Article II, Negotiating Procedures.

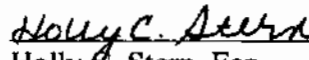
The parties hereby acknowledge and agree to the terms and conditions of the aforementioned Agreement between New Jersey Institute of Technology and the NJIT Superior Officer Association, entered into, as of July 1, 1995 and which will terminate June 30, 2001.

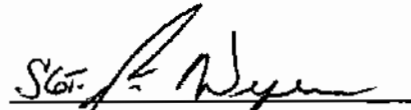
Signed this 8th day of December, 2000.

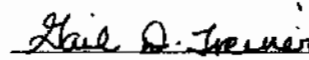
FOR SOA

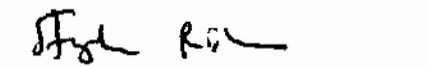
FOR NJIT

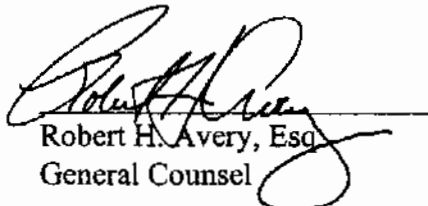

Sergeant Stephen Daly
Chief Negotiator


Holly C. Stern, Esq.
Chief Negotiator


Sergeant Peter Wyer
Negotiation Team Member


Gail Weiner, Esq.
Negotiation Team Member


Stephen Richman, Esq.
Counsel to SOA


Robert H. Avery, Esq.
General Counsel

SOA Appendix A Salary Schedule

Step	July-95 0%	July-96 0%	July-97 3.50%	July-98 3.50%	July-99 2.50%	July-00 2.00%	January-01 1.50%
1	34,453.00	\$ 34,453.00	\$ 35,659.00	\$ 36,907.00	\$ 37,830.00	\$ 38,587.00	\$ 39,166.00
2	35,038.00	\$ 35,038.00	\$ 36,264.00	\$ 37,533.00	\$ 38,471.00	\$ 39,240.00	\$ 39,829.00
3	35,623.00	\$ 35,623.00	\$ 36,870.00	\$ 38,160.00	\$ 39,114.00	\$ 39,896.00	\$ 40,494.00
4	36,208.00	\$ 36,208.00	\$ 37,475.00	\$ 38,787.00	\$ 39,757.00	\$ 40,552.00	\$ 41,160.00
5	36,793.00	\$ 36,793.00	\$ 38,081.00	\$ 39,414.00	\$ 40,399.00	\$ 41,207.00	\$ 41,825.00
6	37,379.00	\$ 37,379.00	\$ 38,687.00	\$ 40,041.00	\$ 41,042.00	\$ 41,863.00	\$ 42,491.00
7	37,964.00	\$ 37,964.00	\$ 39,293.00	\$ 40,668.00	\$ 41,685.00	\$ 42,519.00	\$ 43,157.00
8	38,549.00	\$ 38,549.00	\$ 39,898.00	\$ 41,294.00	\$ 42,326.00	\$ 43,173.00	\$ 43,821.00
9	39,135.00	\$ 39,135.00	\$ 40,505.00	\$ 41,923.00	\$ 42,971.00	\$ 43,830.00	\$ 44,487.00
10	39,720.00	\$ 39,720.00	\$ 41,110.00	\$ 42,549.00	\$ 43,613.00	\$ 44,485.00	\$ 45,152.00
11	40,305.00	\$ 40,305.00	\$ 41,716.00	\$ 43,176.00	\$ 44,255.00	\$ 45,140.00	\$ 45,817.00
12	40,890.00	\$ 40,890.00	\$ 42,321.00	\$ 43,802.00	\$ 44,897.00	\$ 45,795.00	\$ 46,482.00
13	41,476.00	\$ 41,476.00	\$ 42,928.00	\$ 44,430.00	\$ 45,541.00	\$ 46,452.00	\$ 47,149.00
14	42,061.00	\$ 42,061.00	\$ 43,533.00	\$ 45,057.00	\$ 46,183.00	\$ 47,107.00	\$ 47,814.00
15	42,646.00	\$ 42,646.00	\$ 44,139.00	\$ 45,684.00	\$ 46,826.00	\$ 47,763.00	\$ 48,479.00
16	43,232.00	\$ 43,232.00	\$ 44,745.00	\$ 46,311.00	\$ 47,469.00	\$ 48,418.00	\$ 49,144.00
17	43,817.00	\$ 43,817.00	\$ 45,351.00	\$ 46,938.00	\$ 48,111.00	\$ 49,073.00	\$ 49,809.00
18	44,402.00	\$ 44,402.00	\$ 45,956.00	\$ 47,564.00	\$ 48,753.00	\$ 49,728.00	\$ 50,474.00
19	44,987.00	\$ 44,987.00	\$ 46,562.00	\$ 48,192.00	\$ 49,397.00	\$ 50,385.00	\$ 51,141.00
20	45,572.00	\$ 45,572.00	\$ 47,167.00	\$ 48,818.00	\$ 50,038.00	\$ 51,039.00	\$ 51,805.00
