

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION *at Covington*
(*Electronically Filed*)**

=====X
UNITED STATES DEPARTMENT OF TREASURY,

Plaintiff,

v.

CIVIL ACTION NO.:
2:25-cv-00049-DCR

NATIONAL TREASURY EMPLOYEES UNION CHAPTER
73,

Defendant.

=====X

**MOTION TO DISMISS FOR IMPROPER VENUE AND FOR FAILURE TO JOIN A
NECESSARY PARTY OR, IN THE ALTERNATIVE, TO TRANSFER**

Defendant NATIONAL TREASURY EMPLOYEES UNION CHAPTER 73 (Chapter 73) moves this Court for an order dismissing this action under Rule 12(b)(3), for improper venue, and Rule 12(b)(7), for failure to join a necessary party under Rule 19. In the alternative, Defendant moves this Court for an order transferring this action to the U.S. District Court for the District of Columbia, pursuant to 28 U.S.C. §1406(a) or 28 U.S.C. §1404(a).

Plaintiff UNITED STATES DEPARTMENT OF TREASURY seeks a declaratory judgment from this Court allowing Plaintiff to repudiate its collective bargaining agreements. Plaintiff cannot, however, meet its burden of proving venue in this District. Further, the National Treasury Employees Union (NTEU), signatory to the nationwide agreement at issue in this matter, is not a named party to this suit. The case cannot properly proceed without the joinder of Chapter 73's parent union, NTEU. In the alternative, Plaintiff asserts that this action could have

been brought in the U.S. District Court for the District of Columbia, and both the convenience of the parties and the interest of justice are served by transferring this action to that court.

In support of this Motion, Chapter 73 relies upon the following:

1. All pleadings filed to date; and
2. The contemporaneously filed Declaration of Daniel J. Kaspar.

For the reasons set forth in the accompanying Memorandum of Law, Chapter 73 respectfully requests that the Court dismiss this case for improper venue and for failure to join a necessary party. In the alternative, Chapter 73 respectfully requests that the Court transfer this case to the District Court for the District of Columbia.

Dated: April 21, 2025

Respectfully submitted,

/s/ Peter J. Jannace

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CERTIFICATE OF SERVICE

It is hereby certified that on the 21th day of April, 2025, a true and complete copy of the foregoing was electronically filed by using the CM/ECF system, which will generate copies to all counsel of record (no pro se parties). It is hereby further certified that the undersigned is unaware of any non-CM/ECF participants. Filing via CM/ECF will send a notification of electronic filing to the following: Hon. Emily Hall, Counsel to the Assistant Attorney General, Civil Division, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, emily.hall@usdoj.gov, *Counsel for Plaintiff*.

/s/ Peter J. Jannace

ATTORNEY FOR Chapter 73

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION *at Covington*
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UNITED STATES DEPARTMENT OF TREASURY,

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MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO DISMISS FOR IMPROPER VENUE AND FOR FAILURE TO JOIN A
NECESSARY PARTY OR, IN THE ALTERNATIVE, TO TRANSFER

Defendant NATIONAL TREASURY EMPLOYEES UNION CHAPTER 73
(Chapter 73) respectfully submits this Memorandum of Law in support of its Motion to Dismiss
for improper venue and failure to join a necessary party, or, in the alternative, to transfer this
case to the U.S. District for the District of Columbia.

This case must be dismissed for improper venue under Rule 12(b)(3) and for failure to
join a necessary and indispensable party under Rule 12(b)(7). Plaintiff UNITED STATES
DEPARTMENT OF TREASURY (Treasury Department) asks this Court for a declaratory
judgment against Chapter 73, thereby permitting the agency to repudiate the 2022 National
Agreement negotiated between the Internal Revenue Service (IRS) and the National Treasury
Employees Union (NTEU). Yet Plaintiff cannot meet its burden of proving venue in this District.
The alleged facts demonstrate that NTEU and IRS negotiated, ratified, and have largely
implemented and enforced the underlying collective bargaining agreements in Washington D.C.

As such, this case cannot properly proceed without the joinder of Chapter 73's parent union and signatory to the agreements at issue—NTEU. Chapter 73 is not the proper defendant that can be sued: it does not hold the unit certification for the IRS; it does not retain the legal obligation to represent the covered employees; and it is not the organization with whom the government must bargain in good faith. Because NTEU, the parent union, is a necessary and indispensable party to this action and NTEU has asserted a valid objection to venue, this case must be dismissed.

Alternatively, should the Court determine that venue is proper in this District, the Court should still exercise its discretion to transfer this matter to the U.S. District Court for the District of Columbia (D.C. District Court) under 28 U.S.C. § 1404(a) or § 1406(a). D.C. District Court is the federal district court where the necessary parties and witnesses are located, the agreements at issue were negotiated and executed, the Executive Order also at issue was signed by President Trump, and federal labor policy is typically enforced. Indeed, Plaintiff and NTEU are already engaged in a separate ongoing action in D.C. District Court concerning the questions Plaintiff raises in the Complaint underlying this suit. Thus, in the interests of justice, the Court should exercise its discretion to transfer venue over this matter to the D.C. District Court.

FACTUAL BACKGROUND

I. This Case Involves Entities That Are All Headquartered in Washington, D.C.

The Plaintiff in this case is the Treasury Department. The IRS is the largest bureau within the Treasury Department. The IRS primarily “is responsible for determining, assessing, and collecting internal revenue in the United States.”¹ Both the Treasury Department and the IRS are headquartered in Washington, D.C.

¹ See <https://home.treasury.gov/about/bureaus>.

Chapter 73 is the named Defendant in this case. Chapter 73 is an organizational subdivision of the National Treasury Employees Union, through which NTEU provides localized representation to IRS bargaining unit employees within that Chapter's defined jurisdiction. *See* Declaration of Dan Kaspar (Kaspar Decl.), Ex. 3 (Ch. 73 Charter). Chapter 73's mailing address is in Covington, Kentucky. *See* Compl. ¶ 16.

NTEU—repeatedly referenced but not named as a defendant in this case—is a national labor organization headquartered in Washington, D.C. NTEU is, pursuant to the Federal Service Labor-Management Relations Statute (“federal labor statute”), at 5 U.S.C. § 7101 *et seq.*, the exclusive bargaining representative of nearly 160,000 federal employees in thirty-seven departments and agencies, including the IRS.² NTEU represents the interests of these employees by enforcing employees' collective and individual rights through arbitration and federal court litigation; negotiating collective bargaining agreements; filing unfair labor practice charges; and advocating in Congress for favorable working conditions, pay, and benefits.

NTEU's *National Constitution and Bylaws* provides that NTEU shall be organized by “districts and these in turn by local Chapters.” Kaspar Decl., Ex. 2, at Art. IV, § 1. NTEU is currently organized into fifteen districts, eight of which exclusively represent IRS employees. Within those districts, NTEU's National President has chartered 92 separate Chapters—including Defendant Chapter 73—to provide local representation to IRS employees. *See, e.g., id.* §§ 3, 5 & 6. *See also* Kaspar Decl. ¶¶ 8–10. NTEU Chapters representing IRS employees are in 45 states, Puerto Rico and the District of Columbia. *Id.* ¶ 10. The three largest IRS Chapters are in Utah, Kansas, and Georgia. *Id.* ¶ 12.

² *See* <https://www.nteu.org/who-we-are/our-agencies>.

A Chapter's authority to act on behalf of the bargaining unit comes exclusively from NTEU, via delegated authority in the *National Constitution and Bylaws* or in a collective bargaining agreement negotiated by NTEU. Kaspar Decl. ¶¶ 8, 30, 36–37. Moreover, under the federal labor statute, only the organization that is named in the unit certification has the legal obligation to represent covered employees, and it is only that organization with whom the government must bargain in good faith. 5 U.S.C. § 7114(a)(1), (b). NTEU holds the unit certification for the entire IRS bargaining unit. Kaspar Decl. ¶¶ 6, 35. None of the 92 Chapters representing IRS employees holds a certification in its own name/number. *Id.* at ¶ 7.

Because a Chapter cannot act outside of the authority granted to it by NTEU, no IRS Chapter is an independent legal entity who can sue or be sued.

II. The President's Executive Order Leads to the Filing of This Lawsuit.

At approximately 10pm on March 27, 2025, the White House posted on its website an Executive Order titled *Exclusions from Federal Labor-Management Relations Programs*.³ Ex. A (“Executive Order”). In the Executive Order, President Donald J. Trump declared that a long list of federal agencies and departments was excluded from coverage by the Federal Service Labor-Management Relations Statute. *See id.* (list of excluded agencies including the Department of Treasury, except for the Bureau of Engraving and Printing). In making that determination, the President cited to his authority under the federal labor statute to exclude agencies that have “as a primary function intelligence, counterintelligence, investigative, or national security work.” *Id.*; *see also* 5 U.S.C. § 7103(b)(1). Under Section 6 of the Executive Order, “upon termination of the applicable collective bargaining agreement,” the agency head of each excluded bargaining unit

³ *See* <https://www.whitehouse.gov/presidential-actions/2025/03/exclusions-from-federal-labor-management-relations-programs>; *see also* Exec. Ord. 14,251, 90 Fed. Reg. 14,553 (Apr. 3, 2025).

was ordered to terminate agency participation in any grievance-arbitration proceedings, exceptions to arbitration awards, or unfair labor practice proceedings. Ex. A. at § 6.

That same night—indeed, hours before the Executive Order was published by the White House—the Office of Personnel Management (OPM) issued guidance to agencies regarding the swift implementation of the Executive Order. Ex. B (OPM Guidance). Among other things, the OPM Guidance states that agencies covered by the Executive Order “are no longer required to collectively bargain with Federal unions.” *Id.* at 3.

The Department of Treasury filed this lawsuit against Chapter 73 on March 28, 2025, less than 24 hours after the Executive Order was made public. The Complaint asserts a single claim seeking a declaration under the Declaratory Judgment Act (DJA) that “Plaintiff [Treasury Department] is authorized to terminate its collective bargaining agreements (“CBAs”) pursuant to the Executive Order and OPM’s implementing guidance.” Compl., p. 15 (Request for Relief). NTEU did not become aware of the lawsuit until March 31, 2025, at approximately 9:15am, having received a LexisNexis court-tracker notification.⁴

III. NTEU Files a Lawsuit Challenging the Validity of the Executive Order.

On March 31, 2025, at approximately 11:15am, NTEU filed a lawsuit in the U.S. District Court for the District of Columbia against President Trump, OPM, and the heads of twelve federal agencies, including Plaintiff Department of Treasury. *NTEU v. Trump et al.*, Case No. 1:25-cv-935 (D.D.C. Mar. 31, 2025) (NTEU Lawsuit). In its lawsuit, NTEU argues that the President exceeded his narrow authority in 5 U.S.C. § 7103(b)(1) when he excluded nearly two-thirds of the federal workforce from statutory coverage. *Id.* NTEU further asserts that the

⁴ LexisNexisDelivery@lexisnexis.com to NTEU Deputy General Counsel Paras Shah (Mar. 31, 2025).

President's exclusions were based not on national security concerns, as required by the statute, but on a policy objective of making federal employees easier to fire and political animus against federal sector unions. *Id.* NTEU seeks declaratory and injunctive relief that the Executive Order and OPM's Guidance are unlawful as applied by the defendants. *Id.* at p. 32 (Request for Relief).

That same week, on April 4, 2025, NTEU filed a motion for a preliminary injunction with the D.C. District Court seeking to enjoin implementation of the Executive Order. *Id.*, Dkt. #9. The parties' briefing on that motion concluded on April 16, 2025. *Id.*, Dkts. # 26 and 29. And the D.C. District Court will hear argument on NTEU's motion on April 23, 2025—two days before this Court hears argument on the Treasury Department's request for a declaratory judgment.

LAW AND ARGUMENT

I. This Case Must Be Dismissed Due to Improper Venue.⁵

A. Legal Standard

Venue must be proper under 28 U.S.C. § 1391(b), which states:

A civil action may be brought in—(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

⁵ Federal Rule of Civil Procedure 12(h) allows a party to include defenses indicated in Rule 12(b)(2)–(5) in a responsive pleading in order to prevent their waiver. Fed. R. Civ. P. 12(h)(1)(B)(ii). Chapter 73 may appear specifically to contest venue without waiving these defenses. *See Gerber v. Riordan*, 649 F.3d 514, 519–20 (6th Cir. 2011) (“[B]y appearing solely to contest jurisdiction, a defendant clearly indicates that he is not willing to submit to the district court's jurisdiction.”) (internal citations omitted).

Venue rules exist primarily “to protect the defendant against the risk that a plaintiff will select an unfair or inconvenient place of trial.” *Atl. Marine Constr. Co. v. U.S. Dist. Ct.*, 571 U.S. 49, 63 n.7(2013) (internal quotation omitted). “When venue is challenged, the court must determine whether the case falls within one of the three categories set out in § 1391(b).” *Id.* at 56. It is the plaintiff who bears the burden of proving venue by a preponderance of the evidence. *Tobien v. Nationwide Gen. Ins. Co.*, No. 24-5575, 2025 U.S. App. LEXIS 7693, at *8 (6th Cir. Apr. 2, 2025) (finding that since improper venue is a defense that “does not address the merits,” it is one where the burden of proof can be assigned to the plaintiff).⁶ In resolving a 12(b)(3) motion to dismiss for improper venue, the district court may rule on the papers, order an evidentiary hearing, or allow the parties to engage in discovery in aid of deciding the motion, but the burden of establishing venue remains on the plaintiff throughout.⁷

B. Plaintiff Cannot Meet Its Burden of Proving that Venue is Proper.

The Court should find that venue is improper under § 1391(b)(1) because, as discussed Section II *infra*, non-resident NTEU is not only a necessary and indispensable party, but also NTEU is the only entity against which Plaintiff can obtain the relief it seeks in its Complaint. Courts in the Sixth Circuit have recognized that “venue must be proper with respect to all defendants.” *Alltech, Inc. v. Carter*, No. CIV.A 508CV00325KKC, 2010 U.S. Dist. LEXIS 23519, at *7 (E.D. Ky. Mar. 15, 2010).⁸

Plaintiff effectively concedes in its Complaint that without NTEU as a party to this

⁶ See also *Freeman v. Fallin*, 254 F. Supp. 2d 52, 56 (D.D.C. 2003). (“[I]t is the plaintiff’s obligation to institute the action in a permissible forum.”).

⁷ *Tobien*, 2025 U.S. App. LEXIS 7693, at *9 (internal citation omitted).

⁸ See also *Crutchfield v. Santos*, 2007 U.S. Dist. LEXIS 86558 at *2 (W.D. Ky. 2007)

action, the relief Plaintiff seeks cannot be effected.⁹ NTEU is the actual and indispensable party in interest, but it resides in Washington D.C.¹⁰ It follows that the Eastern District of Kentucky is not a district in which both Chapter 73 and NTEU reside for purposes of venue under § 1391(a)(1).

Though Chapter 73, the named Defendant, resides in this District, it is merely a non-independent agent of its chartering entity, NTEU, and it lacks the independent ability to act on behalf of the bargaining unit or proceed in a lawsuit in its own name.¹¹

C. Venue in this District is Improper Under § 1391(a)(2) Because the Events Giving Rise to Plaintiff’s Declaratory Action Did Not Occur Substantially in Kentucky, But in Washington D.C.

Under § 1391(b)(2), “the plaintiff may file his complaint in any forum where a substantial part of the events or omissions giving rise to the claim arose; this includes any forum with a substantial connection to the plaintiff’s claim.” *First of Mich. Corp. v. Bramlet*, 141 F.3d 260, 263 (6th Cir. 1998). In determining whether venue is proper, the issue is not whether this district is the “best” venue, but whether the district has a “substantial” connection

⁹ See, e.g., Compl. ¶ 9 (“In light of the Executive Order and OPM guidance, Plaintiff now respectfully seeks a declaratory judgement from this Court that it has the power to rescind or repudiate the national CBA *with the National Treasury Employees Union*.”); Compl. ¶ 12 (“Plaintiff asserts that the Executive Order . . . vitiates its CBA *with the National Treasury Employees Union*”; ¶ 29 (“Treasury and IRS have previously executed a national CBA with NTEU, Defendant’s parent organization . . . [which] remain[s] in effect and cover[s] IRS employees in Covington, Kentucky . . . Plaintiff therefore wishes to rescind or repudiate [the CBA]”); and ¶ 44 (“the 2022 National Agreement was negotiated between Plaintiff and NTEU, Defendant’s parent organization.”) (emphases added).

¹⁰ See <https://www.nteu.org/who-we-are>.

¹¹ Chapter 73 is an organizational subdivision of the National Treasury Employees Union, through which NTEU provides localized representation to IRS bargaining unit employees within that Chapter’s defined jurisdiction. See Kaspar Decl. Exs. 1 and 3. A Chapter’s authority to act on behalf of the bargaining unit comes solely and exclusively from NTEU, via delegated authority in the *National Constitution and Bylaws* or in a CBA negotiated by NTEU. *Id.* at ¶¶ 8–10, 30.

to plaintiff's claims, even if other districts have greater contacts. *Id.* "Substantiality" under § 1391(b)(2) "is intended to preserve the element of fairness so that a defendant is not haled into a remote district having no real relationship to the dispute."¹² District courts in the Sixth Circuit have considered both the plaintiff's and defendant's activities in analyzing whether venue is proper under § 1391(b)(2).¹³

Plaintiff cannot show that a substantial part of the events or omissions giving rise to its claim occurred in the Eastern District of Kentucky, or that this District otherwise has a "substantial" connection to the Treasury Department's claim for declaratory relief. Plaintiff's complaint asks the Court to let it rescind or repudiate its 2022 National Agreement with NTEU, purportedly because the terms of that agreement "hamstring" the Executive Branch's ability to effectively and efficiently manage the federal workforce and promote national security. Compl. at ¶¶ 1, 10. Thus, the events giving rise to Plaintiff's claim are the deliberations between NTEU and Plaintiff's component agency, IRS, which culminated in the current National Agreement. The facts are undisputed that the 2022 National Agreement was negotiated, executed, and implemented between NTEU and Plaintiff's component agency, IRS, in Washington D.C.¹⁴ This means the "onerous and burdensome provisions" that the Executive Order claims "restrict the Department's ability to implement policies necessitated by its mission and operations," as cited by Plaintiff as grounds for requested relief here, were bargained for, agreed to, and executed in Washington, D.C., by the Treasury Department, IRS

¹² *Sechel Holdings, Inc. v. Clapp*, No. 3:12-CV-00108-H, 2012 U.S. Dist. LEXIS 108298, at *7 (W.D. Ky. Aug. 1, 2012) (internal quotations omitted).

¹³ *Bramlet*, 141 F.3d. at 263–264.

¹⁴ NTEU and Plaintiff's component agency, IRS, set the ground rules for the negotiations over the current 2022 National Agreement in the predecessor 2019 National Agreement. Kaspar Decl. ¶ 14.

and NTEU. Kaspar Decl. ¶ 19. To be sure, Plaintiff does not—and nor could it—allege any facts showing that any provisions of the 2022 National Agreement were negotiated or executed in Kentucky, that any of the NTEU or IRS principals or witnesses involved in the bargaining of the Agreement were or are located in Kentucky, or that there is any other “substantial” nexus between Kentucky and the Plaintiff’s claims in this lawsuit which justify venue.

II. This Case Must Be Dismissed for Failure to Name the Proper Party.

A. Legal Standard

Rule 12(b)(7) of the Federal Civil Rules of Procedure permits parties to move to dismiss a case if another party “fail[ed] to join a party under Rule 19.” Fed. R. Civ. P. 12(b)(7).

The Sixth Circuit uses a three-step process in assessing whether joinder is proper under Rule 19. *See Glancy v. Taubman Ctrs., Inc.*, 373 F.3d 656, 666 (6th Cir. 2004). First, the Court must determine whether the person or entity to be joined is a required party under Rule 19(a). *Id.* (cleaned up). Rule 19(a) describes this initial analysis as follows:

(a) Persons to be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if

(1) in the person’s absence complete relief cannot be accorded among those already parties, or

(2) the person claims an interest relating to the subject matter of the action and is so situated that the disposition of the action in the person’s absence may (i) as a practical matter impair or impede the person’s ability to protect that interest or (ii) leave the parties subject to a substantial risk of incurring double, multiple, or

otherwise inconsistent obligations by reason of the claimed interest.

Keweenaw Bay Indian Community v. Michigan, 11 F.3d 1341, 1345 (6th Cir. 1993).

Second, if the absent party falls within one of these two provisions, the Court must then decide whether joinder of that party is feasible, i.e., whether joinder would deprive the court of subject-matter jurisdiction or proper venue as to the joined party. *Id.* at 1345–46.

Third and lastly, if joinder is not feasible, the Court will use the factors in Rule 19(b) to determine whether it should “in equity and good conscience” dismiss the case because the party that cannot be joined is indispensable.¹⁵

B. This Case Must be Dismissed Because NTEU is a Necessary and Indispensable Party Whose Joinder is Infeasible.

i. NTEU is a Necessary Party.

Chapter 73 bears the burden of proving that Plaintiff Treasury Department has failed to join a necessary or indispensable party under Rule 19. *See BLC Lexington SNF, LLC vs, Oatis*, 2019 U.S. Dist.LEXIS 203346; 2019 WL 6221006, at *6 (E.D. Ky. Nov. 20, 2019).¹⁶ Like a factual challenge under Rule 12(b)(1), the Court has “broad discretion” to consider evidence outside the pleadings to determine whether [the proper party is named] for purposes of Rule 12(b)(7).¹⁷

There can be no actual dispute that NTEU is a necessary and indispensable party to this

¹⁵ *Glancy*, 373 F.3d at 666 (cleaned up).

¹⁶ *See also Hall v. Allen*, No. 14-116-ART, 2014 U.S. Dist. LEXIS 168280, 2014 WL 6882264, at *4 (E.D. Ky. Dec. 4, 2014).

¹⁷ When considering the defendant’s factual attack on subject-matter jurisdiction under Rule 12(b)(1), the district court has “broad discretion” to consider evidence outside the pleadings to determine whether subject-matter jurisdiction exists. *Id.*, citing *Cartwright v. Garner*, 751 F.3d 752, 759-60 (6th Cir. 2014).

action.¹⁸ Indeed, as noted in Section I.B *supra*, the Treasury Department concedes this point in its complaint. In asking the Court for a declaratory judgement, it states: “In light of the Executive Order and OPM guidance, Plaintiff now respectfully seeks a declaratory judgement from this Court that it has the power to rescind or repudiate the national CBA . . . *with the National Treasury Employees Union*.” Compl. ¶ 9 (emphasis added). *See also* Compl. ¶ 12 (“Plaintiff asserts that the Executive Order . . . vitiates its CBA *with the National Treasury Employees Union*”); ¶ 29 (“Treasury and IRS have previously executed a national CBA with *NTEU, Defendant’s parent organization* . . . [which] remain[s] in effect and cover[s] IRS employees in Covington, Kentucky. . . Plaintiff therefore wishes to rescind or repudiate [the CBA]”); and ¶ 44 (“the 2022 National Agreement was negotiated between Plaintiff and *NTEU, Defendant’s parent organization*.”) (emphases added). By its own admission, without NTEU as a party to this action, the relief sought by the Treasury Department cannot be effected. Fed. R. Civ. P. 19(a)(1).

There can further be no dispute that NTEU “claims an interest” in the repudiation of the 2022 National Agreement to which it is a signatory. Parties who “are signatories to the very treaty [or contract] at issue in the action” are indispensable, and, critically, “[t]he likelihood that they would seek legal recourse in the event that the judgment deprived them of [their] rights to which they believe they are entitled can hardly be characterized as speculative.”

¹⁸ NTEU’s omission is all the more baffling when considered against the named Plaintiff, Department of Treasury. The Treasury Department presumably understood that it was required as a party to this action because IRS, as a sub-bureau of the department, could not act alone—especially, here, where the federal labor statute makes clear that all collective bargaining agreements negotiated between the agency and the exclusive representative “shall be subject to approval by the head of the agency (the Secretary of the Treasury or delegate).” 5 U.S.C. § 7114(c). As the exclusive representative of the IRS bargaining unit, NTEU is not only a necessary party to this action, but a required one.

Keweenaw Bay Indian Cmty., 11 F.3d at 1347. Since “the very purpose” of the Treasury Department’s lawsuit here is to repudiate the collective bargaining agreement that NTEU negotiated and signed, “permitting this suit to proceed to judgment [without NTEU] would “‘impair or impede’ [NTEU’s] ability to protect its interests under its contract.” *See Teamsters Local Union No. 171 v. Keal Driveaway*, 173 F.3d 915, 918 (4th Cir. 1999) (citing *Vaca v. Sipes*, 386 U.S. 171, 183-87 (1967)).

To be sure, the Treasury Department strategically couches its request for relief to encompass not only the national collective bargaining agreement but “local agreements and MOUs [memorandum of understanding] executed with Defendant [Chapter 73] directly.” *See* Compl. ¶ 29. But, as the 2022 National Agreement makes clear, those local agreements are negotiated by Chapter 73 via the delegated authority of NTEU.¹⁹ In the National Agreement, IRS and NTEU stated that “[a]ll negotiations . . . will *remain at the national level*, however, to provide for more efficient and effective negotiations, the parties agree to [specified] local involvement. The local parties identified for such negotiations will act as *representatives of the national parties*.” Ex. C (2022 National Agreement), Art. 46, § 3. (emphasis added).²⁰

Even assuming the Court could issue Plaintiff’s requested relief only as it pertains to these local agreements, which NTEU disputes given Chapter 73’s inability to be sued in its own name, “it is not necessary that an absent person would be bound by the judgment in a

¹⁹ Chapter 73’s authority to act on behalf of the local IRS bargaining unit comes exclusively from NTEU via this delegated authority. Because Chapter 73 cannot act outside of the authority granted to it by NTEU, it is not an independent legal entity who can sue or be sued in this Court.

²⁰ Given the size of the document in question, at approximately 300 pages, Defendant directs the court to the online version of the 2022 National Agreement linked in Plaintiff’s Compl. ¶ 44. For the Court’s reference, pertinent excerpts are included as Exhibit C to this motion.

technical sense. It is enough that as a practical matter his rights will be affected.”²¹ “[W]here such a community of interest exists that no decree can be rendered without affecting the interest of the absent party, that party is indispensable. And a community of interest may arise out of contracts which, while several in form, are interdependent in substance and operation.” *Id.*

For these reasons, NTEU’s joinder to this case as a necessary and indispensable party “is required in order that the court may make an adjudication equitable to all persons involved.”²²

ii. NTEU Cannot be Joined to this Case Because Venue is Improper

The Treasury Department cannot argue that its choice of forum in Kentucky is proper with respect to NTEU. *See* sec. I, *supra*. Therefore, joinder of NTEU as a party to this suit is not feasible.

iii. The Complaint Should be Dismissed “in Equity and Good Conscience” Because NTEU Cannot Be Joined as an Indispensable Party.

The final step in the Rule 19 analysis is for the Court to determine whether “in equity and good conscience” it should dismiss this action according to the factors described in Rule 19(b). As a threshold matter, it is a “‘general rule’ that where rights sued upon arise from a contract all parties must be joined.” *Tillman v. Apostolopoulos*, No. 10-cv-12253, 2010 U.S. Dist. LEXIS 93660, at *16 (E.D. Mich. Sep. 9, 2010) (citing *Ward v. Deavers*, 203 F.2d 72, 75 (D.C. Cir. 1953)).²³

²¹ *See NLRB v. Doug Neal Mgmt. Co.*, 620 F.2d 1133, 1139 (6th Cir. 1980) (quoting 3A Moore’s Federal Practice at ¶ 19.07-1(2)).

²² *Id.* (quoting 3A Moore’s Federal Practice ¶ 19.05(2)).

²³ *See also Soberay Mach. & Equip. Co. v. MRF Ltd.*, 181 F.3d 759, 764 (6th Cir. 1999) (finding that the non-party IPEC was indispensable in part because “IPEC was a signatory to the contract for which Plaintiff seeks remuneration.”); *see also Keweenaw Bay Indian Cmty.*, 11 F.3d at 1347 (The “signatories to the very treaty at issue in the action” are indispensable parties).

As the Sixth Circuit explained in *Glancy v. Taubman Ctrs., Inc.*, courts are to consider at least four factors in assessing whether an action should be dismissed under Rule 19(b):

1. to what extent a judgment rendered in the person’s absence might be prejudicial to the person;
2. the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided;
3. whether a judgment rendered in the person’s absence will be adequate; and
4. whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

373 F.3d at 672 (citing Fed. R. Civ. P. 19(b)). “The rule is not to be applied in a rigid manner but should instead be governed by the practicalities of the individual case.”²⁴

The first factor addresses many of the same concerns as Rule 19(a)(2), discussed herein. If this lawsuit were to proceed without NTEU, the parent organization would be “impaired or impeded” from protecting its “separate and distinct” interest in preserving the 2022 National Agreement. *See* sec. B.i., *supra*. That prejudice is “particularly strong” because NTEU negotiated and signed the nationwide agreement, and NTEU enforces the provisions of the agreement.²⁵ *See Nat’l Union Fire Ins. Co. of Pittsburgh, PA v. Rite Aid of S.C.*, 210 F.3d

²⁴ *Keweenaw Bay Indian Cmty.*, 11 F.3d 1341 at 1346.

²⁵ The Treasury Department asserts that Chapter 73 “implements and executes” the terms of the 2022 National Agreement. Compl. ¶ 9. As explained, to the extent Chapter 73 acts on behalf of the bargaining unit, it is by delegated authority. The agency further asserts, at Compl. ¶ 45, that Chapter 73 is responsible for “enforcing” compliance with the Agreement. That claim misunderstands NTEU’s organizational structure, which differs from other federal sector unions. As explained herein, NTEU holds the unit certification for the entire IRS bargaining unit. It is thus NTEU who is solely permitted to “enforce” the terms of any agreement negotiated with the IRS. While, for example, a local like Chapter 73 can file a grievance with the agency, it is only NTEU who can authorize invoking that grievance to arbitration. Kaspar Decl. ¶¶ 6–7, 30–32, 35–37.

246, 252 (4th Cir. 2000).²⁶

The remaining three factors also argue in favor of dismissing this lawsuit. There is no way to mitigate the extreme prejudice to NTEU of being denied an opportunity to represent itself in this proceeding, absent dismissal of the case.²⁷ Furthermore, any judgment rendered in NTEU's absence would be futile. "[I]t is a 'deep-rooted historic tradition' of American courts that '[a] judgment or decree among parties to a lawsuit resolves issues as among them, but it does not conclude the rights of strangers to those proceedings.'" *Acosta v. Lexington Golf & Travel, LLC*, Civil Action No. 5:20-160-DCR, 2021 U.S. Dist. LEXIS 124260, at *6 (E.D. Ky. July 2, 2021) (quoting *Martin v. Wilks*, 490 U.S. 755, 762 (1989)). Not only would the Court's judgment be limited to the local agreements negotiated by Chapter 73 (via delegated authority), but also it would be unenforceable as to NTEU, as a non-party, and, as to Chapter 73, because it is not a separate, legally recognized entity.

Finally, dismissal of this action will not prejudice the Treasury Department. *See, e.g., Carter v. Deutsche Bank Nat'l Tr. Co.*, No. 16-4163, 2017 U.S. App. LEXIS 21398, at *11 (6th Cir. Aug. 30, 2017) (affirming dismissal under 19(b) analysis because plaintiff had the opportunity for an adequate remedy in another proceeding and "[plaintiff]'s own actions . . . indicate forum shopping."). Indeed, there can be little prejudice to the Treasury Department when it knowingly "picked a forum and initiated the action surely knowing that the party roster

²⁶ *See, e.g., H.D. Corp. v. Ford Motor Co.*, 791 F.2d 987, 993 (1st Cir. 1986) (noting that first Rule 19(b) factor favored finding that parent corporation was indispensable to complaint brought against subsidiary where complaint was largely directed against parent corporation and parent corporation was signatory to agreement underlying breach of contract claims in complaint); *Envirotech Corp. v. Bethlehem Steel Corp.*, 729 F.2d 70, 75–76 (2d Cir. 1984) (noting that parent corporation was indispensable to breach of contract counterclaims against subsidiary in part because parent corporation was the sole obligor on three of the contracts at issue).

²⁷ *See, e.g., Soberay, supra* note 23, 181 F.3d at 764–65 (dismissing case because non-joined party was "real party in interest inasmuch as [non-joined party] contracted with Plaintiff").

would pose problems.” See *Wilson v. Adcock*, No. 5:18-CV-612-REW, 2019 U.S. Dist. LEXIS 127644, at *13 (E.D. Ky. July 31, 2019).

The Treasury Department has many paths to an adequate remedy should this case be dismissed for nonjoinder. As a starting point, the concerns raised in the complaint are identical to those currently before Judge Paul Friedman in the D.C. District Court, yet, by contrast, include all relevant parties to the CBAs at issue as plaintiff or defendants.²⁸ Judge Friedman will hear argument on NTEU’s request for a preliminary injunction of the underlying Executive Order, to include the government’s fully briefed opposition to that injunction, this week on April 23, 2025.²⁹ And given that court’s attention to requests for emergency relief, NTEU expects a decision on its motion for relief to be issued shortly after argument. Should the injunction be granted, the Treasury Department will undoubtedly—and, likely, immediately—appeal that decision to the D.C. Circuit.³⁰ Given the Trump administration’s response to any injunctive relief imposed against it, it is reasonable to expect that the Treasury Department would also request an administrative stay of any injunction ordered by the court.

On April 3, 2025, the American Federal of Government Employees (AFGE), along with several other national unions who represent federal employees, filed suit in the U.S. District Court for the Northern District of California. Like NTEU’s Lawsuit, AFGE brings its case

²⁸ Department of Treasury is a named defendant in NTEU’s lawsuit challenging the validity of the Executive Order, and the related motion for a preliminary injunction. The D.C. District Court’s decision in that matter is directly related to the matter before this court.

²⁹ NTEU Lawsuit, Dkt. #11.

³⁰ See, e.g. *NTEU et al. v. Vought et al.*, No. 25-5091 (D.C. Cir. Mar. 31, 2025) (Gov’t appeal of preliminary injunction); *State of Maryland et al. v. USDA et al.*, No. 25-1248 (4th Cir. Mar. 17, 2025) (Gov’t appeal of preliminary injunction); *AFGE et al. v. OPM et al.*, No. 25-1677 (9th Cir. Mar. 13, 2025) (Gov’t appeal of preliminary injunction); *OPM et al. v. AFGE et al.*, No. 24A904 (S. Ct. Mar. 24, 2025) (Gov’t application to the Supreme Court for a stay of preliminary injunction).

against President Trump, OPM, and several agencies including the Department of Treasury. *AFGE, et al. v. Trump, et al.*, Case No. 4:25-cv-03070 (N.D. Cal.). The AFGE plaintiffs seek declaratory and injunctive relief that the Executive Order underlying the instant case is unconstitutional. While a determination in AFGE’s case is not dispositive here, it is further evidence that the Treasury Department has (and will have) multiple opportunities to request that a court “declare that Plaintiff [has] the power and authority under the Executive Order to rescind or repudiate” its collective bargaining agreements. Compl. ¶ 63. *See also* Compl. ¶ 12 (“Plaintiff consequently requests a declaration from this Court that the President has lawfully, within the contours of his statutory discretion under 5 U.S.C. § 7103(b)(1), applied the national security exception”).³¹

Given the four other pending lawsuits, in at least two different circuits, Plaintiff’s goal “to ensure legal certainty and avoid unnecessary labor strife” cannot be met by allowing this action to proceed. Compl. ¶ 10. And, in fact, a declaratory judgment in this case will likely have the reverse effect – causing additional uncertainty about application of the Executive Order to, as relevant here, the Department of Treasury. By forcing a court to examine the effects of a suit on parties not before it, Rule 19 of the Federal Rules of Civil Procedure “takes . . . account of the very real, very substantive claims to fairness on the part of outsiders that may arise in some cases.” *Teamsters Local Union No. 171*, 173 F.3d at 917, quoting *Provident Tradesmens Bank & Trust Co. v. Patterson*, 390 U.S. 102, 125 (1968)).

In sum, there are several paths toward obtaining the remedy sought by the Treasury

³¹ Beyond the cases already discussed, additional litigation is underway that concern the underlying issue of the power of this Executive Order to rescind or repudiate existing collective bargaining agreements. *See, e.g., American Foreign Service Association V. Trump et al.*, No. 1:25cv1030, (D.D.C. Apr. 7, 2025); *U.S. Department of Defense v. American Federation of Government Employees, AFL-CIO, District 10 et al*, No. 6:25-cv-119 (W.D. Tx Mar. 27, 2025).

