
NJIT/SOA AGREEMENT

July 1, 2007 – June 30, 2010

Agreement Between:

**NEW JERSEY INSTITUTE OF TECHNOLOGY
and
NJIT SUPERIOR OFFICERS' ASSOCIATION**

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE</u>
<u>ARTICLE I</u> RECOGNITION.....	1
<u>ARTICLE II</u> NEGOTIATING PROCEDURE.....	1
<u>ARTICLE III</u> MANAGEMENT RIGHTS.....	1
<u>ARTICLE IV</u> DUES/FEE DEDUCTION.....	2
A. Dues.....	3
B. Representation Fee (Agency Shop).....	3
1. Purpose of Fee.....	3
2. Fee Assessment.....	3
3. Deduction and Transmission of Fee.....	4
4. Demand and Return System.....	4
5. Employer Held Harmless.....	4
C. Amount of Dues/Fee	4
D. Errors or Omissions.....	5
E. Legal Requirements.....	5
<u>ARTICLE V</u> RIGHTS OF THE SOA.....	5
<u>ARTICLE VI</u> LABOR/MANAGEMENT COMMITTEE.....	6
<u>ARTICLE VII</u> INVESTIGATION, DUE PROCESS, DISCIPLINE and CHALLENGE.....	6
A. Management Meetings.....	6
B. Investigation.....	7
C. Due Process.....	7
D. Discipline.....	7
E. Grievance Procedure.....	8
1. Any Sergeant of the Negotiating Unit May Appeal.....	8
2. Time Limits.....	8
3. Procedure for Handling Grievances.....	8
(a.) Informal Conference.....	8
(b.) Step One.....	8
(c.) Step Two.....	9
(d.) Hearing Procedures.....	11
(e.) Step Three.....	13
<u>ARTICLE VIII</u> NON-DISCRIMINATION.....	14
<u>ARTICLE IX</u> SENIORITY.....	15

A. Recognition.....	15
1. Probationary Exclusion.....	15
2. Retroactive Recognition and Tie Breakers.....	15
B. Application.....	16
1. Layoff.....	16
2. Recall.....	18
<u>ARTICLE X</u> OUT OF TITLE WORK.....	19
<u>ARTICLE XI</u> POSTING, HIRING AND PROMOTION.....	19
<u>ARTICLE XII</u> SICK LEAVE.....	20
A. Accrual.....	20
B. Utilization.....	20
C. Authorization.....	20
1. Anticipated Leave.....	20
2. Unanticipated Leave.....	21
D. Validation.....	21
5. Confidentiality of Records.....	21
E. Unused Sick Leave – Retirement.....	21
<u>ARTICLE XIII</u> FAMILY LEAVE POLICY.....	22
A. Available Leave.....	23
B. Twelve Week Period (Parameters).....	23
C. Leave Validation.....	24
D. Leave Prerequisites.....	26
E. Leave Year.....	27
F. Leave Entitlements.....	27
G. Definitions.....	29
H. Jurisdiction.....	30
<u>ARTICLE XIV</u> ADMINISTRATIVE LEAVE.....	30
<u>ARTICLE XV</u> MILITARY LEAVE.....	31
A. Military Leave, Without Pay.....	31
B. Military Leave, With Pay.....	31
<u>ARTICLE XVI</u> LEAVE FOR SOA ACTIVITY.....	33
<u>ARTICLE XVII</u> OTHER LEAVES OF ABSENCES.....	33
A. Extraordinary Leave.....	33
B. Bereavement Leave.....	35
<u>ARTICLE XVIII</u> HOLIDAYS.....	35

<u>ARTICLE XIX</u>	WORKER’S COMPENSATION.....	36
<u>ARTICLE XX</u>	EDUCATIONAL BENEFITS.....	37
<u>ARTICLE XXI</u>	VACATION.....	37
	A. Allotment.....	37
	B. Utilization.....	38
	C. Carryover.....	38
	D. Vacation Upon Separation.....	38
<u>ARTICLE XXII</u>	UNIFORMS.....	39
<u>ARTICLE XXIII</u>	RETIREMENT.....	40
<u>ARTICLE XXIV</u>	OVERTIME/SHIFT DIFFERENTIAL	41
<u>ARTICLE XXV</u>	SHIFT COVERAGE.....	42
<u>ARTICLE XXVI</u>	SALARY PROGRAM AND COMPENSATION.....	42
	A. Salary Program: July 1, 2007 through June 30, 2010.....	42
	1. Across-the-Board Salary Guide Adjustments.....	42
	2. Incremental (Step) Advancement.....	43
	3. Merit Compensation Program.....	44
<u>ARTICLE XXVII</u>	HEALTH BENEFITS.....	51
	A. State Health Benefits Program.....	51
	B. Eye Care Program.....	51
<u>ARTICLE XXVIII</u>	DEFERRED COMPENSATION.....	52
<u>ARTICLE XXIX</u>	DRUG SCREENING POLICY & PROCEDURE.....	53
<u>ARTICLE XXX</u>	JOB ACTION.....	53
<u>ARTICLE XXXI</u>	PARKING.....	53
<u>ARTICLE XXXII</u>	DURATION.....	54
<u>ARTICLE XXXIII</u>	SUCCESSOR AGREEMENT.....	54
<u>APPENDIX A</u>	SALARY GUIDE.....	56
<u>APPENDIX B</u>	DRUG SCREENING POLICY & PROCEDURE.....	57
<u>APPENDIX C</u>	CONFLICT OF INTEREST POLICY.....	72

APPENDIX D LETTER OF AGREEMENT.....77

**NJIT/SOA
AGREEMENT**

This Agreement is entered into by New Jersey Institute of Technology, hereinafter (“NJIT” or “the University”) 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, recognizing that proposed new rules, policies or modifications of existing rules/policies governing negotiable terms and conditions of employment shall be presented to the SOA and negotiated upon the request of the SOA as may be required pursuant to the New Jersey Public Employer –Employee Relations Act, as amended. Request for negotiations shall be made in writing and within thirty (30) days after receipt of notice of the proposed new or modified rule(s) and/or polic (ies).

ARTICLE IV

DUES/FEE DEDUCTION

A. Dues

1. In accordance with Chapter 310 of the Laws of New Jersey for 1967 (N.J.S.A. 52:14-15(9)(e), as amended), NJIT agrees to deduct from each paycheck, except for one (1) paycheck during each of the two (2) months in which three (3) paydays occur, the SOA dues and regular assessments of each member of the negotiating unit who furnishes a voluntary written authorization of such deduction on a form acceptable to NJIT.

2. The right of dues deductions for any Sergeant of the negotiating unit shall be limited to the SOA and each Sergeant in the negotiating unit shall be eligible to withdraw such authorization only as of July 1 of each year provided the notice of withdrawal has been timely filed.