21	46,158.00	\$ 46,158.00	\$ 47,774.00	\$ 49,446.00	\$ 50,682.00	\$ 51,696.00	\$ 52,471.00
22	46,743.00	\$ 46,743.00	\$ 48,379.00	\$ 50,072.00	\$ 51,324.00	\$ 52,350.00	\$ 53,135.00
23	47,328.00	\$ 47,328.00	\$ 48,984.00	\$ 50,698.00	\$ 51,965.00	\$ 53,004.00	\$ 53,799.00
24	47,913.00	\$ 47,913.00	\$ 49,590.00	\$ 51,326.00	\$ 52,609.00	\$ 53,661.00	\$ 54,466.00
25	48,498.00	\$ 48,498.00	\$ 50,195.00	\$ 51,952.00	\$ 53,251.00	\$ 54,316.00	\$ 55,131.00
26	49,084.00	\$ 49,084.00	\$ 50,802.00	\$ 52,580.00	\$ 53,895.00	\$ 54,973.00	\$ 55,798.00
27	49,669.00	\$ 49,669.00	\$ 51,407.00	\$ 53,206.00	\$ 54,536.00	\$ 55,627.00	\$ 56,461.00
28	50,254.00	\$ 50,254.00	\$ 52,013.00	\$ 53,833.00	\$ 55,179.00	\$ 56,283.00	\$ 57,127.00
29	50,839.00	\$ 50,839.00	\$ 52,618.00	\$ 54,460.00	\$ 55,822.00	\$ 56,938.00	\$ 57,792.00
30	51,425.00	\$ 51,425.00	\$ 53,225.00	\$ 55,088.00	\$ 56,465.00	\$ 57,594.00	\$ 58,458.00
31	52,010.00	\$ 52,010.00	\$ 53,830.00	\$ 55,714.00	\$ 57,107.00	\$ 58,249.00	\$ 59,123.00
32	52,595.00	\$ 52,595.00	\$ 54,436.00	\$ 56,341.00	\$ 57,750.00	\$ 58,905.00	\$ 59,789.00
33	53,181.00	\$ 53,181.00	\$ 55,042.00	\$ 56,968.00	\$ 58,392.00	\$ 59,560.00	\$ 60,453.00

APPENDIX B

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

I. Introduction

New Jersey Institute of Technology's Public Safety Department has a legal responsibility and managerial obligation to maintain a safe work environment for its officers, and employees, as well as a duty to protect the community that it is sworn to serve. The professional responsibilities, legal prerogative and the integrity of any law enforcement agency demands that its Police Sergeants ("Sergeants") refrain, without excuse or exception, from the use and possession of illegal or medically unauthorized controlled dangerous substances (herein "drugs"). No person can function well while abusing drugs according to the New Jersey Department of Law and Public Safety Division of Criminal Justice. There is conclusive proof that the use and/or abuse of many types of drugs can and does produce negative effects on an individual's cognitive, emotional and physical health and conduct. Sergeants, being in positions of public trust, may not operate outside of the law. The possession and use of drugs in itself is a crime in this jurisdiction, and grounds for arrest, prosecution, incarceration and dismissal. A condition of employment must and shall be, a Sergeant who is free from drug possession, use and/or dependence. It is, therefore, the policy of NJIT's Public Safety Department that no Sergeant shall possess or use any drugs, whether on or off duty, unless the drug has been legally prescribed for the Sergeant by a physician licensed to practice medicine and used in the manner prescribed.