Department. Moreover, even if good sense cautions against it, if the Treasury Department wishes to proceed in its quest for a declaratory judgment concerning the 2022 National Agreement, procedurally, it can file suit against NTEU in the U.S. District Court for the District of Columbia, where both the named party and venue are proper.

Because all four factors favor a finding that NTEU is an indispensable party, this Court should “in equity and good conscience” dismiss the suit in the absence of NTEU.

III. Alternatively, In the Interest of Justice, the Court Should Exercise Its Discretion and Transfer This Case to the Federal District Court for the District of Columbia.

The Court may rule on Defendant’s motion to dismiss for improper venue or, in the alternative, transfer this action pursuant to either 28 U.S.C. § 1406(a) or 28 U.S.C. § 1404(a).

Flynn v. Greg Anthony Constr. Co., Inc., 95 F. App’x 726, 738 (6th Cir. 2003).³²

Under 28 U.S.C. § 1406(a), where venue is found to be lacking, the Court may “in the interest of justice, transfer such case to any district or division in which it could have been brought.” Section “1406(a) provides the basis for any transfer made for the purpose of avoiding an obstacle to adjudication on the merits in the district court where the action was originally brought.” *Martin v. Stokes*, 623 F.2d 469, 474 (6th Cir. 1980). “That defect may be either improper venue or lack of personal jurisdiction.” *Id.*

Section 1404(a), on the other hand, provides the basis for transfer “where both personal jurisdiction and venue are proper.” *Id.* Under 28 U.S.C. § 1404(a), “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” The goal of 28 U.S.C. § 1404(a) “is to prevent the waste of time, energy and money and to protect litigants, witnesses

³² See also *Goode v. City of Southaven*, No. 16-02029, 2017 WL 11316500, at *5 (W.D. Tenn. Mar. 30, 2017) (collecting cases).

and the public against unnecessary inconvenience and expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (internal quotations omitted). “As the permissive language of the transfer statute suggests, district courts have ‘broad discretion’ to determine whether party ‘convenience’ or ‘the interest of justice’ make a transfer appropriate.”³³

In determining whether to transfer a case under § 1404(a), the Court must first determine whether the claim could have been brought in the transferee district.³⁴ Once the Court has made this threshold determination, it must then determine whether the party and witness “convenience” and “the interests of justice” favor transfer to the proposed transferee district.”³⁵ In weighing the statutory factors, the Court may consider “(1) the location of witnesses; (2) the parties’ residences; (3) the location of evidence; (4) the location of events that gave rise to the suit; (5) systematic integrity and fairness; and (6) plaintiff’s choice of forum.” *Combs v. Bridgestone Americas, Inc.*, No. 3:22-CV-00346-GNS-CHL, 2022 U.S. Dist. LEXIS 189881, at *4 (W.D. Ky. Oct. 17, 2022) (internal citations omitted). Finally, the Court may also consider the target forum’s familiarity with the substantive law governing the matter. *See In re Perego*, 885 F.2d 349, 351–52 (6th Cir.1989). Defendant must demonstrate that change of venue under § 1404(a) is warranted by a preponderance of the evidence.³⁶

The facts of this case support transfer to the D.C. District Court. Not only could Plaintiff

³³ *Reese v. CNH Am. LLC*, 574 F.3d. 315, 320 (6th Cir. 2009).

³⁴ *Outdoor Venture Corp. v. Ronald Mark Assocs., Inc.*, No. 13-11-DLB, 2013 U.S. Dist. LEXIS 68993, at *31–32 (E.D. Ky. May 15, 2013).

³⁵ *Id.*; *see also Eagle Min., LLC v. Elkland Holdings, LLC*, No. 14-105-ART, 2014 U.S. Dist. LEXIS 95590, at *5–6 (E.D. Ky. July 14, 2014) (“A transfer furthers the “interest of justice” where it promotes the “systemic integrity” and fairness of the judicial system and where the relevant activities and contacts appear predominantly in the target forum.”) (citing *Moses v. Bus. Card Exp. Inc.*, 929 F.2d 1131, 1137 (6th Cir. 1991)).

³⁶ *Roberts Metals, Inc. v. Fla. Props. Mktg. Grp.*, 138 F.R.D. 89, 93 (N.D. Ohio 1991) *aff’d per curiam*, 22 F.3d 1104 (6th Cir. 1994).

Treasury Department have brought this in D.C. District Court, all the relevant factors suggest it should have been brought there. First, both signatories to the underlying 2022 National Agreement, the IRS and NTEU (and by extension, its captive chartered agent, Chapter 73), are residents of Washington D.C. for purposes of establishing venue under § 1391(b)(1). Second, as explained above, Plaintiff could have brought this claim in D.C. District Court, since a substantial part of the events or omissions giving rise to the Treasury Department's claim to declaratory relief arose in Washington D.C. for purposes of § 1391(b)(2). Either one of these are sufficient grounds to establish venue for this action in D.C. District Court.

Not only do the facts provide that the D.C. District Court is an appropriate transferee venue, they also demonstrate that Washington D.C. is the center of gravity underlying Plaintiff's claim for declaratory relief:

- NTEU maintains its address at 800 K Street, NW Washington, DC 20001 and has represented IRS employees in some capacity from its DC headquarters for over fifty years. Kaspar Decl. ¶ 13.
- Over the course of their over half-century-long relationship, NTEU and IRS have negotiated multiple CBAs, all of which were negotiated in Washington, D.C. Since at least 1975, NTEU and IRS have had a national-level collective bargaining agreement that covers all bargaining unit employees. *Id.*
- NTEU's principal officials who signed the current CBA, including NTEU National President Anthony Reardon, National Executive Vice President James Bailey, Special Assistant to the National President Doreen Greenwald, and Director of Negotiations Kenneth Moffett, Jr., worked (or retired from working) in the D.C. District. *Id.* at ¶ 23.
- Similarly, Plaintiff's principal address is 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220, and the main office for the IRS is 1111 Constitution Ave., NW Washington, DC 20224.
- Plaintiff's principal officials who signed the CBA, including IRS Deputy Commissioner for Operations Support Jeffrey Tribiano, Counselor to the Commissioner Tom Cullinan, and Chief Negotiator Luke Cheseck, worked in the D.C. District at the time the current CBA was negotiated. *Id.* at ¶ 24.
- The negotiations which resulted in the consummation of the current CBA took place

entirely in Washington D.C. *Id.* at ¶ 14.

- The CBA was deemed executed on August 26, 2021 and implemented on October 4, 2021 in Washington, D.C. *Id.* at ¶ 19.
- The CBA was ratified by a majority of IRS Chapters. *Id.* at ¶ 20. The ratification vote was certified by NTEU in Washington, D.C. *Id.* at ¶ 22.
- Because these parties have their primary base of operations in Washington D.C., it is likely that most if not all of the witnesses who participated in the negotiations, as well as the bargaining unit documentation and other evidence relevant to their course of dealings leading up to the 2022 National Agreement, are also located in the D.C. District. *Id.* at ¶¶ 14, 18–19, 22–24.
- Washington D.C. is also where the President signed Executive Order 14,251, purporting to exclude the IRS from the Federal Labor Management Relations Program, which is the basis of Plaintiff’s claim for relief here.

In sum, the D.C. District is where Plaintiff, NTEU, the relevant evidence, the locus of the operative facts, and the vast majority of actual or potential witnesses are located, making transfer to the D.C. District Court particularly appropriate.

Finally, transfer is also warranted because the real parties in interest to this dispute, Plaintiff and NTEU, are already named parties in the lawsuit and injunction that NTEU filed in the D.C. District Court. *See* sec. II.B.iii., *supra*, for full discussion of current lawsuits. Under these circumstances, where the appropriate parties are already engaged in litigation before the D.C. District Court, the interests of justice and conservation of party and court resources are served by this Court exercising its discretion to transfer this action and allow that tribunal to resolve the parties’ dispute. “To permit a situation in which two cases involving precisely the same issues are simultaneously pending in different District Courts leads to [a] wastefulness of time, energy and money . . . Moreover, such a situation is conducive to a race of diligence among

litigants for a trial in the District Court each prefers.” *Cont'l Grain Co. v. The FBL*-585, 364 U.S. 19, 26 (1960).³⁷

CONCLUSION

All of the substantial and material events giving rise to the present action occurred in the District of Columbia, and the Plaintiff cannot present a compelling argument that its choice of forum in Kentucky is correct or entitled to any significant deference. Further, “[i]n the absence of an indispensable party, the federal courts are no more empowered to render a declaratory judgment than we would be to give affirmative relief.” *Kimball v. Florida Bar*, 537 F.2d 1305, 1307 (5th Cir. 1976).

For the foregoing reasons, Chapter 73 respectfully requests that this Court dismiss this case seeking declaratory judgment because venue is improper and a necessary and indispensable party, NTEU, cannot be joined to the suit. Alternatively, Chapter 73 respectfully requests this Court exercise its discretion to transfer this case to the D.C. District Court, where the Plaintiff and the real party in interest, NTEU, and the relevant union officials and federal government witnesses are located.

Dated: April 21, 2025

Respectfully submitted,

/s/ Peter J. Jannace

Peter J. Jannace (KY 95964)

Herzfeld Suetholz Gastel and Wall, PLLC

515 Park Avenue

Louisville, KY 40208

Phone: (502) 636-4333

³⁷ See also 15 Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice & Procedure § 3854 (4th ed. 2016) (noting that transfer is warranted under § 1404(a)’s broad “interest of justice” reference when the transfer would prevent “multiplicity of litigation as a result of a single transaction or event.”)

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Counsel for Defendant

**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

It is hereby certified that on the 21st of April, 2025, a true and complete copy of the foregoing was electronically filed by using the CM/ECF system, which will generate copies to all counsel of record (no pro se parties). It is hereby further certified that the undersigned is unaware of any non-CM/ECF participants. Filing via CM/ECF will send a notification of electronic filing to the following: Hon. Emily Hall, Counsel to the Assistant Attorney General, Civil Division, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, emily.hall@usdoj.gov, *Counsel for Plaintiff*.

/s/ Peter J. Jannace

ATTORNEY FOR Chapter 73

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION at Covington
(Electronically Filed)**

=====X
UNITED STATES DEPARTMENT OF TREASURY,

Plaintiff,

v.

CIVIL ACTION NO.:
2:25-cv-00049-DCR

NATIONAL TREASURY EMPLOYEES UNION
CHAPTER 73,

Defendant.

=====X

PROPOSED ORDER

MOTION HAVING BEEN MADE, and the Court having reviewed the record and
being otherwise well and sufficiently advised in the premises;

IT IS HEREBY ORDERED that the Defendant, NATIONAL TREASURY
EMPLOYEES UNION CHAPTER 73 (“Chapter 73”)’s MOTION TO DISMISS is **GRANTED**.

IT IS SO ORDERED.

Distribution:

All ECF-registered counsel of record via
email

Respectfully tendered by:

/s/ Peter J. Jannace

Peter J. Jannace (KY 95964)
HERZFELD, SUETHOLZ, GASTEL
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Louisville, Kentucky 40208
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Attorney for the Defendant

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
(at Covington)**

UNITED STATES)	
DEPARTMENT OF TREASURY,)	
)	
Plaintiff,)	
v.)	Civil Action No. 2:25-049-DCR
NATIONAL TREASURY EMPLOYEES UNION,)	
CHAPTER 73,)	
)	
Defendant.)	
)	

DECLARATION OF DANIEL J. KASPAR

I, Daniel J. Kaspar, declare as follows:

1. I am the Director of Field Operations & Organizing for the National Treasury Employees Union (NTEU). NTEU is a national labor organization headquartered in Washington, D.C. I have worked at NTEU since 2011.

2. NTEU represents more than 160,000 employees in thirty-seven agencies and departments across the federal government.

3. As Director of Field Operations & Organizing, I am responsible for overseeing NTEU's field offices across the nation. Representatives in each field office serve as Chapters' and many members' first line of contact with NTEU on a day-to-day basis.

4. By virtue of my job duties, I am familiar with the agencies where NTEU-represented employees work, as well as the duties those employees perform. I am also familiar with the collective bargaining agreements that we have negotiated with our agencies and whether agencies are complying with those agreements, as well as their statutory collective bargaining obligations.

5. Before my promotion to the Director of Field Operations & Organizing position in January 2022, I was the Deputy Director of Field Operations from April 2020 to December 2021. I was an Assistant Counsel/National Field Representative in NTEU's Chicago Field Office from 2011 to March 2020.

6. NTEU is the exclusive representative of all nonprofessional and professional employees of the Internal Revenue Service (IRS), U.S. Department of the Treasury. The IRS is NTEU's largest bargaining unit. Ex. 1, *NTEU Unit Certification*.

7. Because NTEU is the exclusive representative of the entire IRS bargaining unit, no IRS Chapter holds its own unit certification.

8. NTEU's National Constitution provides that NTEU be organized by "districts and these in turn by local Chapters." Ex. 2, *NTEU National Constitution and Bylaws*, Art. IV, § 1.

9. NTEU is currently organized into fifteen districts, eight of which exclusively represent IRS employees.

10. There are 92 Chapters chartered by NTEU's National President to provide local representation to IRS employees. These 92 IRS Chapters are headquartered in 45 states, Puerto Rico and the District of Columbia, and span all 50 states in terms of coverage.

11. Chapter 73, in Covington, Kentucky, was originally chartered in 1964 and its charter was most recently updated by then-National President Anthony Reardon on July 1, 2019. Ex. 3, *Official Chapter 73 Charter*.

12. As of today, NTEU's largest IRS Chapters are in Utah, Kansas and Georgia.

13. Since at least 1975, NTEU and IRS have had a national-level collective bargaining agreement that covers all bargaining unit employees. NTEU has represented IRS employees in some capacity for over 50 years.

14. NTEU and IRS bargained over the provisions of the 2022 National Agreement in Washington D.C. The ground rules for those negotiations were bargained over and memorialized in the parties' 2019 National Agreement.

15. At the time that the 2022 National Agreement was being bargained, the Director of Field Operations & Organizing was James Bailey, who was my direct supervisor. Mr. Bailey concurrently was NTEU's National Executive Vice President, an elected position.

16. Mr. Bailey was a signatory to the 2022 National Agreement. I worked closely with Mr. Bailey on all matters related to bargaining the Agreement.

17. As Deputy Director, I was actively involved with developing bargaining proposals to submit to IRS. I personally reviewed every initial proposal sent to IRS.

18. NTEU's bargaining files are stored in Washington, D.C.

19. The 2022 National Agreement between NTEU and IRS was executed on August 26, 2021 and implemented October 1, 2021. The agreement was negotiated and signed in Washington, D.C. by NTEU and IRS. Ex. 4, *2022 IRS-NTEU National Agreement*.

20. Under NTEU's National Constitution, at Art. XV, a term agreement like the 2022 National Agreement can only be ratified by a majority vote of the chapters in the affected unit (here, IRS). The majority of IRS Chapters voted to ratify the 2022 National Agreement.

21. Together with then-Director of Field Operations & Organizing James Bailey, I oversaw the process by which the Department of Field Operations & Organizing assisted chapters in the ratification process to ensure it was conducted in accordance with NTEU's National Constitution and Bylaws.

22. The ratification vote for the 2022 National Agreement was certified by NTEU, in Washington, D.C.

23. All four NTEU signatories to the 2022 CBA (National President Anthony Reardon, National Executive Vice President James Bailey, Special Assistant to the National President Doreen Greenwald and Director of Negotiations Kenneth Moffett, Jr.) worked in Washington, D.C. at all times relevant to the bargaining and execution of the National Agreement. I also worked in Washington, DC at the time that the 2022 National Agreement was signed.

24. To the best of my knowledge and belief, all three IRS signatories to the 2022 National Agreement (Jeffrey Tribiano, Deputy Commissioner of Operations Support; Tom Cullinan, Counselor to the Commissioner; and Luke Chesek, Chief Negotiator) worked in Washington, D.C. at all times relevant to the bargaining and execution of the 2022 National Agreement.

25. I was likewise very involved in the negotiations over the 2025 Addendum. I participated in strategy sessions with the signatories to the Addendum; I was actively involved with developing bargaining proposals to submit to IRS; and I personally reviewed every initial proposal sent to IRS.

26. The 2025 Addendum was executed on February 23, 2024 and implemented on October 1, 2024. The agreement was negotiated and signed in Washington, D.C. by NTEU and IRS. Ex. 5, *2025 Addendum to the 2022 National Agreement* (excerpt of signatory page).

27. All three signatories to the 2025 Addendum (Doreen Greenwald, National President; Terry Scott, National Executive Vice President; and Kenneth Moffett, Jr., Director of Negotiations) worked in Washington, D.C. at all times relevant to the bargaining and execution of the 2025 Addendum.

28. To the best of my knowledge and belief, all three IRS signatories to the 2025 Addendum (Melanie Krause, Chief Operating Officer; Traci DiMartini, Chief Human Capital Officer; and Geralda Larkins Director, Labor/Employee Relations and Negotiations) worked in Washington, D.C. at all times relevant to the bargaining and execution of the 2025 Addendum.

29. IRS is legally required to bargain with NTEU in good faith as the exclusive representative of the IRS bargaining unit.

30. NTEU and IRS agreed that NTEU would delegate authority to local Chapter representatives to reach agreements on purely local issues. Ex. 4, at Art. 47, §§ 3–6.

31. When engaged in local bargaining, Chapters—like Chapter 73—cannot alter the terms of the 2022 National Agreement or 2025 Addendum.

32. As the signatory to the National Agreement and 2025 Addendum, NTEU is responsible for enforcing the terms of the agreement. As in the case of local bargaining, NTEU has delegated to Chapters the authority to file local grievances. Ex. 4, Art. 41, § 3. Ex. 5, Art. 41, § 3 (excerpt of Article 41).

33. As an Assistant Counsel in NTEU’s Chicago Field Office (a field office within NTEU’s Department of Field Operations & Organizing), from 2017 to 2020, I was assigned to work directly with Chapter 73. To the best of my knowledge and belief, Chapters generally work closely with NTEU Assistant Counsels/National Field Representatives on considering the merits of, drafting, and filing grievances at the local level.

34. With respect to Chapter 73, from 2017 to 2020, I was actively involved in assessing the merits of, writing, and reviewing numerous grievances at the local level.

35. NTEU holds the exclusive authority to invoke arbitration on any grievance filed under the National Agreement because it is the named exclusive bargaining unit representative.

36. Chapters must request that their field representative seek authorization to invoke arbitration before a case can be submitted for binding arbitration under the National Agreement. NTEU’s National President, who holds that authority, has delegated it to the heads of each field office, i.e., the NTEU National Counsel of each field office.

37. In the case of Chapter 73, the Chapter leadership must request—through their assigned Assistant Counsel/National Field Representative—that the National Counsel of the Chicago Field Office, Michael McAuley, authorize invoking a grievance to arbitration.

38. For the nearly half-century that the federal labor statute has been in place, the IRS has fallen within the statute’s coverage and had a collective bargaining agreement with NTEU without any adverse effect on national security interests.

39. The IRS does not primarily perform national security, investigate, or intelligence work. The IRS is the revenue service for the federal government, responsible for collecting federal taxes and administering the Internal Revenue Code. NTEU-represented employees at IRS do not primarily perform security, investigative, or intelligence work. They provide tax assistance to taxpayers, conduct taxpayer audits, and collect overdue tax revenue.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 21, 2025 in Washington, DC



Daniel J. Kaspar

Decl. Ex. 1



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
DENVER REGION

U.S. DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC
Activity

and

NATIONAL TREASURY EMPLOYEES UNION
Labor Organization/Petitioner

Case No. WA-RP-90061

CERTIFICATION OF CONSOLIDATION OF UNITS

In accordance with the provisions of Chapter 71 of Title 5 of the U.S.C., and the implementing Regulations of the Federal Labor Relations Authority:

Pursuant to the authority vested in the undersigned, and 5 U.S.C. 7112(d),

IT IS HEREBY CERTIFIED that the NATIONAL TREASURY EMPLOYEES UNION, is the exclusive representative of all the employees of the above-named Activity in the following consolidated unit:

Included: All nonprofessional and professional employees of the Internal Revenue Service, U.S. Department of the Treasury.

Excluded: All employees of the Assistant Commissioner for Criminal Investigation; all employees of the Office of Chief Counsel; National Office employees of the Office of International Operations assigned to overseas posts-of-duty; temporary employees in the District Offices other than the Anchorage District Office; Regional Office and National Office employees with no reasonable expectancy of continued employment; management officials, supervisors, guards other than protective officers at the National Computing Center at Martinsburg, West Virginia, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

FEDERAL LABOR RELATIONS AUTHORITY

A handwritten signature in black ink, appearing to read "Marjorie K. Thompson", is written over a horizontal line.

Marjorie K. Thompson, Regional Director
Denver Region

Dated: September 14, 2001
Attachment: Service Sheet

**CERTIFICATE OF SERVICE
CASE NO. WA-RP-90061**

I hereby certify that on September 14, 2001, the foregoing **CERTIFICATION OF CONSOLIDATION OF UNITS** was served upon the interested parties in this action by first class mail, postage prepaid, addressed as follows:

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Decl. Ex. 2

AMENDED • 59TH NATIONAL CONVENTION • DETROIT • AUGUST 2023

Constitution and Bylaws

NTEU
National Treasury Employees Union

Table of Contents

NTEU Constitution

Preamble.....	1
Article I — <i>Name and Headquarters</i>	1
Article II — <i>Constitution</i>	1
Article III — <i>Objects</i>	1
Article IV — <i>Organization</i>	2
Article V — <i>Membership</i>	4
Article VI — <i>Per Capita Dues</i>	4
Article VII — <i>Governing Body</i>	4
Article VIII — <i>Conventions</i>	5
Article IX — <i>National Executive Board</i>	6
Article X — <i>National Officers</i>	8
Article XI — <i>National President</i>	8
Article XII — <i>National Executive Vice President</i>	9
Article XIII — <i>National Vice Presidents</i>	9
Article XIV — <i>Administrative Controller</i>	10
Article XV — <i>Ratification of Term Agreements</i>	10
Article XVI — <i>Committees</i>	11
Article XVII — <i>Administration in Emergencies</i>	11
Article XVIII — <i>Offenses, Trials, and Appeals</i>	12
Article XIX — <i>Compensation of Officers</i>	14
Article XX — <i>Official Publication</i>	14
Article XXI — <i>Amendments</i>	14
Article XXII — <i>Constitution Effective Upon Adoption</i>	15

NTEU Bylaws

Part I — <i>Dues and Funds</i>	17
Section 1. Dues	17
Section 2. Funds	23
Part II — <i>Committees</i>	23
Section 1. Classification	23
Section 2. Appointment of Members of Committees	24
Section 3. Length of Service	24
Section 4. Expenses and Reimbursement Thereof.	24
Section 5. Interim Vacancies.	24
Section 6. Duties of Committees	24
Part III — <i>National Officers</i>	25
Section 1. Designations	25
Section 2. Qualifications	25
Section 3. Terms and Posts of Duty	26
Section 4. Candidates for National President, National Executive Vice President, and National Vice President	26
Section 5. Elections.	27
Section 6. Challenges to National Officer Elections	28
Section 7. Successor to the National Executive Vice President	29
Section 8. Successor to a National Vice President	30
Section 9. Reimbursement for Traveling and Subsistence Expenses.	30
Section 10. Conflict of Interest	31

Part IV — <i>Chapter Elections</i>	31
Section 1. Candidates for Election	31
Section 2. Election of Chapter Officers	31
Section 3. Overdue Chapter Elections	32
Section 4. Election of Chapter Delegates to the National Convention	33
Section 5. Challenges to Elections	33
Part V — <i>Business Procedure</i>	34
Section 1. National Executive Board—Order of Business	34
Section 2. Conventions—Rules and Order of Business ...	35
Section 3. Chapter Treasurer	35
Section 4. Proxies	35
Section 5. Fiscal Year	35
Section 6. Chapter Meetings	35
Part VI — <i>Miscellaneous</i>	36
Section 1. Rules of Order	36
Section 2. Official Statements	36
Section 3. Amendments	36
Section 4. Conflict of Bylaws with Constitution	36
Section 5. Definition of Days	36
Part VII — <i>Definitions</i>	37

ID#: 162
Constitution of the

National Treasury Employees Union

Preamble

For the betterment of the Federal government and to protect the rights of employees, to advance and improve the general welfare of employees, and to dedicate ourselves to the principles of justice, equality and fraternity, we, an organization composed of such employees, do hereby adopt the following Constitution.

Article I — Name and Headquarters

Section 1. This organization shall be known as the National Treasury Employees Union.

Section 2. The National Headquarters of this organization shall be maintained in Washington, D.C., unless the National Executive Board shall, by two-thirds (⅔) vote, establish another location in the Washington, D.C., metropolitan area.

Article II — Constitution

Section 1. This document shall be known officially as the Constitution of the National Treasury Employees Union, and it shall also be the Constitution of every affiliated Chapter or Joint Council as described in Article IV of this Constitution.

Section 2. Each Chapter may adopt Bylaws, no part of which shall be in force if they are contrary to or in conflict with the provisions of this Constitution.

Article III — Objects

Section 1. The objects of this national organization shall be to organize into units of exclusive recognition, employees of the Federal government who perform work similar to that performed by Department of Treasury employees, and who share similar goals, objectives, problems, and concerns of those experienced by employees in the Department of Treasury; to provide assistance to organizations whose primary purpose is to provide representational services to employees of the Federal government who are excluded from coverage under Chapter 71 of Title V of the U.S. Code; and to organize employees of the private sector who are assuming work previously performed by the Federal employees represented by NTEU; to represent their interests through collective bargaining and other appropriate means; to improve working conditions through cooperation with appropriate agencies; to improve employee-management relations; and to promote high professional standards on the part of employees and management alike.

Article IV — Organization ID#: 163

Section 1. The National Treasury Employees Union shall be organized by NTEU districts and these in turn by local Chapters throughout the United States, and may include Chapters outside the United States.

Section 2. All members of the local Chapters are also members of the National organization and subject to the orders, rulings, and decisions of this national organization.

Section 3. All Chapters must be issued a charter by the NTEU National Headquarters which will contain a description of the Chapter's jurisdiction as defined in the charter by the National President based on the following:

- (A) No Chapter's jurisdiction will include employees from two different agencies;
- (B) No Chapter may have overlapping jurisdiction of the same employees, except in the case of a Joint Council as created pursuant to Section 9 of this Article.
- (C) The definition of a Chapter's jurisdiction will be based on geography with the following exceptions:
 - (i) in the case of existing single function Chapters (e.g., Chapters 90, 101, 251 and 253) which will be based on geography and function; and
 - (ii) in the case of nationwide single agency Chapters (e.g., Nuclear Regulatory Commission, Federal Communications Commission, Office of Hearings Operations, Farm Production and Conservation Business Center, Securities and Exchange Commission and National Credit Union Administration) which will be based on agency.
 - (iii) Following a successful organizing campaign involving employees previously represented by another union, the National President may continue to recognize the Chapter jurisdictional structure which existed within the previous union and delay implementation of the NTEU geographic jurisdictional structure for a period of time deemed appropriate by the National President to permit a positive transition into the NTEU geographic jurisdictional structure.
 - (iv) During the transition period identified in (iii) above, impacted Chapters will form and operate as a Joint Council of Chapters by written agreement and at their own expense for the purpose of representing employees and/or collective bargaining of local issues with the appropriate officials within their geographic area of authority.

Section 4. Except for Chapters composed of employees who are legally precluded from having a labor organization represent them as their exclusive representative, a Chapter will have the responsibility of representing all employees within its jurisdiction. Chapters composed of employees who are legally precluded from having a labor organization represent them as their exclusive representative will only be responsible for representing NTEU members.

Section 5. The National President may realign the jurisdiction of existing NTEU Chapters, provided the NTEU Chapter members who seek realignment, and the Chapter into which they seek to be realigned, each by majority vote, ratify the proposed realignment of jurisdiction.

Section 6. All applications for charters must be in writing and signed by not less than five (5) employees.

The National President will grant the application and define the prospective Chapter's jurisdiction consistent with Section 3; provided, however, the National President may grant a charter for a Chapter formed from the jurisdiction of an existing Chapter so long as those NTEU Chapter members who would be in the jurisdiction of a newly created Chapter have voted by majority vote in support of the proposed Chapter.

Section 7.

- (A) Each Chapter shall establish procedures for its own internal government, the maintenance of complete books and records, and the election of officers, including a Chapter President, a Secretary, a Treasurer, or the position Secretary-Treasurer, such elections to be held and conducted in accordance with the provisions contained in Part IV of the Bylaws. The books of account and other records of each Chapter shall, on reasonable notice, be made available for inspection by a duly authorized representative of the National President or the National Executive Board.
- (B) Each Chapter shall conduct an annual audit of its books and records to be completed no later than six (6) months following the close of the Chapter's reporting year.
- (1) The audit shall, at minimum, include a reconciliation of income to the Chapter by examining original Chapter bank statements, NTEU Headquarters disbursements to the Chapter, and Chapter disbursements as expenses.
- (2) The audit shall be conducted by someone other than a current elected Chapter officer or steward and the auditor(s) will be selected by the Chapter executive board.
- (3) The person(s) conducting the annual Chapter audit shall send to the NTEU Administrative Controller no later than six (6) months following the close of the Chapter's reporting year, a certification that the Chapter records have been audited, including, but not limited to:
- petty cash
 - bank reconciliations
 - expense disbursements, invoices and receipts
 - canceled checks
 - listing of all payments to the Chapter by the NTEU National Office.
- (C) Any funds from a defunct NTEU Chapter shall be the property of NTEU and shall be paid over to NTEU.

Section 8. Each Chapter shall be given an identifying number and shall have full authority to employ all insignia of this organization and to promote its policies and objectives.

Section 9. Any two (2) or more Chapters may form and operate as a Joint Council of Chapters by written agreement and at their own expense, for the purpose of representing employees and/or collective bargaining of local issues with the appropriate officials within their geographic area of authority.

Article V — Membership ID#: 165

Section 1. All employees, former employees, and retirees (as defined in Part VII of the By-laws) of the Federal government or employees of the private sector who are assuming work previously performed by the federal employees represented by NTEU, or employees or retired national officers of NTEU are eligible for membership in this organization, regardless of race, color, religion, sex, national origin, age, disability, marital status, or sexual orientation.

Section 2.

- (A) An eligible employee seeking to join NTEU may only join the Chapter in whose jurisdiction the employee's assigned post of duty is found.
- (B) The NTEU membership of an employee who is transferred by the employer from the jurisdiction of one Chapter to the jurisdiction of a second Chapter will be transferred to, and dues will be paid to, the second Chapter. NTEU Chapters may not impose any fees on an NTEU member who changes membership from one Chapter to another.
- (C) NTEU bargaining unit members whose statutory rights to form, join or assist a labor organization are eliminated by Executive Order, or Congressional action, may continue to be members of NTEU and the Chapter in whose jurisdiction their post of duty was located immediately preceding the effective date of the Executive Order or Congressional action.

Section 3. Nothing in this Constitution shall prohibit the Chapters from accepting as non-voting Chapter members those individuals who are not otherwise eligible for membership in this organization; provided, however, that such nonvoting Chapter members shall enjoy none of the privileges of NTEU membership as set out in this Constitution and shall not be members of the national organization.

Article VI — Per Capita Dues

Section 1. National per capita dues shall be paid by each member to the national organization at the rate established by vote of the delegates at a regular or special National Convention, and as set forth in Section 1 of Part I of the Bylaws.

Section 2. Per capita dues shall be withheld at the national level or, if paid on a cash basis, paid directly to the National Headquarters Office. The National Headquarters office shall remit each Chapter's portion of dues to the Chapter.

Article VII — Governing Body

Section 1. The national organization shall be governed by its membership in the following manner:

- (A) The highest tribunal shall be the National Convention, composed of delegates democratically elected by the membership of local Chapters. The laws and policies of this organization shall be those adopted by the National Convention.

- (B) Between National Conventions, the highest authority shall be the National Executive Board, which shall promulgate and implement the laws and policies of this organization. The Board shall hold regular meetings twice annually and such special meetings as are required.
- (C) The administrative and executive authority of the national organization shall be vested in the National President. The National President shall be responsible to the National Executive Board for the administration of the organization in accordance with the provisions of the Constitution, the resolutions adopted by the National Conventions, and by the decisions of the National Executive Board. The President will promptly inform the Board in writing of their actions affecting major policy for its ratification or rejection.

Article VIII — Conventions

Section 1.

- (A) This organization shall meet in Convention biennially in a location determined by those delegates voting on the issues of the Convention site which shall be selected four (4) years in advance.
- (B) Any delegate may nominate a Convention site to be considered. This will be done by submitting the name of the site to the Nominations and Elections Committee by 5:00 p.m. on the first day of the Convention. A nominated site must have at least one union-staffed hotel with five hundred (500) sleeping rooms and meeting space adequate to accommodate our Convention needs. All nominated sites meeting these criteria will be submitted to the delegates for a vote.
- (C) If no site receives a majority vote on the first ballot, thereby becoming the preferred site, a second ballot will be conducted between the two sites receiving the highest and second highest number of votes. The site receiving the second greatest number of votes when the preferred site is selected shall be considered the alternate site.
- (D) Thereafter, the National President will be authorized to solicit bids from the preferred and alternate sites and make a final selection. Should the National President find that the preferred and alternate sites are inadequate for the union's needs or not economically competitive with comparable sites, they may select a site other than the preferred or alternate site. However, prior to doing so, they must notify the members of the NTEU National Executive Board of the intended site and the reasons for doing so.

This notice will be delivered by overnight, certified, return receipt mail. Unless more than one-third ($\frac{1}{3}$) of the members of the Board object to the National President's decision by overnight, certified, return receipt mail within seven (7) calendar days of receiving the National President's notice, the National President may select the intended site. If more than one-third ($\frac{1}{3}$) object, the National President may submit the issue to the next regular meeting of the NTEU National Executive Board for final decision.

Section 2. At each National Convention, each Chapter shall be entitled to a total vote determined in accordance with the following schedule:

Chapter Membership	Total Vote Entitlement
1 to 10 members inclusive	1 vote
11 to 50 members inclusive	2 votes
Over 50 members	1 additional vote for each 50 members or fraction thereof

Article IX — National Executive Board

Section 1. The National Executive Board shall be composed of a National President, a National Executive Vice President, and the National Vice Presidents to be elected by the Chapters within each of the following NTEU Districts:

1. Internal Revenue Service, states of Arkansas, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Kentucky, Tennessee, Virginia, and West Virginia; Puerto Rico.
2. Internal Revenue Service, states of, Indiana, Delaware, Maryland, Pennsylvania, Ohio, Michigan, and the District of Columbia, including Chapter 65 (IRS Headquarters); and Chapter 251 (Office of Chief Counsel).
3. Internal Revenue Service, states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York and New Jersey, including Chapter 90 (Appeals).
4. Internal Revenue Service, states of Texas, Missouri, Kansas, Oklahoma, Wisconsin, Nebraska, Iowa, Illinois, North Dakota, South Dakota, and Minnesota.
5. Internal Revenue Service, states of California, Arizona, New Mexico, Nevada, Colorado, Montana, Washington, Oregon, Idaho, Utah, Wyoming, Hawaii, and Alaska.
6. Internal Revenue Service Campus/Service Centers, Andover, MA; Brookhaven, NY; Philadelphia, PA; Martinsburg, WV; Memphis, TN.
7. Internal Revenue Service Campus/Service Centers, Covington, KY; Atlanta, GA; Detroit, MI; Kansas City, MO.
8. Internal Revenue Service, Campus/Service Centers, Austin, TX; Fresno, CA; Ogden, UT.
9. All Chapters representing employees in the following agencies: Consumer Financial Protection Bureau, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and Securities and Exchange Commission.
10. All Chapters representing employees in the following agencies: Alcohol, Tobacco, Tax and Trade Bureau—Department of Treasury, Bureau of the Fiscal Service, Bureau of Engraving and Printing, Patent and Trademark Office, Environmental Protection Agency, National Park Service, Treasury—Departmental Offices, Federal Election Commission, Federal Communications Commission, Department of Energy, Nuclear Regulatory Commission and Bureau of Land Management.