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

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

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

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

B. Representation Fee (Agency Shop)

1. Purpose of Fee

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

2. Fee Assessment

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

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

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

3. Deduction and Transmission of Fee

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

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

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

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

4. Demand and Return System

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

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

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

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

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

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

5. Employer Held Harmless

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

C. Amount of Dues/Fees

Prior to the beginning of each contract year, the SOA will notify NJIT, in writing, of the amount of regular membership dues, initiation fees and assessments charged by the SOA to its own members for that contract year, and the amount of the representation fee for

that contract year. Any changes in the dues, assessments and/or representation fee structure during the contract year shall be certified to NJIT at least thirty (30) days in advance of the requested date of such change. The change will be reflected in payroll deductions at the earliest practicable time after receipt of the request.

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

D. Errors or Omissions

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

E. Legal Requirements

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

ARTICLE V

RIGHTS OF THE SOA

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

B. Non-Sergeant Representatives of the SOA shall be permitted to transact official business on NJIT's property at all reasonable hours provided they first have obtained permission in advance from the Director of Public Safety or his/her designee, and they do not interfere or interrupt normal NJIT operations or work of any Sergeant in the bargaining unit, or other NJIT employees or groups of employees.

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

ARTICLE VI

LABOR/MANAGEMENT COMMITTEE

- A. A committee consisting of NJIT and SOA representatives may meet for the purpose of reviewing the administration of this Agreement and to discuss problems which may arise.
- B. Either party to this Agreement may request a meeting and shall submit a written agenda of topics to be discussed seven (7) days prior to such a meeting. Requests by the SOA for such a meeting will be made to the Vice President of Human Resources.
- C. A maximum of two (2) Sergeants representatives of the SOA may attend such meetings. Sergeants representatives who attend such meetings, during their scheduled work shift, shall be granted time off to attend without loss of pay.
- D. The committee meetings are not intended to bypass the grievance procedure, the normal chain of command, or to be considered collective negotiating meetings, but are intended as a means of fostering good labor relations through an exchange of views between the parties to this Agreement.

ARTICLE VII

INVESTIGATION, DUE PROCESS, DISCIPLINE & CHALLENGE

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

A. Management Meetings:

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

B. Investigation:

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

C. Due Process:

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

D. Discipline:

1. Following any investigation deemed necessary by NJIT and requisite due process, where applicable, a Sergeant may be disciplined for just cause.
2. Discipline under this Article means: official written reprimand, suspension without pay and discharge.
3. Any disciplinary action imposed upon a Sergeant may be processed as a grievance through the regular grievance procedure.
4. A Sergeant who is suspended without pay or discharged may file a grievance at Step 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/her rights to claim a grievance on the basis of the same alleged factual situation. Likewise, a failure on the part of the designated representative of NJIT to meet the procedural obligations of any step in the grievance procedure, within the prescribed period of time, will give the grievant an automatic right to proceed to the next available step in the procedure. It is understood that nothing contained in this procedure should be construed as limiting the right or propriety of a Sergeant of the negotiating unit to informally discuss any problem with an appropriate member of NJIT administration.

3. Procedure for Handling Grievances:

(a) Informal Conference

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

(b) Step One

- (i) Within ten (10) workdays of the occurrence causing the grievance or of the time the grievant should have reasonably known of the occurrence causing the grievance, the grievant shall, if he is not satisfied through informal conference discussion, submit in writing to the

Director of Public Safety, with copies to the Vice President of Human Resources, the claimed facts behind, and basis of the grievance and the desired remedy. Time limits, which begin after the written grievance is submitted, may be mutually extended by the parties only in writing.

- (ii) SOA shall be notified by the 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, or his/her designee which may be a representative from the Department of Human Resources or other University official, within ten (10) calendar days after receipt of the written grievance, shall meet with the grievant and the representative of SOA in an effort to resolve the grievance. The Director of Public Safety, or designee shall indicate his/her disposition of the grievance, in writing, within five (5) calendar days of said meeting to the grievant and SOA and Vice President of Human Resources.

(c) **Step Two**

- (i) If the grievant and/or SOA is dissatisfied with the decision at Step One of the grievance procedure, or if the discipline grieved consists of a suspension without pay or discharge from employment, directly appealable to the second step of the grievance procedure, the grievant and/or SOA shall, within seven (7) calendar days of the date of the decision at Step One (or the date of the notice of suspension or termination, in the case of a direct appeal), file a written grievance with the Senior Vice President of Administration and Treasurer, with copies to the Vice President of Human Resources. The grievance shall contain: (1) a brief and concise factual statement of the action grieved, (2) the section(s) of the collective bargaining agreement allegedly violated, (3) the specific

policy and/or rule or regulation allegedly violated and (4) the desired remedy.

- (ii) Within thirty (30) days of receipt of the written grievance at Step Two, the Senior Vice President or his/her designee shall schedule and hold a hearing for the purpose of determining the standing and merits of the grievance. If the grievance involves a challenge to an imposed disciplinary sanction the grievant may be represented either by their local SOA representative or legal counsel, provided the SOA designates such counsel as the representative of the SOA, or there is an appropriate substitution of representation. In no case shall the grievant be entitled to dual representation of both an SOA representative released from active duty for purposes of representation and counsel at the Step Two hearing. An SOA representative, other than legal counsel may be present and represent the grievant at all non-disciplinary grievance hearings.

- (iii) At least one (1) week prior to the date of the grievance hearing concerning an imposed disciplinary sanction, the University and the grievant shall exchange the following information:
 - (1) All documents which the University relied upon in imposing the disciplinary sanction(s) and all documents relied upon by the grievant in challenging the sanction(s).
 - (2) A list of all witnesses they intend to call at the grievance hearing, and a brief summary of the substance of the anticipated testimony.
 - (3) If there is any tangible evidence which forms the basis of the disciplinary action, it shall be described and provided to the grievant's representative for inspection and/or testing, providing that such inspection can be conducted

without damaging or compromising the integrity of the evidence.

- (4) Copies of the grievant's personnel file within the Department of Human Resources.

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

(d) **Hearing Procedure:**

- (i) The grievance hearing shall be held before the Senior Vice President or his/her designee. Such hearing is not intended to be judicial in nature, and therefore rules of evidence applicable in judicial or quasi-judicial hearings shall not be applied. The hearing officer controls the hearing and in so doing determines what evidence to hear and the manner of presentation of evidence, and advocacy witnesses may be subjected to a relevancy review and determination by the hearing officer. All allowed witnesses will be given paid release time from university duty to testify when called upon. Testimony may be in the form of reply to direct questioning, or may be narrative.
- (ii) A transcript of the proceeding shall be arranged for and made by the University in cases of grievances of disciplinary terminations. The grievant and/or SOA shall be entitled to a copy provided that they agree, in advance, to share the cost of transcription. No other recordings of the termination or other disciplinary grievance proceedings may be made (e.g. tape recordings) unless the parties specifically agree, in which case copies of any tapes shall be made available to the non-taping party.
- (iii) The grievant bears the burden of proving their grievance (e.g. that there was a violation of agreement, policy, rule or regulation) by a preponderance of the credible evidence. In the case of a disciplinary sanction of a non-probationary Sergeant, alleging discipline

without just cause, the University bears the burden of demonstrating just cause by a preponderance of the credible evidence. Each party shall be permitted to make an opening statement, provided that same is not testimonial in nature.