II. Purpose

The purpose of this policy is to protect the integrity, credibility and effectiveness of NJIT's Public Safety Department; to preserve the public's trust earned by its Sergeants; and to ensure a drug free workplace for Department members. Testing Sergeants for substance abuse in accordance with legally authorized parameters, will help ensure that these objectives are accomplished, while balancing the need to safeguard the rights of the individual members tested against unreasonable intrusions into their person. It is acknowledged that legal requirements pertaining to drug testing may change and evolve; the policy may be amended from time to time to reflect changes in legal requirements and parameters, as well as the negotiated pacts of the university and its unionized officers, including Sergeants.

III. Definition of Terms

- A. **Sergeants**: All commissioned police officers, with supervisory responsibilities, serving within the Department of Public Safety and holding that NJIT formal rank.
- B. **Supervisors**: Sworn superior officers holding the rank of Lieutenant, or higher or administrative, supervisory personnel assigned to positions having day-to-day responsibilities for supervision of Sergeants.
- C. **Urinalysis**: A urine test administered under approved conditions and procedure for detecting illegal drug usage.
- D. **Reasonable Individualized Suspicion**: An apparent state of facts and/or circumstances found to exist upon inquiry by the appropriate supervisor, as determined by the Director of Public Safety, which would induce a reasonably intelligent and prudent person to believe that a reasonable, objective basis exists to suspect that a urinalysis will produce evidence of a drug as defined by this policy.
- E. **Random Drug Testing**: A standardized random selection methodology of testing individual Sergeants for drugs that does not depend upon reasonable individualized suspicion and does not predetermine who will be tested.
- F. **Drugs**: Controlled substances or illegal drugs, as follows: amphetamine/methamphetamine; barbiturates; benzodiazepene; cannabinoids; cocaine; methadone; phencyclidine; opiates and illegal steroids.

IV. Drug Testing Parameters

- A. **Pre-employment or Probationary Period Screening** - Drug screening shall occur as part of the pre-employment medical examination administered to persons applying for any Sergeant positions with the NJIT Public Safety Department. Additionally, screening at the discretion of NJIT may take place at any time during a Sergeant's probationary period with the Department of Public Safety.
- B. **Employment Screening** - In balancing the NJIT community's right and obligation to have a drug-free Public Safety Department against the Sergeant's right to privacy, urinalysis will be the chosen method of screening. Screening will be administered as follows: (1) screening of any Sergeant in the absence of "reasonable individualized suspicion" may be conducted at NJIT's discretion at any time following random selection, or (2) individual screening will be administered when there is a "reasonable individualized suspicion" to believe that an individual Sergeant is using drugs in violation of this policy. Testing on the basis of "reasonable individualized suspicion" will be required based on the objective facts and on rational inferences, drawn by a supervisor, to indicate that

the usage of any drug may be the cause of an unfit condition where the Sergeant is:

1. Impaired in, or incapable of performing their assigned duties, and/or
2. The subject of investigation where sufficient evidence and facts are present to constitute a "reasonable/individualized suspicion" that they are involved in the use, possession or sale of drugs; and/or
3. Experiencing (without plausible, legitimate explanation proffered and fully validated) excessive absenteeism and significantly reduced productivity, and/or
4. Found to have excessive or otherwise suspicious on-duty injuries or motor vehicle accidents indicating negligence in relation to assigned duties; and/or
5. Exhibiting unusual and/or bizarre behavior patterns, reasonably deemed inconsistent with regular and appropriate behavior patterns.