11. All Chapters representing employees in the following agencies: Health and Human Services, Food and Drug Administration, Office of Hearings Operations, Health Resources and Services Administration, Substance Abuse and Mental Health Services Administration, National Center for Health Statistics, Food, Nutrition and Consumer Service, and Farm Production and Conservation Business Center.
12. All Chapters composed of employees of the Department of Homeland Security, U.S. Customs and Border Protection on the southwest United States border in the states of Texas (excluding Dallas and Houston), New Mexico, Arizona, and the following California locations: San Diego, San Ysidro, Otay Mesa, Tecate, and Calexico.
13. All Chapters composed of employees of the Department of Homeland Security, U.S. Customs and Border Protection in Hawaii, Alaska, Washington, Oregon, California (excluding those locations specified in District 12), Nevada, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Alberta, British Columbia, Manitoba, and Guam and employees of the Department of Defense in Hawaii.
14. All Chapters composed of employees of the Department of Homeland Security, U.S. Customs and Border Protection in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Ontario, Quebec, Nova Scotia, Ireland, and Abu Dhabi.
15. All Chapters composed of all employees of the Department of Homeland Security, Federal Law Enforcement Training Centers, and employees of the Department of Homeland Security, U.S. Customs and Border Protection in the District of Columbia, Maryland, West Virginia, Virginia, North Carolina, Tennessee, Arkansas, Mississippi, Louisiana, Alabama, Georgia, South Carolina, Florida, Oklahoma, Dallas and Houston, TX, Puerto Rico, the Dominican Republic, Aruba, the Virgin Islands, the Bahamas, and Bermuda.

Section 2. The Board shall convene for regular meetings twice annually at a time and place designated by the National President. Each member of the Board shall receive a printed agenda of all matters to come before it at least fourteen (14) calendar days prior to any meeting. Emergency items which are not on the agenda may be considered with the approval of two-thirds ($\frac{2}{3}$) of the Board members present and voting. The budget will be a permanent line item on the agenda and never considered as an emergency matter.

Section 3. On written request of two-thirds ($\frac{2}{3}$) of the members of the National Executive Board, the National President shall call a special meeting of the Board at National Headquarters. Such special meetings must be convened within thirty (30) days after receipt of the request of the two-thirds ($\frac{2}{3}$) majority.

Section 4. The Board will engage a Certified Public Accountant or Accountants to audit the accounts of this organization immediately following the close of each fiscal year. A copy of the accountant's report will be furnished to all members of the Board and to all of the Chapter Presidents.

Section 5. The Board may, by a two-thirds (2/3) vote, suspend or remove from office the National President or any member of the National Executive Board for malfeasance, misconduct, dereliction of duties, or failure to carry out the legitimate objectives or policies of this organization, but only after preferment of formal charges in writing, either by any member of the Board, or by any elected officer of a local Chapter. The Board will send by certified mail to the accused a detailed statement of the charges brought against the accused and will provide them with an opportunity for a full and fair hearing of such charges, provided that a request for a hearing is filed in writing with the Administrative Controller within thirty (30) days after the date of the statement of charges mailed to the accused. After a proper hearing as provided above, the decision of the Board shall be final and binding on all parties unless set aside by the next National Convention.

Section 6. The Board shall consider a decision by the National President to seek exclusive recognition among employees of the Federal government who are not employees of the Department of Treasury at its next scheduled meeting.

Section 7. All staff position appointments shall be made on a nondiscriminatory basis, to ensure that the National Treasury Employees Union qualifies as an Equal Opportunity Employer.

Article X — National Officers

Section 1. The National Officers of this organization shall be a full-time National President and National Executive Vice President elected at a National Convention, and the National Vice Presidents elected by the Chapters in each of the NTEU Districts in Section 1 of Article IX.

Section 2. The term of the National President and the National Executive Vice President shall be four (4) years after election at a regular National Convention as provided in Section 3(A) of Part III of the Bylaws. The term of the National Vice Presidents shall be two (2) years after election as provided in Section 3(B) of Part III of the Bylaws.

Article XI — National President

Section 1. The National President shall preside at all sessions of the National Convention and the National Executive Board. The National President shall enforce the laws, rules, and policies of this organization; call regular and special meetings of the National Executive Board; approve all official publications issued by this organization; and perform all other duties as are necessary to protect and advance the interests of the national organization, and shall report their activities to the general membership through the official publication.

Section 2. The National President shall carry out the instructions of the National Executive Board and have full authority to direct the operations of this organization within the framework of this Constitution, Bylaws, and the policies of this organization.

Section 3. The National President shall not receive such legal, technical, or professional help as is necessary to efficiently operate this national organization, subject to any budgetary limitations imposed by the National Executive Board.

Section 4. The National President shall decide disputes or questions in controversy, including all questions involving interpretation of this Constitution, all of their decisions being subject to appeal, first to the National Executive Board, then to the National Convention. Notice in writing of appeal of any decision of the National President must be received by the National Headquarters Office within thirty (30) days from the date of decision.

Section 5. Subject to the approval of the National Executive Board at its next meeting, the National President may expend NTEU resources and provide legal, technical, or professional assistance to establish and to run an organization whose primary purpose is to provide representational services to Federal employees who are excluded from coverage under Chapter 71 of Title V of the U.S. Code.

Article XII — National Executive Vice President

Section 1. The National Executive Vice President shall serve as a full-time officer of NTEU.

Section 2. The National Executive Vice President shall serve in the office of National President if the National President dies, resigns, is removed from office, or is unable to serve for any reason.

Section 3. The National Executive Vice President shall serve as a member of the National Executive Board and shall perform such other duties as are assigned by the National President.

Article XIII — National Vice Presidents

Section 1. A National Vice President shall be elected by each of the NTEU Districts as set forth in Section 3(B) and Section 5(A)(2) of Part III of the Bylaws. A National Vice President's area of responsibility shall be coextensive with that set forth in Article IX, Section 1.

Section 2. The District structure of the Union shall not be modified between Conventions due to restructuring within individual agencies. However, the National President, with the approval of the Executive Board, shall have the authority to assign newly formed Chapters to a District.

Section 3. In addition to their responsibilities as members of the National Executive Board, the National Vice Presidents shall have authority to assist with all organizational work of the Chapters and to carry out the policies and objectives of this organization within their respective NTEU District. Each National Vice President shall promptly report to the National President any evidence of misconduct or failure to implement national policy on the part of any subordinate NTEU official; they can initiate removal of Chapter Officers for malfeasance,

violation of policies, or neglect of duties in accordance with the provisions of Section 2 of Article XVIII; they may visit and examine each Chapter in their NTEU District and submit a report on each Chapter to the Board at least once each year; they must approve the program of any conference of the Chapters within their NTEU District; they will perform such other related duties as requested by the National President or the National Executive Board.

Article XIV — Administrative Controller

Section 1. The Administrative Controller shall be the custodian of the funds of this organization. The Administrative Controller shall deposit sufficient funds of the organization in some responsible bank or banks to meet current obligations of the organization and shall invest the remainder of the funds under such procedures and standards as determined from time to time by the National President.

Section 2. The Administrative Controller shall keep and maintain the books of account under a double entry system for the national organization, which books and records shall be produced for audit or inspection on request of the National Executive Board. The Administrative Controller shall prepare an annual financial report which shall be distributed to the general membership by means of the official publication.

Section 3. The Administrative Controller shall have charge of and preserve all books, documents, and effects of the National Headquarters; they shall pay all bills and current expenses unless otherwise ordered by the National President. All expenditures shall be paid by checks countersigned by the National President, when the latter is satisfied of their correctness, provided, however, checks may contain a facsimile signature of the National President.

Section 4. The Administrative Controller shall furnish a surety bond to this organization in an amount to be determined by the National President. This organization shall pay the premium on the bond.

Article XV — Ratification of Term Agreements

Section 1. All Term Agreements negotiated at the national level except those which, in whole or in part, are the subject of binding action by the Federal Service Impasses Panel shall be subject to ratification by the membership of the Chapters in the unit affected.

Section 2. The National President shall inform the Chapter Presidents in the unit affected when agreement has been reached on a Term Agreement. The Chapter President shall schedule a special Chapter meeting within thirty (30) days after receipt of the notification unless NTEU's dues-withholding agreement has been terminated, in which case the meeting shall be scheduled in five (5) days. The Chapter President shall immediately notify the National President by facsimile, email, telegram or some form of overnight mail delivery of the results of the ratification vote.

Section 3.

- (A) A majority vote based on the vote entitlement of the Chapters in an affected unit shall constitute acceptance of the Term Agreement.
- (B) Term Agreements covering employees in a nationwide single agency Chapter will be ratified when a majority of the members of the Chapter present and voting in the meeting set forth in Section 2 above vote in favor of the Agreement.

Article XVI — Committees

Section 1. The National Executive Board is authorized to establish any necessary standing and convention committees. Appointments to these committees will be in accordance with the provisions of Section 2 of Part II of the Bylaws.

Section 2. The National President shall create as many special committees as the National President may deem necessary for the effective implementation of NTEU objectives, which committees shall furnish counsel and information to the National President and the Board.

Section 3. Unless otherwise expressly authorized by the Board, the authority of any committee shall not extend beyond that of fact-finding for the purpose for which it was created. The committees will not create policy for or implement existing policies of this organization. The committees will be responsible only for reporting their findings and recommendations to the Board and the National President.

Article XVII — Administration in Emergencies

Section 1. Where necessary to:

- (A) Prevent or correct corruption or financial malpractice, or
- (B) Assure the performance of collective bargaining agreements or other duties as a bargaining representative, or
- (C) Restore democratic procedures with any Chapter,
- (D) Prevent officers from advocating, encouraging or participating in any rival unionism or secession from the National Treasury Employees Union; or
- (E) Otherwise assure carrying out the legitimate objectives of this national organization by a Chapter or Chapter Officer, the National Executive Board by a two-thirds (2/3) vote of the entire Board may, after the preferral of sworn charges by certified mail on the accused and an opportunity provided to the accused to appear in person and present witnesses at the expense of the National Headquarters, reorganize or disband the Chapter, revoke the Charter, suspend any Officer or Officers from office, expel the accused from membership, and/or take over supervision of the Chapter until its affairs have been properly adjusted. In such event, the Board shall designate one of its members as administrator who shall have full authority over and supervision of all functions of the Chapter and may suspend any or all Officers as directed by the Board or in the administrator's own discretion where they believe is necessary to ac-

compish the purposes of the administration. The administrator may utilize such staff assistance as they deem advisable, and the National President approves, in the discharge of the administrator's responsibilities under this Article.

Article XVIII — Offenses, Trials, and Appeals

Section 1.

- (A) If a member alleges any other member has committed an act or offense as described in Article XVII; alleges a member has committed serious malfeasance, serious misconduct, or significant dereliction of duties; or alleges a right guaranteed by law or Executive Order to members has been denied, the Chapter in which the accused is either a member or Officer shall be the court of original jurisdiction. Serious malfeasance, serious misconduct or significant dereliction of duties is conduct that is done willfully with a wrong intention.
- (B) Whenever sworn charges are preferred against a Chapter member, the charges shall be filed within sixty (60) days of the date the member is alleged to have committed the act or offense, or within sixty (60) days of the date the offense was discovered if an offense involved financial irregularities, whichever is later, with the Chapter Secretary, who shall in turn send by certified mail within forty-eight (48) hours of receipt a copy of the charges to the accused. The accused shall be provided with an opportunity for a hearing before a special meeting of the Chapter at which the accused may appear in person and present witnesses. The member or officer who is the subject of charges may not preside over the hearing of the charges. The Chapter Executive Board will take the steps necessary to schedule and announce the special meeting to take place no later than sixty (60) calendar days following receipt by the accused of the sworn charges. At the conclusion of the hearing, the Chapter may, by a majority of its members voting, acquit, suspend, or expel the accused from its membership and order repayment of Union funds it concludes were expended in a manner inconsistent with the local Chapter Bylaws, NTEU Constitution and Bylaws and/or applicable statutes or regulations.
- (C) If a member of an NTEU bargaining unit alleges that the National President has committed an act or offense as described in Article XVIII, the member must prefer sworn charges against the National President by filing them against the National President within sixty (60) days of the date the National President is alleged to have committed the act or offense.
 - (1) The charge shall specifically identify the action, decision or procedure which forms the basis for the charge.
 - (2) The National President shall consider all evidence submitted by the complainant and make such investigation as the National President shall deem necessary.
 - (3) The National President shall render a decision within forty-five (45) days from the receipt of the charge.

- 174
- (4) The complainant may appeal the decision of the National President, within thirty (30) days, to the next meeting of the National Executive Board, whose decision shall be final and binding unless set aside by the next National Convention. To be timely, an appeal to the next National Convention must be received, in writing, by the National President within thirty (30) days following receipt of the decision of the National Executive Board.

Section 2. In the event a Chapter fails to take action against any of its members, or if the Officers of a Chapter are involved in any action or procedure deemed to be inimical to the best interests of this organization, the National Vice President of the District in which the Chapter Officers or members are located, or the National President, may issue an order to cease and desist such activities. Failure to comply with such order shall be reason for the immediate preferral of charges against them or it to the National Executive Board, which then may take action against such person or Chapter as prescribed in Section 1 of Article XVII.

Section 3.

- (A) Any Chapter Officer or member against whom charges are sustained by a vote of the Chapter, under Section 1 of this Article, may appeal such decision to the National President, provided such appeal, which shall be in writing, is received within four (4) business days after the adverse action is taken or, if the accused refused to attend the hearing, after the officer or member is so notified in writing, by personal service or by overnight delivery by a service with tracking capability. If notification is refused, the appeal filing period shall commence at the time of refusal. The decision of the Chapter will be implemented pending the outcome of any appeals filed pursuant to subsections (B), (C), and (D) of Section 3.
- (B) The National President shall consider all evidence submitted by the appellant, and make such investigation the National President shall deem necessary, and render a decision within thirty (30) days of receipt of the investigative file.
- (C) The appellant may appeal the decision of the National President to the National Executive Board, whose decision shall be final and binding on all parties unless and until set aside by the next National Convention. To be timely, an appeal to the National Executive Board must be received, in writing, by the National President within thirty (30) days following the date of the letter notifying the appellant of the decision of the National President. To be timely, an appeal to the next National Convention must be received, in writing, by the National President within thirty (30) days following the date of the letter notifying the appellant of the decision of the National Executive Board.
- (D) Any Chapter Officer or member suspended or expelled by a vote of the National Executive Board after a proper hearing under Section 2 of this Article, may appeal such decision to the next National Convention. To be timely, an appeal to the next National Convention must be received, in writing, by the National President within thirty (30) days of the date of the written decision of the National Executive Board, which shall be the date the decision is mailed.

Section 4. Every member or Officer against whom adverse rulings or decisions have been rendered or who claims to be aggrieved shall be obliged to exhaust all remedies provided for in this Constitution and Bylaws before resorting to any court, tribunal, or agency.

Article XIX — Compensation of Officers

Section 1. The salaries of the National President and National Executive Vice President will be set as follows: A six (6)-step salary will be established for each position, with the respective salaries of each position as of August 5, 2013 as the salary of the top step. There will be five lower steps, each 3% less than the immediately higher step. The starting salary of newly-elected National Presidents and National Executive Vice Presidents shall be at the salary step immediately above the salary they earned in the Federal or NTEU position held before election. There shall be a one (1) year waiting period at steps one (1), two (2), and three (3) before the salary is increased to the next step. There shall be a two (2) year waiting period at steps four (4) and five (5) before the salary is increased to the next step. The salary level at each of the six (6) salary steps for the National President and the National Executive Vice President shall be adjusted by, and effective at the time of, all annual percentage adjustments received by General Schedule Federal employees, including locality pay increases that are granted to Washington, D.C., General Schedule employees pursuant to the Federal Employees Pay Comparability Act.

Section 2. The National President, National Executive Vice President, and all staff members attached to the National Headquarters shall be eligible for participation in life insurance programs, retirement plans, and such other perquisites of office as are approved by the National Executive Board.

Article XX — Official Publication

Section 1. The official publication shall be known as the NTEU Bulletin.

Article XXI — Amendments

Section 1. This Constitution may be amended only by a two-thirds ($\frac{2}{3}$) ballot vote of the votes cast at any National Convention.

Section 2. Amendments must be submitted so as to reach the Administrative Controller of the organization not less than sixty (60) days prior to the date of the National Convention, and the same shall have been printed in the next official publication to be distributed to the membership following that submission deadline.

Section 3. A proposed amendment to the Constitution that has not complied with the requirements of “notice and publication” as set forth in Section 2 above may be considered for adoption by the National Convention after a three-fourths ($\frac{3}{4}$) vote by the National Convention to accept such proposed amendment for consideration.

Article XXII — Constitution Effective Upon Adoption

Section 1. This Constitution, and any amendments thereto, unless otherwise provided by the National Convention adopting same, shall become effective immediately upon adoption.

Bylaws of the National Treasury Employees Union

Part I — Dues and Funds

Section 1. Dues

- (A) How Prescribed—Annual national per capita dues shall be paid by each member at the rate established by majority vote of the delegates at a regular or special National Convention.
- (B) Per capita payment for each Chapter shall be at the following rate for each Chapter member:
 - (1) Dues withholding member: That percentage reflected for employees on the GS, FDIC, SEC, OCC, NCUA, CFPB, and CFTC charts below shall be withheld from the base pay each biweekly pay period.
 - (2) Cash pay member: The amount shall be equal to the amount paid by a dues withholding member on an annual basis.
 - (3) Dues for all hourly wage employees, e.g., WG, WD and WN, will be equal to the percentage paid by GS employees earning the same hourly rate.
 - (4) Any flat-rate dues chart shall be increased annually by the average annual adjustment in rates of basic pay for employees under sections 5303 and 5304 of Title 5, United States Code.
 - (5) Retirees, former employees, retired National Officers, and employees of NTEU:
 - (a) The total amount of dues paid by retirees, former employees, retired National Officers, and employees of NTEU will be forty-two dollars (\$42.00) per annum, all of which will be billed and collected by the NTEU National Headquarters Office and ten dollars (\$10.00) per annum per member will be refunded to NTEU Chapters as Chapter retiree dues.
 - (b) A retiree who elects to have dues withheld from a Federal annuity will pay three dollars and fifty cents (\$3.50) per month and eighty-four cents (\$.84) per month per member will be refunded to NTEU Chapters as Chapter retiree dues.
 - (c) Retiree members who have been members of NTEU for fifty (50) years will be considered NTEU members for life and exempt from paying dues.
 - (6) Members-at-Large: \$35.00 per annum
 - (7) In the case of a new member, as defined in Section C of Part VII of the Bylaws, who joins during the fiscal year and elects to pay dues on a cash basis, an initial

cash dues payment equal to six (6) months dues is required. The annual per capita dues will be prorated on a monthly basis for the fiscal year in which the employee becomes a member. The six (6) months initial dues payment will pay the dues for their first six (6) months of membership. A fraction of a month will be counted as a full month. Members-at-Large dues are not prorated. The full annual dues are due regardless of when the Member-at-Large becomes a member.

- (8) The National President is hereby authorized to calculate the dues that shall be paid by (1) members in bargaining units who choose NTEU as their representative after August 2003 and who are paid different base pay rates than those that form the basis for the Chapters contained in Part I, Section 1 of NTEU's Bylaws and (2) members who are employees of agencies that may in the future implement a pay scale that is different from the pay scales that form the basis for the charts contained in Part I, Section 1 of NTEU's Bylaws. The National President shall calculate the dues of the employees described above by applying the percentages or average of the percentages established for base pay rates in this section that are the closest equivalent to the pay rates of the employees described above. Any dues calculated pursuant to the authority granted in this section shall be incorporated into a chart that shall be submitted for inclusion in Part I, Section 1 of the NTEU Bylaws at the next National Convention after the dues are calculated.
- (9) In the event that statutory dues withholding is modified, the National President shall have the authority to implement a different dues withholding system than that established pursuant to this section. The different system shall be subject to ratification by the National Executive Board and shall remain in effect until superseded by a dues system adopted at a subsequent National Convention.
- (10) At the discretion of the National President, members in currently organized bargaining units who (1) choose to affiliate with NTEU and (2) are paid base pay rates that correspond to those that form the basis for the agencies contained in Section 1 of this Part may, for the first two (2) years after commencement of dues payments to NTEU, pay dues at a different rate than specified in Section 1. Beginning the first full pay period following the end of that two-year period, these members shall pay the dues set forth in the applicable dues chart.

(C) Method of Payment:

- (1) The per capita payments shall be made to the National Headquarters Office at the beginning of each fiscal year except for those members who are on dues withholding, who remit dues on their payroll direct debit program, who remit dues through periodic electronic funds transfers, or who remit dues through periodic credit card payments. The National Headquarters Office shall issue renewal bills to all members who are not on dues withholding or a payroll direct

continued on page 23

**GS and Hourly Wage employees earning the same amount
Biweekly dues = percentage of base pay for each grade and step noted**

	STEP									
	1	2	3	4	5	6	7	8	9	10
1	0.01310	0.01272	0.01238	0.01207	0.01182	0.01168	0.01140	0.01115	0.01114	0.01092
2	0.01190	0.01170	0.01138	0.01113	0.01105	0.01078	0.01050	0.01022	0.00998	0.00979
3	0.01110	0.01080	0.01047	0.01017	0.00992	0.00970	0.00950	0.00930	0.00914	0.00899
4	0.01000	0.00975	0.00951	0.00930	0.00911	0.00895	0.00884	0.00868	0.00850	0.00833
5	0.00920	0.00900	0.00885	0.00870	0.00849	0.00830	0.00815	0.00801	0.00788	0.00772
6	0.00860	0.00839	0.00820	0.00804	0.00790	0.00771	0.00753	0.00739	0.00723	0.00709
7	0.00800	0.00782	0.00761	0.00743	0.00726	0.00711	0.00698	0.00686	0.00672	0.00659
8	0.00740	0.00720	0.00705	0.00691	0.00677	0.00661	0.00648	0.00635	0.00626	0.00617
9	0.00690	0.00673	0.00657	0.00641	0.00630	0.00620	0.00611	0.00602	0.00589	0.00576
10	0.00640	0.00629	0.00618	0.00609	0.00597	0.00582	0.00569	0.00556	0.00545	0.00536
11	0.00610	0.00596	0.00579	0.00565	0.00552	0.00541	0.00530	0.00521	0.00512	0.00504
12	0.00530	0.00519	0.00509	0.00499	0.00488	0.00478	0.00467	0.00456	0.00447	0.00438
13	0.00470	0.00457	0.00447	0.00436	0.00425	0.00414	0.00405	0.00397	0.00389	0.00381
14	0.00410	0.00400	0.00391	0.00381	0.00372	0.00363	0.00355	0.00348	0.00342	0.00336
15	0.00360	0.00351	0.00344	0.00337	0.00330	0.00325	0.00321	0.00318	0.00316	0.00313

Federal Deposit Insurance Corporation (FDIC)
NTEU Percentage Dues Rates Based on Biweekly Salary
(Effective January 1, 2004)

	NATIONAL DUES PERCENTAGE
1	0.01019
2	0.00955
3	0.00870
4	0.00805
5	0.00740
6	0.00670
7	0.00620
8	0.00563
9	0.00542
10	0.00494
11	0.00434
12	0.00387
13	0.00360
14	0.00339
15	0.00324

CORPORATION GRADE

Office of the Comptroller of the Currency (OCC)
NTEU Percentage Dues Rates Based on Biweekly Salary

	NATIONAL DUES PERCENTAGE
1	0.00913
2	0.00744
3	0.00625
4	0.00539
5	0.00420
6	0.00353
7	0.00319

PAY BAND

Securities and Exchange Commission (SEC)
NTEU Percentage Dues Rates Based on Biweekly Salary

	NATIONAL DUES PERCENTAGE
1	0.011083
2	0.010118
3	0.009355
4	0.008600
5	0.007972
6	0.007374
7	0.006845
8	0.006372
9	0.005917
10	0.005597
11	0.005203
12	0.004550
13	0.003974
14	0.003527
15	—
16	0.003212
17	—

PAY BAND

National Credit Union Administration (NCUA)
NTEU Percentage Dues Rates Based on Biweekly Salary

	NATIONAL DUES PERCENTAGE
1	0.00970
2	0.00920
3	0.00873
4	0.00811
5	0.00768
6	0.00700
7	0.00650
8	0.00606
9	0.00566
10	0.00538
11	0.00488
12	0.00416
13	0.00368
14	0.00341
15	0.00332
16	0.00320

CU

Consumer Financial Protection Bureau (CFPB)
NTEU Percentage Dues Rates Based on Biweekly Salary

	NTEU DUES PERCENTAGE	
	BAND	
10		0.00924
21		0.00841
22		0.00766
30		0.00628
31		0.00691
32		0.00661
33		0.00603
40		0.00518
41		0.00568
42		0.00508
43		0.00456
51		0.00439
52		0.00391
53		0.00355
60		0.00353
71		0.00319

Commodity Futures Trading Commission (CFTC)
NTEU Percentage Dues Rate Based on Biweekly Salary

	NATIONAL DUES PERCENTAGE	
	CT GRADE	
1		0.00995
2		0.00885
3		0.00838
4		0.00772
5		0.00710
6		0.00655
7		0.00614
8		0.00578
9		0.00546
10		0.00500
11		0.00465
12		0.00399
13		0.00360
14		0.00335
15		0.00300

debit program at the beginning of each fiscal year. The payroll direct debit program is only available for employees excluded from coverage of Chapter 71 Title V. Retired or former employees will be permitted to pay dues on an annual basis, with payment due on October 1. All other members will be permitted to pay dues on an annual basis, with payment due on October 1, or on a quarterly basis, with payment due on October 1, January 1, April 1, and July 1 of each fiscal year. Per capita payments collected by a Chapter shall be forwarded to the National Headquarters Office.

- (2) Dues withholding for members on dues withholding, payroll direct debit, an electronic funds transfer, or a credit card debit program will be paid directly to the National Headquarters Office, which will then remit to the Chapter its share within ten (10) days.
- (3) If the total (National and Chapter) amount of per capita dues for those members who are not on dues withholding or a payroll direct debit program is fifty dollars (\$50.00) or more, the member will receive a quarterly dues notice, with payment due on October 1, January 1, April 1 and July 1 of each fiscal year. Payment to the Chapter will be made on a prorated basis.

Section 2. Funds

- (A) Funds may be raised by annual dues as set forth in Section 1 above.
- (B) Arbitration Costs—A Chapter shall pay one-half (½) of NTEU's share of an arbitrator's expenses and fees incurred in connection with any grievance filed by that Chapter. Should NTEU recover attorney's fees in connection with a grievance, the Chapter's share of the arbitrator's expenses and fees in that matter shall be refunded to the Chapter.

Part II — Committees

Section 1. Classification

The following committees are hereby provided:

- (A) The Convention Committees shall be:
 - (1) Committee on Resolutions
 - (2) Committee on Credentials
 - (3) Committee on Nominations and Elections
- (B) No later than the Spring meeting of the National Executive Board preceding a National Convention, the Board will appoint the Chairpersons of the Convention Committees identified in (A) above. Appointments of Committee members will be made as set forth in Section 2 below.
- (C) Special Committees: The National President may create and staff as many special committees as the National President may deem necessary to carry out the duties and responsibilities of the office, or as requested by the National Executive Board.

Section 2. Appointment of Members of Committees

The members of the Convention Committees will be appointed by the National President. The members of the Convention Committees will be selected as follows: Each National Vice President may nominate a maximum of three (3) members from within their District per Convention Committee. The National Executive Vice President may nominate a maximum of three (3) members of the organization per Convention Committee. The National President will then appoint as many members as the National President deems necessary to these Committees from the list of nominees submitted.

Section 3. Length of Service

Each committee shall serve from the date of its appointment as herein provided until the adjournment of the National Convention which it served.

Section 4. Expenses and Reimbursement Thereof

- (A) Members of the Committee on Resolutions will receive round trip transportation to the meeting of the Committee held at the convention site. They will receive per diem, as established by the National Executive Board, for the time they are in session, usually the week before the convention but not to exceed eight (8) days. The Chairperson and the Co-Chairperson of Convention Committees will receive a stipend of one hundred fifty dollars (\$150.00) in appreciation of their service. Members of these committees will receive a stipend of one hundred twenty-five dollars (\$125.00) in appreciation of their services.
- (B) The Chairpersons and members of Special Committees are to be reimbursed by the Administrative Controller for necessary travel and subsistence expenses incurred while attending National Executive Board meetings, National Conventions, or in conducting any official organization business authorized by the National Executive Board or the National President. The basis for such reimbursement shall be the same as the basis for reimbursement for traveling and subsistence expenses for National Officers as set forth in Part III, Section 8 below.

Section 5. Interim Vacancies

Any vacancy occurring in a committee shall immediately be reported by the Chairperson, or by any of the other members if the vacancy arises in the office of Chairperson, to the National President. Such vacancy shall then be filled by the National President. Appointment of the Chairperson is subject to the approval of the National Executive Board.

Section 6. Duties of Committees

- (A) Committee on Resolutions—Shall receive all resolutions submitted by the membership for consideration and evaluation. The Committee shall make a report to the National Convention on each resolution and its recommendations thereon.
 - (1) Each person who proposes a Constitutional Amendment or Bylaw Amendment may submit a written statement of up to two hundred seventy-five (275) words in favor of their resolution. Said written statements (including each person's name

and Chapter number) shall be printed verbatim, immediately after each respective resolution, in the Resolution Committee report to the National Convention.

- (2) Notwithstanding Part II, Section 6(A)(1) above, each person who proposes a Constitutional Amendment or Bylaw Amendment may elect not to submit a written statement or may specify that their written statement shall not be printed verbatim, immediately after said resolution, in the Resolution Committee report to the National Convention.
- (B) Committee on Credentials—The Committee shall certify the total vote entitlement of each Chapter pursuant to Part III, Section 5(A)(1)(b) and Section 5(A)(2)(b), and the Committee shall serve until all delegates have been properly accredited to the National Convention. In the event of a dispute between the Committee and a delegate as to the qualifications of the delegate, the National Convention will resolve the dispute by majority vote, which decision will be final. In no case may a telephone or telegraphic communication be accepted in lieu of certified credentials.
- (C) Committee on Nominations and Elections—Shall supervise the election procedures for the office of National President, National Executive Vice President, and National Vice President, and the counting of ballots cast, including the vote on the Constitutional Amendments, and report the results thereof to the National Convention. Its duties will also include the following:
 - (1) Certify that the candidates for the office of National President, National Executive Vice President, and National Vice President meet the qualifications required by Section 2 of Part III of the Bylaws.
 - (2) Determine that the provisions of Sections 2 and 4 of Part III of the Bylaws have been complied with by those running for the office of National President, National Executive Vice President, and National Vice President.
 - (3) Limit nomination speeches for National President, National Executive Vice President and National Vice President to not more than fifteen (15) minutes and seconding speeches to not more than five (5) minutes. No more than two (2) seconding speeches for any one candidate shall be permitted.

Part III — National Officers

Section 1. Designations

The National Officers of this organization shall be those as specified in Article X of the Constitution.

Section 2. Qualifications

- (A) Any member of this organization may be elected to any national office, except that NTEU staff persons may not be elected as an NTEU Chapter officer or National Vice President.
- (B) A candidate for national office must provide evidence of a continuing membership for at least two (2) years immediately prior to the candidate's election.

- (C) Nominees for the office of National Vice President shall be selected from the membership of the Chapters located within the NTEU District (as set forth in Section 1 of Article IX of the Constitution) which is conducting the election for such office.
- (D) No one shall be permitted to hold a position as an NTEU Chapter Officer while serving at the same time as an Officer in any other labor unions representing Federal employees.

Section 3. Terms and Posts of Duty

- (A) A National President-Elect and a National Executive Vice President-Elect shall be elected every four (4) years at a regular National Convention. Each shall assume office upon installation immediately following the close of the National Convention at which elected, serving thereafter until the installation of their successor. The National President's and the National Executive Vice President's post of duty will be at the National Headquarters Office in Washington, D.C.
- (B) A National Vice President-Elect shall be elected for a two (2) year term at each biennial National Convention. A National Vice President-Elect shall become a National Vice President upon installation at the National Convention at which they were elected. The National Vice President's post of duty will be their post of duty with the Federal government or their permanent residence if a retiree of the Federal government.

Section 4. Candidates for National President, National Executive Vice President, and National Vice President

- (A) To be elected, a member otherwise eligible to run for office must, in writing, self-nominate or accept a nomination. Nominations must be received by the Administrative Controller no less than sixty (60) days prior to the first day of the National Convention.
- (B) The Administrative Controller shall contact all nominees, other than self-nominees, in writing, by first-class mail and electronic mail, within ten (10) days of the receipt of the nomination. A nominee must indicate acceptance of the nomination, in writing, within fifteen (15) days of the date of notice from the Administrative Controller. A member nominated for more than one national office position may accept nomination and become a candidate for only one office. Acceptances may be submitted by first-class mail or electronic mail.
- (C) No later than ten (10) days after the deadline for receipt of all acceptances, the Administrative Controller shall provide each candidate with a listing of all candidates running for the same position. In addition, each candidate for the office of National President and National Executive Vice-President shall be notified of the opportunity to submit an autobiographical account of no more than five hundred (500) words and a personal photograph for publication in the official NTEU publication. The editor of the official NTEU publication shall have full discretion as to the size of the photograph that is printed; however, all candidates' photographs shall be of equal size. Each candidate for the office of National President and National Executive Vice

President shall also be notified of the opportunity to submit a campaign flyer which shall be printed by NTEU at NTEU expense, and mailed to all certified delegates thirty (30) calendar days prior to the Convention. Denunciation of other candidates and their policies shall be limited to the campaign flyers.

- (D) No later than ten (10) days after the deadline for receipt of all acceptances, the Administrative Controller will provide each Chapter President a listing of the National Vice President candidates in their NTEU District; provided, however that if there are at least two (2) bona fide candidates on the date of the election, willing and able to assume the office, nominations may not be made from the floor.

Section 5. Elections

- (A) Method—All elections of National Officers shall be by ballot, with the exception stated in 1(c) below, and will be conducted as follows:

- (1) Election of a National President and National Executive Vice President:

- (a) Ballots listing the names of all the candidates for these offices shall be distributed to a representative (duly certified by the Credentials Committee) of each Chapter of this organization in attendance at the National Convention. The total number of ballots distributed will be determined in accordance with the “Total Vote Entitlement” as provided in Sections 1 and 2 of Article VIII of the Constitution, each ballot representing one (1) vote.
- (b) The Chapter membership as set forth in Section 2 of Article VIII of the Constitution will be determined in accordance with a “certified Member Roster” which reflects all non-furlough members as of May 31 preceding the National Convention. The Certified Member Roster shall be prepared by the Administrative Controller and submitted to each Chapter. In addition, the Administrative Controller will submit to the Committee on Credentials a statement reflecting the total membership for each Chapter. Any discrepancies between the Certified Member Roster and Chapter records which affect the Total Vote Entitlement must be resolved by the Credentials Committee and the Chapter delegate or delegates before ballots are distributed to such Chapter. In the event agreement cannot be reached between said Committee and the affected Chapter, the Total Vote Entitlement for such Chapter will be decided by majority vote of the National Convention.
- (c) The ballots will be cast in the presence of the Nominations and Elections Committee. After all ballots have been cast, they shall be counted by the Nominations and Elections Committee. Each candidate may have one observer at each table where ballots are cast and counted. The candidate receiving a majority of the votes cast for the office of National President and of National Executive Vice President shall be declared elected thereto. If no candidate receives a majority of the votes cast in the first balloting, then a run-off election for such office shall be conducted immediately. In the event of a run-off election, the voting shall be on the two (2) candidates receiving the largest number of votes in the first balloting. In the event of a tie vote

ID# 188

in the second balloting. Balloting shall continue until one (1) candidate receives a majority of the total votes cast. When there is only one (1) nominee for the office of National President and of National Executive Vice President, a majority vote without ballot shall elect.

(2) Election of a National Vice President:

- (a) The Chapters within each NTEU District shall elect a National Vice President-Elect as provided by Section 1 of Article XIII of the Constitution.
- (b) The Administrative Controller will submit to the Committee on Credentials a statement reflecting total membership computed pursuant to Section 5(A) (1)(b).
- (c) NTEU staff persons shall, directly and indirectly, stay neutral in the election of all National Vice Presidents, the National President, National Executive Vice President, and all Chapter elections.