- (iv) In grievances of disciplinary sanctions, witnesses shall testify under oath, and where the proposed disciplinary penalty is termination, witnesses shall be duly sworn by the certified short hand reporter transcribing their testimony. The other party may cross-examine the witness upon completion of direct testimony; there will be an opportunity for redirect testimony and recross examination. The Step Two hearing officer may, in his/her discretion, limit testimony and rule upon admissibility of evidence based upon relevancy of the testimony, its probative value, the potential for redundancy in cumulative effect, giving due regard both for grievant's opportunity to be heard and the necessity to conduct an efficient hearing that is neither unduly time consuming to the public entity nor directed to matters of limited or no substantial relevancy. Witnesses' testimony shall be factual and not based on hearsay. Only in exceptional circumstances, may expert and/or character testimony be presented by either party, and then only upon a significant proffer that such testimony is directly relevant to a necessary finding in resolution of the underlying grievance, and the relevancy of such testimony would outweigh the administrative burden of hearing such testimony.
- (v) All procedural or evidentiary rulings of the hearing officer shall be final and binding for purposes of this hearing. Upon the close of testimony, the parties may present closing statements summarizing their positions. Upon mutual agreement of the parties, or upon the request of the hearing officer, written briefs will be provided.

- (vi) The hearing officer may render his/her decision orally at the time of hearing if there is no transcript of the hearing taken and briefs are not submitted, otherwise, he will reserve the decision until the transcript and/or briefs are submitted. At that time, the decision will be provided in writing, with copies to the Senior Vice President of Administration and Treasurer, SOA, grievant, and Vice President of Human Resources. Absent agreement by the parties this will occur within thirty (30) days of the receipt of the transcript and/or briefs.

- (vii) In the event the grievance is one that is both appealable and, in fact appealed to either an arbitrator at Step Three or another appropriate forum, the arbitrator (or other appropriate third party) shall be provided a copy of the transcript below and briefs (where such exist) and the written determination of the Senior Vice President for Administration and Treasurer or his/her designee. In the case of grievances of disciplinary sanctions, the sole issue before this Step Three forum, which shall be limited solely to a review of the record below, shall be whether the grievant by clear and convincing evidence of record carried his/her burden; the record thereby demonstrating that the hearing officer, in his/her determination, (1) committed a substantial violation of contractual procedure of significant effect or impact or (2) the decisional findings of the hearing officer were wholly arbitrary, capricious or unreasonable, based upon the evidence before him/her, giving due regard for the hearing officer's ability and authority to assess the credibility of witnesses.

(e) **Step Three**

- (i) If the SOA is dissatisfied with the decision at Step Two, and the alleged grievance involves a specific violation of this locally negotiated Agreement, as described in the definition of a grievance in 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 Senior Vice President or his/her designee's reply, give proper notice to either the New Jersey Public Employment Relations Commission, hereinafter referred to as PERC, or to the Board of Trustees, consistent with the procedures set forth by statute, with a copy to the Vice President of Human Resources and the General Counsel. Any arbitration proceedings shall be in accordance with the rules and regulations of PERC, and for grievances of disciplinary sanctions, subject to the parameters limiting the scope of review set forth in (d.) vii., Hearing Procedures, above.

- (ii) The recommendation or decision of the reviewing individual or body shall not in any manner modify or cause anything to be added to or subtracted from this Agreement or any policy of the University.
- (iii) Fees and expenses of an arbitrator where such proceedings are authorized, shall be shared equally by the University and the SOA. Only with prior written agreement of the parties, shall any other expense or fee contained in this grievance procedure be shared.

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

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

ARTICLE VIII

NON-DISCRIMINATION

A. The provisions of this Agreement shall be applied equally to all members of the negotiating unit without discrimination 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 responsibilities as negotiating agent and agrees to represent all Sergeants in the negotiating unit without discrimination, interference, restraint, or coercion regardless of membership or lack of membership in the SOA.

ARTICLE IX

SENIORITY

A. Recognition:

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

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

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

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

- (a) Resignation or retirement.
- (b) Discharge for cause.
- (c) Continuous lay-off for a period of two (2) years.

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

B. Application:

1. Layoff:

- (a) If a reduction in force is necessary, layoffs shall take place in the inverse order of the date of hire into the Sergeant's job classification.
- (b) NJIT shall simultaneously provide the SOA and the Sergeant(s) concerned a two (2) week notice of layoff. SOA may request and have scheduled a meeting with the Manager of Labor Relations to discuss possible alternatives; however, the final discretion rests with NJIT.
- (c) When a Sergeant is scheduled for a layoff due to reduction or reorganization in the workforce, he/she

shall be permitted, to the extent permitted by law, to exercise his/her seniority rights to replace (bump) a Sergeant or other commissioned police officer with less seniority provided the Sergeant with greater seniority is qualified in all respects to perform the work of the bumped officer.

- (i) For the purpose of this Agreement “qualifications” shall be determined by NJIT. However, the SOA may discuss any questions of “qualifications” with the Manager of Labor Relations through the labor management committee established under Article VI, Labor/Management Committee, of this Agreement.
- (ii) A Sergeant with no previous commissioned police officer experience at NJIT, who successfully exercises his/her bumping privileges into a commissioned police officer position, shall serve a ninety (90) day performance based probationary period. During said period, if NJIT is not satisfied with the Sergeant’s performance, but not earlier than sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which he/she is again laid off. Existence of the probationary period satisfies the notice of layoff requirement. Nothing herein waives or modifies the right of NJIT to terminate a Sergeant for just cause at any time. Discharge during the probationary period is not grievable.
- (iii) Salary Range and Step placement for a Sergeant, successfully exercising the contractually authorized bumping privilege, shall be as follows:
 - (1) The Sergeant shall be placed at the same or nearest higher step on the commissioned police office salary range

from that step occupied prior to layoff, if available in the range. If not available within the range, then the Sergeant shall be placed at the closest step available within the appropriate range.

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

2. **Recall:**

- (a) The recall period shall be for twenty-four (24) calendar months from the date of original layoff.
- (b) For the period of recall, Sergeants laid off from their positions shall be entitled to recall, by seniority, to the job classification of Sergeant. Additionally, for the period of recall, Sergeants laid off from their positions shall be eligible for probationary recall into the commissioned police officer job classification. However, for recall to such classification the Sergeant must first be considered qualified to perform in the position to which recall is desired and second must serve a ninety (90) day performance based probationary period, during which time the Sergeant may be discharged without resort to the grievance procedure. During said period, if NJIT is not satisfied with the probationary Sergeant's performance but no earlier than sixty (60) days into the probationary period, it will then place such Sergeant on layoff. A Sergeant thus laid off shall remain entitled to recall for the remainder of the recall period but shall not be entitled to bump again unless recalled and he/she successfully completes the associated probationary period after which he/she is again laid off.
- (c) Sergeants laid off, pursuant to this Agreement, shall retain, in addition to the twenty-four (24) month recall potential, only those contractual benefits required by law.
- (d) All Sergeants on recall roster must be recalled to their former jobs, if the job is reinstated, prior to the hiring of

new Sergeants into such positions.