V. Testing Procedures

- A. Any Sergeant who is consuming a prescribed medication which may not otherwise be defined as a drug under this policy or ingesting over-the-counter drugs, shall, upon being ordered to submit to drug testing, inform his or her immediate supervisor of the nature of the illness or injury, along with the name and type of medication being taken and the physician prescribing same.
- B. **Reasonable Individualized Suspicion:** Supervisors shall prepare a written report requesting urinalysis, where there is a credibility to the sources of information, e.g., by tip, informant, personal knowledge, observations, other documentation or reliable information that a member is a user of drugs. The report, which shall be confidential, shall be forwarded to the Director of Public Safety, documenting the specific reasons for the request with all circumstances and/or corroborating evidence supporting individualized, reasonable suspicion (e.g., relevant facts exhibited by the Sergeant).
 1. The decision to test a Sergeant for drugs based upon satisfaction of the standards for reasonable individualized suspicion, shall be made by the Director of Public Safety. Under emergent circumstances, the Director of Public Safety may order drug testing based upon an oral report. If the Director of Public Safety cannot be contacted within a reasonable period of time, an NJIT designee, normally a Lieutenant, may (acting in his absence) order such test.

C. **Random Drug Testing:** In the case of random drug testing, a published standardized, selection procedure shall be utilized to select no more than forty percent (40%) of the pool of Sergeants for drug testing at any one time. This procedure must conform with the following guidelines:

1. The selection of any officer must be based purely upon chance which may only include mathematical probability as a likelihood of selection.
2. The selection procedure shall not be conducted by any member of the Department of Public Safety, but any of the following members of NJIT administration (or their successors in position responsibility) may be present to witness the selection process:
 - (a.) President,
 - (b.) Senior Vice President for Administration and Treasurer,
 - (c.) Associate Vice President for Facilities Management,
 - (d.) Director of Public Safety and Chief of Police or expressly authorized Lieutenants
 - (e.) General Counsel or his designee within the Office of Legal and Employment Affairs.
3. The SOA has the right, at its request, to have a duly authorized representative present as a witness to the selection process.
4. To reach the maximum allowable number of Sergeants tested at any one time, you would round to the number of Sergeants nearest forty percent (40%) at the time of selection. For example, if there are six (6) officers in the testing pool, two (2) officers equal thirty three percent (33%) of the pool and three (3) officers equal fifty percent (50%) of the pool. The maximum number of officers, under this example, that may be selected is two (2).
5. As the selection is truly random, there is no limit on the number of times one may be randomly selected nor will there be any alteration in the selection procedure regardless of comparable differences among Sergeants in times selected.
6. There will be no more than five (5) random tests per year to be scheduled at NJIT's discretion.
7. As the procedure is publishable, it will be available to the SOA for validity testing as a random process.

8. **Confidentiality**: The identification of Sergeants selected for random testing as well as the fact that a random selection and testing procedure has been determined and scheduled to occur, prior to the collection of specimens, shall remain confidential to the extent practicable. Any Sergeant who without authorization from NJIT, discloses either the identity of selected Sergeants or the planning of a random selection and testing, shall be subject to severe discipline. This, without mitigation of an extraordinary nature, is a terminable offense.
9. The only matter grievable under this Policy is whether the testing procedure reasonably leads to truly random selection.

D. **Notification of Drug Screening**

1. A Sergeant tested on the grounds of "reasonable individualized suspicion", discretionary testing during his/her probationary period, or random testing, need receive no minimum notification that drug screening, through urinalysis, will be conducted prior to reporting to the testing location, other than that notification time that is necessary for transportation purposes. Whenever practicable, Sergeants shall be notified during their tour of duty on the date of the test, and testing itself will be conducted during a tour of duty.
2. Any Sergeant who refuses to appear for testing at the time and place designated by the Department after being notified to do so, shall be subjected to the same penalties and consequences as those Sergeants who test positive for the presence of illegal drugs including, but not limited to, the termination of employment from NJIT, following provision of applicable due process of law.