Section 6. Challenges to National Officer Elections

- (A) Any member who desires to challenge election conduct that occurs prior to the opening session of the National Convention shall file such challenge in writing with the National President. The challenge must be filed within ninety-six (96) hours of the occurrence of the alleged wrongful conduct or within ninety-six (96) hours of the date the alleged wrongful conduct was discovered, whichever is later. Pre-election conduct that is discovered more than ninety-six (96) hours after the close of the National Convention cannot, consistent with Section B below, be challenged.
- (B) Any member who desires to challenge election conduct that occurs after the opening session of the National Convention shall file such challenge in writing with the National President. The challenge must be received by the National President within ninety-six (96) hours of the close of the National Convention.
- (C) Challenges to any election for national office shall identify the action, decision or procedure that is being challenged, set forth the reason for the challenge, and identify how the action, decision, or procedure has affected the outcome of the election.
- (D) Upon receiving a challenge to the conduct of an election for national office, the National President will immediately notify the Chairperson of the Nominations and Election Committee and affected candidates that a challenge to the conduct of the election has been filed.
- (E) The National President shall consider all evidence submitted by the challenger and make such investigation as the National President shall deem necessary to ensure compliance with federal election laws, National NTEU Constitution and Bylaws, and the Rules of the Nominations and Election Committee. The National President shall render a decision in response to a challenge within sixty (60) days from receipt of the challenge.
- (F) The member who filed the challenge may file an appeal of the decision of the National President to the next meeting of the National Executive Board, whose decision shall be final and binding on all parties unless set aside by the next National Convention.

Appeals to the National Executive Board must be received by the office of the National President within thirty (30) days following the date of the decision issued by the National President. Appeals of the National Executive Board's decision must be received by the office of the National President within thirty (30) days following the date of the decision letter informing the member of the National Executive Board's decision.

- (G) A document is considered filed under this section when it is received by the Office of the National President.

Section 7. Successor to the National Executive Vice President

- (A) If the National Executive Vice President assumes the office of National President, dies, resigns, is removed from office, or is unable to serve for any reason, the resulting vacancy shall be filled in each case by a vote of all NTEU Chapters. The total voting strength of each Chapter for this purpose will be determined in accordance with Section 2 of Article VIII of the Constitution. For purposes of Section 2 of Article VIII, total membership of the Chapter will be as of the last day of the preceding fiscal year of this organization as certified by the Administrative Controller from the records of the National Headquarters Office or as certified at the preceding National Convention if such vacancy occurs after a National Convention and on or before the last day of this organization's fiscal year.
- (B) The election in (A) above will be conducted by the Administrative Controller by first class mail within ninety (90) days from the date the National Headquarters Office is notified of such vacancy. Each Chapter President may submit nominee(s) for the vacant office. Nominations must be in writing and must be received by the Administrative Controller by the deadline set forth in the Notice of Election and Nominations. If there is only one nominee, there shall be no necessity for the election of such nominee, and they shall be declared fully elected, effective as of the date by which nominations must be accepted. If more than two (2) candidates are nominated for the office, and no candidate receives a majority of the votes cast on the first ballot, then a run-off election for such office shall immediately be conducted. In the event of a run-off election, the voting shall be on the two (2) candidates who received the largest number of votes on the first ballot. A tie vote shall be decided by a majority vote of the National Executive Board. The National Executive Vice President so elected shall serve the unexpired term of their predecessor.
- (C) Should the National President die, resign, be removed from office or be unable to serve for any reason and should the National Executive Vice President be simultaneously unable to serve in the Office of the National President, as provided for in Article XII Section 2 of the Constitution, a special election shall immediately be conducted to fill both positions. The elections shall be conducted in accordance with subpart (A) and (B) of this section. During the ninety (90) day time period in which the special election is being conducted, the NTEU staff person reporting directly to the National President with the greatest seniority in the direct report position shall serve as interim National President.

Section 8. Successor to a National Vice President

- (A) If a National Vice President dies, resigns, is removed from office, or is unable to serve for any reason, the resulting vacancy shall be filled in each case by a vote of the Chapters within the NTEU District so affected. The total voting strength of each Chapter for this purpose will be as determined in accordance with Section 2 of Article VIII of the Constitution. For purposes of Section 2 of Article VIII, total membership of the Chapter will be as of the last day of the preceding fiscal year of this organization as certified by the Administrative Controller from the records of the National Headquarters Office, or as certified at the preceding National Convention if such vacancy occurs after a National Convention and on or before the last day of this organization's fiscal year.
- (B) The election in (A) above will be conducted by the Administrative Controller by first-class mail within ninety (90) days from the date the National Headquarters Office is notified of such vacancy. Each Chapter President may submit nominee(s) for the vacant office. Nominations must be in writing and must be received by the Administrative Controller by the deadline set forth in the Notice of Election and Nominations. If there is only one nominee, there shall be no necessity for the election of such nominee, and they shall be declared fully elected, effective as of the date by which nominations must be accepted. If more than two (2) candidates are nominated for the same office, and no candidate receives a majority of the votes cast on the first ballot, then a run-off election for such office shall immediately be conducted. In the event of a run-off election, the voting shall be on the two (2) candidates who received the largest number of votes on the first ballot. A tie vote shall be decided by a majority vote of the National Executive Board. The National Vice President so elected shall serve the unexpired term of their predecessor.

Section 9. Reimbursement for Traveling and Subsistence Expenses

- (A) The National Officers are to be reimbursed by the Administrative Controller for necessary travel and subsistence expenses incurred while attending National Executive Board meetings, National Conventions, or conducting any official organization business authorized by the National Executive Board or the National President. Such reimbursement shall be made on the following basis:
- (1) Each National Officer shall be allowed as reimbursement for travel expenses a sum equal to coach-class airfare from their post of duty (as defined in Section 3 of this part) to the place of the meeting and return.
 - (2) Each National Officer shall be allowed a daily subsistence expense in an amount to be determined by the National Executive Board at its last regular meeting prior to the National Convention, based from the time the National Officer must necessarily leave their post of duty to attend the meeting until the National Officer returns thereto, except that, when a portion of a day amounts to less than twelve (12) hours, they shall be allowed one-half (1/2) of the daily allowance for that portion. The term "daily," as used herein, means the statutory period of twenty-four (24) hours commencing at midnight.

- (3) The reimbursement provided by this section shall be made by the Administrative Controller as soon as possible after the Administrative Controller is notified in writing of the total expenses incurred by the National Officer in attending the meeting and/or in conducting authorized official organization business.
- (B) The Administrative Controller shall reimburse National Officers only for expenses actually incurred and accounted for.

Section 10. Conflict of Interest

The NTEU National President, National Executive Vice President, and National Vice Presidents shall for the duration of their term of office or appointment hold no other elected officer position within NTEU.

Part IV — Chapter Elections

Section 1. Candidates for Election

All candidates for election to any office in a Chapter and all persons who vote in a Chapter election must be a member in good standing of that Chapter; provided, however, if a Chapter authorizes the issuance of a proxy for purposes of representation at any National Convention or District Conferences, any member in good standing of NTEU who is eligible to serve as a delegate as set forth in Section 3 of this Part is eligible to serve as a delegate from the Chapter.

Section 2. Election of Chapter Officers

All elected Chapter Officers shall be selected in the following manner:

- (A) No less than forty-five (45) days prior to the scheduled election, a Chapter must send each member in good standing, by first class mail, at their last known address, a combined Notice of Nomination and Notice of Election which shall:
- (1) Identify the offices to be filled; and
 - (2) Provide that nominations must be submitted in writing and received by the Chairperson of the Nominations and Elections Committee by a specified date, which date shall be at least twenty-five (25) days prior to the scheduled election date; provided, however, a Chapter shall have the authority to authorize nominations and acceptance of nominations from the floor on the date of the scheduled election; and
 - (3) Specify the date, time and place of the scheduled election, or in the case of electronic/telephonic voting, the time period and manner in which votes must be cast.
- (B) The Chairperson of the Nominations and Elections Committee shall notify all nominees of their nominations for office.
- (C) A member otherwise eligible to run for office must self-nominate or accept a nomination to be placed on the ballot. A member nominated for more than one office position may accept nomination and become a candidate for only one office. Acceptance of a nomination must be made in writing by the date specified in the Notice of Nominations and Election, which date shall be no later than fifteen (15) days prior to

the scheduled election date, unless the Chapter has authorized nominations from the floor on the date of the election.

- (D) The election shall be held in accordance with the date, time, and place information specified in the Notice of Election, and the election shall be by secret ballot to be placed in boxes, unless the Chapter Executive Board has authorized the election to be conducted in collaboration with a service that offers electronic/telephonic voting that contains safeguards and controls necessary to assure compliance with applicable law and regulations, including secrecy of the ballot and the ability to independently check and verify the eligibility of members who voted. In the alternative, a mail referendum ballot procedure may be established to ensure that all members will receive a ballot, that an envelope is provided in which to place the ballot, that a return envelope is furnished in which to mail the ballot and which identifies the voter, that the confidentiality of the ballot is maintained, and that the ballots will be secure until counted.
- (E) The candidate for each office who receives a plurality of members' votes cast for that office shall be selected thereto. Where the nominee is unopposed, there shall be no necessity for the election of such nominee, and they shall be declared duly elected, effective as of the conclusion of the term of the previous incumbent.
- (F) The Chapter Secretary shall maintain for one (1) year all used, unused, and challenged ballots, envelopes used to mail marked ballots in the case of a mail ballot election, tally sheets, and related election documents and, in the case of an electronic/telephonic election, ensure that the election record is archived.

Section 3. Overdue Chapter Elections

Chapter elections that have not been initiated in the required time frame according to the NTEU chapter's bylaws, the NTEU National Constitution and Bylaws, and Department of Labor requirements shall commence in the following manner:

- (A) If a chapter has failed to initiate elections within the required time frame, the NTEU National President shall issue a notice to the Chapter President no later than ninety (90) days after the election deadline, informing them that the NTEU National will be initiating the chapter's elections at the chapter's expense.
- (B) The NTEU National office shall work with the existing election committee, if one has been selected by the chapter, or shall select an election committee to oversee the chapter's elections.
- (C) If the Chapter has not already selected an individual to serve as the Nominations and Elections Committee Chairperson by the time the notice of failure to hold chapter elections has been sent, the NTEU National President shall appoint a person to serve in that role.
- (D) The NTEU National office shall follow the procedures outlined in Part IV, Section 2. Election of Chapter Officers in conducting the chapter elections.
- (E) The NTEU National office may invoice the chapter for any expenses related to conducting the chapter elections on the chapter's behalf. The chapter shall provide reimbursement when requested within 180 days of receiving an invoice.

Section 4. Election of Chapter Delegates to the National Convention

- (A) A Chapter President and all Chapter Vice Presidents elected by the Chapter as a whole in accordance with Part IV of the Bylaws shall by virtue of such election be delegates to any National Convention which may take place during their term of office. In order for a Chapter's area or functional Vice Presidents to qualify as ex officio delegates, those individuals must be elected by the Chapter as a whole and their status as ex officio delegates must be specified in the Chapter's bylaws and the Notice of Nomination and Election.
- (B) A Chapter Executive Board may by majority vote increase the number of delegates to attend the National Convention, with the maximum number of allowable delegates equal to the vote entitlement as determined by Article VIII, Section 2, and the Chapter Executive Board shall determine how many, if any, alternate delegates shall be designated. If the Chapter Executive Board determines that additional delegates or alternate delegates are desired, they shall be selected by secret ballot at a Chapter meeting held upon fifteen (15) days' notice mailed to each member at their last known address, provided, however, they shall be selected in descending order of votes received, starting with the candidate receiving the highest number of votes.
- (C) If the combined total of all Chapter Vice Presidents plus the Chapter President who wish to attend the Convention is greater than the vote entitlement as determined by Article VIII, Section 2, the Chapter membership shall be given the opportunity to select from among such elected officers those persons who shall act as delegates to a National Convention with the maximum number of allowable delegates equal to the vote entitlement.
- (D) If no delegates will attend a National Convention, the Chapter membership will be given the opportunity to vote on whether or not to be represented and, if so, by whom, at a Chapter meeting held upon fifteen (15) days' notice mailed to each member at their last known address.
- (E) If the Chapter has decided to pay the expenses of a limited number of delegates, but more than that number wish to attend, the Chapter membership will be given the opportunity to select which delegates will receive reimbursement at a Chapter meeting held upon fifteen (15) days' notice mailed to each member at their last known address.

Section 5. Challenges to Elections

- (A) Any person who desires to challenge a ruling by the Chairperson of the Chapter Nominations and Elections Committee that they are ineligible to run for office or to vote in an election, or any member who wishes to protest the conduct of an election prior to, or subsequent to, an election, shall file such challenge in writing with the National President within ninety-six (96) hours of the election complained of, identifying the action, decision, or procedure under appeal, setting forth the reasons for the appeal, and identifying how the action has affected the outcome of the election. Upon receiving a challenge to the conduct of a Chapter election, the National

President will immediately notify the Chapter person of the Chapter Nominations and Elections Committee and all elected Chapter officers and affected candidates that a challenge to the conduct of the election has been filed.

- (B) The National President shall consider all evidence submitted by the complainant and by the Chapter and make such investigation as the National President shall deem necessary to ensure compliance with the implementing Department of Labor Regulations, National NTEU Bylaws, and applicable Chapter bylaws, and render a decision within sixty (60) calendar days from receipt of the protest.
- (C) The member may file an appeal of the decision of the National President, within thirty (30) days following the date of the decision of the National President, to the next meeting of the National Executive Board, whose decision shall be final and binding on all parties unless set aside by the next National Convention.
- (D) An appeal to the National Convention must be filed in writing with the National President, within thirty (30) days following the date of the decision of the National Executive Board, which shall be the date the decision is mailed.
- (E) A document is considered filed under this section when it is received by the Office of the National President.

Part V — Business Procedure

Section 1. National Executive Board—Order of Business

- (A) At each regular meeting of the National Executive Board as provided by Section 2 of Article IX of the Constitution, the following order of business shall be observed:
 - (1) Call to Order
 - (2) Roll Call
 - (3) Report of National President
 - (4) Report of Administrative Controller
 - (5) Report of National Vice Presidents
 - (6) Report of Standing Committee
 - (7) Reports of National Advisors and Legal Counsel
 - (8) Unfinished Business
 - (9) New Business
 - (10) Adjournment
- (B) The above order of business may be suspended at any time by a two-thirds ($\frac{2}{3}$) vote of the members of the National Executive Board present at the meeting. In case of a special meeting of the Board, the National President's call for the meeting shall set forth the business to be transacted and the order of it.
- (C) Unless otherwise specifically provided for by the Constitution or these Bylaws, the National Executive Board shall decide any matter coming before it by a majority vote of the Board members present.
- (D) A quorum for the transaction of business at any meeting of the Board shall consist of not less than one-half ($\frac{1}{2}$) of the members, or their proxies, of the Board.

Section 2. Conventions—Rules and Order of Business

- (A) The rules and order of business of special and regular National Conventions shall be determined by the National Executive Board at its regular or special meeting preceding such National Convention. The rules and order of business as approved by the Board will be distributed to each delegate in attendance at the National Convention.
- (B) A quorum shall exist at a National Convention when at least forty percent (40%) of the Chapters of this organization are represented by delegates certified by the Credentials Committee.
- (C) Resolutions adopted by the Convention with respect to any matter shall terminate, as to their effect, upon the call to order of the next subsequent regular Convention unless at the time of the adoption of the Resolution it is expressly provided that the effect of the Resolution shall be for a longer or shorter period, or unless the Resolution is rescinded.

Section 3. Chapter Treasurer

A blanket surety bond covering each Chapter Treasurer shall be provided by the Administrative Controller at a cost to each Chapter not to exceed the cost of providing the bond per annum.

Section 4. Proxies

- (A) For purposes of representation at any National Convention or District Conference, a Chapter may designate by proxy any member or members of this organization elected pursuant to Part IV of the Bylaws on a form prescribed by the Administrative Controller. There shall be the statement made that the authority to issue and assign a proxy is given pursuant to a vote of the Chapter membership at a regular or special Chapter meeting, held upon fifteen (15) days' notice mailed to each member at their last known address.
- (B) A member of the National Executive Board may designate any member of this organization to attend and vote on their behalf at any meeting of the Board, on a proxy form approved by the Board.

Section 5. Fiscal Year

The business year of this organization shall commence at 12:01 a.m. on October 1 and end at midnight on September 30 next following.

Section 6. Chapter Meetings

In Chapters where all members are not assigned to the same post of duty, Chapter meetings may be held simultaneously in more than one location and conducted by telephone, video conferencing, or other electronic means that facilitate real time communication among members provided that:

- (A) All members in attendance at each of the meeting locations can speak to and hear one another; and
- (B) A Chapter representative is present at all meeting locations to ensure that the rights

and privileges of all meeting participants are enforced and all requirements imposed by law, NTEU's Constitution and Bylaws, and the Chapter's bylaws are satisfied.

Part VI — Miscellaneous

Section 1. Rules of Order

In the absence of any provision to the contrary in the Constitution and these Bylaws, all meetings of the National Executive Board, all meetings of Joint Councils, Chapters, committees, and National Conventions shall be governed by the parliamentary rules and usages contained in the then-current edition of Robert's Rules of Order, Revised.

Section 2. Official Statements

Memorials, resolutions, or opinions of any character whatever which conflict with the policies and objectives of this organization shall not be issued in the name of the National Treasury Employees Union.

Section 3. Amendments

- (A) Amendments to these Bylaws shall be submitted to the Administrative Controller in writing for consideration by the National Executive Board. The National Executive Board will then report the recommendations of the Board to the next regular or special National Convention, which may adopt such amendments by a majority vote.
- (B) Proposed Amendments to these Bylaws not submitted for consideration by the National Executive Board may be introduced at a regular or special National Convention. After introduction of the Proposed Bylaw, the Convention shall vote on whether it shall be considered. Only those proposed Bylaws receiving a three-fourths (3/4) vote of the convention shall then be considered individually.
- (C) These Bylaws shall become effective midnight on the day on which they are approved by a majority vote of the delegates to the National Convention.
- (D) Bylaw amendments received by the Administrative Controller shall be made available to Chapter Presidents by posting to the Chapter Presidents' area of the NTEU website. Bylaw amendments received by the Administrative Controller less than ten (10) days preceding the Convention will be made available at the Convention.

Section 4. Conflict of Bylaws with Constitution

When it shall be determined by a majority vote of the National Convention that a section or sections of the Bylaws is in conflict with one (1) or more articles or sections of the Constitution, that section or sections of these Bylaws in conflict shall immediately become null and void and shall be as if it or they had never existed.

Section 5. Definition of Days

In the absence of any provision to the contrary in the Constitution and these Bylaws, "days" shall mean calendar days.

Part VII — Definitions ID#: 197

In addition to their ordinary meanings, the terms used in this Constitution and Bylaws shall have the following meanings:

- (A) RETIREE—means any former employee of the Federal government who is retired from the Federal government and is drawing an annuity under the U.S. Civil Service Retirement System and/or the Federal Employees Retirement System.
- (B) FORMER EMPLOYEE—means any former employee of the Federal government who left the Federal government before they were eligible for retirement.
- (C) NEW EMPLOYEE—an employee who has never been a member of NTEU or who has not been a member during the twelve (12) months prior to submitting an application.
- (D) MEMBER
 - (1) One who is eligible for membership pursuant to Article V, Section 1 of the Constitution and who has remitted to the Chapter for remittance to the National Headquarters Office an executed cash application with the total amount of National per capita dues payable as a cash payment on a quarterly or annual basis as set forth in Part I, Section 1 (B)(7) and (C)(1);
 - (2) One who is eligible for membership pursuant to Article V, Section 1 of the Constitution and is an employee or a new employee who has remitted an executed Form 1187 to the Chapter for remittance to the National Headquarters Office, with the intent to remit the total amount of national per capita dues payable pursuant to the dues withholding program.
 - (3) One who is eligible for membership pursuant to Article V, Section 1 of the Constitution and is an employee or a new employee who has remitted a payroll direct debit form transmitting dues to NTEU to the Chapter for remittance to the National Headquarters Office, with the intent to remit the total amount of national per capita dues payable pursuant to the dues withholding program.
 - (4) One who is eligible for membership pursuant to Article V, Section 1 of the Constitution and is an employee or a new employee who has authorized the electronic remittance of dues to NTEU, with the intent to remit the total amount of national per capita dues payable pursuant to NTEU's dues payment program.
 - (5) One who is eligible for membership pursuant to Article V, Section 1 of the Constitution and is an employee or a new employee who has authorized credit card payments of dues to NTEU, with the intent to remit the total amount of national per capita dues payable pursuant to NTEU's dues payment program.
- (E) MEMBER-AT-LARGE—an employee of the Federal government who is employed in a department, agency, or subdivision thereof where NTEU does not hold a unit of exclusive recognition, including former bargaining unit employees excluded by Congressional action or Executive Order. A member-at-large is eligible to participate in all insurance programs sponsored by NTEU but is not eligible to vote in NTEU elections or receive representation from NTEU representatives.
- (F) PROVISIONAL MEMBER
 - (1) An employee of the Federal government who (a) is employed in a department,

agency, or subdivision thereof in which NTEU is seeking to become the employee's exclusive representative or in which NTEU is otherwise organizing and; (b) has submitted a form SF-1187, payroll direct debit form, or comparable form to the National Headquarters Office with the intent of becoming a Member of NTEU. A Provisional Member is eligible to participate in all NTEU-sponsored insurance and benefit programs, to receive NTEU member communications, and may receive representation from NTEU representatives in such matters as the NTEU National President determines appropriate.

- (2) Until the National President charts a Chapter with jurisdiction over the employee, a Provisional Member shall pay no dues and is not eligible to vote in NTEU elections. Once the National President charts a Chapter with jurisdiction over the employee, a Provisional Member who satisfies the requirements of Part VII (D) becomes a Member and pays the total amount of national per capita dues.
- (G) HONORARY MEMBER—an individual who, based on the sole and exclusive determination of the NTEU National President, has made significant contributions to advancing or promoting the benefits, interests, and rights of NTEU members and federal employees in general.
- (H) RETIRED NATIONAL OFFICER—An individual who previously served as an elected National President or National Executive Vice President of NTEU, retired from NTEU, and who does not otherwise meet the criteria for membership in this Constitution and Bylaws.

We are
NTEU!

NTEU
National Treasury Employees Union

800 K Street, NW, Suite 1000
Washington, DC 20001

Decl. Ex. 3

NTEU The National Treasury Employees Union

Official Chapter 73 Charter

The National Treasury Employees Union did on the first day of July 2019, pursuant to Constitutional amendments adopted at the 43rd National Convention, issue a Charter to Chapter 73, IRS Cincinnati Campus, IRS Service Center employees whose official workstations are located in Covington and Florence Service Center buildings in Kentucky including TE/GE and excluding Appeals. Those accepting this Charter agree to be governed by the terms and conditions set forth in the provisions of the Constitution adopted at the First National Convention of the Union, held in Milwaukee, Wisconsin, on October fifth, sixth and seventh, 1939, and as such Constitution has been or may be amended by subsequent National Conventions of the Union.

*Original Charter Issued 1964
National Treasury Employees Union*



Anthony M. Reardon
NTEU National President

Decl. Ex. 4

or arguments raised in the employee's behalf, such as an argument that the cited cases are but a small portion of the employee's total work product which is otherwise acceptable.

E. In order to expedite resolution of removals and reductions in grade of three (3) grades or more which are covered by this Article, the parties agree to the following procedures for arbitration of such actions:

1. the parties shall establish a hearing date so that the hearing will be conducted within 120 days of the effective date of the action; if the parties are unable to mutually establish such a date, the assigned arbitrator shall be empowered and instructed, upon the motion of either party, to establish a date and conduct the hearing within the time set forth above; once established, a hearing date may be changed only by agreement of the parties and the arbitrator shall permit either party to proceed ex parte in the event the other party fails to present its case on the established hearing date;
2. if the assigned arbitrator is unable to provide a hearing date within the time set forth above, a new arbitrator will be promptly assigned; and
3. the assigned arbitrator shall be responsible for scheduling closure of the record and issuing a decision not later than sixty (60) days after the hearing is concluded.

Section 7

- A. To the extent not prohibited by law, the Employer will provide the Union with copies of all unacceptable performance action proposal and decision letters, simultaneously with their issuance to employees. One (1) copy shall be provided to the impacted Chapter office and one (1) copy shall be provided to the appropriate NTEU National Field Office. It shall be the responsibility of both the Chapter and the NTEU National Field Office to maintain this information for their use in grievances and arbitrations and all other representative matters.
- B. The letters referenced in this Article and the case data will be coded with the same case number in order for the Union to cross-reference the data. The Employer will sanitize documents in compliance with applicable laws, rules and regulations, and not over-sanitize so as to cause the information to be unusable.
- C. Where the Union has provided the Agency with a signed designation of representation, the Employer will provide an unsanitized copy of the decision letter to the Chapter on the same day that it is provided to the employee.

D. Information provided by the Employer pursuant to this Section need not be provided again to any Union Chapter, office, or representative pursuant to any statutory or contractual request.

Section 8

At the time the Employer issues its proposal letter and its decision letter to an employee, it shall include a letter written by the Union which outlines the employee's right to representation and his or her appeal rights. Failure to include such a letter shall be grievable but shall not constitute a basis for overturning the adverse action.

Article 41 | Employee Grievance and Local Institutional Grievances

Procedure

Section 1

- A. The Employer and the Union recognize and endorse the importance of bringing to light and addressing employee concerns through the negotiated grievance procedure promptly and, whenever possible, informally. In this regard, the parties will ensure that their representatives are properly authorized to resolve matters raised under this Article.
- B. The purpose of this Article is to provide an orderly method for the disposition and processing of grievances brought by employees or by the Union on behalf of employees.
- C. The Union will submit virtually all Contract-related matters to the negotiated grievance procedure for final disposition and will use sparingly unfair labor practice procedures concerning Contract-related issues which may occur in the day-to-day administration of this Agreement.
- D. The grievance procedures of this Article shall not apply to the following:
 1. any claimed violation of Subchapter III of Chapter 73 of Title 5 (relating to prohibited political activities);
 2. retirement, life insurance or health insurance;
 3. a suspension or removal under Section 7532 of Title 5 (relating to national security matters);
 4. any examination, certification, or appointment;
 5. the classification of any position that does not result in the reduction in grade of the employee;
 6. matters already filed with the Merit Systems Protection Board (MSPB) as an adverse action

which are, therefore, statutorily precluded from duplicate filing under this procedure;

7. matters over which an employee has filed a written complaint of discrimination through the formal EEO complaint process;
8. the separation of a probationary employee;
9. matters specifically excluded by other articles of this Agreement;
10. non-selection from among a group of properly ranked and certified candidates consistent with 5 C.F.R. § 335.103(d); and
11. reprimands received by employees serving a probationary or trial period.

Section 2

- A. Consistent with 5 U.S.C. § 7103(a)(9), the term "grievance" means any complaint:
 1. by an employee concerning any matter relating to the employment of the employee;
 2. by the Union concerning any matter relating to the employment of any employee; or
 3. by an employee or the Union concerning:
 - (a) the effect or interpretation, or a claim of a breach, of a collective bargaining agreement; or
 - (b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- B. A grievance is also defined as any claimed violation or misapplication of an Employer policy that impacts the working conditions of bargaining unit employees.
- C. Grievances filed by the NTEU National President concerning an issue of rights afforded to employees under this Agreement which otherwise would be recognized as separate grievances from two (2) or more Chapters on the same issues will be filed with the IRS Human Capital Officer. The parties will follow the procedures in Article 42, Section 4 for such grievances.
- D. This procedure will be the only administrative procedure available to bargaining unit employees for the processing and disposition of grievances as defined in subsections 2A1-3 and 2B, above, except when the employee has a statutory right of choice under 5 U.S.C. § 7121, including adverse actions, actions taken for unacceptable performance, or EEO complaints. This subsection will be applied consistent with 5 U.S.C. § 7121.
- E. Matters not grievable under this Agreement that are covered by the Agency grievance procedure are grievable under that procedure. However,

stewards representing IRS employees under that procedure may use reasonable time consistent with law and regulation to represent employees in that process.

- F. Employees who believe they have been illegally discriminated against on the basis of race, color, religion, sex, national origin, age, or disability have the right to raise the matter under the statutory procedure or the negotiated grievance procedure of this Agreement, but not both. Employees will have elected a forum (grievance or EEO procedure) if a grievance on the matter is reduced to writing or a formal EEO complaint is filed. For employees who contact an EEO counselor to raise allegations of discrimination, information regarding the IRS Equal Employment Opportunity Alternative Dispute Resolution process may be found in the "Reference Guide for Employees and Managers" dated August 14, 2008. The guide is posted on the Equity, Diversity and Inclusion (EDI) web site.

Section 3

- A. Grievances under this Article may be initiated by employees in the unit either singly or jointly, or by the Union on behalf of employees. Grieving employees will have the right to be accompanied, represented and advised by the Union steward or Chief Steward or Chapter President responsible for representing them at whatever step of the procedure a grievance is being heard. Union stewards who file grievances concerning a matter of personal concern will be represented by a steward appointed by the Chapter President.
- B. Where an employee has initiated a grievance and does not elect to be represented by the Union, the Union will have a right to be present at all informal and formal discussions between the employee and the Employer concerning the grievance. The Employer will resolve all grievances presented under such circumstances consistent with the terms and conditions of this Agreement. The Union will be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee.

Section 4

Streamlined Grievance Process

- A. The parties acknowledge that certain types of individual grievances must be addressed as quickly as possible, and they agree to do so according to a special streamlined grievance and arbitration procedure. For workplace complaints identified below, streamlined grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that

such grievances will be initiated at Step 2 of that procedure. As an exception to subsection 8C, below (and subject to Article 9, Section 7.B.4), if an Executive hears the grievance at Step 2, the grievance meeting will be held face to-face unless the parties mutually agree to a meeting by telephone or other electronic means. This process will be used to consider grievances concerning:

1. outside employment;
2. hours of work (including AWS, credit hours, religious compensatory time and distribution of overtime);
3. absence and leave (including AWOL);
4. disputes over the approval of official/bank time under Article 9;
5. denial of a request for pseudonym;
6. issuance of a leave restriction letter;
7. denial of an NPAA award;
8. non-selection from an Article 13, Section 10 priority consideration certificate;
9. any other matters which the parties mutually agree upon; and
10. any grievance filed on behalf of a campus employee (except that such grievances shall not be subject to the Article 43 Streamlined Arbitration procedure unless specifically referenced above).

Section 5

Mass Grievances

- A. Grievances are considered mass grievances in the event that two (2) or more grieving employees, within the jurisdiction of one (1) Chapter, have designated the Union to serve as their representative on one (1) or more grievances involving the same facts and the same issues, or the Union has filed one (1) or more grievances on behalf of two (2) or more employees, within the jurisdiction of one (1) Chapter, involving the same facts and the same issues.
- B. Time and travel pursuant to Article 9, subsection 7C of this Agreement will be available as follows:
 1. If the grievance involves more than one (1) but less than twenty (20) employees in a Chapter, three (3) grievants may participate in or attend the grievance meeting.
 2. If the grievance involves twenty (20) or more employees in a Chapter, four (4) grievants may participate in or attend the grievance meeting.
 3. The Employer will only reimburse reasonable travel and per diem for the attendance of one

(1) grievant at the meeting. All other grievants outside the commuting area of meeting must participate by telephone or other electronic means.

- C. 1. Mass grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that such grievances will be initiated at Step 3 of that procedure.
2. The Union is required to provide the names of all known grievants when it files the mass grievance.
3. Mass grievances involving employees who work in one (1) Division or the organizational equivalent will be filed with the first level Executive in that Division.
4. Mass grievances involving employees in more than one (1) Division or organizational equivalent will be filed with the first level Executive in either Division.
5. Mass grievances alleging violations of Article 13 of this Agreement shall be filed with the first level Executive from the operating unit within the Business Operating Division (BOD) which posted the vacancy announcement.
5. The Executive receiving the mass grievance will hear the grievance or designate a substitute who has the formal organizational authority to hear the grievance.
- D. 1. Within ten (10) workdays of the meeting, the Executive or designee shall issue a written response, or via e-mail if available, to the appropriate Chapter President.
2. When the Employer responds to a mass grievance, it will respect the privacy of employees by placing any details about individual employees that merit privacy in responses that are only sent to the individual employees and his or her representative.
3. The Union must notify the IRS of any appeal to arbitration filed by the Union. Such notice must be sent to an e-mail address established by the Employer. The e-mail address will be provided to the Union at the national level whenever changed in the future. The Union must invoke arbitration within thirty (30) days of the date it receives the final decision issued by the Employer. If a final decision was not timely rendered, the Union may invoke arbitration at any time after the date on which the decision was due and up until thirty (30) days after the decision is eventually provided.

Section 6**Local Institutional Grievance Procedure**

- A. The term "Institutional grievance" means any complaint by the Union concerning the effect or interpretation, or a claim of breach of the provisions of this Agreement relating to the rights and benefits that accrue to the Union as the exclusive representative of bargaining unit employees. However, where the grievance is for failure to invite the Union to a formal meeting, as provided for in 5 U.S.C. § 7114 or for alleged violations of 5 U.S.C. § 7116(a), (2), (3), (5), (6), (7), the time limits for filing grievances shall be 180 days.
- B. The grievance must be filed with the first-level executive of the Division or Campus in which the grievance arose. The Executive may then decide that the issue(s) could be more appropriately addressed by a different representative of the Employer. Any grievance that involves more than one (1) Division in a particular SCR area must be filed with the SCR with jurisdiction over the area within which the grievance arose. If the grievance involves more than one Division or Center in more than one SCR area, it shall be treated as a national grievance under Article 42, Section 3.
- C. Within ten (10) workdays of the filing of the grievance, the Employer will meet with the Chapter President or designee to discuss the grievance. The management official conducting a local institutional grievance meeting pursuant to this Article may elect to hold the meeting by telephone or other electronic means. If the Employer decides to hold a local institutional grievance meeting face-to-face, the Employer will pay the reasonable travel and per diem expenses for one (1) Union steward to attend the meeting consistent with Article 9, subsection 7B2 of this Agreement.
- D. Within twenty (20) workdays of the meeting, the Employer will issue a written response to the Chapter President. If no meeting is held, a response is due within twenty (20) workdays of the submission of the grievance.
- E. Mass grievances that also fall under the definition of institutional grievances may, at the chapter's option, be pursued under this Section or Section 5, above. Chapters must specify in writing the grievance process (i.e., mass, institutional) they want to use when filing a grievance.

Section 7

- A. Except as provided in other provisions of this Agreement, grievances will not be considered unless they are filed with the Employer within fifteen (15) workdays after the incident which gives rise to the grievance or within fifteen (15)

workdays after the aggrieved became aware of the matters out of which the grievance arose.

- B. The grievance must provide information concerning the nature of the grievance, the Articles and Sections of the Agreement that are alleged to have been violated, and the remedy sought. If the grievance alleges a violation of law or regulation, the law or regulation will be identified to the extent possible (e.g., the "Privacy Act" in lieu of the specific citation). Failure to cite a specific Agreement provision, regulation, or statute shall not bar an employee or the Union from amending the grievance to include such violations provided the issue has been raised in the grievance.
- C. Performance Appraisal Grievances - Grievances regarding disputes over any appraisals received by an employee pursuant to the provisions of Article 12 of this Agreement will follow a two (2) step process and be initiated at the second step of the employee grievance process. The second level supervisor or designee, who approved the rating of record, will serve as the Step 2 hearing official. If the Step 2 management official is an Executive, there will be no further appeal of the matter under the grievance procedure. However, the grievant/ Union will only be entitled to one (1) face-to-face meeting when grieving appraisals. The grievant/ Union will identify in the written grievance whether that meeting will be at the second or third step.
- D. An employee may file a grievance regarding a dispute over an appraisal in accordance with the performance appraisal grievance procedures. Employees may file a grievance over their appraisal only upon the issuance of that appraisal; however, if the matter remains unresolved at the conclusion of the grievance process, the Union may invoke arbitration at that time, or alternatively, within thirty (30) days after the employee's appraisal is used in an action, but in no case may an employee's appraisal be grieved or arbitrated more than once after its issuance.
- E. For grievances alleging discrimination as described in subsection 2F, above, the time limits for filing grievances shall be forty-five (45) days. This forty-five (45) day period may be extended if the employee utilizes alternative dispute resolution procedures. Any extension of the filing requirements will be consistent with the procedures outlined in the alternative dispute resolution process utilized by the employee. However, the above procedure will in no way extend the 180-day requirement provided by regulation.
- F. When the employee alleges discrimination under the negotiated grievance procedure, the grievance shall specify the specific nature of the discrimination (for example, race, religion) and the

facts upon which the allegation is based. Pursuant to subsection 8B, this information must be raised no later than the conclusion of the Step 2 meeting. In cases arising under Articles 38, 39, or 40 in which discrimination is alleged, this information should be presented in writing at the oral or written reply stage, even if no other oral/written reply is presented, in order for the allegations of discrimination to be grieved or arbitrated under the terms of this Agreement. Regardless of the above, allegations of discrimination must be described in writing no later than the submission of the notice invoking arbitration and in all cases it must be raised within the deadlines provided by the regulations.