ARTICLE X

OUT OF TITLE WORK

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

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

ARTICLE XI

POSTING, HIRING AND PROMOTION

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

B. NJIT’s hiring policy for Sergeants shall be to place new Sergeants hired from outside of NJIT no higher than Step 11 of the 21 Step Salary Schedule. For all such placements at Step 10 or Step 11, there will be no movement to the next Step for two (2) full fiscal years of a Sergeant’s service (minimum of twenty months), unless awarded merit in accordance with Article XXVII A.3. below.

C. NJIT’s Promotion Policy for Sergeants promoted from the ranks of NJIT Police Officers shall be to calculate a 7.5% increase to the Sergeant’s salary just prior to

promotion and then place the Sergeant at the nearest equivalent (or higher if no equivalent) Step on the Salary Guide. An additional adjustment may be made up to 2.5% of the previous base salary, at the sole discretion of the Employer (the Senior Vice President for Administration and Treasurer in consultation with Chief of Police/Director of Public Safety) where necessary to address issues related to salary equity. The Employer may consult with others in making this determination. This determination shall not be grievable.

ARTICLE XII

SICK LEAVE

A. Accrual:

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

B. Utilization:

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

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

C. Authorization:

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

validate the reason for scheduled leave by means of written proof that the scheduled purpose for the sick leave did occur.

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

D. Validation:

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

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

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

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

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

E. Unused Sick Leave – Retirement:

Subject to the provision of N.J.S.A. 11A:6-17 and rules and regulations promulgated

thereunder, a full-time Sergeant who enters retirement, pursuant to the provisions of a State administered or approved retirement system, and has to his/her credit any earned and unused accumulated sick leave shall be entitled to receive supplemental compensation for such earned and unused accumulated sick leave only to the extent such is funded by the State.

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

ARTICLE XIII

FAMILY LEAVE 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.

The University may preliminarily designate an employee's absence as Family Leave when:

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

Family Leave runs consecutively after accumulated sick leave banks are exhausted for a Sergeant's own serious health condition and Family Leave shall run concurrently with accumulated sick leave for a Sergeant's eligible family member. Accumulated sick leave balances that exceed the 60 days of Family Leave may continue to be utilized thereafter upon submission of medical certification updates to be provided in intervals of not less than every 30 days.

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 a 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 (12) 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 leave taken in separate blocks of time, and may include leave of periods from an hour or more to at 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 workday or shortened workweek. 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 Office 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, and General Counsel. 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.

8. For Reduced Time Leave or Intermittent Leave taken under provisions A.3 and 4 above, employees must notify in writing, with copies to the appropriate supervisor and the Department of Human Resources, time taken (hours, days, weeks) for authorized Family Leave. Notice can be summarized in one document for each pay period, as appropriate.

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:

- (a) For Well Baby Care 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 to care for a seriously ill spouse, child or parent under provision A.3., 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) For leave under provision A.4. Available Leave, above, a Sergeant will be required to charge any and all accrued sick leave until exhausted, as prerequisite to become eligible for Family 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 which shall run concurrently with an authorized, validated family leave.
- (d) 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.
- (e) 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. **Workers' Compensation:** Follow up visits to medical professionals as a result of Workers' Compensation claims that are not covered under Workers' Compensation Leave may be chargeable as Family Leave when all enabling prerequisites are met. If prerequisites are not met, sick leave banks may be utilized.

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 employee requesting Leave or the registered domestic partner, or civil union partner, as recognized and defined by applicable New Jersey law.

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 XIV

ADMINISTRATIVE LEAVE

A. Administrative Leave

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

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

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

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

4. Requests for administrative leave must be approved by the 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 XV

MILITARY LEAVE

A. Military Leave, Without Pay

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

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

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

B. Military Leave, With Pay

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

2. Should the employee be called to active duty service for a national or state

emergency or foreign conflict which exceeds the 30 or 90 working days described in A above, NJIT shall grant a leave of absence through the end of that calendar year without loss of benefits and shall pay the employee the difference between their applicable NJIT base salary and their military “base pay” provided the employee provides proof of military service and “base pay”. This is often referred to as Differential Pay and is not currently mandated by Federal or State regulations.

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

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

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

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

F. Extensions of Military Leave

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

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

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

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

ARTICLE XVI

LEAVE FOR SOA ACTIVITY

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

ARTICLE XVII

OTHER LEAVES OF ABSENCE

A. **Extraordinary Leave:**

1. **Eligibility:**

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

- (b) In reviewing requests for unpaid leave of absence NJIT will ensure that Article 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. Unless and except as expressly provided for in writing, there shall be no benefits bank accrual during any unpaid leave, nor shall there be any monetary contribution by NJIT on behalf of such Sergeant except as may be mandated by law, or as otherwise expressly provided for by this Agreement.

2. Procedure:

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

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

B. Bereavement Leave:

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

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

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

ARTICLE XVIII

HOLIDAYS

A. Program Benefit

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

WORKERS' COMPENSATION

A. A Sergeant on Workers' Compensation shall receive that payment to which he/she is entitled by law, in accordance with benefit regulation and accompanying

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

ARTICLE XX

EDUCATIONAL BENEFITS

All Sergeants, and where applicable, their dependants 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 XXI

VACATION

A. Allotment

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

	Allotment	Which Equates to
Date of University Hire through the end of the Fiscal Year*	10 hours per month (40 hour work week) available as accrued	1¼ day per month, available as accrued
One through five years of University service	120 hours per year (40 hour work week) available on July 1 st	15 days per year available on July 1 st
After 8 years of University service	160 hours per year (40 hour work week) available on July 1 st	20 days per year available on July 1 st

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

B. Utilization

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

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

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

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

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

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

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

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

C. Carryover

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

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

D. Vacation Upon Separation

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

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

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

ARTICLE XXII

UNIFORMS

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

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

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

D. NJIT shall provide the following scheduled annual uniform allowance, for the maintenance, repair, and replacement, to all eligible Sergeants as follows:

July 1, 2007 – June 30, 2008: \$1375.00
 July 1, 2008 – June 30, 2009: \$1400.00
 July 1, 2009 – June 30, 2010: \$1450.00

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

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

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

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

F. Payment Conditions:

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

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

ARTICLE XXIII

RETIREMENT*

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

*For information only.

ARTICLE XXIV

OVERTIME /SHIFT DIFFERENTIAL

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

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

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

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

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

1. Any bargaining unit member who is assigned to work a first shift, for a minimum of one hundred and sixty (160) full shifts in a fiscal year under this Agreement, shall be entitled to a one-time cash payment in the amount of Seven Hundred and Twenty Five Dollars (\$725.00) for Fiscal Year 2008, Seven Hundred and Fifty Dollars (\$750.00) for Fiscal Year 2009, and Eight Hundred Dollars (\$800.00) for Fiscal Year 2010.