- E. **Responsibility** - A supervisor designated by the Director of Public Safety shall be directly responsible for scheduling and supervising the conducting of all drug screening for Sergeants.

F. **Processing of Urine Specimen**

1. **Designated Laboratory and Test** – The New Jersey State Toxicology Laboratory within the Division of Criminal Justice, shall be the sole facility for testing procedures for Sergeants. The following two (2) step testing process will be followed:
 - (a.) The Enzyme Multiplied Immunoassay Test (EMIT) and Thin Layer Chromatography (TLC) will be used as initial drug screening procedures.
 - (b.) Gas Chromatography/Mass Spectrometry (GCMS) technique is used to confirm all positive results of initial drug screening.

2. **Preliminary Acquisition Procedures**

Before a Sergeant is ordered to submit to a drug test on the basis of "reasonable individualized suspicion", the Department shall prepare a confidential report which documents the basis thereof. The Director of Public Safety (or such individual designated by this policy to render approval of testing) shall base his/her decision on the contents of this confidential report. No such report shall be required in the event of either emergent circumstances mandating immediate testing, or allowable random testing.

Prior to the submission of a urine sample for any type of testing, the Sergeant shall complete a medical questionnaire which clearly describes all medications, both prescription or over the counter, which he or she ingested during the prior thirty (30) days.

The Director of Public Safety shall designate an official monitor responsible for urine sample acquisitions. The monitor may, but need not be, an NJIT Lieutenant. The monitor shall, whenever practicable, be of the same gender as the Sergeant(s) producing the required samples. As the official monitor, he/she shall be responsible for ensuring that all relevant disclosure forms have been thoroughly completed by the Sergeant, and that the specimen containers used during the sample acquisition process have been approved by the New Jersey State Toxicology Laboratory. The official monitor shall also take all reasonable steps to ensure to the extent practicable that the invasion of the Sergeant's privacy is minimized during the sample acquisition process. Prior to submitting the urine sample to the laboratory for testing, both the official monitor and the Sergeant shall inspect the specimen bottle packet for indications of pre-void tampering. The official monitor may also choose to designate another witness to the sample acquisitions.

3. **Specimen Acquisition Procedure**

- (a.) After the official monitor has reviewed the appropriate forms for accuracy and inspected the empty specimen collection container for signs of tampering, the Sergeant shall void into the container. The Sergeant shall seal the specimen container and deliver it to the official monitor.
- (b.) At the time the urine sample is provided, the Sergeant will have the option to submit two (2) samples. Both samples will be acquired according to the procedures outlined herein. One will be forwarded to the State Toxicology Laboratory for testing. The official monitor will store the remaining sample in a frozen state within, or accessible to, the Department according to Departmental procedures regarding chain of custody and evidence storage, in accordance with Attorney General Guidelines.

The samples will remain in storage for sixty (60) days or until notification by the State Toxicology Laboratory that the first specimen tested negative. This sample will be made available upon request through the appropriate channels to the Sergeant or at the Sergeant's election, his/her authorized employment representative (which for this process only may include retained counsel).

(c.) To the maximum extent possible, privacy will be maintained during the specimen production process, however, should the Department of Public Safety have documented reason to believe the Sergeant will adulterate the specimen or otherwise compromise the integrity of the test process, the official monitor or his/her designee (of the same gender as the Sergeant) may directly observe the Sergeant while he/she produces the specimen.

(d.) In the event a Sergeant is unable to produce a urine specimen, the Sergeant may remain under the supervision of the official monitor until he/she is satisfied that the Sergeant cannot produce a specimen. At such time, the official monitor may allow the Sergeant to drink fluids in an attempt to induce production of a specimen. A Sergeant's continued inability to produce a specimen may result in the Sergeant being examined by a physician of NJIT's choice and at NJIT's expense to determine if the inability to produce the sample is the result of a medical/physical infirmity or a refusal to cooperate with the drug testing process. A determination by the examining physician, that the inability to produce a urine specimen is based upon a refusal to cooperate with the drug testing process shall be cause for termination of the Sergeant.