- G. Merit Promotion Grievances. Grievances initiated by a Chapter alleging violations of Article 13 of this Agreement on behalf of an individual shall be filed with the second level manager (i.e., the Territory or Department manager) at the operating unit within the BOD where the vacancy was posted. Such grievances shall be initiated by the Union at Step 2.

Section 8

Uniform Employee Grievance Procedure

The parties are encouraged to seek informal resolution of grievances. Accordingly, such matters may be brought to the attention of the employee's supervisor for informal resolution, before filing a formal grievance. In the event a formal grievance is filed, the parties will endeavor to resolve the grievance at the lowest level in the grievance process.

Step 1

- A. 1. A grievance is required to be presented in writing, or via e-mail if available, to the employee's immediate supervisor. The submission of the grievance constitutes notice that a meeting is requested.
2. One (1) steward, appointed by the Chapter that filed the grievance, may attend Step 1 grievance meetings. No travel and per diem is authorized for any Step 1 grievance meetings. The parties may agree that no meeting be held. If held, the meeting shall take place within five (5) workdays of the submission of the grievance. Where the parties are co-located, at the option of either party, the meetings may be held face-to-face; however, no local travel is authorized for such meetings.
3. The meeting shall include the supervisor or designee, the employee, the employee's Union representative and a Labor Relations Specialist at the option of the supervisor conducting the meeting. The meeting is

intended to provide the opportunity for the employee to present and discuss aspects of the issues giving rise to his or her grievance with the supervisor in an attempt to clarify issues and find an appropriate resolution.

4. The employee and the Union will be provided with a written response, or via e-mail if available, to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the filing of the grievance if a meeting is not held. Such decision will not normally exceed two (2) pages in length and will include the name of the next higher level supervisor.

Step 2

- B. If the issue remains unresolved, the employee may appeal the grievance to the appropriate next higher level of management (absent formal agreement otherwise). The appeal may be made via e-mail if available. Such notice of appeal will be timely if made within ten (10) workdays of receipt by the Union of the decision in Step 1. The appeal constitutes notice that a meeting is requested. However, the parties may agree that no meeting be held. If held, the meeting shall take place within ten (10) workdays of the notice of appeal.
- C. With the exception of subsections 4A and 7C, above, employee, a designated Union representative and the next higher-level supervisor or designee will hold a telephonic meeting or a meeting using other electronic means. Where the parties are co-located, at the option of either party, the meetings may be held face-to-face; however no local travel is authorized for such meetings. The supervisor conducting the meeting may elect to invite a Labor Relations Specialist.
- D. The employee and the Union will be provided with a written response or (via e-mail if available) to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the appeal if a meeting is not held. The response will also include the e-mail address for the Union to notify the IRS of an appeal to arbitration consistent with Section 9, below, if the Step 2 hearing official is an Executive.
- E. If the Step 2 management official is an Executive, there will be no further appeal under the grievance procedure.

Step 3

- F. If the issue is not resolved, the employee may appeal the grievance to the appropriate next higher level of management absent formal agreement otherwise). Such appeal must be filed in writing, or via e-mail if available, within ten (10) workdays of receipt of the Step 2 decision (as noted above, if

the Step 2 management official was an Executive, there will be no further appeal under the grievance procedure and the matter may proceed directly to arbitration, in accordance with Article 43).

- G. The employee, a designated Union representative and the next higher level of management representative or designee will meet face-to-face, unless the parties mutually agree to a telephonic meeting or a meeting using other electronic means, within ten (10) workdays of the appeal. One (1) steward, appointed by the Chapter that filed the grievance, may attend third step grievance meetings. The Employer will reimburse travel and per diem for the steward appointed by the Chapter that filed the grievance to attend the Step 3 grievance meeting. The parties may also agree that no meeting will be held. One (1) additional Union representative located in the commuting area of the meeting may also attend. Travel and per diem is not authorized for the second representative. The supervisor conducting the meeting may elect to invite a Labor Relations Specialist. For grievances concerning disciplinary actions, Article 9, Section 7.B.5 controls whether the grievance is held in person or virtually, and what travel is authorized.
- H. Within ten (10) workdays of the meeting, the higher level of management representative or designee, shall issue a written response, or via e-mail if available, to the Union one (1) day prior to providing a copy of the response to the employee. The response will also include the e-mail address for the Union to notify the IRS of an appeal to arbitration consistent with Section 9 below. If the Step 3 meeting cannot be held within thirty (30) days of the appeal, the Union may invoke arbitration in accordance with Article 43.
- I. The Employer will provide, on a semi-annual basis, a report to National NTEU on the number of grievances filed for each time period. The report will show the number of grievances filed per third-line manager and the number settled or withdrawn at each step of the process.

Section 9

- A. 1. The parties will have the obligation of making a complete record during the steps of the grievance procedure, including the obligation to produce witnesses who have information relevant to the matter at issue. The Union will be granted access to returns and return information consistent with I.R.C. § 6103(l)(4) (A).
- 2. The parties acknowledge their obligation to produce witnesses who have information relevant to the matter at issue. Evidence and

witnesses that are relevant to the resolution of a grievance may be introduced at any stage of the grievance or arbitration process. The Union's request for the participation of a witness, who is a bargaining unit employee of the IRS, will normally be approved consistent with Article 9.

- 3. The Union may request the appearance of witnesses during any step of the grievance process who are employees of the IRS.
- 4. The parties agree to exchange information that is relevant and necessary to understand the dispute and maximize the potential of settling the matter. Disputes over access to information will be determined in accordance with applicable law, rule or regulation.
- 5. The Employer will normally inform the Union within ten (10) days whether information requested under 5 U.S.C. § 7114(b)(4) will be supplied. Where the Employer has determined to supply such information and a grievance is involved, the Union may either move forward with the grievance or may request an extension of time to file or appeal to the subsequent steps in the grievance process.
- B. New issues may not be raised by either party unless they have been raised at Step 2 of the grievance procedure provided, however, the parties may agree to join the new issues with a grievance in process.
- C. Procedural arbitrability issues, such as timeliness and failure to adequately state a claim, must be raised by the Employer no later than the last grievance response. However, if the issue is whether the matter is substantively arbitrable, that matter may be raised at any time by the Employer and the grievance will be amended to include the issue.

Section 10

- A. If the matter is not resolved following the last step meeting and/or written response, the decision may be appealed to binding arbitration as provided for in Article 43.
- B. The Union must notify the Employer of any appeal to arbitration filed by the Union. Such notice must be sent to an e-mail address established by the Employer. The e-mail address will be provided to the Union at the national level whenever changed in the future. The Union must invoke arbitration within thirty (30) days of the date it receives the final decision issued by the Employer. If a final decision was not timely rendered, the Union may invoke arbitration at any time after the date on

which the decision was due and up until thirty (30) days after the decision is eventually provided.

Section 11

- A. The parties may agree to extend the time limits in this Article.
- B. The parties may agree in writing to waive any step of this procedure.
- C. Responses to grievances shall be served on the appropriate Union steward or the grievant if not represented by a steward consistent with subsection 3B of this Article. Time periods set forth in this Article shall be computed from the day after the receipt of a grievance or appeal by the Employer and the day after the receipt of a response by the Union. Consistent with subsection 3B of this Article, the Union steward shall be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee. The response may be provided via e-mail if available.
- D. The Employer will give a substantive response to each issue raised by the Union in the written response.

Section 12

Failure on the part of the aggrieved or the Union to prosecute the grievance at any step of the procedure will have the effect of nullifying the grievance. Failure on the part of the Employer to meet any of the requirements of the procedure will permit the aggrieved or the Union to move to the next step.

Section 13

- A. Grievance meetings will be scheduled at a time agreeable to the Union and the Employer. In the absence of agreement, the meeting will be scheduled during the grievant's normal tour of duty. Under circumstances where the meeting cannot be scheduled during the representative's normal tour of duty, and the representative is not eligible for credit hours under Article 9, the Employer has determined that the representative's tour of duty will be changed to meet this representational need consistent with agreements regarding tours of duty.
- B. The location of grievance meetings will be mutually determined by the Employer and the Union. If the parties cannot agree, the meeting will be held at the post-of-duty of the grievant or other site chosen by the Employer.

Section 14

Where the steward is processing one (1) of his or her first three (3) grievances, the Union may have one (1) additional steward attend on official time under Article 9.

Section 15

- A. 1. Where the Union believes that a personnel action involves an alleged prohibited personnel practice as defined by 5 U.S.C. § 2302, the Union will raise that matter in the grievance, reply, or arbitration invocation as appropriate. Where there is a proposed personnel action that the Union believes involves an alleged prohibited personnel practice, the Union shall file a written statement with the deciding official for the proposed action, which shall contain the same information as a grievance. Once raised, the Union may petition an arbitrator for a stay of the action.
2. The parties will create two (2) arbitrators panels. There will be at least three (3) arbitrators on each panel. One (1) panel will be for cases arising from offices west of the Mississippi, the other panel will be for cases arising from offices east of the Mississippi. These arbitrators will hear all stay cases in their geographic areas for the duration of this Contract.
- B. The petition for a stay must contain the following:
 1. a chronology of the facts including a description of the alleged prohibited personnel practices involved and the personnel action or actions that the Agency has taken or intends to take which form the basis for the petition;
 2. evidence and/or argument showing that the action taken or threatened is a personnel action, that the action taken or threatened was based on a prohibited personnel practice, and that there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
 3. documentary evidence that supports the stay request; and
 4. a specific request for remedies.
- C. The petition for a stay must be filed with the selected arbitrator and the appropriate servicing General Legal Services office, which will be identified in the deciding official's response. Filings may be made by personal delivery, FAX, mail or by commercial overnight delivery, or e-mail with voice mail or telephonic confirmation.
- D. The arbitrator will have jurisdiction over the case forty-eight (48) hours after the Union has served

the Employer with its petition for a stay. After forty-eight (48) hours, the arbitrator has the authority to issue an interim stay, pending a final decision on the stay. Any interim stay ordered must be consistent with the burdens of proof and standards established by the Merit Systems Protection Board cases concerning stays. If the arbitrator does not issue an interim stay, the Employer's response must be filed within ten (10) days of the expiration of the forty-eight (48) hour period consistent with subsection 14E below. If the arbitrator does issue an interim stay, any request for an extension of time to file the Employer's response will be granted by the arbitrator. The arbitrator will not issue an interim stay ex-parte but will discuss and accept any argument or comment via telephone relevant to an interim stay request.

E. The Employer's response must be filed with the arbitrator and grievant's representative within ten (10) days of the expiration of the forty-eight (48) hour period. The Employer's response must contain the following:

1. evidence and/or argument addressing whether there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
2. evidence and or argument addressing whether the grant of a stay would result in extreme hardship; and
3. any documentation relevant to the Agency's position on these issues.

F. 1. Once under his or her jurisdiction, the arbitrator may seek a mutually agreed resolution of the matter or clarify the issues via telephone prior to issuing a decision on the stay. The arbitrator must issue a written ruling on the stay petition within ten (10) days of the receipt of the Employer's response. The arbitrator may only grant a stay consistent with the burdens of proof and standards established by the Merit Systems Protection Board in cases concerning 5 U.S.C. § 1221(c). A stay must not be granted for any other reason. Any and all decisions on a petition for a stay are final and binding on the parties.

2. A hearing on a petition for a stay may be held by mutual agreement of the parties or by order of the arbitrator. Any hearing must be scheduled and held within thirty (30) days of the date of the petition requesting a stay. The arbitrator must issue a written ruling consistent with subsection 14F1.

3. The arbitrator will be responsible for assessing any and all costs associated with the petition for a stay consistent with Article 43, subsection 4A1.

G. Absent mutual agreement, the arbitrator who ruled on the request for a stay will hear the ultimate arbitration related to that action, if any. When such arbitration decisions result in the reversal of the Agency's action, based upon a specific finding of a prohibited personnel practice, the arbitrator has the authority to issue all legal remedies.

Section 16

Mutual Interest Resolution Procedure

The parties at the national level, at any time during the term of this Agreement, may agree to engage in a Mutual Interest Resolution Procedure (MIRP) which is a means to expedite the resolution of certain grievances and arbitration cases (e.g., aged) jointly selected by the parties in a manner which balances the interests of the Employer, the Union and the impacted employees. Participation in the MIRP is entirely voluntary and neither party may grieve the failure to reach agreement on applying the process to any grievance or arbitration case. In addition, the process does not negate the Employer's authority to hear, settle, address, or resolve grievance/arbitration cases pursuant to the terms of this Article. Furthermore, the process does not circumvent the Union's rights and interests as the exclusive bargaining representative for IRS employees.

A. Site Selection

Upon mutual agreement, the parties at the national level may apply the MIRP at any location.

B. Panel Selection

The Employer and the local NTEU Chapter may each appoint up to three (3) local representatives with settlement authority to serve as panel members. The Employer and National NTEU have determined that General Legal Services (GLS), Labor Relations Specialists and NTEU attorneys/Field Representatives may not serve as panel members.

C. Case Selection

1. The national parties will mutually select approximately ten (10) to fifteen (15) grievance and/or arbitration cases to resolve. The cases selected will typically involve matters involving appraisals, minor discipline, absence and leave, including AWOL, and hours of work (e.g., AWS, credit hours, overtime). For grievances to be included, the matter must have been processed through at least the second step of the grievance process. The parties agree that the process is generally not appropriate for grievance and arbitration cases involving sensitive or complex issues, such as discrimination, adverse actions, Union rights or contract interpretation issues that will involve bargaining history testimony.
2. The Employer and local Union representatives will meet and agree to case selection two (2)

weeks prior to the Phase 1 meeting. There will be no information requests. Using Exhibit 41-1, the parties will exchange written summaries of each selected case one (1) week prior to the Phase 1 meeting. In addition to a summary of each party's position, Exhibit 41-1 may include prior settlement offers and explanations of why they were not accepted, if appropriate. Exhibit 41-1 will be completed for settlement purposes only and will not be admissible by either party in any other proceeding, including in Phase II of this resolution procedure. No supporting documentation will be exchanged since both parties are expected to possess case files.

D. Phase I

1. The Phase I meeting will address and attempt to resolve the selected cases over a two (2) day period. This period may be extended subject to agreement by both parties. Management and Union officials will be empowered to reach resolution. To facilitate the process, the Employer and National NTEU, at each party's own expense, may have one (1) representative present at Phase I meetings.
2. Primarily to respond to Union questions regarding a proposed settlement and at the option of the Union, the grievant or grievants in the case of a mass grievance, may attend the Phase I meeting in person, if located in the commuting area of the meeting, or by telephone or other electronic means if located outside the commuting area of the meeting. If the grievance selected is a mass grievance as defined by Section 5, then the provisions in subsection 5A will apply to determine the number of grievants who may attend the Phase I meeting and the Phase II arbitration.
3. To promote the mutually desired goal of resolving cases, the Employer and local NTEU at a particular site will receive four (4) hours of joint Interest-Based Negotiation (IBN) training the first time this resolution procedure is utilized at that site. In the event that the MIRP is utilized at a particular site more than once, the parties may mutually agree to participate in subsequent IBN training. The parties will request that the Federal Mediation and Conciliation Service (FMCS) conduct training on the first day of the Phase I meetings. If available, the FMCS representative may facilitate initial settlement discussions in order to apply what was learned in training to specific cases.
4. To ensure closure and once agreement is reached on a case, the agreement will be

immediately reduced to writing and signed by both parties. A settlement template, Exhibit 41-2, is provided for this purpose. The parties may agree to modify the template based on the circumstances of the case being settled.

5. In the event that any case is not settled, Phase II (Arbitration) will be initiated. Arbitration will be held as soon as possible, but no later than ninety (90) days from the completion of the Phase I meetings.

E. Phase II

1. All cases not resolved in Phase I will be heard by an arbitrator who will be selected from the appropriate regional panel and agreed to by NTEU and GLS. The arbitrator must be fully apprised of the MIRP process, including Phase II hearing procedures. The grievant(s) must be afforded the opportunity to be present (if co-located within the commuting area of the Phase II arbitration hearing or by telephone if outside the commuting area) for Phase II. NTEU and GLS attorneys will both be provided up to one (1) hour to present the facts and their respective arguments. Subject to the one (1) hour limitation, exhibits may be introduced and/or witnesses may be called by either party. The arbitrator will be allowed up to one (1) hour to ask questions, attempt to mediate a settlement, and, absent settlement, issue a bench ruling. There will be no transcript of the Phase II process.
2. If an agreement is reached with the assistance of the arbitrator, the material terms will be reduced to writing immediately and signed using the settlement template, Exhibit 41-2. The parties may agree to modify the template based on the circumstances of the case being settled.
3. If agreement cannot be reached, the arbitrator will issue a bench ruling which will be reduced to writing. The bench decision will include language that the parties are responsible for their own costs and attorney's fees, the arbitrator's fees will be split between the parties 50/50 and that the decision is non-precedential.
4. The decision by the arbitrator may be appealed to the FLRA by either party if an assertion is made that the decision violates law or regulation.

- I. DEEO Advisory Committees shall not:
 - 1. be used as media or means to express, present, or press employee demands upon the Employer;
 - 2. be used as channels for receiving, reviewing, or considering individual EEO complaints;
 - 3. engage in the conduct of investigations or the processing of formal or informal EEO complaints; or
 - 4. engage in or otherwise assume the role reserved to exclusively recognized labor organizations nor serve as forums for discussion of employee organization or labor union matters.
- J. Members of DEEO Advisory Committees shall not engage in the conduct of investigations or the processing of formal or informal EEO complaints.
- K. Consistent with Article 47, Section 6, if the Committee is unable to reach agreement, or its recommendations are rejected or not acted upon, the Union may initiate negotiations over the issue(s) to the extent they are otherwise negotiable.
- L. Where the DEEO Advisory Committee, described in subsection, 1B1, above, has been combined by local agreement with the local Labor Management Relations Committee (LMRC), the LMRC will assume the advisory responsibilities as prescribed in subsections 1H and 1I above.
- M. DEEO Advisory Committee meetings will be held telephonically or by other electronic means except that Campus DEEO Advisory Committee meetings may be held face-to-face for participants in the commuting area; however, no travel and per diem will be authorized for such meetings.

Section 2

EEO Counselors

- A. EEO Counselors will be available to all employees within their location.
- B. The Employer will post the contact information and locations of EEO Servicing Offices on the IRS intranet web site and on all official bulletin boards.

Section 3

Support

- A. The Employer will furnish each Campus Chapter with twenty (20) copies of the Employer's discrimination complaints procedure. For all other Chapters the Employer will post the Employer's discrimination complaint procedures on the IRS intranet web site.

- B. The Employer will provide the DEEO Advisory Committee and National NTEU with copies of all EEO progress and accomplishment reports that are sent to external stakeholders (e.g., Department of Treasury). The Employer will also provide the DEEO Advisory Committee and National NTEU with a copy of the MD-715, Self-Assessment Checklist, during the first quarter of each calendar year. National NTEU will have the option of submitting the completed check list to the Employer for consideration.
- C. The Employer will regularly provide the DEEO Advisory Committee and the local Chapter with Uniform Guidelines statistics submitted to the Employer's national EEO function.
- D. Consistent with the Privacy Act, the Employer will annually provide the NTEU National President and the DEEO Advisory Committees with the EEO statistical data as outlined by the Parties in the Settlement Agreement dated December 9, 2013.

Article 46 | Labor-Management Relations Committees

Section 1

- A. The parties recognize that the entrance into formal agreement with each other is but one act of joint participation and that the success of a labor-management relationship is further assured if a forum is available and used to communicate with each other. The parties, therefore, agree to the structure of Labor- Management Relations Committees (LMRC) for the purpose of:
 - 1. building strong relationships nationally and locally between the key leaders of each party;
 - 2. exchanging information;
 - 3. receiving pre-decisional input and the discussion of matters of concern or interest in the broad areas of personnel policies, practices and working conditions that may have national, cross-functional or local impact on employees; and
 - 4. attempting to resolve problems informally in an effort to avoid protracted and costly negotiations or grievance proceedings.

Section 2

National LMRC

- A. A National LMRC will meet at times as agreed to by the parties to focus on Service-wide issues. The meeting will be co-chaired by officials appointed by the Union (e.g., the NTEU National Executive Vice- President) and the Employer (e.g., the IRS

Human Capital Officer). The National LMRC will address matters within the scope outlined in Section 1, above, that generally impact employees in more than one SCR area.

- B. Seven (7) stewards shall receive official time to participate in meetings of the National LMRC. There will be no limit on the number of Union staff personnel that may attend. Agenda items will be exchanged thirty (30) days in advance of the date mutually agreed upon by the parties for the meeting.
- C. All National LMRC meetings will be held telephonically unless otherwise agreed to by the parties.

Section 3

Local LMRC

- A. Local LMRC Committees will be established in each Campus and SCR geographic area, as set forth in Exhibit 46-1 and 46-2. During the term of this Agreement, the Employer will inform National NTEU no later than thirty (30) days before any changes are made to the SCR geographic area that will cause a realignment of local LMRC Committees.
- B. The Union will be able to appoint up to four (4) representatives from the Chapters in the area covered by each LMRC. The size of the committee will be expanded to accommodate one participant from each Chapter if needed.
- C. There will be up to four (4) meetings per year for the local LMRC if an appropriate agenda is submitted (i.e. if the issue falls within the jurisdiction of the local LMRC as defined herein). Agenda items must be related to the scope of the LMRC as described in Section 1 above. The Employer will arrange for the participation of the management official(s) necessary to address and resolve agenda items submitted by the Union and/or the Employer. Meetings will be co-chaired by an official appointed by the Union and an official appointed by the Employer.
- D. The parties shall exchange agenda items fifteen (15) workdays before the mutually agreed upon date for each local LMRC meeting.
 - 1. Agenda items must concern issues within the scope of Section 1. Local LMRCs are to focus on the scope of an issue or problem within their geographic SCR area, whether it involves just one Division or all Divisions in that SCR area. The matter need not be cross-functional to be an appropriate subject of discussion. Agenda items that are unique to one Business Unit will be addressed by a designated official of the Business Unit. Agenda items may

not be Service-wide in nature (e.g. Concur, furloughs).

- 2. The Union or the Employer may place a non-Service-wide item on the local LMRC agenda that impacts employees in more than one (1) SCR area unless either party at the national level elects to address the issue at the national level or place the issue on the agenda of the National LMRC. If either national party elects to address the issue at the national level, all local discussions will end subject to the provisions of subsection 4C below.
- 3. Matters not on the agenda may be discussed by mutual consent. If either party timely forwards an appropriate agenda, the meeting will be held.
- E. Any meeting conducted under this Article shall be conducted during the normal tour of duty.
- F. All non-campus local LMRC meetings will be held telephonically or by other mutually agreeable electronic means. Campus local LMRC meetings may be held face-to-face; however, no travel and per diem will be authorized for such meetings.
- G. Where the DEEO Advisory Committee or Safety Advisory Committee has been combined by local agreement with the local Labor Management Relations Committee (LMRC), the LMRC will assume the advisory responsibilities of those committees as described in Article 45, subsections 1H and 1I and Article 27, subsection 3D, respectively.

Section 4

Informal Dispute Resolution Procedures

- A. The parties recognize that the local and national LMRC forum is an informal adjunct to, not a substitute for, the negotiations process. To preserve the benefits of such informality as well as the parties' rights to negotiate, the following principles will be followed to allow for additional consideration of issues where the local parties have not satisfactorily concluded their discussions.
- B. If it appears at any time within fifteen (15) workdays of discussion of an issue at an LMRC that a satisfactory conclusion cannot be reached on an otherwise negotiable matter, either party may refer the issue to a national representative designated by the Employer and a national representative designated by the Union for additional consideration.
- C. The national representatives, or their designees, shall attempt to satisfactorily resolve the issue within fifteen (15) workdays following referral of the issue to them through discussion and informal means. Where resolution is not achieved within

those fifteen (15) days, the matter will be resolved as follows:

1. Where the Union has not previously submitted a written proposal, the matter will be referred for expedited national negotiations in accordance with Article 47, Section 6. Notice pursuant to Article 47 is waived.
2. Where the Union has submitted a written proposal, the national parties will move the issue through the statutory impasse resolution process (mediation and FSIP) under the procedures of Article 47, unless the parties agree otherwise.

Section 5

Business Improvement Committees

- A. The parties will form one Business Improvement Committees (BICs) at each of the following BODs: W&I, SB/SE, TE/GE, and LB&I. The BICs will operate in accordance with the bylaws established by the BICs with the exception of the following:
 1. meetings will be held semi-annually or as mutually agreed; and
 2. agenda items should focus primarily on specific work processes and how to make the processes more user-friendly, as well as efficient.
- B. All BIC meetings will be held telephonically or by other electronic means.

Article 47 | Mid-Term Bargaining

Section 1

General Provisions

- A. This Article establishes ground rules for mid-term bargaining between the parties. The provisions of this Article apply to all mid-term negotiations between the parties unless modified by other Articles in this Agreement (e.g., Article 15, Article 19).
 1. The Union's bargaining team may include up to four (4) bargaining unit members unless more are agreed to by the parties. There is no limit on the number of professional staff members on the Union team.
 2. For briefings held pursuant to subsections 2C, 4B1 and 5E4 of this Article, official time will be approved for up to four (4) Union stewards. Union stewards located outside the commuting area of the briefing location must participate telephonically or through

some other electronic means. The parties will agree upon the location of the briefing. In the absence of agreement on the location for briefings held consistent with subsections 4B1 and 5E4, the Employer will select the location. In the absence of agreement on the location for briefings held consistent with subsection 2C, the location will alternate between the headquarters offices of the IRS and NTEU.

3. For all face-to-face bargaining, the Employer will pay the reasonable travel and per diem expenses for up to four (4) stewards designated by National NTEU, unless more are authorized to attend consistent with subsection 1B1 above.
4. The first face-to-face negotiation may occur only after the electronic exchange and telephonic (or other electronic means) discussion/negotiation of the opening proposals submitted by each party. The parties are also encouraged to conduct negotiations to the maximum extent possible by utilizing available technology to minimize travel costs associated with face-to-face negotiations.
- B. In accordance with 5 U.S.C. § 7114(b)(3), negotiation sessions will be scheduled at reasonable times and convenient places to avoid any unnecessary delays. Reasonable times will be the days of the week agreed to by the parties, normally between the hours of 8:00 AM and 6:00 PM or 1:00 PM to 6:00 PM if a Monday or 8:00 AM to Noon if a Friday is used as a bargaining day, taking into consideration the nature and proposed implementation date of the change. The location for negotiations will be agreed upon by the parties based on the logistics of each negotiation. In the absence of agreement on the location for negotiations held consistent with Sections 4 and 5 of this Article, the Employer will select the location. In the absence of agreement on the location for negotiations held pursuant to Section 2 of this Article, the location will alternate between the headquarters offices of the IRS and NTEU.
- C. Both parties agree to consolidate substantially related issues for bargaining to the greatest extent possible.
- D. Unless otherwise agreed, neither party will submit proposals nor modify existing proposals that raise issues that are outside the scope of the matter under negotiation.
- E. The parties recognize that once negotiations begin, the effect of publicity concerning issues on the table may be detrimental to the negotiating process.

- F. All agreements are tentative until full agreement is reached.
- G. Unless otherwise agreed, mid-term agreements reached will be reduced to writing and executed by both parties. In addition, oral agreements must be reduced to writing.
- H. Agreements will set forth an "effective date" and a "termination date". The effective date will be no sooner than thirty-one (31) days from execution (or upon agency head approval) and the termination date will be no later than the termination date of this Agreement.
- I. Copies of agreements executed pursuant to this Article will be distributed by the Employer to affected employees in a paper or electronic format as appropriate (e.g., e-mail, electronic newsletter).
- J. Agreements negotiated under the provisions of this Article will be subject to agency head approval pursuant to 5 U.S.C. § 7114(c). In the event of disapproval, the Union will have the option of renegotiating the entire disapproved Agreement or the disapproved portion of the Agreement, provided the parties have not agreed otherwise, for example, by the inclusion of a severability provision. The option to renegotiate the entire Agreement must be exercised by the Union by notice to the Employer within twenty-one (21) days of notice of disapproval.
- K. Proposals declared non-negotiable and subsequently found negotiable will be timely negotiated, if requested by either party. To the extent practicable, any subsequent bargaining must commence within twenty-one (21) days of the negotiability decision.
- L. In accordance with 5 U.S.C. Chapter 71, to the extent permitted by law, either national party may initiate mid-term bargaining by proposing changes in conditions of employment provided that such changes are not covered by this or any other collective bargaining agreement between the parties, and provided further that such changes do not relate to matters over which either party has expressly waived its right to bargain during the negotiation of this Agreement.
- M. 1. Unless otherwise permitted by law, no changes will be implemented by the Employer until proper and timely notice has been provided to the Union, and all negotiations have been completed including any impasse proceedings.
2. When the Employer initiates a change, it will provide all necessary and relevant information to the Union at the time of the briefing. Additional requests for information pursuant to 5 U.S.C § 7114 will be satisfied in an expeditious manner.
- N. 1. If the Employer decides to contract-out work that may result in the loss of work normally performed by bargaining unit employees, which is not otherwise covered by A-76, the Employer will notify National NTEU and bargain to the extent required by law and this Agreement. If requested and available, the Employer will provide the following information to National NTEU at the time the notice is transmitted:
- the name of the contract;
 - the method by which the contract was let (e.g., sole source, competitive bid);
 - the name of the contractor;
 - the location of the work;
 - the nature of the work;
 - the performance standards of the contract;
 - if applicable, the annual cost of such work when performed by IRS employees; and
 - the original cost of the contract and the final cost.
2. Separate procedures for competitive sourcing initiatives are found in Article 19, Section 10 of this Agreement.
3. The Agency shall provide NTEU a copy of each Request for Proposal (RFP) within fifteen (15) days of issuance for any solicitation of services that may result in the loss of work normally performed by bargaining unit employees, which is not otherwise covered by A-76.

Section 2

National Bargaining

A. Notice

Where either party proposes changes in conditions of employment, not covered by Sections 3, 4, 5 and 6, below, it will consolidate those proposed changes and serve notice thereof monthly. Such notice will be due within three (3) workdays of the beginning each month.

B. Notice Requirements

1. Notice of proposed changes in conditions of employment by the Employer or Union at the national level will be served by any one of the following methods: certified mail, first class mail, facsimile, e-mail, or hand delivery.
2. In the case of a monthly notice initiated by the Employer, a copy will also be provided electronically and concurrently to the NTEU Deputy Directors of Negotiations.

3. When either party proposes a change, it will provide information at the time of the notice that meets statutory requirements.

C. Briefings

Following receipt of notice consistent with subsections 2A and 2B, above, the receiving party will be entitled to a briefing without notice to the other party.

1. The briefing must be held within thirty (30) days of receipt of the notice, unless the parties mutually agree otherwise, and will be scheduled by the party initiating the monthly notice.
2. Where the IRS or the Union has served proposed changes to conditions of employment on the other party, but fails to hold a briefing, and the other party is available for such a briefing, the proposed change must be placed on a subsequent monthly notice.
3. Additional requests for information will be satisfied in an expeditious manner, but will not delay the beginning of negotiations. However, consistent with subsection 2G1(b), below, the Union may request that the neutral rule on assertions that the Employer failed to provide information pursuant to 5 U.S.C. § 7114(b)(4). The intervention of the neutral may be prior to the conclusion of negotiations and will not delay negotiations. However, the neutral may extend the bargaining schedule as appropriate.
4. Unless otherwise agreed, proposals must be submitted within fifteen (15) days of the briefing, if one is held. If no briefing is held, proposals must be submitted within thirty (30) days of the receipt of the notice.

- D. If the fifteenth (15th) day or the thirtieth (30th) day, referred to in subsection 2C, above, falls on a Saturday, Sunday, or holiday, the period shall run until the end of the next workday which is not a Saturday, Sunday, or holiday.

E. Telephonic/ Virtual Negotiations

1. Once the briefing is conducted, or at any time thirty (30) days after the date of the notice if no briefing is held, the national parties will schedule the date(s) for the telephonic/ virtual bargaining session described in subsections 1B4 above. The telephonic/virtual negotiations must be completed no later than thirty (30) days from the date proposals are exchanged (i.e., the date on which the first counterproposals are sent) unless mutually agreed otherwise.

2. Prior to the date scheduled for the telephonic discussions/ negotiations, the national parties will schedule the beginning date of face-to-face bargaining. Unless mutually agreed otherwise, face-to-face bargaining must begin and end consistent with subsection 2F below.

F. Bargaining Timeline

1. Where a party has submitted initiatives on the monthly notice, consistent with subsection 2A, above, bargaining must begin no later than thirty (30) days from the date of the telephonic negotiations and conclude no later than ninety (90) days from the beginning of the negotiations.
2. The parties may agree to a shorter or longer time period in which to complete negotiations.

G. Impasse Procedures

1. if the parties fail to reach agreement at the end of the bargaining period, the parties agree to use the following procedures to resolve any remaining disputes in accordance with law, rule, and regulation:
 - (a) Either party may contact the designated Factfinder that has been selected by the national parties to advise the Factfinder of the dispute. This contact will be on the last day of scheduled bargaining or when the parties reach impasse, whichever is earlier. The parties will submit their final proposals and any supporting documentation to the Factfinder on a mutually agreeable date but no later than five (5) workdays prior to the initial mediation session.
 - (b) The Factfinder will also rule on assertions by the Union that the Employer failed to provide information requested for the negotiations pursuant to 5 U.S.C. § 7114(b)(4). If the Factfinder finds that the Employer has failed to provide the information when it had a legal obligation to do so under applicable law, the Factfinder must compel the production of the information and will extend bargaining for an appropriate period of time consistent with this Article to permit the Union to consider the information and adjust proposals accordingly.
 - (c) The Factfinder is empowered to assist the parties in reaching agreement in accordance with law, rule, and regulation. The Factfinder shall determine the appropriate resolution process, including last and best offers (Article by Article or issue by issue) or amendment of final offers.

- (d) Following mediation and factfinding pursuant to subsections 2G1 (a) through 2G1(c), the Factfinder will issue a recommendation to resolve the dispute within four (4) weeks of the initial contact with the Factfinder. The Factfinder's recommendation will be in writing. If the Factfinder is not available to commence mediation within fourteen (14) days of the initial contact by either party, the next Factfinder on the list will be utilized.
- (e) Any disputes remaining after submission to the Factfinder will be resolved pursuant to 5 U.S.C. § 7119, or other appropriate provisions of 5 U.S.C. § 7101, et seq. The party that moves such remaining disputes to the statutory impasse resolution process carries the burden of proof regarding the reasons the Factfinder's report does not resolve the issue at impasse.
- (f) If either party seeks impasse resolution pursuant to 5 U.S.C. § 7119, the changes to conditions of employment will be delayed pending resolution of the disputed issues, unless implementation is otherwise permitted by law. If a party seeks impasse resolution, the submitting party will ask the Federal Service Impasses Panel (FSIP) to expedite the matter.
- (g) If a dispute moves to the statutory process, the objecting party will pay the full costs of the Factfinder who produced the decision. Should neither party object, the costs of the Factfinder will be shared by the parties.

H. Neutrals

The parties at the national level agree to select a panel of neutrals with substantial mediation skills to mediate/arbitrate disputes arising under this Article. The parties will select neutrals so that the disputes, to the extent possible, may be resolved quickly and inexpensively.

1. The neutrals will make use of telephonic/virtual or face-to-face dispute resolution processes when applying the impasse procedures in subsection 2G above.
2. Dispute resolution meetings may be face-to-face for negotiations conducted consistent with Section 4 and 5, below, if participants, including the neutral, are located in the commuting area of the meeting. No travel and per diem is authorized for such meetings.
3. One (1) dispute resolution session, not to exceed three (3) consecutive days excluding travel to and from the meeting, may be face-to-face at the request of either party, for negotiations conducted consistent with Section 2 above. The national parties may

agree to additional face-to-face dispute resolution meetings consistent with the provisions of this subsection.

Section 3

Modified National Bargaining

- A. The provisions of Sections 4, 5 and 6, below, provide a basis for negotiating matters consistent with law involving: (1) the directed reassignment/realignment of employees; (2) space, furniture, parking and leases; and (3) other issues consistent with Section 6 below. All negotiations described in Sections 4, 5 and 6, below, will remain at the national level, however, to provide for more efficient and effective negotiations, the parties agree to local involvement. The local parties identified for such negotiations will act as representatives of the national parties.
- B. The Employer may elect to consolidate issues to minimize the use of official time. The location for any bargaining sessions will be determined consistent with subsection 1C above. However, the location of the bargaining will be within the geographic area of the proposed change.