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

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

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

ARTICLE XXV

SHIFT COVERAGE

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

ARTICLE XXVI

SALARY PROGRAM AND COMPENSATION

A. Salary Program: July 1, 2007 through June 30, 2010:

It is agreed that during the term of this Agreement, for the period July 1, 2007 through June 30, 2010, the following salary and fringe benefit improvements shall be provided to eligible Sergeants in the unit, within the applicable policies and practices of NJIT and in keeping with the conditions set forth herein. In order to receive the benefits, as set out hereunder, the Sergeants must be employed by NJIT at the time of ratification of this Agreement or thereafter.

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

1. Across-the-Board Salary Guide Adjustments:

- (a) Effective in the first full payroll of Fiscal Year 2008 (July 1, 2007) as set out in Appendix A, Salary Schedule, of this Agreement, each step of the matrix shall be increased by four percent (4%)

Additionally, effective the first full payroll of Fiscal Year 2008, each Sergeant hired prior to the ratification of this Agreement and still employed upon ratification and execution of this Agreement shall receive a one-time, non-precedent setting, \$250.00 signing bonus not added to the base of his/her salary.

- (b) Effective in the first full payroll of Fiscal Year 2009 (July 13, 2008) as set out in Appendix A, Salary Schedule, of this Agreement, each step of the matrix (A) shall be increased by three percent (3%)

- (c) Effective in the first full payroll of Fiscal Year 2010 (July 12, 2009), as set out in Appendix A, Salary Schedule of this Agreement, each step of the matrix (C) shall be increased by three and one-half percent (3.5%)

2. Incremental (Step) Advancement:

(a) **For the period July 1, 2007 through June 30, 2010:**

- (i) All incremental advancement in salary compensation will occur along a twenty-one (21) step schedule.
- (ii) Advancement from one step to the next shall be solely on an annual basis and effected on the first full pay period of each fiscal year.
 - (1) Advancement from Step One through Step Thirteen shall be conditioned upon both a minimum of ten (10) months of employment as a Sergeant as of the first full pay period of each fiscal year and employment in good standing for the entire, previous fiscal year.

Good standing shall be defined as free from formal disciplinary sanction; free from all impermissible conflicts following full compliance with disclosure requirements and NJIT policy (see Appendix C) and a record of no unauthorized absences, including tardiness of over one hour, on any given day, within the past full year prior to the effective date of step movement.

- (2) Subject to provision 3. Merit Compensation Program, below, step advancement, as set out in 2.(a) ii (1) immediately above, shall be limited to two steps per fiscal year.

- (3) Advancement from Step One through Step Twenty-One is also available pursuant to merit award as set out below. Steps 14 through 21 are available solely through merit award.

3. Merit Compensation Program:

A merit compensation program shall be available to all Sergeants with at least six full months of service prior to July 1st of the year of awarding each year during the salary program and compensation term beginning with July 1, 2007. The program shall be administered as follows:

- (a) Effective July 1, 2007, the 21 Step Salary Schedule will become effective as set out in Appendix A of this Agreement.
- (b) Performance Standards: All merit compensation shall be based upon total adherence to quality service during the past fiscal year's performance as it relates to the following specific performance standards:
 - (i) Attendance: It is vital to both the integrity and the efficacy of the NJIT Department of Public Safety that Sergeants are punctual in arriving at work, at dedicated posts, in responding to regular duties and in responding to unexpected circumstances, as well as accountable for their whereabouts at all times while on shift. This reliability, in full uniform and authorized armament is an essential, elementary component of performance as an NJIT Sergeant.
 - (ii) Appearance: Each Sergeant represents NJIT's image and that of a New Jersey Police Officer, demonstrating in their appearance, the same respect for NJIT and their chosen profession as they appropriately demand and expect relative to adherence to the law and NJIT's promulgated code of conduct. Uniforms must be maintained in excellent condition. All uniform attire must be worn in the manner and time designated. Sergeants shall present themselves, without

deviation, in a ready, alert, neat, properly groomed and fully uniformed manner at all times when formally representing NJIT.

- (iii) Attention to Duty: Each Sergeant must demonstrate a maturity and acuity in gaining and maintaining appropriate, continually enhanced knowledge of his/her duties, responsibilities and the surrounding environment, as well as an uncompromised focus on assigned tasks and departmental and university policy and procedures. Unauthorized breaks, ignoring of general and/or specified duties, absence from assigned posts or less than fully responsive protocol in carrying out the duties of NJIT Supervisory Police Officers are, by way of illustration disqualifying of meritorious attention to duty.

- (iv) Absence of Discipline: A Sergeant must remain free from all disciplinary sanctions imposed and of record by NJIT, and imposed by the State of New Jersey and each of its agencies and instrumentalities as a Sergeant's conduct must be above reproach all year, each year. A formal investigation into the propriety of a Sergeant's conduct by the State of New Jersey or a State sponsored authority that could lead to suspension or loss of commissioned officer status will disqualify the Sergeant from consideration for merit until such time as the investigation fully exonerates said Sergeant. Less than full exoneration disqualifies the Sergeant from consideration for merit during the time period that is both the focus of and that which is covered by the investigation. In this regard, less than full exoneration equates to disqualifying discipline. Neither NJIT's imposed disciplinary charges nor NJIT's implemented disciplinary action are of, themselves, "of record", disqualifying a Sergeant from merit consideration, as long as formal, authorized appeal/grievance procedures are actively and properly utilized

and a decision is not yet final and binding.

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

- (vi) Professional Conduct & Demeanor: Respect for and resolute honesty in dealing with those served, fellow Officers, supervisors, subordinates, property, weaponry and self is benchmark to the integrity bestowed by the commissioning of NJIT Police Officers. Only the utmost of dignity, humility with honor, concern for the position, post, commission and department and demonstrated aptitude in dealing with an atypical population demographic will be considered meritorious. Any instance of breach of this standard will be cause for disqualification for merit pay consideration. By way of illustration only, vulgar language, violation of any university or departmental regulation or protocol, theft of service or time, unauthorized action, arguing with a superior Officer, condoning poor conduct or misconduct from subordinates, excessive force (as defined and regulated by the law enforcement community and/or the law itself) and personal mingling (defined as engaging in conduct relegating the Sergeant's professional law enforcement responsibilities to a subordinate position as compared to non-job related personal activity[ies]) with students or other university constituents will disqualify merit pay consideration.