(e.) Upon successful production and delivery of a required urine sample to the official monitor, he/she shall maintain the chain of custody by submitting the sealed specimen container(s) to the New Jersey State Toxicology Laboratory, Division of Criminal Justice within one (1) working day of collection. In the event the specimen cannot be submitted within one (1) working day, it shall be stored in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.

(f.) Throughout the testing process, the identities of the tested Sergeants shall remain confidential to the extent practicable. Individual specimens shall be identified by social security numbers only. Sergeants' names shall not appear on specimen containers or forms submitted to the State Toxicology Laboratory.

G. **Drug Test Results**

1. **Notification**

It is the procedure of the State Toxicology Laboratory to notify the Director of Public Safety, as to the result of the urinalysis, immediately upon completion of the test. The laboratory will retain only those samples which have been confirmed to be positive for the presence of drugs. All oral notifications will be confirmed by written reports within fifteen (15) working days of submission of the specimen.

2. **Positive Results**

All Sergeants who are tested, and are confirmed to be positive for the presence of drugs, shall:

- (a.) Be notified of this fact by the Director of Public Safety as soon as practicable after oral notification is received from the laboratory.
- (b.) Be provided with a copy of the laboratory report, as soon as practicable after receipt of same.
- (c.) Be suspended from duty immediately without pay, pursuant to Article VII, Investigation, Due Process, Discipline and Challenge, of the collective bargaining agreement pending a due process hearing for dismissal from employment.
- (d.) Be terminated from employment, in accordance with Article VII, Investigation, Due Process, Discipline and Challenge, of the collective bargaining agreement.
- (e.) Be given the opportunity to challenge a termination from employment based upon a confirmed positive result in the same manner as provided in the collective bargaining agreement for challenging disciplinary impositions involving potential termination of employment. 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.

- (f.) In addition to the above measures, any Sergeant who produces a confirmed positive result for use of drugs shall also be:
 - (i.) included in a central registry maintained by the Division of State Police, to be accessed only through court order or as part of a confidential investigation related to law enforcement employment;
 - (ii.) reported to the Essex County Prosecutor;
 - (iii.) permanently barred from sworn law enforcement employment in New Jersey.
- (g.) Sergeants who have produced two (2) simultaneous samples may, upon notification of a positive test result, request that the Director of Public Safety release the second (2nd) sample for the sole purpose of having the same independently tested. Under such circumstances, the Sergeant must designate as the independent testing facility a laboratory licensed to conduct such tests by the New Jersey Department of Health under the New Jersey Criminal Laboratory Improvement Act. If an authorized representative of the designated laboratory does not take possession of the second (2nd) sample maintaining an appropriate chain of custody, within sixty (60) days of production, the Department of Public Safety will destroy the sample.

3. Negative Results

- (a.) If the test result as determined at any stage of the process is negative, the allegation of drug abuse against the Sergeant shall be classified as "unfounded".
- (b.) Any Sergeant whose specimen is found to be negative, or who has a verified, lawfully issued, medically valid prescription explaining a positive result, shall receive a letter from the Director of Public Safety stating that no illegal substances were found and no negative inferences may be drawn from the testing itself. A copy of the letter will be provided to the Sergeant, and at the Sergeant's election placed in the Sergeant's personnel file. Records and documents relating to a test based upon asserted reasonable individualized suspicion will be made available to the Sergeant in accordance with legal mandate, or the terms of their Collective Bargaining Agreement.
- (c.) Negative specimens shall be destroyed immediately upon completion of urinalysis by the Medical Examiner's Toxicology Laboratory.