Section 4

Directed Reassignments/Realignments

- A. Article 15, Sections 2 and 3 procedures will be used where the primary reason for a change is the need to reassign or realign employees, as defined in Article 15, subsection 1B2. If the modifications to the physical structure of the employee's office are incidental (e.g., minor changes to space and furniture) to the reassignment or realignment of the employee, then those incidental changes will also be addressed under this procedure.

B. Notice

1. Notice of proposed changes involving directed reassignments or realignments covered by Article 15, Sections 2 and 3 may be provided to the impacted Chapter Presidents at any time by the Employer. The proposed changes may be provided by the Employer individually or they may be provided as part of a group of changes. Notice will be provided by geographic area (Exhibit 47-1) to the impacted Chapters in that geographic area. The Union may ask for a briefing in contemplation of bargaining over the proposed change. The briefing must be held within ten (10) days following the notice from the Employer of the proposed changes.
2. Notice of reassignments/realignments impacting employees in more than one (1) geographic area will be provided to the National President of NTEU. The notice may be provided at

any time. The proposed changes will be negotiated under the procedures of Article 15, Sections 2 and 3 at the national level. However, the parties agree that the timeline for the expedited bargaining period will be extended to ninety (90) days under Article 15, Section 2.

Section 5

Space, Furniture, Parking and Lease Related Changes

- A. The parties recognize that building location and specifications, build out specifications, floor plans, and action plans used in the process of modifying or occupying such space are proper subjects to be negotiated between the parties prior to implementation. The parties also recognize the Employer's statutory right to determine its internal security practices.
- B. The procedures in this section will be used where the primary reason for the change involves space, leases, parking, or furniture. If a reassignment or realignment is also proposed as part of the change, the reassignment/ realignment will be addressed under this process.
- C. The Employer will bargain with the Union at the national level (i.e., national or modified national bargaining) to the extent required by law if free or subsidized parking is not provided to employees where employees were previously provided free or subsidized parking.
- D. The parties agree that proposed changes of a substantial nature with a timeline for completion projected by the Employer that exceeds four (4) years are not covered by this procedure. Instead, the Employer will provide notice of such changes to the NTEU National President under the provisions of Article 47, Section 2.
- E. Pre-Decisional Involvement on Space, Furniture and Lease Related Changes
 1. The parties agree that for all of the Employer's space projects, Chapter leaders will be provided meaningful input on the proposed changes before proposed plans are determined. The process is as follows:
 2. Once a project involving a lease, space or furniture is funded by the IRS, the Employer will provide each impacted Chapter with information regarding the project, including the general scope of the project and the projected completion date. The impacted Chapters may submit any pre-decisional comments, in writing, to the Employer within fifteen (15) days of receipt of the information.

3. Within fifteen (15) days of the submission, the Employer will respond as to whether the Chapter's pre-decisional comments are accepted or rejected.
4. Once the pre-decisional opportunity has been completed and plans are completed by the Employer for submission to the GSA or other appropriate outside party, the Employer will provide copies to the impacted Chapters for review. The impacted Chapters may submit any comments in writing to the Employer within fifteen (15) days of receipt of the plans. The Employer will respond to the Chapters comments within ten (10) days.
5. Following the receipt of any comments and once the proposed plans for lease, space or furniture changes are completed, the Employer will provide formal notice to the impacted Chapters pursuant to Section 5F, below.

F. Formal Notice

1. Notice of proposed changes under this subsection in space, furniture, parking, and leasing matters may be provided at any time by the Employer to the impacted Chapter Presidents so long as the requirements of Section 5E have been met. The proposed changes may be provided by the Employer individually or they may be provided as part of a group of changes. Notice will be provided by geographic area (Exhibit 47-1) to the impacted Chapters in that geographic area. Changes impacting employees in more than one (1) geographic area will be provided to the National President of NTEU under the provisions of Article 47, Section 2.

The Notice will include the following information:

- (a) a copy of the SF-81, Request for Space;
- (b) a copy of space plans (includes space configuration and furniture layout);
- (c) a copy of floor plans approved by GSA;
- (d) a copy of building leases or occupancy agreements, only if the change involves a new lease or lease change;
- (e) a copy of the project schedule; and
- (f) the anticipated start and completion dates of the project.

G. Bargaining Procedures and Dispute Resolution

1. The Union may ask for a briefing in contemplation of bargaining over the proposed change. The briefing must be held within fifteen (15) days following the notice

from the Employer of the proposed changes. If a briefing is held, the Union must submit proposals to the Employer no more than ten (10) workdays after the briefing. If no briefing is held, the Union must submit proposals within fifteen (15) workdays following the notice of the proposed change from the Employer.

2. Bargaining will start no later than thirty (30) days following the Section 5.F notice of proposed changes from the Employer and must be concluded within forty-five (45) days of the Section 5.F notice of the proposed change.

Section 6

- A. Changes in working conditions, limited to a single geographic area as described in Exhibit 47-1, and involving one of the issues listed below, will be negotiated consistent with the procedures in Section 4 above. Changes impacting employees in more than one (1) geographic area will be provided to the National President of NTEU under the provisions of Article 47, Section 2. The following issues have been identified by the national parties:
 1. negotiable issues not resolved under Article 46, Section 4, or a DEEO Advisory Committee under Article 45, subsection 1K;
 2. changes to work procedures;
 3. reorganizations;
 4. building security and building access; and
 5. other issues agreed to by the national parties, including changes submitted on the monthly notice.
- B. At the completion of the bargaining period, either party may utilize the impasse procedures in Section 2, above, except that the time frame for the Factfinder to issue a recommendation to resolve the dispute will be within two (2) weeks of the initial contact with the Factfinder. The Factfinder's recommendation will be in writing. If the Factfinder is not available to commence mediation within seven (7) days of the initial contact by either party, the next Factfinder on the list will be utilized.

Section 7

Information Technology Changes

- A. When required by law, the Employer will provide notice of changes to the technology used by employees to perform their work pursuant to Article 47, Sections 1 and 2. [Note: i.e., within the first 3 workdays of the month]
- B. Upon request, the Union will be provided a briefing on the proposed change. The briefing

must be held within fifteen (15) days following the Employer's notice of the proposed changes. If a briefing is held, the Union must submit proposals to the Employer no later than fifteen (15) days after the briefing is held. If no briefing is held, the Union must submit proposals within twenty (20) days following the notice of the proposed change from the Employer.

- C. Bargaining will start no later than thirty (30) days following the notice of proposed changes from the Employer and must be concluded within sixty (60) days of the initial submission of proposals by the Union.
- D. At the completion of the bargaining period, either party may utilize the impasse procedures in Section 2, above, except that the time frame for the Factfinder to issue a recommendation to resolve the dispute will be within thirty (30) days of the initial contact with the Factfinder. The Factfinder's recommendation will be in writing. If the Factfinder is not available to commence mediation within fifteen (15) days of the initial contact by either party, the next Factfinder on the list will be utilized.

Article 48 | Furloughs

Section 1

Shutdown Furloughs Due to Lapse in Appropriations/Debt Ceiling Limitations

In the event that funds are not available through an appropriations law or continuing resolution, a shutdown furlough occurs. Such a furlough may be necessary when an agency no longer has the funds to operate and must shut down those activities which are not excepted pursuant to the Anti-deficiency Act, 31 U.S.C. § 1341 and 1342.

The following procedures will apply:

- A. The Employer will provide written notice to National NTEU when it is reasonably foreseeable that a shutdown furlough will occur. The notice to National NTEU will include an Excel spreadsheet list of bargaining unit employees (name, grade, series, business division, post of duty and building address) broken down by each business division¹ who are excepted as well as the employees who encumber positions that are exempt from the furlough.
- B. All Service employees will be furloughed except for those employees performing excepted functions or those employees whose positions are exempt. When there is more than one (1) qualified employee in the same position, grade, post of duty, and tour of duty available for an excepted position, the Employer

Signature Page

This agreement is deemed executed on August 26, 2021 and implemented on October 1, 2021 at Washington, D.C.

Jeffrey J.
Tribiano

Digitally signed by Jeffrey
J. Tribiano
Date: 2021.09.27
11:53:43 -04'00'

Jeff Tribiano
Deputy Commissioner
for Operations Support
IRS

mphsb

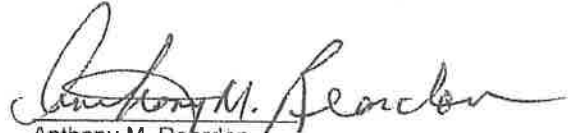
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Date: 2021.09.27
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Tom Cullinan
Counselor to the Commissioner
IRS

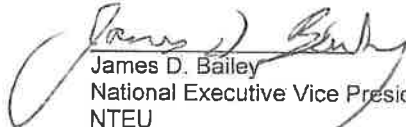
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Anthony M. Reardon
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Terry Scott, Chapter 26
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Nancy Armstrong, Chapter 50
Dana Brewer, Chapter 52
Jill Toliver, Chapter 58
John Kelshaw, Chapter 60
George Schlaffer, Chapter 62
Shannon Ellis, Chapter 66
Gary Karibian, Chapter 68
Cheryl Brewer, Chapter 71
Debora Mullikin, Chapter 73
Dulce Hernandez, Chapter 92
Jason Sisk, Chapter 97
Gibson Jones, Chapter 98
Barbara Taylor, Chapter 222
Larry Kakos, Chapter 238
Shenetha Releford-Dickey, Chapter 284

Decl. Ex. 5

Article 41 | Employee Grievance and Local Institutional Grievance

Section 1

Procedure

- A. The Employer and the Union recognize and endorse the importance of bringing to light and addressing employee concerns through the negotiated grievance procedure promptly and, whenever possible, informally. The Employer and the Union should consider holding grievance meetings virtually where meeting in person may delay the grievance process. In this regard, the parties will ensure that their representatives are properly authorized to resolve matters raised under this Article.
- B. The purpose of this Article is to provide an orderly method for the disposition and processing of grievances brought by employees or by the Union on behalf of employees.
- C. The Union will submit virtually all Contract-related matters to the negotiated grievance procedure for final disposition and will use sparingly unfair labor practice procedures concerning Contract-related issues which may occur in the day-to-day administration of this Agreement.
- D. The grievance procedures of this Article shall not apply to the following:
 1. any claimed violation of Subchapter III of Chapter 73 of Title 5 (relating to prohibited political activities);
 2. retirement, life insurance or health insurance;
 3. suspension or removal under Section 7532 of Title 5 (relating to national security matters);
 4. any examination, certification, or appointment;
 5. the classification of any position that does not result in the reduction in grade of the employee;
 6. matters already filed with the Merit Systems Protection Board (MSPB) as an adverse action which are, therefore, statutorily precluded from duplicate filing under this procedure;
 7. matters over which an employee has filed a written complaint of discrimination through the formal EEO complaint process;
 8. the separation of a probationary employee;
 9. matters specifically excluded by other articles of this Agreement;
 10. non-selection from among a group of properly ranked and certified candidates consistent with 5 C.F.R. § 335.103(d); and

11. reprimands received by employees serving a probationary or trial period.

Section 2

- A. Consistent with 5 U.S.C. § 7103(a)(9), the term "grievance" means any complaint:
 1. by an employee concerning any matter relating to the employment of the employee;
 2. by the Union concerning any matter relating to the employment of any employee; or
 3. by an employee or the Union concerning:
 - (a) the effect or interpretation, or a claim of a breach, of a collective bargaining agreement; or
 - (b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- B. A grievance is also defined as any claimed violation or misapplication of an Employer policy that impacts the working conditions of bargaining unit employees.
- C. Grievances filed by the NTEU National President concerning an issue of rights afforded to employees under this Agreement which otherwise would be recognized as separate grievances from two (2) or more Chapters on the same issues will be filed with the IRS Human Capital Officer. The parties will follow the procedures in Article 42, Section 4 for such grievances.
- D. This procedure will be the only administrative procedure available to bargaining unit employees for the processing and disposition of grievances as defined in subsections 2A1-3 and 2B, above, except when the employee has a statutory right of choice under 5 U.S.C. § 7121, including adverse actions, actions taken for unacceptable performance, or EEO complaints. This subsection will be applied consistent with 5 U.S.C. § 7121
- E. Matters not grievable under this Agreement that are covered by the Agency grievance procedure are grievable under that procedure. However, stewards representing IRS employees under that procedure may use reasonable time consistent with law and regulation to represent employees in that process.
- F. Employees who believe they have been illegally discriminated against on the basis of race, color, religion, sex, national origin, age, or disability have the right to raise the matter under the statutory procedure or the negotiated grievance procedure of this Agreement, but not both. Employees will have elected a forum (grievance or EEO procedure) if a grievance on the matter is reduced to writing or a formal EEO complaint is filed. For employees who contact an EEO counselor to raise allegations of discrimination, information regarding the IRS

Equal Employment Opportunity Alternative Dispute Resolution process may be found on the Equity, Diversity and Inclusion (EDI) web site.

Section 3

- A. Grievances under this Article may be initiated by employees in the unit either singly or jointly, or by the Union on behalf of employees. Grieving employees will have the right to be accompanied, represented and advised by the Union steward or Chief Steward or Chapter President responsible for representing them at whatever step of the procedure a grievance is being heard. Union stewards who file grievances concerning a matter of personal concern will be represented by a steward appointed by the Chapter President.
- B. Where an employee has initiated a grievance and does not elect to be represented by the Union, the Union will have a right to be present at all informal and formal discussions between the employee and the Employer concerning the grievance. The Employer will resolve all grievances presented under such circumstances consistent with the terms and conditions of this Agreement. The Union will be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee.

Section 4

Streamlined Grievance Process

- A. The parties acknowledge that certain types of individual grievances must be addressed as quickly as possible, and they agree to do so according to a special streamlined grievance and arbitration procedure. For workplace complaints identified below, streamlined grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that such grievances will be initiated at Step 2 of that procedure. As an exception to subsection 8C, below (and subject to Article 9, Section 8.B.4), if an Executive hears the grievance at Step 2, the grievance meeting will be held virtually unless a party requests otherwise. This process will be used to consider grievances concerning:
 1. outside employment;
 2. hours of work (including AWS, credit hours, religious compensatory time and distribution of overtime);
 3. absence and leave (including AWOL);
 4. disputes over the approval of official/bank time under Article 9;
 5. denial of a request for pseudonym;
 6. issuance of a leave restriction letter;

7. denial of an NPAA award;
8. non-selection from an Article 13, Section 10 priority consideration certificate;
9. any other matters which the parties mutually agree upon; and
10. any grievance filed on behalf of a campus employee (except that such grievances shall not be subject to the Article 43 Streamlined Arbitration procedure unless specifically referenced above).

Section 5

Mass Grievances

- A. Grievances are considered mass grievances in the event that two (2) or more grieving employees, within the jurisdiction of one (1) Chapter, have designated the Union to serve as their representative on one (1) or more grievances involving the same facts and the same issues, or the Union has filed one (1) or more grievances on behalf of two (2) or more employees, within the jurisdiction of one (1) Chapter, involving the same facts and the same issues.
- B. Time and travel pursuant to Article 9, subsection 8C of this Agreement will be available as follows:
 1. If the grievance involves more than one (1) but less than twenty (20) employees in a Chapter, three (3) grievants may participate in or attend the grievance meeting.
 2. If the grievance involves twenty (20) or more employees in a Chapter, four (4) grievants may participate in or attend the grievance meeting.
 3. The Employer will only reimburse reasonable travel and per diem for the attendance of one (1) grievant at the meeting. All other grievants outside the commuting area of the meeting must participate by telephone or other electronic means.
- C.
 1. Mass grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that such grievances will be initiated at Step 3 of that procedure.
 2. The Union is required to provide the names of all known grievants when it files the mass grievance.
 3. Mass grievances involving employees who work in one (1) Division or the organizational equivalent will be filed with the first level Executive in that Division.
 4. Mass grievances involving employees in more than one (1) Division or organizational equivalent will be filed with the first level Executive in either

Division. Mass grievances alleging violations of Article 13 of this Agreement shall be filed with the first level Executive from the operating unit within the Business Operating Division (BOD) which posted the vacancy announcement.

5. The Executive receiving the mass grievance will hear the grievance or designate a substitute who has the formal organizational authority to hear the grievance.
- D. 1. Within ten (10) workdays of the meeting, the Executive or designee shall issue a written response, or via email if available, to the appropriate Chapter President.
2. When the Employer responds to a mass grievance, it will respect the privacy of employees by placing any details about individual employees that merit privacy in responses that are only sent to the individual employees and his or her representative.
3. The Union must notify the IRS of any appeal to arbitration filed by the Union. Such notice must be sent to an e-mail address established by the Employer. The e-mail address will be provided to the Union at the national level whenever changed in the future. The Union must invoke arbitration within thirty (30) days of the date it receives the final decision issued by the Employer. If a final decision was not timely rendered, the Union may invoke arbitration at any time after the date on which the decision was due and up until thirty (30) days after the decision is eventually provided.

Section 6

Local Institutional Grievance Procedure

- A. The term "Institutional grievance" means any complaint by the Union concerning the effect or interpretation, or a claim of breach of the provisions of this Agreement relating to the rights and benefits that accrue to the Union as the exclusive representative of bargaining unit employees. However, where the grievance is for failure to invite the Union to a formal meeting, as provided for in 5 USC § 7114 or for alleged violations of 5 USC §§ 7116(a), (2), (3), (5), (6), (7), the time limits for filing grievances shall be 180 days.
- B. The grievance must be filed with the first-level executive of the Division or Campus in which the grievance arose. The Executive may then decide that the issue(s) could be more appropriately addressed by a different representative of the Employer. Any grievance that involves more than one (1) Division in a particular SCR area must be filed with the SCR with jurisdiction over the area within which the grievance arose. If the grievance

involves more than one Division or Center in more than one SCR area, it shall be treated as a national grievance under Article 42, Section 3.

- C. Within ten (10) workdays of the filing of the grievance, the Employer will meet with the Chapter President or designee to discuss the grievance. The management official conducting a local institutional grievance meeting pursuant to this Article may elect to hold the meeting by telephone or other electronic means. If the Employer decides to hold a local institutional grievance meeting face-to-face, the Employer will pay the reasonable travel and per diem expenses for one (1) Union steward to attend the meeting consistent with Article 9, subsection 8B2 of this Agreement.
- D. Within twenty (20) workdays of the meeting, the Employer will issue a written response to the Chapter President. If no meeting is held, a response is due within twenty (20) workdays of the submission of the grievance.
- E. Mass grievances that also fall under the definition of institutional grievances may, at the chapter's option, be pursued under this Section or Section 5, above. Chapters must specify in writing the grievance process (i.e., mass, institutional) they want to use when filing a grievance.

Section 7

- A. Except as provided in other provisions of this Agreement, grievances will not be considered unless they are filed with the Employer within fifteen (15) workdays after the incident which gives rise to the grievance or within fifteen (15) workdays after the aggrieved became aware of the matters out of which the grievance arose.
- B. The grievance must provide information concerning the nature of the grievance, the Articles and Sections of the Agreement that are alleged to have been violated, and the remedy sought. If the grievance alleges a violation of law or regulation, the law or regulation will be identified to the extent possible (e.g., the "Privacy Act" in lieu of the specific citation). Failure to cite a specific Agreement provision, regulation, or statute shall not bar an employee or the Union from amending the grievance to include such violations provided the issue has been raised in the grievance.
- C. Performance Appraisal Grievances - Grievances regarding disputes over any appraisals received by an employee pursuant to the provisions of Article 12 of this Agreement will follow a two (2) step process and be initiated at the second step of the employee grievance process. The second level supervisor or designee, who approved the rating of record, will serve as the Step 2 hearing official. If the Step 2 management official is an Executive, there will be

no further appeal of the matter under the grievance procedure. However, the grievant/Union will only be entitled to one (1) face-to-face meeting when grieving appraisals. The grievant/Union will identify in the written grievance whether that meeting will be at the second or third step.

- D. An employee may file a grievance regarding a dispute over an appraisal in accordance with the performance appraisal grievance procedures. Employees may file a grievance over their appraisal only upon the issuance of that appraisal; however, if the matter remains unresolved at the conclusion of the grievance process, the Union may invoke arbitration at that time, or alternatively, within thirty (30) days after the employee's appraisal is used in an action, but in no case may an employee's appraisal be grieved or arbitrated more than once after its issuance.
- E. For grievances alleging discrimination as described in subsection 2F, above, the time limits for filing grievances shall be forty-five (45) days. This forty-five (45) day period may be extended if the employee utilizes alternative dispute resolution procedures. Any extension of the filing requirements will be consistent with the procedures outlined in the alternative dispute resolution process utilized by the employee. However, the above procedure will in no way extend the 180-day requirement provided by regulation.
- F. When the employee alleges discrimination under the negotiated grievance procedure, the grievance shall specify the specific nature of the discrimination, including the basis of discrimination (for example, race, religion) and the facts upon which the allegation is based. Pursuant to subsection 8B, this information must be raised no later than the conclusion of the Step 2 meeting. In cases arising under Articles 38, 39, or 40 in which discrimination is alleged, this information should be presented in writing at the oral or written reply stage, even if no other oral/written reply is presented, in order for the allegations of discrimination to be grieved or arbitrated under the terms of this Agreement. Regardless of the above, allegations of discrimination must be described in writing no later than the submission of the notice invoking arbitration and in all cases it must be raised within the deadlines provided by the regulations.
- G. Merit Promotion Grievances. Grievances initiated by a Chapter alleging violations of Article 13 of this Agreement on behalf of an individual shall be filed with the second level manager (i.e., the Territory or Department manager) at the operating unit within the BOD where the vacancy was posted. Such grievances shall be initiated by the Union at Step 2.

Section 8

Uniform Employee Grievance Procedure

The parties are encouraged to seek informal resolution of grievances. Accordingly, such matters may be brought to the attention of the employee's supervisor for informal resolution, before filing a formal grievance. In the event a formal grievance is filed, the parties will endeavor to resolve the grievance at the lowest level in the grievance process.

Step 1

- A. 1. A grievance is required to be presented in writing, or via e-mail if available, to the employee's immediate supervisor. The submission of the grievance constitutes notice that a meeting is requested.
- 2. One (1) steward, appointed by the Chapter that filed the grievance, may attend Step 1 grievance meetings. No travel and per diem is authorized for any Step 1 grievance meetings. The parties may agree that no meeting be held. If held, the meeting shall take place within five (5) workdays of the submission of the grievance. Where the parties are co-located, at the option of either party, the meetings may be held face-to-face; however, no local travel is authorized for such meetings.
- 3. The meeting shall include the supervisor or designee, the employee, the employee's Union representative and a Labor Relations Specialist at the option of the supervisor conducting the meeting. The meeting is intended to provide the opportunity for the employee to present and discuss aspects of the issues giving rise to his or her grievance with the supervisor in an attempt to clarify issues and find an appropriate resolution.
- 4. The employee and the Union will be provided with a written response, or via e-mail if available, to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the filing of the grievance if a meeting is not held. Such decision will not normally exceed two (2) pages in length and will include the name of the next higher-level supervisor.

Step 2

- B. If the issue remains unresolved, the employee may appeal the grievance to the appropriate next higher level of management (absent formal agreement otherwise). For grievances that start at Step 2, the appropriate next level of management will be the employee's second level supervisor. The appeal may be made via e-mail if available. Such notice

of appeal will be timely if made within ten (10) workdays of receipt by the Union of the decision in Step 1. The appeal constitutes notice that a meeting is requested. However, the parties may agree that no meeting be held. If held, the meeting shall take place within ten (10) workdays of the notice of appeal.

- C. With the exception of subsections 4A and 7C, above, employee, a designated Union representative and the next higher-level supervisor or designee will hold a telephonic meeting or a meeting using other electronic means. Where the parties are co-located, at the option of either party, the meetings may be held face-to-face however no local travel is authorized for such meetings. The supervisor conducting the meeting may elect to invite a Labor Relations Specialist.
- D. The employee and the Union will be provided with a written response (via e-mail if available) to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the appeal if a meeting is not held. The response will also include the e-mail address for the Union to notify the IRS of an appeal to arbitration consistent with Section 9, below, if the Step 2 hearing official is an Executive.
- E. If the Step 2 management official is an Executive, there will be no further appeal under the grievance procedure.

Step 3

- F. If the issue is not resolved, the employee may appeal the grievance to the appropriate next higher level of management absent formal agreement otherwise). Such appeal must be filed in writing, or via e-mail if available, within ten (10) workdays of receipt of the Step 2 decision (as noted above, if the Step 2 management official was an Executive, there will be no further appeal under the grievance procedure and the matter may proceed directly to arbitration, in accordance with Article 43).
- G. The employee, a designated Union representative and the next higher level of management representative or designee will meet face-to-face, unless the parties mutually agree to a telephonic meeting or a meeting using other electronic means, within ten (10) workdays of the appeal. One (1) steward, appointed by the Chapter that filed the grievance, may attend third step grievance meetings. The Employer will reimburse travel and per diem for the steward appointed by the Chapter that filed the grievance to attend the Step 3 grievance meeting. The parties may also agree that no meeting will be held. One (1) additional Union representative located in the commuting area of the meeting may also attend. Travel and per diem

is not authorized for the second representative. The supervisor conducting the meeting may elect to invite a Labor Relations Specialist. For grievances concerning disciplinary actions, Article 9, Section 8B5 controls whether the grievance is held in person or virtually, and what travel is authorized.

- H. Within ten (10) workdays of the meeting, the higher level of management representative or designee, shall issue a written response, or via e-mail if available, to the Union one (1) day prior to providing a copy of the response to the employee. The response will also include the e-mail address for the Union to notify the IRS of an appeal to arbitration consistent with Section 9 below. If the Step 3 meeting cannot be held within thirty (30) days of the appeal, the Union may invoke arbitration in accordance with Article 43.
- I. The Employer will provide, on a semi-annual basis, a report to National NTEU on the number of grievances filed for each time period. The report will show the number of grievances filed per third-line manager and the number settled or withdrawn at each step of the process.

Section 9

- A. 1. The parties will have the obligation of making a complete record during the steps of the grievance procedure, including the obligation to produce witnesses who have information relevant to the matter at issue. The Union will be granted access to returns and return information consistent with I.R.C. § 6103(l)(4) (A).
- 2. The parties acknowledge their obligation to produce witnesses who have information relevant to the matter at issue. Evidence and witnesses that are relevant to the resolution of a grievance may be introduced at any stage of the grievance or arbitration process. The Union's request for the participation of a witness, who is a bargaining unit employee of the IRS, will normally be approved consistent with Article 9.
- 3. The Union may request the appearance of witnesses during any step of the grievance process who are employees of the IRS.
- 4. The parties agree to exchange information that is relevant and necessary to understand the dispute and maximize the potential of settling the matter. Disputes over access to information will be determined in accordance with applicable law, rule or regulation.
- 5. The Employer will normally inform the Union within ten (10) days whether information requested under 5 U.S.C. § 7114(b)(4) will be supplied. Where the Employer has determined

to supply such information and a grievance is involved, the Union may either move forward with the grievance or may request an extension of time to file or appeal to the subsequent steps in the grievance process.

- B. New issues may not be raised by either party unless they have been raised at Step 2 of the grievance procedure provided, however, the parties may agree to join the new issues with a grievance in process.
- C. Procedural arbitrability issues, such as timeliness and failure to adequately state a claim, must be raised by the Employer no later than the last grievance response. However, if the issue is whether the matter is substantively arbitrable, that matter may be raised at any time by the Employer and the grievance will be amended to include the issue.

Section 10

- A. If the matter is not resolved following the last step meeting and/or written response, the decision may be appealed to binding arbitration as provided for in Article 43.
- B. The Union must notify the Employer of any appeal to arbitration filed by the Union. Such notice must be sent to an e-mail address established by the Employer. The e-mail address will be provided to the Union at the national level whenever changed in the future. The Union must invoke arbitration within thirty (30) days of the date it receives the final decision issued by the Employer. If a final decision was not timely rendered, the Union may invoke arbitration at any time after the date on which the decision was due and up until thirty (30) days after the decision is eventually provided.

Section 11

- A. The parties may agree to extend the time limits in this Article.
- B. The parties may agree in writing to waive any step of this procedure.
- C. Responses to grievances shall be served on the appropriate Union steward or the grievant if not represented by a steward consistent with subsection 3B of this Article. Time periods set forth in this Article shall be computed from the day after the receipt of a grievance or appeal by the Employer and the day after the receipt of a response by the Union. Consistent with subsection 3B of this Article, the Union steward shall be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee. The response may be provided via e-mail if available.

- D. The Employer will give a substantive response to each issue raised by the Union in the written response.

Section 12

Failure on the part of the aggrieved or the Union to prosecute the grievance at any step of the procedure will have the effect of nullifying the grievance. Failure on the part of the Employer to meet any of the requirements of the procedure will permit the aggrieved or the Union to move to the next step.

Section 13

- A. Grievance meetings will be scheduled at a time agreeable to the Union and the Employer. In the absence of agreement, the meeting will be scheduled during the grievant's normal tour of duty. Under circumstances where the meeting cannot be scheduled during the representative's normal tour of duty, and the representative is not eligible for credit hours under Article 9, the Employer has determined that the representative's tour of duty will be changed to meet this representational need consistent with agreements regarding tours of duty.
- B. The location of grievance meetings will be mutually determined by the Employer and the Union. If the parties cannot agree, the meeting will be held at the post-of-duty of the grievant or other site chosen by the Employer.

Section 14

Where the steward is processing one (1) of his or her first three (3) grievances, the Union may have one (1) additional steward attend on official time under Article 9.

Section 15

- A. 1. Where the Union believes that a personnel action involves an alleged prohibited personnel practice as defined by 5 U.S.C. § 2302, the Union will raise that matter in the grievance, reply, or arbitration invocation as appropriate. Where there is a proposed personnel action that the Union believes involves an alleged prohibited personnel practice, the Union shall file a written statement with the deciding official for the proposed action, which shall contain the same information as a grievance. Once raised, the Union may petition an arbitrator for a stay of the action.
- 2. The parties will create two (2) arbitrators panels. There will be at least three (3) arbitrators on each panel. One (1) panel will be for cases arising from offices west of the Mississippi, the other panel will be for cases arising from offices east of the Mississippi. These arbitrators will hear all stay cases in their geographic areas for the duration of this Contract.

- B. The petition for a stay must contain the following:
1. a chronology of the facts including a description of the alleged prohibited personnel practices involved and the personnel action or actions that the Agency has taken or intends to take which form the basis for the petition;
 2. evidence and/or argument showing that the action taken or threatened is a personnel action, that the action taken or threatened was based on a prohibited personnel practice, and that there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
 3. documentary evidence that supports the stay request; and
 4. a specific request for remedies.
- C. The petition for a stay must be filed with the selected arbitrator and the appropriate servicing General Legal Services office, which will be identified in the deciding official's response. Filings may be made by personal delivery, FAX, mail or by commercial overnight delivery, or e-mail with voice mail or telephonic confirmation.
- D. The arbitrator will have jurisdiction over the case forty-eight (48) hours after the Union has served the Employer with its petition for a stay. After forty-eight (48) hours, the arbitrator has the authority to issue an interim stay, pending a final decision on the stay. Any interim stay ordered must be consistent with the burdens of proof and standards established by the Merit Systems Protection Board cases concerning stays. If the arbitrator does not issue an interim stay, the Employer's response must be filed within ten (10) days of the expiration of the forty-eight (48) hour period consistent with subsection 15E below. If the arbitrator does issue an interim stay, any request for an extension of time to file the Employer's response will be granted by the arbitrator. The arbitrator will not issue an interim stay ex-parte but will discuss and accept any argument or comment via telephone relevant to an interim stay request.
- E. The Employer's response must be filed with the arbitrator and grievant's representative within ten (10) days of the expiration of the forty-eight (48) hour period. The Employer's response must contain the following:
1. evidence and/or argument addressing whether there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
 2. evidence and or argument addressing whether the grant of a stay would result in extreme hardship; and
 3. any documentation relevant to the Agency's position on these issues.
- F. 1. Once under their jurisdiction, the arbitrator may seek a mutually agreed resolution of the matter or clarify the issues via telephone prior to issuing a decision on the stay. The arbitrator must issue a written ruling on the stay petition within ten (10) days of the receipt of the Employer's response. The arbitrator may only grant a stay consistent with the burdens of proof and standards established by the Merit Systems Protection Board in cases concerning 5 U.S.C. § 1221 (c). A stay must not be granted for any other reason. Any and all decisions on a petition for a stay are final and binding on the parties.
2. A hearing on a petition for a stay may be held by mutual agreement of the parties or by order of the arbitrator. Any hearing must be scheduled and held within thirty (30) days of the date of the petition requesting a stay. The arbitrator must issue a written ruling consistent with subsection 15F1.
3. The arbitrator will be responsible for assessing any and all costs associated with the petition for a stay consistent with Article 43, subsection 4A1.
- G. Absent mutual agreement, the arbitrator who ruled on the request for a stay will hear the ultimate arbitration related to that action, if any. When such arbitration decisions result in the reversal of the Agency's action, based upon a specific finding of a prohibited personnel practice, the arbitrator has the authority to issue all legal remedies.

Section 16

Mutual Interest Resolution Procedure

The parties at the national level, at any time during the term of this Agreement, may agree to engage in a Mutual Interest Resolution Procedure (MIRP) which is a means to expedite the resolution of certain grievances and arbitration cases (e.g., aged) jointly selected by the parties in a manner which balances the interests of the Employer, the Union and the impacted employees. Participation in the MIRP is entirely voluntary and neither party may grieve the failure to reach agreement on applying the process to any grievance or arbitration case. In addition, the process does not negate the Employer's authority to hear, settle, address, or resolve grievance/arbitration cases pursuant to the terms of this Article. Furthermore, the process does not circumvent the Union's rights and interests as the exclusive bargaining representative for IRS employees.

A. Site Selection

Upon mutual agreement, the parties at the national level may apply the MIRP at any location.

B. Panel Selection

The Employer and the local NTEU Chapter may each appoint up to three (3) local representatives with settlement authority to serve as panel members. The Employer and National NTEU have determined that General Legal Services (GLS), Labor Relations Specialists and NTEU attorneys/Field Representatives may not serve as panel members.

C. Case Selection

1. The national parties will mutually select approximately ten (10) to fifteen (15) grievance and/or arbitration cases to resolve. The cases selected will typically involve matters involving appraisals, minor discipline, absence and leave, including AWOL, and hours of work (e.g., AWS, credit hours, overtime). For grievances to be included, the matter must have been processed through at least the second step of the grievance process. The parties agree that the process is generally not appropriate for grievance and arbitration cases involving sensitive or complex issues, such as discrimination, adverse actions, Union rights or contract interpretation issues that will involve bargaining history testimony.
2. The Employer and local Union representatives will meet and agree to case selection two (2) weeks prior to the Phase 1 meeting. There will be no information requests. Using Exhibit 41-1, the parties will exchange written summaries of each selected case one (1) week prior to the Phase 1 meeting. In addition to a summary of each party's position, Exhibit 41-1 may include prior settlement offers and explanations of why they were not accepted, if appropriate. Exhibit 41-1 will be completed for settlement purposes only and will not be admissible by either party in any other proceeding, including in Phase II of this resolution procedure. No supporting documentation will be exchanged since both parties are expected to possess case files.

D. Phase I

1. The Phase I meeting will address and attempt to resolve the selected cases over a two (2) day period. This period may be extended subject to agreement by both parties. Management and Union officials will be empowered to reach resolution. To facilitate the process, the Employer and National NTEU, at each party's own expense, may have one (1) representative present at Phase I meetings.
2. Primarily to respond to Union questions regarding a proposed settlement and at the option of the Union, the grievant or grievants in the case of a mass grievance, may attend the Phase I meeting in person, if located in the

commuting area of the meeting, or by telephone or other electronic means if located outside the commuting area of the meeting. If the grievance selected is a mass grievance as defined by Section 5, then the provisions in subsection 5A will apply to determine the number of grievants who may attend the Phase I meeting and the Phase II arbitration.

3. To promote the mutually desired goal of resolving cases, the Employer and local NTEU at a particular site will receive four (4) hours of joint Interest-Based Negotiation (IBN) training the first time this resolution procedure is utilized at that site. In the event that the MIRP is utilized at a particular site more than once, the parties may mutually agree to participate in subsequent IBN training. The parties will request that the Federal Mediation and Conciliation Service (FMCS) conduct training on the first day of the Phase I meetings. If available, the FMCS representative may facilitate initial settlement discussions in order to apply what was learned in training to specific cases.
4. To ensure closure and once agreement is reached on a case, the agreement will be immediately reduced to writing and signed by both parties. A settlement template, Exhibit 41-2, is provided for this purpose. The parties may agree to modify the template based on the circumstances of the case being settled.
5. In the event that any case is not settled, Phase II (Arbitration) will be initiated. Arbitration will be held as soon as possible, but no later than ninety (90) days from the completion of the Phase I meetings.