- (c) Award Procedure: In addition to annual Step Advancement, following one full fiscal year of Sergeant employment in good standing, as set out above, Step Advancement from Step 1 through Step 21 may occur as a result of an award of merit in accordance with the merit program policy and procedures.
- (i) Review of Performance: No earlier than forty-five (45) days before the end of the fiscal year of performance review and no later than fifteen (15) days following the end of the fiscal year of performance review, each eligible Sergeant's performance shall be reviewed against those "Performance Standards" set out in provision A. 3. c. above.
- (1) The standards set out herein, mark categorized attributes of the prototype Sergeant's professional and personal characteristics that should lead to excellent performance as an NJIT Sergeant. Those standards will be qualitatively assessed, given the record of performance of each eligible Sergeant over the preceding year of eligibility and cumulatively over the Sergeant's term of commissioned police employment. Verbal and written, evaluative correspondence between departmental supervision, and each Sergeant is pertinent contextual material in qualitative performance assessment against those pronounced standards and will be weighed in ultimate merit determination.
- (2) The evaluation of performance against the published standards will be in writing and provided to each eligible Sergeant within the annual evaluation period set out in (d) (i) (1) above. Specific descriptions,

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

- (3) Movement by merit award from Step 2 through Step 21 will be paid to base salary. Thereafter, at the discretion of NJIT, the cash value equivalent of the Step 20 to Step 21 advancement may be conferred, upon Sergeants already at Step 21, following performance review and determination that the Sergeant's performance is exemplary in all regards.
- (4) There is no minimum conferral of merit awarding mandated. For Fiscal Year 2008 the maximum number of awards available, following careful scrutiny of the performance standards, shall not exceed the value of two percent (2%) of the base salary of the Sergeants employed by NJIT as of June 30 of the year of the evaluation. For Fiscal Year 2009 the merit pool shall be two and one-half percent (2.5%) of the base salary of the Sergeants employed by NJIT as of June 30th of the year of evaluation of performance standards. For Fiscal Year 2010 the merit pool shall be three percent (3%) of the base salary of the Sergeants employed by NJIT as of June 30th of the year of evaluation of performance standards.

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

- (5) A merit award will be based upon a Sergeant strictly meeting all performance standards set out herein.

(d) Appeal Procedure: There will be a limited appeal procedure available to the SOA on behalf of one (1) Sergeant annually, to seek reconsideration of non-awarding of merit to an eligible Sergeant as follows:

- (i) The SOA may, within thirty (30) days of the published conferral of awards to Sergeants, file a written appeal on behalf of a Sergeant's denial of merit pay, based upon the past year's performance, as it relates to the published performance standards and the comparative performance of other Sergeants receiving merit pay. The appeal must state, with particularity, the factual basis for a finding of substantial error or misjudgment in the evaluation that lead directly to a denial of the award. The appeal shall be filed with the Department of Public Safety and copied to the Department of Human Resources.

- (ii) The burden of proof in the appeal rests with the SOA; it must demonstrate, based upon the record of credible evidence, that it is more likely than not that all performance standards were met or exceeded, including a reasonable finding that there are no instances of conduct that would allow a reasonable person to find such conduct disqualifying of meeting or exceeding the full breadth and depth of performance as set out by the published performance standards. In addition to this finding, where all merit funds have been spent, it must also be established that the Sergeant whose performance is being appealed, compared favorably, in meeting or exceeding performance standards, to one or more Sergeants who received merit.

- (iii) A Merit Appeals Board, consisting of the Sr. Vice President for Administration and Treasurer, the Vice President of Human Resources, or their respective designees and a supervisory, superior Officer, including the Director of Public Safety, above the level of Police Sergeant, that has not taken part in the evaluation appealed (as selected by the SOA) will review the written submission and, at its sole discretion, either review and respond to the record as it stands or call a hearing, within thirty (30) days of submission of the written appeal, to hear oral argument, question the advocates, direct the gathering and submission of evidence not in the record, recess the hearing until all materials it deems necessary are before it or disallow any further gathering or submission of evidence, as it deems most appropriate to efficacious resolution to the controversy and allow for closing statements as it deems relevant to a proper finding.

- (iv) The Merit Appeals Board will issue its decision in writing, to the SOA, within sixty

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

ARTICLE XXVII

HEALTH BENEFITS

A. State Health Benefits Program

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

It is agreed that changes in benefits or open enrollment periods adopted by the State Division of Pensions and Benefits for State employees are a requirement for continued participation in the State Health Benefits Program and the parties recognize that changes shall apply to employees represented by the Union. Changes, corrections or reinterpretations of the Program promulgated by the State including changes in plan operators, in co-payments and contributions, or other changes or modifications, shall be incorporated into the Agreement and thereafter be applicable to all employees.

Consistent with the above effective July 1, 2007 there shall be changes in co-payments and contributions for employees and retirees as determined by the State Division of Pension and Benefits. Additionally, employees enrolled in the State Health Benefits Plan will contribute 1.5% of their annual base salary for medical and prescription benefits, effective July 1, 2007.

Employees who retire with 25 years or more of pension credit service and/or who retire on a disability retirement on or after July 1, 2007 and wish to enroll in the State Health Benefits Plan will be required to contribute 1.5% of their pension allowance for State Health Benefits Plan coverage in retirement, and assume co payment charges in accordance with this agreement and/or any changes made by the State Health Benefits Commission.

B. Eye Care Program

It is agreed that Eye Care Program shall include all employees and their eligible dependents, spouse, domestic partner, civil union partner and unmarried children under 23 years of age who live with the employee in the regular parent-child relationship). The coverage shall be \$35 for regular glasses and \$40 for bifocal glasses or more complex

prescriptions with all other conditions for eligibility as in the current plan.

The extension of benefits to dependents shall be effective only after the employee has been continuously employed for a minimum of sixty (60) days.

Full-time employees and eligible dependents as defined above shall be eligible for a maximum payment of \$35 or the cost, whichever is less, of an eye examination by an Ophthalmologist or an Optometrist.

Each eligible employee and dependent may receive only one (1) payment for glasses and one payment for examinations during the period of July 1, 2007 to June 30, 2010. This program ends on June 30, 2010. Proper affidavit and submission of receipts are required of the employee in order to receive payment.

ARTICLE XXVIII

DEFERRED COMPENSATION

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

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

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

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

1. January 1, 2007 through December 31, 2007: Fifteen Thousand Five Hundred dollars (\$15,500) for all employees less than 50 years of age and Twenty Thousand Five Hundred dollars (\$20,500) for those employees 50 years of age or older.
2. Tax deferred annuity amounts through calendar year 2010 are subject to revision and determination by the Federal Internal Revenue Service (IRS). Presently, the IRS has determined that the maximum deferral limit will be adjusted for inflation on a calendar year basis in \$500 increments.

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. Program and Fees

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

1. All parking at all available locations, including NJIT's parking deck, shall be on a first come, first served basis following registration or a bargaining unit member's motor vehicle, entitling him/her to parking privileges at the fee schedule rate set out below as follows:

Fiscal Year 2008

- a. Base Salary of \$0 - \$63,600.00.....pays \$150 per semester
- b. Base Salary of \$63,600.01-\$74,200.00.....pays \$175 per semester
- c. Base Salary of \$74,200.01-\$84,800.00.....pays \$200 per semester.
- d. Base Salary of \$84,800.01-\$95,400.00.....pays \$225 per semester.
- e. Base Salary of \$95,400.01-\$106,000.00...pays \$250 per semester.