VI. Record Keeping

- A. The Office of General Counsel shall maintain the following records of random and individualized reasonable suspicion testing:
1. the identities of all Sergeants ordered to submit urine samples;
 2. the reason for the order;
 3. the date the urine sample was collected;
 4. the identity of the official monitor of the collection process;
 5. the chain of custody of the urine sample(s) from the time of collection to the time of submission to the State Toxicology Laboratory (or the licensed alternative testing facility set out under provision V.G. above).
 6. the results of the testing;
 7. copies of notifications to Sergeants selected or ordered to undergo testing;
 8. documentation of disciplinary action taken against any Sergeant who tests positive or refuses to submit to testing.
- B. The Office of General Counsel shall also maintain the following records for all random testing:
1. a description of the process used to randomly select Sergeants for drug testing;
 2. the date selection was made;
 3. a copy of the document listing the identities of those selected for drug testing;
 4. a list of those who were actually tested; and
 5. a roster of NJIT personnel with knowledge of the specific testing process and those identified for testing. (To the extent practicable, this roster will be confined to those with a need to know in accordance within legal parameters, managerial prerogative and public policy.)

VII. Central Drug Registry

- A. The Department of Public Safety shall include in its submission to the Division of State Police for inclusion in its central drug registry, the following information as to each individual:
1. name of the individual who tested positive, or who refused to submit to drug testing;
 2. last known address of the individual;
 3. date of birth;
 4. social security number;
 5. SBI number (if applicable);
 6. substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
 7. date of dismissal from the agency; and
 8. whether the individual was an applicant, trainee, probationary or non-probationary Sergeant.
- B. Information contained in the central registry will be released to those outside of NJIT, by the Division of State Police only under the following circumstances:
1. In response to an inquiry from a law enforcement agency as part of the background investigation process for prospective or newly appointed personnel.
 2. In response to a court order.

VIII. Responsibilities To Report

- A. **Sergeants' Responsibilities** - When a Sergeant observes a fellow Sergeant, a Police Officer or a Public Safety Officer seemingly in a stupor or receives other information that supports the observing Sergeant's suspicion that such department member is unfit to perform his/her duties and that use or abuse of drugs is related to the Sergeant's or subordinate's condition, the Sergeant shall:
1. Immediately notify his or her supervisor(s) of the evidence of suspected drug use;
 2. A supervisor must also execute an "Administrative Submission" and record observations and other pertinent data.

B. **Lieutenant's Responsibilities** - Upon personally observing or receiving information from a supervisor or other Sergeant having information that a Sergeant is involved in drug related activities or is unable to perform his/her assigned function because of the possible use or abuse of drugs, Lieutenants shall:

1. Notify the Director of Public Safety and comply with instructions received.
2. Conduct an investigation to determine whether there are sufficient facts to constitute a reasonable individualized suspicion that a department member is using drugs.
3. Make necessary notifications and scheduling for testing pursuant to this policy.
4. Transport or meet the department member and his/her supervisor at the State of New Jersey Medical Examiner Toxicology Laboratory, Newark, New Jersey.
5. Immediately forward a preliminary report of the drug-related incident to the Director of Public Safety.
6. Forward a final report to the Director of Public Safety with findings, recommendations and conclusions.

IX. Responsibility For Compliance

All Sergeants are responsible for both the understanding and enforcement of this policy and procedure. Inadequacies on the part of the Sergeants reflect directly on the supervisory and command personnel and generally on the credibility of the entire department.

ATTACHMENT A

CERTIFICATION

In accordance with controlling university policy and collective agreement,

I, _____ (Sergeant's Name), hereby certify as follows:
(Please Print)

(COMPLETE APPLICABLE SECTION)

1. I am currently employed in active status as a commissioned Police Sergeant in the Department of Public Safety;

AND

2. I am currently being treated by a licensed health care practitioner with the following duly prescribed, medications:

Medication:	Prescribed by:	Starting date:	End Date:

AND/OR

3. I am currently using, or have used within the last thirty (30) days, the following non-prescription medications or substances for treatment of a health condition:

Medication:	Starting Date:	End Date:

4. I hereby authorize the Chief of Police, Department of Public Safety or his/her designee having the rank of Lieutenant or greater to contact my health care practitioner(s) specified herein solely for the purpose of confirming that the prescribed medication and/or substances to which I have certified herein was duly prescribed by said health care practitioner(s).

Signed to and Certified by:

(Signature)

on this _____ day of _____