E. Phase II

1. All cases not resolved in Phase I will be heard by an arbitrator who will be selected from the appropriate regional panel and agreed to by NTEU and GLS. The arbitrator must be fully apprised of the MIRP process, including Phase II hearing procedures. The grievant(s) must be afforded the opportunity to be present (if co-located within the commuting area of the Phase II arbitration hearing or by telephone if outside the commuting area) for Phase II. NTEU and GLS attorneys will both be provided up to one (1) hour to present the facts and their respective arguments. Subject to the one (1) hour limitation, exhibits may be introduced and/or witnesses may be called by either party. The arbitrator will be allowed up to one (1) hour to ask questions, attempt to mediate a settlement, and, absent settlement, issue a bench ruling. There will be no transcript of the Phase II process.

2. If an agreement is reached with the assistance of the arbitrator, the material terms will be reduced to writing immediately and signed using the settlement template, Exhibit 41-2. The parties may agree to modify the template based on the circumstances of the case being settled.
3. If agreement cannot be reached, the arbitrator will issue a bench ruling which will be reduced to writing. The bench decision will include language that the parties are responsible for their own costs and attorney's fees, the arbitrator's fees will be split between the parties 50/50 and that the decision is non-precedential.
4. The decision by the arbitrator may be appealed to the FLRA by either party if an assertion is made that the decision violates law or regulation.

This agreement is deemed executed on February 23, 2024 and implemented on October 1, 2024

Melanie R. Krause
Chief Operating Officer
IRS

Doreen P. Greenwald
National President
NTEU

Traci DiMartini
Chief Human Capital Officer
IRS

Terry J. Scott
National Executive Vice President
NTEU

Geralda Larkins
Director, Labor/Employee Relations and Negotiations
IRS

Kenneth E. Moffett, Jr.
Director of Negotiations
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IRS Bargaining Team Members

Victor Onorato, Chairperson, SBSE
Steve Wenk, Chief Negotiator, HCO
Carl Ochs, Taxpayer Services
Kim Rogers, RPO
Russ Eisenstein, GLS
Kathy Garman, GLS

NTEU Bargaining Team Members

Jack Jarrett, Assistant Counsel
Aliza Chesler, National Negotiator
Lorie McCann (Chapter 10)
Brian Norton (Chapter 24)
Patty Allen (Chapter 30)
Roger Hammons (Chapter 39)
Atherine Wilson (Chapter 47)
Bill Larkin (Chapter 62)
Shannon Ellis (Chapter 66)
Beth Willwerth (Chapter 68)
Dulce Hernandez (Chapter 92)
Jason Sisk (Chapter 97)
Gibson Jones (Chapter 98)
Lorena Montan (Chapter 193)

Exhibit A

Presidential Documents

Executive Order 14251 of March 27, 2025

Exclusions From Federal Labor-Management Relations Programs

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 7103(b)(1) of title 5 and 4103(b) of title 22, United States Code, to enhance the national security of the United States, it is hereby ordered:

Section 1. *Determinations.* (a) The agencies and agency subdivisions set forth in section 2 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of title 5, United States Code, cannot be applied to these agencies and agency subdivisions in a manner consistent with national security requirements and considerations.

(b) The agency subdivisions set forth in section 3 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Subchapter X of Chapter 52 of title 22, United States Code, cannot be applied to these subdivisions in a manner consistent with national security requirements and considerations.

Sec. 2. *Additional National Security Exclusions.* Executive Order 12171 of November 19, 1979, as amended, is further amended by:

(a) In section 1–101, adding “and Section 1–4” after “Section 1–2” in both places that term appears.

(b) Adding after section 1–3 a new section 1–4 that reads:

“1–4. *Additional Exclusions.*

1–401. The Department of State.

1–402. The Department of Defense, except for any subdivisions excluded pursuant to section 4 of the Executive Order of March 27, 2025, entitled ‘Exclusions from Federal Labor-Management Relations Programs.’

1–403. The Department of the Treasury, except the Bureau of Engraving and Printing.

1–404. The Department of Veterans Affairs.

1–405. The Department of Justice.

1–406. Agencies or subdivisions of the Department of Health and Human Services:

(a) Office of the Secretary.

(b) Food and Drug Administration.

(c) Centers for Disease Control and Prevention.

(d) Administration for Strategic Preparedness and Response.

(e) Office of the General Counsel.

(f) Office of Refugee Resettlement, Administration for Children and Families.

(g) National Institute of Allergy and Infectious Diseases, National Institutes of Health.

1–407. Agencies or subdivisions of the Department of Homeland Security:

- (a) Office of the Secretary.
- (b) Office of the General Counsel.
- (c) Office of Strategy, Policy, and Plans.
- (d) Management Directorate.
- (e) Science and Technology Directorate.
- (f) Office of Health Security.
- (g) Office of Homeland Security Situational Awareness.
- (h) U.S. Citizenship and Immigration Services.
- (i) United States Immigration and Customs Enforcement.
- (j) United States Coast Guard.
- (k) Cybersecurity and Infrastructure Security Agency.
- (l) Federal Emergency Management Agency.

1–408. Agencies or subdivisions of the Department of the Interior:

- (a) Office of the Secretary.
- (b) Bureau of Land Management.
- (c) Bureau of Safety and Environmental Enforcement.
- (d) Bureau of Ocean Energy Management.

1–409. The Department of Energy, except for the Federal Energy Regulatory Commission.

1–410. The following agencies or subdivisions of the Department of Agriculture:

- (a) Food Safety and Inspection Service.
- (b) Animal and Plant Health Inspection Service.

1–411. The International Trade Administration, Department of Commerce.

1–412. The Environmental Protection Agency.

1–413. The United States Agency for International Development.

1–414. The Nuclear Regulatory Commission.

1–415. The National Science Foundation.

1–416. The United States International Trade Commission.

1–417. The Federal Communications Commission.

1–418. The General Services Administration.

1–419. The following agencies or subdivisions of each Executive department listed in section 101 of title 5, United States Code, the Social Security Administration, and the Office of Personnel Management:

- (a) Office of the Chief Information Officer.
- (b) any other agency or subdivision that has information resources management duties as the agency or subdivision's primary duty.

1–499. Notwithstanding the forgoing, nothing in this section shall exempt from the coverage of Chapter 71 of title 5, United States Code:

(a) the immediate, local employing offices of any agency police officers, security guards, or firefighters, provided that this exclusion does not apply to the Bureau of Prisons;

(b) subdivisions of the United States Marshals Service not listed in section 1–209 of this order; or

(c) any subdivisions of the Departments of Defense or Veterans Affairs for which the applicable Secretary has issued an order suspending the application of this section pursuant to section 4 of the Executive Order

of March 27, 2025, entitled ‘Exclusions from Federal Labor-Management Relations Programs.’”

Sec. 3. *Foreign Service Exclusions.* Executive Order 12171, as amended, is further amended by:

(a) In the first paragraph:

(i) adding “and Section 4103(b) of Title 22,” after “Title 5”; and

(ii) adding “and Subchapter X of Chapter 52 of Title 22” after “Relations Program.”

(b) Adding after section 1–102 a new section 1–103 that reads:

“1–103. The Department subdivisions set forth in section 1–5 of this order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Subchapter X of Chapter 52 of title 22, United States Code, cannot be applied to those subdivisions in a manner consistent with national security requirements and considerations. The subdivisions set forth in section 1–5 of this order are hereby excluded from coverage under Subchapter X of Chapter 52 of title 22, United States Code.”

(c) Adding after the new section 1–4 added by section 2(b) of this order a new section 1–5 that reads:

“1–5. Subdivisions of Departments Employing Foreign Service Officers. 1–501. Subdivisions of the Department of State:

(a) Each subdivision reporting directly to the Secretary of State.

(b) Each subdivision reporting to the Deputy Secretary of State.

(c) Each subdivision reporting to the Deputy Secretary of State for Management and Resources.

(d) Each subdivision reporting to the Under Secretary for Management.

(e) Each subdivision reporting to the Under Secretary for Arms Control and International Security.

(f) Each subdivision reporting to the Under Secretary for Civilian Security, Democracy, and Human Rights.

(g) Each subdivision reporting to the Under Secretary for Economic Growth, Energy, and Environment.

(h) Each subdivision reporting to the Under Secretary for Political Affairs.

(i) Each subdivision reporting to the Under Secretary for Public Diplomacy.

(j) Each United States embassy, consulate, diplomatic mission, or office providing consular services.

1–502. Subdivisions of the United States Agency for International Development:

(a) All Overseas Missions and Field Offices.

(b) Each subdivision reporting directly to the Administrator.

(c) Each subdivision reporting to the Deputy Administrator for Policy and Programming.

(d) Each subdivision reporting to the Deputy Administrator for Management and Resources.”

Sec. 4. *Delegation of Authority to the Secretaries of Defense and Veterans Affairs.* (a) Subject to the requirements of subsection (b) of this section, the Secretaries of Defense and Veterans Affairs are delegated authority under 5 U.S.C. 7103(b)(1) to issue orders suspending the application of section 1–402 or 1–404 of Executive Order 12171, as amended, to any subdivisions of the departments they supervise, thereby bringing such subdivisions under the coverage of the Federal Service Labor-Management Relations Statute.

(b) An order described in subsection (a) of this section shall only be effective if:

(i) the applicable Secretary certifies to the President that the provisions of the Federal Service Labor-Management Relations Statute can be applied to such subdivision in a manner consistent with national security requirements and considerations; and

(ii) such certification is submitted for publication in the *Federal Register* within 15 days of the date of this order.

Sec. 5. *Delegation of Authority to the Secretary of Transportation.* (a) The national security interests of the United States in ensuring the safety and integrity of the national transportation system require that the Secretary of Transportation have maximum flexibility to cultivate an efficient workforce at the Department of Transportation that is adaptive to new technologies and innovation. Where collective bargaining is incompatible with that mission, the Department of Transportation should not be forced to seek relief through grievances, arbitrations, or administrative proceedings.

(b) The Secretary of Transportation is therefore delegated authority under section 7103(b) of title 5, United States Code, to issue orders excluding any subdivision of the Department of Transportation, including the Federal Aviation Administration, from Federal Service Labor-Management Relations Statute coverage or suspending any provision of that law with respect to any Department of Transportation installation or activity located outside the 50 States and the District of Columbia. This authority may not be further delegated. When making the determination required by 5 U.S.C. 7103(b)(1) or 7103(b)(2), the Secretary of Transportation shall publish his determination in the *Federal Register*.

Sec. 6. *Implementation.* With respect to employees in agencies or subdivisions thereof that were previously part of a bargaining unit but have been excepted under this order, each applicable agency head shall, upon termination of the applicable collective bargaining agreement:

(a) reassign any such employees who performed non-agency business pursuant to section 7131 of title 5 or section 4116 of title 22, United States Code, to performing solely agency business; and

(b) terminate agency participation in any pending grievance proceedings under section 7121 of title 5, United States Code, exceptions to arbitral awards under section 7122 of title 5, United States Code, or unfair labor practice proceedings under section 7118 of title 5 or section 4116 of title 22, United States Code, that involve such employees.

Sec. 7. *Additional Review.* Within 30 days of the date of this order, the head of each agency with employees covered by Chapter 71 of title 5, United States Code, shall submit a report to the President that identifies any agency subdivisions not covered by Executive Order 12171, as amended:

(a) that have as a primary function intelligence, counterintelligence, investigative, or national security work, applying the definition of “national security” set forth by the Federal Labor Relations Authority in Department of Energy, Oak Ridge Operations, and National Association of Government Employees Local R5–181, 4 FLRA 644 (1980); and

(b) for which the agency head believes the provisions of Chapter 71 of title 5, United States Code, cannot be applied to such subdivision in a manner consistent with national security requirements and considerations, and the reasons therefore.

Sec. 8. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

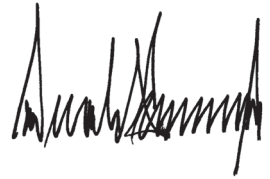
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party

against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be "Donald Trump", located in the upper right quadrant of the page.

THE WHITE HOUSE,
March 27, 2025.

Exhibit B



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

MEMORANDUM

TO: Heads and Acting Heads of Departments and Agencies

FROM: Charles Ezell, Acting Director, U.S. Office of Personnel Management

DATE: March 27, 2025

RE: Guidance on Executive Order *Exclusions from Federal Labor-Management Programs*

On March 27, 2025, President Trump signed an executive order entitled *Exclusions from Federal Labor-Management Relations Programs (Exclusions)*. This order invoked the President's authority under 5 U.S.C. § 7103(b)(1) and 22 U.S.C. § 4103(b) to exempt agencies and agency subdivisions from the provisions of the Federal Service Labor-Management Relations Statute and the Foreign Service Labor-Management Relations Statute (individually and collectively, the FSLMRS).¹ The President's Executive Order directs that the FSLMRS will no longer apply to the following agencies and agency subdivisions (collectively, the "covered agencies and subdivisions"):

- The Department of Defense;
- The Department of State;
- The Department of the Treasury, except the Bureau of Engraving and Printing;
- The Department of Veterans Affairs (VA);
- The Department of Justice, except certain components of the U.S. Marshals Service;
- Subdivisions of the Department of Homeland Security:
 - Departmental Headquarters components;
 - U.S. Citizenship and Immigration Services;
 - Immigration and Customs Enforcement;
 - U.S. Coast Guard;
 - The Cybersecurity and Infrastructure Security Agency; and
 - The Federal Emergency Management Agency;

¹ These provisions are codified in chapter 71 of title 5, United States Code, and subchapter X of chapter 52 of title 22, United States Code.

- Subdivisions of the Department of Health and Human Services:
 - Office of the Secretary;
 - Office of the General Counsel;
 - Food and Drug Administration;
 - Centers for Disease Control and Prevention;
 - The Administration for Strategic Preparedness and Response;
 - The National Institute for Allergy and Infectious Diseases, National Institutes of Health; and
 - Office of Refugee Resettlement, Administration for Children and Families.
- The Department of Energy, except the Federal Energy Regulatory Commission;
- Subdivisions of the Department of the Interior:
 - Office of the Secretary;
 - Bureau of Land Management;
 - Bureau of Safety and Environmental Enforcement;
 - Bureau of Ocean Energy Management;
- Subdivisions of the Department of Agriculture:
 - The Food Safety and Inspection Service;
 - The Animal and Plant Health Inspection Service;
- The International Trade Administration within the Department of Commerce;
- The Environmental Protection Agency;
- The U.S. Agency for International Development;
- The Nuclear Regulatory Commission;
- The National Science Foundation;
- The International Trade Commission;
- The Federal Communications Commission;
- The General Services Administration; and
- The Office of the Chief Information Officer (CIO) in each Executive department, as well as the CIO offices for the U.S. Office of Personnel Management (OPM) and the Social Security Administration, and any other agency or subdivision that has information

resources management duties as the agency or subdivision's primary duty.²

By operation of 5 U.S.C. § 7103(b) and *Exclusions*, covered agencies and subdivisions are no longer subject to the collective-bargaining requirements of chapter 71 of part III, subpart F of title 5 (5 U.S.C. §§ 7101-7135). Consequently, those agencies and subdivisions are no longer required to collectively bargain with Federal unions. Also, because the statutory authority underlying the original recognition of the relevant unions no longer applies, unions lose their status as the "exclusive[ly] recogni[zed]" labor organizations for employees of the agencies and agency subdivisions covered by *Exclusions*.³

Agencies should consult with their General Counsels as to how to implement the President's directive in *Exclusions*. Agencies should also begin to consider and implement the changes described below and any others that agencies deem necessary, consistent with the President's national security determination. OPM highlights some common provisions of agency CBAs that may be inconsistent with the President's policies and management priorities.

I. Performance Accountability

Merit system principles codified at 5 U.S.C. § 2301(6) direct agencies to separate employees who cannot or will not improve their performance to meet required standards. This often does not occur. When asked what happens to poor performers in their work unit, a plurality of Federal employees respond that they "remain in the work unit and continue to underperform."⁴ Only a quarter of agency supervisors report that they are confident they could remove a seriously underperforming employee.⁵

Strengthening performance accountability in the Federal workforce is a high priority of President Trump and his Administration. The President believes that he must be able to effectively supervise Federal employees to take care that the law is faithfully executed and to protect America's national security. Shortly after taking office the President issued multiple directives to facilitate the separation of underperforming employees.⁶

Agency CBAs often create procedural impediments to separating poor performers beyond those required by statute or regulation. Covered agencies and subdivisions should seek to bring

² The Executive Order excludes the immediate employing offices of police and firefighters. It also provides a process for the Secretaries of Defense and Veterans Affairs to retain collective bargaining in subdivisions of their agencies if they certify that doing so does not impair national security.

³ Cf. 5 U.S.C. § 7111(a) ("An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative . . ."), *id.* § 7114(a)(1) (authorizing the exclusively recognized labor organization to "negotiate collective bargaining agreements covering[] all employees in the unit.")

⁴ <https://www.opm.gov/fevs/reports/opm-fevs-dashboard/>.

⁵ U.S. Merit Systems Protection Board, *Remedying Unacceptable Employee Performance in the Federal Civil Service* (June 18, 2019), at p. 15.

⁶ See Executive Order 14171 of Jan. 20, 2025 (*Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce*); Memorandum of January 20, 2025 (*Restoring Accountability for Career Senior Executives*); Executive Order 4211 of Feb. 12, 2025 (*One Voice for America's Foreign Relations*).

their policies into alignment with the specific Administration priorities below.

A. Limit PIPs to 30 Days.

The Civil Service Reform Act (CSRA) requires agencies to provide underperforming employees with an opportunity to demonstrate acceptable performance before dismissing them under chapter 43 of title 5, United States Code.⁷ These opportunity periods are commonly known as Performance Improvement Periods (PIPs). Executive Order 13839 of May 25, 2018, (*Promoting Accountability and Streamlining Removal Procedures Consistent with Merit System Principles*) generally standardized PIPs at 30 days. Executive Order 14003 of January 22, 2021 (*Protecting the Federal Workforce*) rescinded Executive Order 13839 and directed agencies to reverse policies effectuated under it. Under this directive, agencies increased PIPs from 30 days to 60 to 120 days. However, Executive Order 14171 of January 20, 2025 (*Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce*) revoked Executive Order 14003 and directed agencies to reverse disciplinary and unacceptable-performance policies effectuated pursuant to it.

Prior OPM guidance has explained that Executive Order 14171 now requires agencies to return to the policies of Executive Order 13839.⁸ Agencies are accordingly required to, consistent with applicable law, return PIPs to 30 days. Where a CBA requires PIPs of more than 30 days, agencies must generally wait until such CBAs expire or otherwise terminate before shortening PIPs.⁹ After covered agencies and subdivisions terminate CBAs that require PIPs of more than 30 days, they should take prompt action to reduce PIPs for former bargaining unit employees to no more than 30 days.

B. Use Chapters 43 and 75 for Performance-Based Removals.

Covered agencies and subdivisions are required to revert their discipline and unacceptable performance policies to those set in the first Trump Administration under Executive Order 13839. This includes the directive to use the procedures of chapter 75 of title 5, United States Code, in addition to chapter 43 (discussed above), to separate employees for unacceptable performance in appropriate cases.¹⁰

Chapter 75 actions do not require a PIP but bear a higher burden of proof than chapter 43 actions. Many agency CBAs functionally prohibit using chapter 75 procedures by requiring PIPs for all performance-based separations. Covered agencies and subdivisions that have terminated their CBAs should thereafter use chapter 75 procedures to separate underperforming employees without PIPs in appropriate cases. Agencies may continue to use chapter 43 procedures in appropriate cases.

C. VA Should Resume Use of Section 714.

⁷ 5 U.S.C. 4202(c)(6).

⁸ OPM, [Guidance on Revocation of Executive Order 14003](#) (Feb. 7, 2025).

⁹ 5 U.S.C. 7116(a)(7).

¹⁰ See section 2(h) of Executive Order 13839.

In 38 U.S.C. § 714, Congress gave VA special authority to remove some employees for poor performance without a PIP and with a lower burden of proof than chapter 43 actions. The Biden Administration discontinued use of section 714 authority after an arbitrator held that VA could not renegotiate its CBA to eliminate contractual PIPs. VA should, upon termination of its CBA, consider whether to resume use of section 714 authority in appropriate cases. Where facts and circumstances warrant, VA should cease providing covered employees with PIPs before separating them for poor performance under section 714.

D. Discontinue Grievance Participation.

In keeping with the provisions of the FSLMRS, CBAs provide for binding arbitration of union grievances, including disputes over whether personnel actions were justified.¹¹ To implement *Exclusions*, agencies should cease participating in grievance procedures after terminating their CBAs. To the extent that covered agencies and subdivisions are litigating grievances before an arbitrator when they terminate their CBAs, they should discontinue participation in such proceedings upon termination. Agencies can and should compensate arbitrators for work performed prior to the termination of the CBA, but not for any work performed thereafter. Agencies should not participate in further grievance arbitration proceedings following termination of their CBAs.

II. Effective and Efficient Government

It is the policy of the President and his Administration to eliminate waste, bloat, and insularity within agencies and operate them more efficiently. Covered agencies and subdivisions should therefore take the following actions after terminating their CBAs.

A. Disregard Contractual RIF Articles.

The President has directed agencies to prepare large-scale reductions in force (RIFs).¹² OPM previously provided guidance about agency collective bargaining obligations when undertaking RIFs.¹³ Covered agencies and subdivisions that terminate their CBAs are advised that this guidance will no longer apply. After terminating their CBAs, covered agencies and subdivisions should conduct RIFs consistent with applicable statutory and regulatory requirements, but without regard to provisions in terminated CBAs that go beyond those requirements.

B. Return to In-Person Work.

The President considers returning agency employees to in-person work necessary for effective and efficient agency operations. The President issued a memorandum generally requiring

¹¹ 5 U.S.C. § 7121.

¹² OPM, [Guidance on Agency RIF and Reorganization Plans Requested by Implementing The President's "Department of Government Efficiency" Workforce Optimization Initiative](#) (February 26, 2025).

¹³ OPM, [Guidance on Collective Bargaining in Connection with Reductions in Force](#) (March 12, 2025).

in-person work on the first day of his Administration.¹⁴ OPM guidance has explained that substantive telework levels and the substantive determination of which positions are eligible for telework or remote work are non-negotiable management rights.¹⁵ However, agency CBAs sometimes impose procedural restrictions on agency return to work policies that do not violate non-negotiable management rights. Upon termination of these CBAs, covered agencies and subdivisions should swiftly implement the President's directives in *Return to In-Person Work*.

C. Use Agency Resources for Agency Business.

The FSLMRS permits unions to negotiate to allow agency employees to perform union representational work instead of agency business during their official duty hours.¹⁶ Contractual authorization for "taxpayer-funded union time" terminates when agency CBAs are terminated. Additionally, employees no longer have representational activities to conduct once their agency or subdivision has been excluded from the FSLMRS coverage. *Exclusions* requires agencies to promptly return such employees to performing solely agency business. Upon termination of any CBAs that require taxpayer-funded union time, agencies should reassign employees on union time to duties that solely include agency business.

Many agency CBAs similarly provide Federal unions with free use of agency resources (such as office space) or commit the agency to cover certain union expenses (such as the cost of travel and per diems). Following termination of CBAs that require such subsidies, covered agencies and subdivisions should promptly discontinue them and use agency resources only for agency business.

D. End Allotments Through Agency Payroll Systems.

The FSLMRS requires agencies to deduct union dues from employees' pay upon request.¹⁷ Agency resources are expended to set up those payroll deductions and process payments, and many agency CBAs contractually commit agencies to making such allotments according to specified procedures. When a covered agency terminates its CBAs, those contractual commitments no longer apply, and the covered agency should terminate allotments except where required by statute. Agency employees may make other arrangements for dues payments if they wish to do so. However, agency resources ordinarily should not be expended to facilitate payment of union dues.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, Human Resources Directors, and Chiefs of Staff

¹⁴ Memorandum of January 20, 2025 ([Return to In-Person Work](#)).

¹⁵ OPM, [Guidance on Collective Bargaining Obligations in Connection with Return to In-Person Work](#) (February 3, 2025).

¹⁶ 5 U.S.C. 7131(d), 22 U.S.C. 4118(d)(4).

¹⁷ 5 U.S.C. 7115, 22 U.S.C. 4118(a).

Exhibit C

or arguments raised in the employee's behalf, such as an argument that the cited cases are but a small portion of the employee's total work product which is otherwise acceptable.

E. In order to expedite resolution of removals and reductions in grade of three (3) grades or more which are covered by this Article, the parties agree to the following procedures for arbitration of such actions:

1. the parties shall establish a hearing date so that the hearing will be conducted within 120 days of the effective date of the action; if the parties are unable to mutually establish such a date, the assigned arbitrator shall be empowered and instructed, upon the motion of either party, to establish a date and conduct the hearing within the time set forth above; once established, a hearing date may be changed only by agreement of the parties and the arbitrator shall permit either party to proceed ex parte in the event the other party fails to present its case on the established hearing date;
2. if the assigned arbitrator is unable to provide a hearing date within the time set forth above, a new arbitrator will be promptly assigned; and
3. the assigned arbitrator shall be responsible for scheduling closure of the record and issuing a decision not later than sixty (60) days after the hearing is concluded.

Section 7

- A. To the extent not prohibited by law, the Employer will provide the Union with copies of all unacceptable performance action proposal and decision letters, simultaneously with their issuance to employees. One (1) copy shall be provided to the impacted Chapter office and one (1) copy shall be provided to the appropriate NTEU National Field Office. It shall be the responsibility of both the Chapter and the NTEU National Field Office to maintain this information for their use in grievances and arbitrations and all other representative matters.
- B. The letters referenced in this Article and the case data will be coded with the same case number in order for the Union to cross-reference the data. The Employer will sanitize documents in compliance with applicable laws, rules and regulations, and not over-sanitize so as to cause the information to be unusable.
- C. Where the Union has provided the Agency with a signed designation of representation, the Employer will provide an unsanitized copy of the decision letter to the Chapter on the same day that it is provided to the employee.

D. Information provided by the Employer pursuant to this Section need not be provided again to any Union Chapter, office, or representative pursuant to any statutory or contractual request.

Section 8

At the time the Employer issues its proposal letter and its decision letter to an employee, it shall include a letter written by the Union which outlines the employee's right to representation and his or her appeal rights. Failure to include such a letter shall be grievable but shall not constitute a basis for overturning the adverse action.

Article 41 | Employee Grievance and Local Institutional Grievances

Procedure

Section 1

- A. The Employer and the Union recognize and endorse the importance of bringing to light and addressing employee concerns through the negotiated grievance procedure promptly and, whenever possible, informally. In this regard, the parties will ensure that their representatives are properly authorized to resolve matters raised under this Article.
- B. The purpose of this Article is to provide an orderly method for the disposition and processing of grievances brought by employees or by the Union on behalf of employees.
- C. The Union will submit virtually all Contract-related matters to the negotiated grievance procedure for final disposition and will use sparingly unfair labor practice procedures concerning Contract-related issues which may occur in the day-to-day administration of this Agreement.
- D. The grievance procedures of this Article shall not apply to the following:
 1. any claimed violation of Subchapter III of Chapter 73 of Title 5 (relating to prohibited political activities);
 2. retirement, life insurance or health insurance;
 3. a suspension or removal under Section 7532 of Title 5 (relating to national security matters);
 4. any examination, certification, or appointment;
 5. the classification of any position that does not result in the reduction in grade of the employee;
 6. matters already filed with the Merit Systems Protection Board (MSPB) as an adverse action

which are, therefore, statutorily precluded from duplicate filing under this procedure;

7. matters over which an employee has filed a written complaint of discrimination through the formal EEO complaint process;
8. the separation of a probationary employee;
9. matters specifically excluded by other articles of this Agreement;
10. non-selection from among a group of properly ranked and certified candidates consistent with 5 C.F.R. § 335.103(d); and
11. reprimands received by employees serving a probationary or trial period.

Section 2

- A. Consistent with 5 U.S.C. § 7103(a)(9), the term "grievance" means any complaint:
 1. by an employee concerning any matter relating to the employment of the employee;
 2. by the Union concerning any matter relating to the employment of any employee; or
 3. by an employee or the Union concerning:
 - (a) the effect or interpretation, or a claim of a breach, of a collective bargaining agreement; or
 - (b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- B. A grievance is also defined as any claimed violation or misapplication of an Employer policy that impacts the working conditions of bargaining unit employees.
- C. Grievances filed by the NTEU National President concerning an issue of rights afforded to employees under this Agreement which otherwise would be recognized as separate grievances from two (2) or more Chapters on the same issues will be filed with the IRS Human Capital Officer. The parties will follow the procedures in Article 42, Section 4 for such grievances.
- D. This procedure will be the only administrative procedure available to bargaining unit employees for the processing and disposition of grievances as defined in subsections 2A1-3 and 2B, above, except when the employee has a statutory right of choice under 5 U.S.C. § 7121, including adverse actions, actions taken for unacceptable performance, or EEO complaints. This subsection will be applied consistent with 5 U.S.C. § 7121.
- E. Matters not grievable under this Agreement that are covered by the Agency grievance procedure are grievable under that procedure. However,

stewards representing IRS employees under that procedure may use reasonable time consistent with law and regulation to represent employees in that process.

- F. Employees who believe they have been illegally discriminated against on the basis of race, color, religion, sex, national origin, age, or disability have the right to raise the matter under the statutory procedure or the negotiated grievance procedure of this Agreement, but not both. Employees will have elected a forum (grievance or EEO procedure) if a grievance on the matter is reduced to writing or a formal EEO complaint is filed. For employees who contact an EEO counselor to raise allegations of discrimination, information regarding the IRS Equal Employment Opportunity Alternative Dispute Resolution process may be found in the "Reference Guide for Employees and Managers" dated August 14, 2008. The guide is posted on the Equity, Diversity and Inclusion (EDI) web site.

Section 3

- A. Grievances under this Article may be initiated by employees in the unit either singly or jointly, or by the Union on behalf of employees. Grieving employees will have the right to be accompanied, represented and advised by the Union steward or Chief Steward or Chapter President responsible for representing them at whatever step of the procedure a grievance is being heard. Union stewards who file grievances concerning a matter of personal concern will be represented by a steward appointed by the Chapter President.
- B. Where an employee has initiated a grievance and does not elect to be represented by the Union, the Union will have a right to be present at all informal and formal discussions between the employee and the Employer concerning the grievance. The Employer will resolve all grievances presented under such circumstances consistent with the terms and conditions of this Agreement. The Union will be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee.

Section 4

Streamlined Grievance Process

- A. The parties acknowledge that certain types of individual grievances must be addressed as quickly as possible, and they agree to do so according to a special streamlined grievance and arbitration procedure. For workplace complaints identified below, streamlined grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that

such grievances will be initiated at Step 2 of that procedure. As an exception to subsection 8C, below (and subject to Article 9, Section 7.B.4), if an Executive hears the grievance at Step 2, the grievance meeting will be held face to-face unless the parties mutually agree to a meeting by telephone or other electronic means. This process will be used to consider grievances concerning:

1. outside employment;
2. hours of work (including AWS, credit hours, religious compensatory time and distribution of overtime);
3. absence and leave (including AWOL);
4. disputes over the approval of official/bank time under Article 9;
5. denial of a request for pseudonym;
6. issuance of a leave restriction letter;
7. denial of an NPAA award;
8. non-selection from an Article 13, Section 10 priority consideration certificate;
9. any other matters which the parties mutually agree upon; and
10. any grievance filed on behalf of a campus employee (except that such grievances shall not be subject to the Article 43 Streamlined Arbitration procedure unless specifically referenced above).

Section 5

Mass Grievances

- A. Grievances are considered mass grievances in the event that two (2) or more grieving employees, within the jurisdiction of one (1) Chapter, have designated the Union to serve as their representative on one (1) or more grievances involving the same facts and the same issues, or the Union has filed one (1) or more grievances on behalf of two (2) or more employees, within the jurisdiction of one (1) Chapter, involving the same facts and the same issues.
- B. Time and travel pursuant to Article 9, subsection 7C of this Agreement will be available as follows:
 1. If the grievance involves more than one (1) but less than twenty (20) employees in a Chapter, three (3) grievants may participate in or attend the grievance meeting.
 2. If the grievance involves twenty (20) or more employees in a Chapter, four (4) grievants may participate in or attend the grievance meeting.
 3. The Employer will only reimburse reasonable travel and per diem for the attendance of one

(1) grievant at the meeting. All other grievants outside the commuting area of meeting must participate by telephone or other electronic means.

- C. 1. Mass grievances will be processed in accordance with the uniform employee grievance procedure as described in Section 7, except that such grievances will be initiated at Step 3 of that procedure.
2. The Union is required to provide the names of all known grievants when it files the mass grievance.
3. Mass grievances involving employees who work in one (1) Division or the organizational equivalent will be filed with the first level Executive in that Division.
4. Mass grievances involving employees in more than one (1) Division or organizational equivalent will be filed with the first level Executive in either Division.
5. Mass grievances alleging violations of Article 13 of this Agreement shall be filed with the first level Executive from the operating unit within the Business Operating Division (BOD) which posted the vacancy announcement.
5. The Executive receiving the mass grievance will hear the grievance or designate a substitute who has the formal organizational authority to hear the grievance.
- D. 1. Within ten (10) workdays of the meeting, the Executive or designee shall issue a written response, or via e-mail if available, to the appropriate Chapter President.
2. When the Employer responds to a mass grievance, it will respect the privacy of employees by placing any details about individual employees that merit privacy in responses that are only sent to the individual employees and his or her representative.
3. The Union must notify the IRS of any appeal to arbitration filed by the Union. Such notice must be sent to an e-mail address established by the Employer. The e-mail address will be provided to the Union at the national level whenever changed in the future. The Union must invoke arbitration within thirty (30) days of the date it receives the final decision issued by the Employer. If a final decision was not timely rendered, the Union may invoke arbitration at any time after the date on which the decision was due and up until thirty (30) days after the decision is eventually provided.

Section 6**Local Institutional Grievance Procedure**

- A. The term "Institutional grievance" means any complaint by the Union concerning the effect or interpretation, or a claim of breach of the provisions of this Agreement relating to the rights and benefits that accrue to the Union as the exclusive representative of bargaining unit employees. However, where the grievance is for failure to invite the Union to a formal meeting, as provided for in 5 U.S.C. § 7114 or for alleged violations of 5 U.S.C. § 7116(a), (2), (3), (5), (6), (7), the time limits for filing grievances shall be 180 days.
- B. The grievance must be filed with the first-level executive of the Division or Campus in which the grievance arose. The Executive may then decide that the issue(s) could be more appropriately addressed by a different representative of the Employer. Any grievance that involves more than one (1) Division in a particular SCR area must be filed with the SCR with jurisdiction over the area within which the grievance arose. If the grievance involves more than one Division or Center in more than one SCR area, it shall be treated as a national grievance under Article 42, Section 3.
- C. Within ten (10) workdays of the filing of the grievance, the Employer will meet with the Chapter President or designee to discuss the grievance. The management official conducting a local institutional grievance meeting pursuant to this Article may elect to hold the meeting by telephone or other electronic means. If the Employer decides to hold a local institutional grievance meeting face-to-face, the Employer will pay the reasonable travel and per diem expenses for one (1) Union steward to attend the meeting consistent with Article 9, subsection 7B2 of this Agreement.
- D. Within twenty (20) workdays of the meeting, the Employer will issue a written response to the Chapter President. If no meeting is held, a response is due within twenty (20) workdays of the submission of the grievance.
- E. Mass grievances that also fall under the definition of institutional grievances may, at the chapter's option, be pursued under this Section or Section 5, above. Chapters must specify in writing the grievance process (i.e., mass, institutional) they want to use when filing a grievance.

Section 7

- A. Except as provided in other provisions of this Agreement, grievances will not be considered unless they are filed with the Employer within fifteen (15) workdays after the incident which gives rise to the grievance or within fifteen (15)

workdays after the aggrieved became aware of the matters out of which the grievance arose.