Fiscal Year 2009

- a. Base Salary of \$0 - \$63,600.00.....pays \$155 per semester
- b. Base Salary of \$63,600.01-\$74,200.00.....pays \$180 per semester

- c. Base Salary of \$74,200.01-\$84,800.00.....pays \$205 per semester.
- d. Base Salary of \$84,800.01-\$95,400.00.....pays \$230 per semester.
- e. Base Salary of \$95,400.01-\$106,000.00...pays \$255 per semester.

Fiscal Year 2010

- a. Base Salary of \$0 - \$63,600.00.....pays \$165 per semester
- b. Base Salary of \$63,600.01-\$74,200.00.....pays \$190 per semester
- c. Base Salary of \$74,200.01-\$84,800.00.....pays \$215 per semester.
- d. Base Salary of \$84,800.01-\$95,400.00.....pays \$240 per semester.
- e. Base Salary of \$95,400.01-\$106,000.00...pays \$265 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 an officer. There will be no rebates or discounts for partial use during any semester in which a vehicle is registered and therefore entitled to park on NJIT's premises.
- 3. The Parking Fee Table is illustrative of the program schedule and outlines the fee methodology. The tables are not exhaustive and the program accommodates higher salaried employees according to the incremental methodology outlined above.

ARTICLE XXXII

DURATION

This Agreement shall be effective as of July 1, 2007, and shall terminate as of June 30, 2010.

ARTICLE XXXIII

SUCCESSOR AGREEMENT


The parties agree to enter into collective negotiations concerning a successor Agreement to become effective on or after July 1, 2010, subject to the provisions set forth in Article II, Negotiating Procedures.

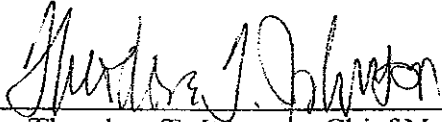
The parties hereby acknowledge and agree to the terms and conditions of the aforementioned Agreement between New Jersey Institute of Technology and the NJIT Superior Officer Association, entered into, as of July 1, 2007 and which will terminate June 30, 2010.

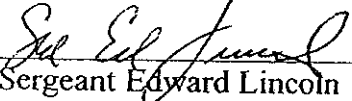
Signed this th 28 day of February, 2008.


FOR SOA:

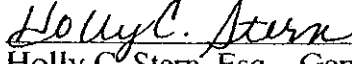
FOR NJIT:

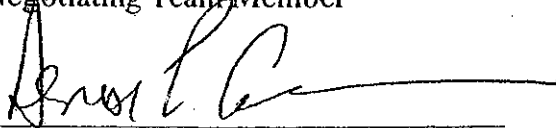

Sergeant Mark Cyr
Chief Negotiator


Dr. Theodore T. Johnson, Chief Negotiator
Vice President for Human Resources


Sergeant Edward Lincoln
Negotiating Team Member


Henry Mauermeyer
Senior Vice President for Adm. & Fin.
Negotiating Team Member


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


Denise P. Coleman, Director of
Labor/Employee Relations
Negotiating Team Member

SOA Salary Guide
Appendix A

	FY 07	FY08 Effective 7/1/07	FY09 Effective 7/13/08	FY10 Effective 7/12/09
Step		4%	3%	3.5%
1	57552	59854	61650	63808
2	58376	60711	62532	64721
3	59200	61568	63415	65635
4	60024	62425	64298	66548
5	60848	63282	65180	67461
6	61672	64139	66063	68375
7	62496	64996	66946	69289
8	63320	65853	67829	70203
9	64144	66710	68711	71116
10	64968	67567	69594	72030
11	65792	68424	70477	72944
12	66616	69281	71359	73857
13	67440	70138	72242	74770
14	68674	71421	73564	76139
15	69909	72705	74886	77507
16	71143	73989	76209	78876
17	72378	75273	77531	80245
18	73612	76556	78853	81613
19	74847	77841	80176	82982
20	76081	79124	81498	84350
21	77316	80409	82821	85720

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.

Definition of Terms

- A. **Sergeants**: All commissioned police officers, with supervisory responsibilities, serving within the Department of Public Safety and holding that formal NJIT **assigned** 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 and the Department of Human Resources, documenting the specific reasons for the request with all circumstances and/or corroborating evidence supporting reasonable, individualized 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 the Deputy Chief or a Lieutenant, may (acting in his/her 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 twenty-five percent (25%) 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 Sergeant must be based purely upon chance which may only include mathematical probability as a likelihood of selection.
2. The SOA has the right, at its request, to have a duly authorized representative present as a witness to the selection process and such representative may at management's direction participate in the selection process. In addition, any of the following members of NJIT administration (or their successors in position responsibility or their designees) 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;
 - (e.) Vice President of Human Resources.
3. To reach the maximum allowable number of Sergeants tested at any one time, you would round to the number of Sergeants nearest twenty-five percent (25%) at the time of selection. For example, if there are six (6) officers in the testing pool 25% is 1.5 employees which is rounded up to 2 employees.
4. 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.
5. There will be no more than five (5) random tests per year to be scheduled at NJIT's discretion.
6. As the procedure is publishable, it will be available to the SOA for validity testing as a random process.

7. **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.
8. 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 unless and until a fully licensed alternative testing facility is chosen by NJIT and formally noticed to the Superior Officers Association (SOA). 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, any recorded 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 Department of Human Resources 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.F. 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 Department of Human Resources 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 (or the authorized alternative facility).
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 _____.

APPENDIX C

Conflict of Interest Policy (updated February 1998)

Definition

A “conflict of interest” exists whenever a person misuses, or gives the appearance of misusing, a position of public trust for private benefit or personal advantage. A conflict may occur anywhere along a broad spectrum of actions ranging from overtly criminal conduct to behavior that could potentially lead to a *perception* of ethical impropriety.

Preface

New Jersey Institute of Technology (“the university”) has a long-standing policy of forbidding any activity that creates a conflict between an employee’s obligations to the university (including its approved affiliates) and the employee’s private interests, be they personal, financial, proprietary, familial, or political. This policy statement is issued periodically for the guidance of all university employees: faculty, staff, and students. Both the policy and its implementation procedures will be administered fairly and equitably.

Statement of Policy

Consistent with the law and executive mandates governing public entities in the State of New Jersey, and consistent with its good faith covenants and contractual obligations, the university reaffirms and restates its conflict of interest policy as follows:

As a public, research institution of higher education, serving the State of New Jersey, the higher education community, and the general public, the university is cognizant that it occupies a position of trust. The university therefore accepts an unequivocal obligation to preclude the occurrence of legal and ethical impropriety, including the appearance of impropriety, on the part of its employees.

The university forbids any conduct that places, or appears to place, an employee’s personal, financial, proprietary, familial, or political interests in conflict with the university’s best interests or the university’s contractual obligations. Supervisory personnel shall not knowingly condone a clear conflict of interest and will be held accountable for enforcing this policy.

To facilitate compliance, the university requires self-disclosure of an existing conflict or potential conflict. A potential conflict is defined as any circumstance that creates a

reasonable doubt as to legal or ethical propriety under this policy or the law.

This policy statement applies to all university employees (faculty, staff, and student employees).

The specific examples offered below illustrate some of the types of conflict that require both self-disclosure by the employee and corrective action. The following items are to be understood as illustrative guidelines, and not as a comprehensive or exhaustive list of prohibitions:

- **Unauthorized** utilization of university research findings, facilities, or derivative tangible or intangible products for private financial advantage, direct or indirect;
- **Unauthorized** utilization of privileged, proprietary university information, gained through a position with the university, including any affiliated enterprise, for utilization in private business or in private, non-university-affiliated research or consulting endeavors;
- Exerting intentional, direct or indirect influence in contractual matters or other operational matters between the university (including its affiliates) and any private enterprise in which a personal, financial, proprietary, familial, and/or political interest is involved;
- Pursuing and/or maintaining any non-university business interest and/or professional endeavor that significantly interferes with the employee's commitment of time and professional energy to the university;
- **Unauthorized** acceptance or extension of monetary, personal, or other reasonably discernible favors from or to a private enterprise with which the university conducts business or persons with whom the university conducts business;
- Engaging a university student or another university employee **without authorization** as an employee, consultant, or third party contractor of a business, research, or consulting venture in which the employee holds a significant ownership or financial interest;
- **Undisclosed** familial relationships with students or employees where one party to the relationship holds either decisional authority, recommending authority, or significant influence over the academic, economic, and/or employment standing of the other party;
- Solicitation or acceptance of personal favors (including sexual favors) from students or other employees in return for positive academic evaluation, financial consideration, improvement in employment status, or other significant consideration related to university operations;
- **Undisclosed** and **unauthorized** maintenance of an interest in both a private intellectual,

professional, scientific, or technical endeavor and a university or affiliated endeavor in the same or a similar intellectual, professional, scientific, and/or technical field.

Some conflicts of interest may arise unintentionally. Other situations, though not constituting an actual conflict of interest, may carry an appearance of impropriety. This policy applies to both unintentional conflicts and the appearance of conflict.

Full disclosure is required in all cases. Some conflict situations may be amenable to modification leading to university and/or affiliate authorization. Certain potential conflict situations may be managed in an acceptable manner through close scrutiny and strict adherence to prescribed conditions.

It is not the intent of this policy to authorize or encourage needless intrusion upon any individual's personal behavior or endeavors. It requires self-disclosure. While vigilant enforcement is expected, reckless or malicious disclosure of alleged conflict or rumor-mongering by third parties is discouraged and may be subject to sanctions.

Procedures

Disclosure

Self-disclosure is not only the least invasive means of ensuring compliance with this policy but also affords the opportunity for mutually compatible resolution of actual or potential conflicts of interest. The responsibility for full self-disclosure rests with each employee.

Disclosure necessitated by a developing or potential conflict should be directed to the attention of either the employee's immediate supervisor or, at the employee's option, the vice president under whose stewardship the employee works.

Annual Disclosure Requirement

Annual disclosure is required of each employee, whether or not a conflict situation has arisen and has been disclosed in accordance with this policy and procedure within the past year. Annual disclosure shall be made either through completion of the attached "conflict-of-interest disclosure form" or through certification to the university in a signed letter which addresses all issues specified in the university-provided form.

Annual disclosure shall be forwarded directly to the appropriate academic dean or vice president. All members of the senior staff shall forward annual disclosure to the President.

Consultation and Review

The Office of General Counsel is available for consultation by any employee who is uncertain as to whether a specific set of circumstances constitutes a conflict or potential

conflict in violation of this policy.

Such consultation will be treated as confidential to the greatest degree practicable in conformity with university regulations and applicable law. Following consultation, responsibility for formal self-disclosure remains with each individual employee.

All disclosure is subject to review by the Office of General Counsel for conformity with policy and procedure.

Consequences of Conflicts of Interest

Disclosed conflicts will be managed in a manner acceptable to the university and the employee wherever feasible and warranted.

Undisclosed conflicts may result in sanctions ranging from notice to discontinue a specific activity to termination of employment.

**NEW JERSEY INSTITUTE OF TECHNOLOGY
Confidential Conflict of Interest Disclosure Form**

Employee's Name: _____ **Dated:** _____

Position: _____ **Dept. /Office** _____

1. Please list all employment (including self employment) other than NJIT, you are (or expect to be) engaged in from the latter of commencement of hire at NJIT, or July 1, 2007 through June 30, 2010. Describe the position(s), time expended and financial remuneration. If none, write "None".

2. Please list all formal relationships (blood, business, legal, honorary) you hold with another employee/agent of NJIT or any person doing business with NJIT. Describe the relationship and the nature of the third party's involvement with NJIT (e.g., brother – employee in Financial Aid Dept., or landlord – brother of PSA officer). You need not list friends. However, you have an ongoing professional responsibility to treat any friends affiliated with NJIT no better or no worse, in the employment setting, than you would anyone else. If none, write "None".

3. Please sign the following declaration if it applies:

Having read NJIT's policy on Conflicts of Interests, I certify that except as set out above, I am not engaged in any form of employment, activity, or personal relationship that constitutes, or based upon an objective review of the facts could reasonably be interpreted to constitute, an actual or potential conflict with my position and responsibilities at NJIT.

Signature of Employee

If you cannot sign the above declaration, or if you are uncertain about any aspect of the policy and how it applies to you, please consult the Office of General Counsel.

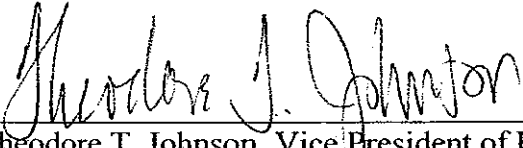
APPENDIX D

LETTER OF AGREEMENT

New Jersey Institute of Technology ("NJIT") and NJIT Superior Officers' Association, hereinafter referred to as ("SOA") in consideration of the mutual exchange of covenants made and enforceable in the parties' successor collective negotiations agreement with the term July 1, 2007 through June 30, 2010 hereby agree to discuss and/or negotiate as applicable the adoption of a parking policy which incorporates a provision to provide for reserved and/or guaranteed parking at a premium parking rate above the existing contractual scale set forth in the July 1, 2007 through June 30, 2010 Agreement.

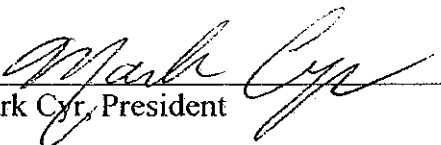
Executed this 28th day of February, 2008

FOR NJIT:



Theodore T. Johnson, Vice President of Human Resources

FOR SOA:



Mark Cyr, President