- B. The grievance must provide information concerning the nature of the grievance, the Articles and Sections of the Agreement that are alleged to have been violated, and the remedy sought. If the grievance alleges a violation of law or regulation, the law or regulation will be identified to the extent possible (e.g., the "Privacy Act" in lieu of the specific citation). Failure to cite a specific Agreement provision, regulation, or statute shall not bar an employee or the Union from amending the grievance to include such violations provided the issue has been raised in the grievance.
- C. Performance Appraisal Grievances - Grievances regarding disputes over any appraisals received by an employee pursuant to the provisions of Article 12 of this Agreement will follow a two (2) step process and be initiated at the second step of the employee grievance process. The second level supervisor or designee, who approved the rating of record, will serve as the Step 2 hearing official. If the Step 2 management official is an Executive, there will be no further appeal of the matter under the grievance procedure. However, the grievant/ Union will only be entitled to one (1) face-to-face meeting when grieving appraisals. The grievant/ Union will identify in the written grievance whether that meeting will be at the second or third step.
- D. An employee may file a grievance regarding a dispute over an appraisal in accordance with the performance appraisal grievance procedures. Employees may file a grievance over their appraisal only upon the issuance of that appraisal; however, if the matter remains unresolved at the conclusion of the grievance process, the Union may invoke arbitration at that time, or alternatively, within thirty (30) days after the employee's appraisal is used in an action, but in no case may an employee's appraisal be grieved or arbitrated more than once after its issuance.
- E. For grievances alleging discrimination as described in subsection 2F, above, the time limits for filing grievances shall be forty-five (45) days. This forty-five (45) day period may be extended if the employee utilizes alternative dispute resolution procedures. Any extension of the filing requirements will be consistent with the procedures outlined in the alternative dispute resolution process utilized by the employee. However, the above procedure will in no way extend the 180-day requirement provided by regulation.
- F. When the employee alleges discrimination under the negotiated grievance procedure, the grievance shall specify the specific nature of the discrimination (for example, race, religion) and the

facts upon which the allegation is based. Pursuant to subsection 8B, this information must be raised no later than the conclusion of the Step 2 meeting. In cases arising under Articles 38, 39, or 40 in which discrimination is alleged, this information should be presented in writing at the oral or written reply stage, even if no other oral/written reply is presented, in order for the allegations of discrimination to be grieved or arbitrated under the terms of this Agreement. Regardless of the above, allegations of discrimination must be described in writing no later than the submission of the notice invoking arbitration and in all cases it must be raised within the deadlines provided by the regulations.

- G. Merit Promotion Grievances. Grievances initiated by a Chapter alleging violations of Article 13 of this Agreement on behalf of an individual shall be filed with the second level manager (i.e., the Territory or Department manager) at the operating unit within the BOD where the vacancy was posted. Such grievances shall be initiated by the Union at Step 2.

Section 8

Uniform Employee Grievance Procedure

The parties are encouraged to seek informal resolution of grievances. Accordingly, such matters may be brought to the attention of the employee's supervisor for informal resolution, before filing a formal grievance. In the event a formal grievance is filed, the parties will endeavor to resolve the grievance at the lowest level in the grievance process.

Step 1

- A. 1. A grievance is required to be presented in writing, or via e-mail if available, to the employee's immediate supervisor. The submission of the grievance constitutes notice that a meeting is requested.
2. One (1) steward, appointed by the Chapter that filed the grievance, may attend Step 1 grievance meetings. No travel and per diem is authorized for any Step 1 grievance meetings. The parties may agree that no meeting be held. If held, the meeting shall take place within five (5) workdays of the submission of the grievance. Where the parties are co-located, at the option of either party, the meetings may be held face-to-face; however, no local travel is authorized for such meetings.
3. The meeting shall include the supervisor or designee, the employee, the employee's Union representative and a Labor Relations Specialist at the option of the supervisor conducting the meeting. The meeting is

intended to provide the opportunity for the employee to present and discuss aspects of the issues giving rise to his or her grievance with the supervisor in an attempt to clarify issues and find an appropriate resolution.

4. The employee and the Union will be provided with a written response, or via e-mail if available, to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the filing of the grievance if a meeting is not held. Such decision will not normally exceed two (2) pages in length and will include the name of the next higher level supervisor.

Step 2

- B. If the issue remains unresolved, the employee may appeal the grievance to the appropriate next higher level of management (absent formal agreement otherwise). The appeal may be made via e-mail if available. Such notice of appeal will be timely if made within ten (10) workdays of receipt by the Union of the decision in Step 1. The appeal constitutes notice that a meeting is requested. However, the parties may agree that no meeting be held. If held, the meeting shall take place within ten (10) workdays of the notice of appeal.
- C. With the exception of subsections 4A and 7C, above, employee, a designated Union representative and the next higher-level supervisor or designee will hold a telephonic meeting or a meeting using other electronic means. Where the parties are co-located, at the option of either party, the meetings may be held face-to-face; however no local travel is authorized for such meetings. The supervisor conducting the meeting may elect to invite a Labor Relations Specialist.
- D. The employee and the Union will be provided with a written response or (via e-mail if available) to the grievance within ten (10) workdays of the close of the meeting, if one is held, or within five (5) workdays of the appeal if a meeting is not held. The response will also include the e-mail address for the Union to notify the IRS of an appeal to arbitration consistent with Section 9, below, if the Step 2 hearing official is an Executive.
- E. If the Step 2 management official is an Executive, there will be no further appeal under the grievance procedure.

Step 3

- F. If the issue is not resolved, the employee may appeal the grievance to the appropriate next higher level of management absent formal agreement otherwise). Such appeal must be filed in writing, or via e-mail if available, within ten (10) workdays of receipt of the Step 2 decision (as noted above, if

the Step 2 management official was an Executive, there will be no further appeal under the grievance procedure and the matter may proceed directly to arbitration, in accordance with Article 43).

- G. The employee, a designated Union representative and the next higher level of management representative or designee will meet face-to-face, unless the parties mutually agree to a telephonic meeting or a meeting using other electronic means, within ten (10) workdays of the appeal. One (1) steward, appointed by the Chapter that filed the grievance, may attend third step grievance meetings. The Employer will reimburse travel and per diem for the steward appointed by the Chapter that filed the grievance to attend the Step 3 grievance meeting. The parties may also agree that no meeting will be held. One (1) additional Union representative located in the commuting area of the meeting may also attend. Travel and per diem is not authorized for the second representative. The supervisor conducting the meeting may elect to invite a Labor Relations Specialist. For grievances concerning disciplinary actions, Article 9, Section 7.B.5 controls whether the grievance is held in person or virtually, and what travel is authorized.
- H. Within ten (10) workdays of the meeting, the higher level of management representative or designee, shall issue a written response, or via e-mail if available, to the Union one (1) day prior to providing a copy of the response to the employee. The response will also include the e-mail address for the Union to notify the IRS of an appeal to arbitration consistent with Section 9 below. If the Step 3 meeting cannot be held within thirty (30) days of the appeal, the Union may invoke arbitration in accordance with Article 43.
- I. The Employer will provide, on a semi-annual basis, a report to National NTEU on the number of grievances filed for each time period. The report will show the number of grievances filed per third-line manager and the number settled or withdrawn at each step of the process.

Section 9

- A. 1. The parties will have the obligation of making a complete record during the steps of the grievance procedure, including the obligation to produce witnesses who have information relevant to the matter at issue. The Union will be granted access to returns and return information consistent with I.R.C. § 6103(l)(4) (A).
- 2. The parties acknowledge their obligation to produce witnesses who have information relevant to the matter at issue. Evidence and

witnesses that are relevant to the resolution of a grievance may be introduced at any stage of the grievance or arbitration process. The Union's request for the participation of a witness, who is a bargaining unit employee of the IRS, will normally be approved consistent with Article 9.

- 3. The Union may request the appearance of witnesses during any step of the grievance process who are employees of the IRS.
- 4. The parties agree to exchange information that is relevant and necessary to understand the dispute and maximize the potential of settling the matter. Disputes over access to information will be determined in accordance with applicable law, rule or regulation.
- 5. The Employer will normally inform the Union within ten (10) days whether information requested under 5 U.S.C. § 7114(b)(4) will be supplied. Where the Employer has determined to supply such information and a grievance is involved, the Union may either move forward with the grievance or may request an extension of time to file or appeal to the subsequent steps in the grievance process.
- B. New issues may not be raised by either party unless they have been raised at Step 2 of the grievance procedure provided, however, the parties may agree to join the new issues with a grievance in process.
- C. Procedural arbitrability issues, such as timeliness and failure to adequately state a claim, must be raised by the Employer no later than the last grievance response. However, if the issue is whether the matter is substantively arbitrable, that matter may be raised at any time by the Employer and the grievance will be amended to include the issue.

Section 10

- A. If the matter is not resolved following the last step meeting and/or written response, the decision may be appealed to binding arbitration as provided for in Article 43.
- B. The Union must notify the Employer of any appeal to arbitration filed by the Union. Such notice must be sent to an e-mail address established by the Employer. The e-mail address will be provided to the Union at the national level whenever changed in the future. The Union must invoke arbitration within thirty (30) days of the date it receives the final decision issued by the Employer. If a final decision was not timely rendered, the Union may invoke arbitration at any time after the date on

which the decision was due and up until thirty (30) days after the decision is eventually provided.

Section 11

- A. The parties may agree to extend the time limits in this Article.
- B. The parties may agree in writing to waive any step of this procedure.
- C. Responses to grievances shall be served on the appropriate Union steward or the grievant if not represented by a steward consistent with subsection 3B of this Article. Time periods set forth in this Article shall be computed from the day after the receipt of a grievance or appeal by the Employer and the day after the receipt of a response by the Union. Consistent with subsection 3B of this Article, the Union steward shall be provided with a copy of the Employer's response one (1) full workday before it is given to the grieving employee. The response may be provided via e-mail if available.
- D. The Employer will give a substantive response to each issue raised by the Union in the written response.

Section 12

Failure on the part of the aggrieved or the Union to prosecute the grievance at any step of the procedure will have the effect of nullifying the grievance. Failure on the part of the Employer to meet any of the requirements of the procedure will permit the aggrieved or the Union to move to the next step.

Section 13

- A. Grievance meetings will be scheduled at a time agreeable to the Union and the Employer. In the absence of agreement, the meeting will be scheduled during the grievant's normal tour of duty. Under circumstances where the meeting cannot be scheduled during the representative's normal tour of duty, and the representative is not eligible for credit hours under Article 9, the Employer has determined that the representative's tour of duty will be changed to meet this representational need consistent with agreements regarding tours of duty.
- B. The location of grievance meetings will be mutually determined by the Employer and the Union. If the parties cannot agree, the meeting will be held at the post-of-duty of the grievant or other site chosen by the Employer.

Section 14

Where the steward is processing one (1) of his or her first three (3) grievances, the Union may have one (1) additional steward attend on official time under Article 9.

Section 15

- A.
 1. Where the Union believes that a personnel action involves an alleged prohibited personnel practice as defined by 5 U.S.C. § 2302, the Union will raise that matter in the grievance, reply, or arbitration invocation as appropriate. Where there is a proposed personnel action that the Union believes involves an alleged prohibited personnel practice, the Union shall file a written statement with the deciding official for the proposed action, which shall contain the same information as a grievance. Once raised, the Union may petition an arbitrator for a stay of the action.
 2. The parties will create two (2) arbitrators panels. There will be at least three (3) arbitrators on each panel. One (1) panel will be for cases arising from offices west of the Mississippi, the other panel will be for cases arising from offices east of the Mississippi. These arbitrators will hear all stay cases in their geographic areas for the duration of this Contract.
- B. The petition for a stay must contain the following:
 1. a chronology of the facts including a description of the alleged prohibited personnel practices involved and the personnel action or actions that the Agency has taken or intends to take which form the basis for the petition;
 2. evidence and/or argument showing that the action taken or threatened is a personnel action, that the action taken or threatened was based on a prohibited personnel practice, and that there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
 3. documentary evidence that supports the stay request; and
 4. a specific request for remedies.
- C. The petition for a stay must be filed with the selected arbitrator and the appropriate servicing General Legal Services office, which will be identified in the deciding official's response. Filings may be made by personal delivery, FAX, mail or by commercial overnight delivery, or e-mail with voice mail or telephonic confirmation.
- D. The arbitrator will have jurisdiction over the case forty-eight (48) hours after the Union has served

the Employer with its petition for a stay. After forty-eight (48) hours, the arbitrator has the authority to issue an interim stay, pending a final decision on the stay. Any interim stay ordered must be consistent with the burdens of proof and standards established by the Merit Systems Protection Board cases concerning stays. If the arbitrator does not issue an interim stay, the Employer's response must be filed within ten (10) days of the expiration of the forty-eight (48) hour period consistent with subsection 14E below. If the arbitrator does issue an interim stay, any request for an extension of time to file the Employer's response will be granted by the arbitrator. The arbitrator will not issue an interim stay ex-parte but will discuss and accept any argument or comment via telephone relevant to an interim stay request.

- E. The Employer's response must be filed with the arbitrator and grievant's representative within ten (10) days of the expiration of the forty-eight (48) hour period. The Employer's response must contain the following:
 - 1. evidence and/or argument addressing whether there is a substantial likelihood that the grievant will prevail on the merits of the appeal;
 - 2. evidence and or argument addressing whether the grant of a stay would result in extreme hardship; and
 - 3. any documentation relevant to the Agency's position on these issues.
- F.
 - 1. Once under his or her jurisdiction, the arbitrator may seek a mutually agreed resolution of the matter or clarify the issues via telephone prior to issuing a decision on the stay. The arbitrator must issue a written ruling on the stay petition within ten (10) days of the receipt of the Employer's response. The arbitrator may only grant a stay consistent with the burdens of proof and standards established by the Merit Systems Protection Board in cases concerning 5 U.S.C. § 1221(c). A stay must not be granted for any other reason. Any and all decisions on a petition for a stay are final and binding on the parties.
 - 2. A hearing on a petition for a stay may be held by mutual agreement of the parties or by order of the arbitrator. Any hearing must be scheduled and held within thirty (30) days of the date of the petition requesting a stay. The arbitrator must issue a written ruling consistent with subsection 14F1.
 - 3. The arbitrator will be responsible for assessing any and all costs associated with the petition for a stay consistent with Article 43, subsection 4A1.

- G. Absent mutual agreement, the arbitrator who ruled on the request for a stay will hear the ultimate arbitration related to that action, if any. When such arbitration decisions result in the reversal of the Agency's action, based upon a specific finding of a prohibited personnel practice, the arbitrator has the authority to issue all legal remedies.

Section 16

Mutual Interest Resolution Procedure

The parties at the national level, at any time during the term of this Agreement, may agree to engage in a Mutual Interest Resolution Procedure (MIRP) which is a means to expedite the resolution of certain grievances and arbitration cases (e.g., aged) jointly selected by the parties in a manner which balances the interests of the Employer, the Union and the impacted employees. Participation in the MIRP is entirely voluntary and neither party may grieve the failure to reach agreement on applying the process to any grievance or arbitration case. In addition, the process does not negate the Employer's authority to hear, settle, address, or resolve grievance/arbitration cases pursuant to the terms of this Article. Furthermore, the process does not circumvent the Union's rights and interests as the exclusive bargaining representative for IRS employees.

A. Site Selection

Upon mutual agreement, the parties at the national level may apply the MIRP at any location.

B. Panel Selection

The Employer and the local NTEU Chapter may each appoint up to three (3) local representatives with settlement authority to serve as panel members. The Employer and National NTEU have determined that General Legal Services (GLS), Labor Relations Specialists and NTEU attorneys/Field Representatives may not serve as panel members.

C. Case Selection

- 1. The national parties will mutually select approximately ten (10) to fifteen (15) grievance and/or arbitration cases to resolve. The cases selected will typically involve matters involving appraisals, minor discipline, absence and leave, including AWOL, and hours of work (e.g., AWS, credit hours, overtime). For grievances to be included, the matter must have been processed through at least the second step of the grievance process. The parties agree that the process is generally not appropriate for grievance and arbitration cases involving sensitive or complex issues, such as discrimination, adverse actions, Union rights or contract interpretation issues that will involve bargaining history testimony.
- 2. The Employer and local Union representatives will meet and agree to case selection two (2)

weeks prior to the Phase 1 meeting. There will be no information requests. Using Exhibit 41-1, the parties will exchange written summaries of each selected case one (1) week prior to the Phase 1 meeting. In addition to a summary of each party's position, Exhibit 41-1 may include prior settlement offers and explanations of why they were not accepted, if appropriate. Exhibit 41-1 will be completed for settlement purposes only and will not be admissible by either party in any other proceeding, including in Phase II of this resolution procedure. No supporting documentation will be exchanged since both parties are expected to possess case files.

D. Phase I

1. The Phase I meeting will address and attempt to resolve the selected cases over a two (2) day period. This period may be extended subject to agreement by both parties. Management and Union officials will be empowered to reach resolution. To facilitate the process, the Employer and National NTEU, at each party's own expense, may have one (1) representative present at Phase I meetings.
2. Primarily to respond to Union questions regarding a proposed settlement and at the option of the Union, the grievant or grievants in the case of a mass grievance, may attend the Phase I meeting in person, if located in the commuting area of the meeting, or by telephone or other electronic means if located outside the commuting area of the meeting. If the grievance selected is a mass grievance as defined by Section 5, then the provisions in subsection 5A will apply to determine the number of grievants who may attend the Phase I meeting and the Phase II arbitration.
3. To promote the mutually desired goal of resolving cases, the Employer and local NTEU at a particular site will receive four (4) hours of joint Interest-Based Negotiation (IBN) training the first time this resolution procedure is utilized at that site. In the event that the MIRP is utilized at a particular site more than once, the parties may mutually agree to participate in subsequent IBN training. The parties will request that the Federal Mediation and Conciliation Service (FMCS) conduct training on the first day of the Phase I meetings. If available, the FMCS representative may facilitate initial settlement discussions in order to apply what was learned in training to specific cases.
4. To ensure closure and once agreement is reached on a case, the agreement will be

immediately reduced to writing and signed by both parties. A settlement template, Exhibit 41-2, is provided for this purpose. The parties may agree to modify the template based on the circumstances of the case being settled.

5. In the event that any case is not settled, Phase II (Arbitration) will be initiated. Arbitration will be held as soon as possible, but no later than ninety (90) days from the completion of the Phase I meetings.

E. Phase II

1. All cases not resolved in Phase I will be heard by an arbitrator who will be selected from the appropriate regional panel and agreed to by NTEU and GLS. The arbitrator must be fully apprised of the MIRP process, including Phase II hearing procedures. The grievant(s) must be afforded the opportunity to be present (if co-located within the commuting area of the Phase II arbitration hearing or by telephone if outside the commuting area) for Phase II. NTEU and GLS attorneys will both be provided up to one (1) hour to present the facts and their respective arguments. Subject to the one (1) hour limitation, exhibits may be introduced and/or witnesses may be called by either party. The arbitrator will be allowed up to one (1) hour to ask questions, attempt to mediate a settlement, and, absent settlement, issue a bench ruling. There will be no transcript of the Phase II process.
2. If an agreement is reached with the assistance of the arbitrator, the material terms will be reduced to writing immediately and signed using the settlement template, Exhibit 41-2. The parties may agree to modify the template based on the circumstances of the case being settled.
3. If agreement cannot be reached, the arbitrator will issue a bench ruling which will be reduced to writing. The bench decision will include language that the parties are responsible for their own costs and attorney's fees, the arbitrator's fees will be split between the parties 50/50 and that the decision is non-precedential.
4. The decision by the arbitrator may be appealed to the FLRA by either party if an assertion is made that the decision violates law or regulation.

- I. DEEO Advisory Committees shall not:
 - 1. be used as media or means to express, present, or press employee demands upon the Employer;
 - 2. be used as channels for receiving, reviewing, or considering individual EEO complaints;
 - 3. engage in the conduct of investigations or the processing of formal or informal EEO complaints; or
 - 4. engage in or otherwise assume the role reserved to exclusively recognized labor organizations nor serve as forums for discussion of employee organization or labor union matters.
- J. Members of DEEO Advisory Committees shall not engage in the conduct of investigations or the processing of formal or informal EEO complaints.
- K. Consistent with Article 47, Section 6, if the Committee is unable to reach agreement, or its recommendations are rejected or not acted upon, the Union may initiate negotiations over the issue(s) to the extent they are otherwise negotiable.
- L. Where the DEEO Advisory Committee, described in subsection, 1B1, above, has been combined by local agreement with the local Labor Management Relations Committee (LMRC), the LMRC will assume the advisory responsibilities as prescribed in subsections 1H and 1I above.
- M. DEEO Advisory Committee meetings will be held telephonically or by other electronic means except that Campus DEEO Advisory Committee meetings may be held face-to-face for participants in the commuting area; however, no travel and per diem will be authorized for such meetings.
- B. The Employer will provide the DEEO Advisory Committee and National NTEU with copies of all EEO progress and accomplishment reports that are sent to external stakeholders (e.g., Department of Treasury). The Employer will also provide the DEEO Advisory Committee and National NTEU with a copy of the MD-715, Self-Assessment Checklist, during the first quarter of each calendar year. National NTEU will have the option of submitting the completed check list to the Employer for consideration.
- C. The Employer will regularly provide the DEEO Advisory Committee and the local Chapter with Uniform Guidelines statistics submitted to the Employer's national EEO function.
- D. Consistent with the Privacy Act, the Employer will annually provide the NTEU National President and the DEEO Advisory Committees with the EEO statistical data as outlined by the Parties in the Settlement Agreement dated December 9, 2013.

Article 46 | Labor-Management Relations Committees

Section 1

- A. The parties recognize that the entrance into formal agreement with each other is but one act of joint participation and that the success of a labor-management relationship is further assured if a forum is available and used to communicate with each other. The parties, therefore, agree to the structure of Labor- Management Relations Committees (LMRC) for the purpose of:
 - 1. building strong relationships nationally and locally between the key leaders of each party;
 - 2. exchanging information;
 - 3. receiving pre-decisional input and the discussion of matters of concern or interest in the broad areas of personnel policies, practices and working conditions that may have national, cross-functional or local impact on employees; and
 - 4. attempting to resolve problems informally in an effort to avoid protracted and costly negotiations or grievance proceedings.

Section 2

National LMRC

- A. A National LMRC will meet at times as agreed to by the parties to focus on Service-wide issues. The meeting will be co-chaired by officials appointed by the Union (e.g., the NTEU National Executive Vice- President) and the Employer (e.g., the IRS

Section 2

EEO Counselors

- A. EEO Counselors will be available to all employees within their location.
- B. The Employer will post the contact information and locations of EEO Servicing Offices on the IRS intranet web site and on all official bulletin boards.

Section 3

Support

- A. The Employer will furnish each Campus Chapter with twenty (20) copies of the Employer's discrimination complaints procedure. For all other Chapters the Employer will post the Employer's discrimination complaint procedures on the IRS intranet web site.

Human Capital Officer). The National LMRC will address matters within the scope outlined in Section 1, above, that generally impact employees in more than one SCR area.

- B. Seven (7) stewards shall receive official time to participate in meetings of the National LMRC. There will be no limit on the number of Union staff personnel that may attend. Agenda items will be exchanged thirty (30) days in advance of the date mutually agreed upon by the parties for the meeting.
- C. All National LMRC meetings will be held telephonically unless otherwise agreed to by the parties.

Section 3

Local LMRC

- A. Local LMRC Committees will be established in each Campus and SCR geographic area, as set forth in Exhibit 46-1 and 46-2. During the term of this Agreement, the Employer will inform National NTEU no later than thirty (30) days before any changes are made to the SCR geographic area that will cause a realignment of local LMRC Committees.
- B. The Union will be able to appoint up to four (4) representatives from the Chapters in the area covered by each LMRC. The size of the committee will be expanded to accommodate one participant from each Chapter if needed.
- C. There will be up to four (4) meetings per year for the local LMRC if an appropriate agenda is submitted (i.e. if the issue falls within the jurisdiction of the local LMRC as defined herein). Agenda items must be related to the scope of the LMRC as described in Section 1 above. The Employer will arrange for the participation of the management official(s) necessary to address and resolve agenda items submitted by the Union and/or the Employer. Meetings will be co-chaired by an official appointed by the Union and an official appointed by the Employer.
- D. The parties shall exchange agenda items fifteen (15) workdays before the mutually agreed upon date for each local LMRC meeting.
 - 1. Agenda items must concern issues within the scope of Section 1. Local LMRCs are to focus on the scope of an issue or problem within their geographic SCR area, whether it involves just one Division or all Divisions in that SCR area. The matter need not be cross-functional to be an appropriate subject of discussion. Agenda items that are unique to one Business Unit will be addressed by a designated official of the Business Unit. Agenda items may

not be Service-wide in nature (e.g. Concur, furloughs).

- 2. The Union or the Employer may place a non-Service-wide item on the local LMRC agenda that impacts employees in more than one (1) SCR area unless either party at the national level elects to address the issue at the national level or place the issue on the agenda of the National LMRC. If either national party elects to address the issue at the national level, all local discussions will end subject to the provisions of subsection 4C below.
- 3. Matters not on the agenda may be discussed by mutual consent. If either party timely forwards an appropriate agenda, the meeting will be held.
- E. Any meeting conducted under this Article shall be conducted during the normal tour of duty.
- F. All non-campus local LMRC meetings will be held telephonically or by other mutually agreeable electronic means. Campus local LMRC meetings may be held face-to-face; however, no travel and per diem will be authorized for such meetings.
- G. Where the DEEO Advisory Committee or Safety Advisory Committee has been combined by local agreement with the local Labor Management Relations Committee (LMRC), the LMRC will assume the advisory responsibilities of those committees as described in Article 45, subsections 1H and 1I and Article 27, subsection 3D, respectively.

Section 4

Informal Dispute Resolution Procedures

- A. The parties recognize that the local and national LMRC forum is an informal adjunct to, not a substitute for, the negotiations process. To preserve the benefits of such informality as well as the parties' rights to negotiate, the following principles will be followed to allow for additional consideration of issues where the local parties have not satisfactorily concluded their discussions.
- B. If it appears at any time within fifteen (15) workdays of discussion of an issue at an LMRC that a satisfactory conclusion cannot be reached on an otherwise negotiable matter, either party may refer the issue to a national representative designated by the Employer and a national representative designated by the Union for additional consideration.
- C. The national representatives, or their designees, shall attempt to satisfactorily resolve the issue within fifteen (15) workdays following referral of the issue to them through discussion and informal means. Where resolution is not achieved within

those fifteen (15) days, the matter will be resolved as follows:

1. Where the Union has not previously submitted a written proposal, the matter will be referred for expedited national negotiations in accordance with Article 47, Section 6. Notice pursuant to Article 47 is waived.
2. Where the Union has submitted a written proposal, the national parties will move the issue through the statutory impasse resolution process (mediation and FSIP) under the procedures of Article 47, unless the parties agree otherwise.

Section 5

Business Improvement Committees

- A. The parties will form one Business Improvement Committees (BICs) at each of the following BODs: W&I, SB/SE, TE/GE, and LB&I. The BICs will operate in accordance with the bylaws established by the BICs with the exception of the following:
 1. meetings will be held semi-annually or as mutually agreed; and
 2. agenda items should focus primarily on specific work processes and how to make the processes more user-friendly, as well as efficient.
- B. All BIC meetings will be held telephonically or by other electronic means.

Article 47 | Mid-Term Bargaining

Section 1

General Provisions

- A. This Article establishes ground rules for mid-term bargaining between the parties. The provisions of this Article apply to all mid-term negotiations between the parties unless modified by other Articles in this Agreement (e.g., Article 15, Article 19).
 1. The Union's bargaining team may include up to four (4) bargaining unit members unless more are agreed to by the parties. There is no limit on the number of professional staff members on the Union team.
 2. For briefings held pursuant to subsections 2C, 4B1 and 5E4 of this Article, official time will be approved for up to four (4) Union stewards. Union stewards located outside the commuting area of the briefing location must participate telephonically or through

some other electronic means. The parties will agree upon the location of the briefing. In the absence of agreement on the location for briefings held consistent with subsections 4B1 and 5E4, the Employer will select the location. In the absence of agreement on the location for briefings held consistent with subsection 2C, the location will alternate between the headquarters offices of the IRS and NTEU.

3. For all face-to-face bargaining, the Employer will pay the reasonable travel and per diem expenses for up to four (4) stewards designated by National NTEU, unless more are authorized to attend consistent with subsection 1B1 above.
4. The first face-to-face negotiation may occur only after the electronic exchange and telephonic (or other electronic means) discussion/negotiation of the opening proposals submitted by each party. The parties are also encouraged to conduct negotiations to the maximum extent possible by utilizing available technology to minimize travel costs associated with face-to-face negotiations.
- B. In accordance with 5 U.S.C. § 7114(b)(3), negotiation sessions will be scheduled at reasonable times and convenient places to avoid any unnecessary delays. Reasonable times will be the days of the week agreed to by the parties, normally between the hours of 8:00 AM and 6:00 PM or 1:00 PM to 6:00 PM if a Monday or 8:00 AM to Noon if a Friday is used as a bargaining day, taking into consideration the nature and proposed implementation date of the change. The location for negotiations will be agreed upon by the parties based on the logistics of each negotiation. In the absence of agreement on the location for negotiations held consistent with Sections 4 and 5 of this Article, the Employer will select the location. In the absence of agreement on the location for negotiations held pursuant to Section 2 of this Article, the location will alternate between the headquarters offices of the IRS and NTEU.
- C. Both parties agree to consolidate substantially related issues for bargaining to the greatest extent possible.
- D. Unless otherwise agreed, neither party will submit proposals nor modify existing proposals that raise issues that are outside the scope of the matter under negotiation.
- E. The parties recognize that once negotiations begin, the effect of publicity concerning issues on the table may be detrimental to the negotiating process.

- F. All agreements are tentative until full agreement is reached.
- G. Unless otherwise agreed, mid-term agreements reached will be reduced to writing and executed by both parties. In addition, oral agreements must be reduced to writing.
- H. Agreements will set forth an "effective date" and a "termination date". The effective date will be no sooner than thirty-one (31) days from execution (or upon agency head approval) and the termination date will be no later than the termination date of this Agreement.
- I. Copies of agreements executed pursuant to this Article will be distributed by the Employer to affected employees in a paper or electronic format as appropriate (e.g., e-mail, electronic newsletter).
- J. Agreements negotiated under the provisions of this Article will be subject to agency head approval pursuant to 5 U.S.C. § 7114(c). In the event of disapproval, the Union will have the option of renegotiating the entire disapproved Agreement or the disapproved portion of the Agreement, provided the parties have not agreed otherwise, for example, by the inclusion of a severability provision. The option to renegotiate the entire Agreement must be exercised by the Union by notice to the Employer within twenty-one (21) days of notice of disapproval.
- K. Proposals declared non-negotiable and subsequently found negotiable will be timely negotiated, if requested by either party. To the extent practicable, any subsequent bargaining must commence within twenty-one (21) days of the negotiability decision.
- L. In accordance with 5 U.S.C. Chapter 71, to the extent permitted by law, either national party may initiate mid-term bargaining by proposing changes in conditions of employment provided that such changes are not covered by this or any other collective bargaining agreement between the parties, and provided further that such changes do not relate to matters over which either party has expressly waived its right to bargain during the negotiation of this Agreement.
- M. 1. Unless otherwise permitted by law, no changes will be implemented by the Employer until proper and timely notice has been provided to the Union, and all negotiations have been completed including any impasse proceedings.
2. When the Employer initiates a change, it will provide all necessary and relevant information to the Union at the time of the briefing. Additional requests for information pursuant to 5 U.S.C § 7114 will be satisfied in an expeditious manner.
- N. 1. If the Employer decides to contract-out work that may result in the loss of work normally performed by bargaining unit employees, which is not otherwise covered by A-76, the Employer will notify National NTEU and bargain to the extent required by law and this Agreement. If requested and available, the Employer will provide the following information to National NTEU at the time the notice is transmitted:
- the name of the contract;
 - the method by which the contract was let (e.g., sole source, competitive bid);
 - the name of the contractor;
 - the location of the work;
 - the nature of the work;
 - the performance standards of the contract;
 - if applicable, the annual cost of such work when performed by IRS employees; and
 - the original cost of the contract and the final cost.
2. Separate procedures for competitive sourcing initiatives are found in Article 19, Section 10 of this Agreement.
3. The Agency shall provide NTEU a copy of each Request for Proposal (RFP) within fifteen (15) days of issuance for any solicitation of services that may result in the loss of work normally performed by bargaining unit employees, which is not otherwise covered by A-76.

Section 2

National Bargaining

A. Notice

Where either party proposes changes in conditions of employment, not covered by Sections 3, 4, 5 and 6, below, it will consolidate those proposed changes and serve notice thereof monthly. Such notice will be due within three (3) workdays of the beginning each month.

B. Notice Requirements

1. Notice of proposed changes in conditions of employment by the Employer or Union at the national level will be served by any one of the following methods: certified mail, first class mail, facsimile, e-mail, or hand delivery.
2. In the case of a monthly notice initiated by the Employer, a copy will also be provided electronically and concurrently to the NTEU Deputy Directors of Negotiations.

3. When either party proposes a change, it will provide information at the time of the notice that meets statutory requirements.

C. Briefings

Following receipt of notice consistent with subsections 2A and 2B, above, the receiving party will be entitled to a briefing without notice to the other party.

1. The briefing must be held within thirty (30) days of receipt of the notice, unless the parties mutually agree otherwise, and will be scheduled by the party initiating the monthly notice.
 2. Where the IRS or the Union has served proposed changes to conditions of employment on the other party, but fails to hold a briefing, and the other party is available for such a briefing, the proposed change must be placed on a subsequent monthly notice.
 3. Additional requests for information will be satisfied in an expeditious manner, but will not delay the beginning of negotiations. However, consistent with subsection 2G1(b), below, the Union may request that the neutral rule on assertions that the Employer failed to provide information pursuant to 5 U.S.C. § 7114(b)(4). The intervention of the neutral may be prior to the conclusion of negotiations and will not delay negotiations. However, the neutral may extend the bargaining schedule as appropriate.
 4. Unless otherwise agreed, proposals must be submitted within fifteen (15) days of the briefing, if one is held. If no briefing is held, proposals must be submitted within thirty (30) days of the receipt of the notice.
- D. If the fifteenth (15th) day or the thirtieth (30th) day, referred to in subsection 2C, above, falls on a Saturday, Sunday, or holiday, the period shall run until the end of the next workday which is not a Saturday, Sunday, or holiday.

E. Telephonic/ Virtual Negotiations

1. Once the briefing is conducted, or at any time thirty (30) days after the date of the notice if no briefing is held, the national parties will schedule the date(s) for the telephonic/ virtual bargaining session described in subsections 1B4 above. The telephonic/virtual negotiations must be completed no later than thirty (30) days from the date proposals are exchanged (i.e., the date on which the first counterproposals are sent) unless mutually agreed otherwise.

2. Prior to the date scheduled for the telephonic discussions/ negotiations, the national parties will schedule the beginning date of face-to-face bargaining. Unless mutually agreed otherwise, face-to-face bargaining must begin and end consistent with subsection 2F below.

F. Bargaining Timeline

1. Where a party has submitted initiatives on the monthly notice, consistent with subsection 2A, above, bargaining must begin no later than thirty (30) days from the date of the telephonic negotiations and conclude no later than ninety (90) days from the beginning of the negotiations.
2. The parties may agree to a shorter or longer time period in which to complete negotiations.

G. Impasse Procedures

1. if the parties fail to reach agreement at the end of the bargaining period, the parties agree to use the following procedures to resolve any remaining disputes in accordance with law, rule, and regulation:
 - (a) Either party may contact the designated Factfinder that has been selected by the national parties to advise the Factfinder of the dispute. This contact will be on the last day of scheduled bargaining or when the parties reach impasse, whichever is earlier. The parties will submit their final proposals and any supporting documentation to the Factfinder on a mutually agreeable date but no later than five (5) workdays prior to the initial mediation session.
 - (b) The Factfinder will also rule on assertions by the Union that the Employer failed to provide information requested for the negotiations pursuant to 5 U.S.C. § 7114(b)(4). If the Factfinder finds that the Employer has failed to provide the information when it had a legal obligation to do so under applicable law, the Factfinder must compel the production of the information and will extend bargaining for an appropriate period of time consistent with this Article to permit the Union to consider the information and adjust proposals accordingly.
 - (c) The Factfinder is empowered to assist the parties in reaching agreement in accordance with law, rule, and regulation. The Factfinder shall determine the appropriate resolution process, including last and best offers (Article by Article or issue by issue) or amendment of final offers.

- (d) Following mediation and factfinding pursuant to subsections 2G1 (a) through 2G1(c), the Factfinder will issue a recommendation to resolve the dispute within four (4) weeks of the initial contact with the Factfinder. The Factfinder's recommendation will be in writing. If the Factfinder is not available to commence mediation within fourteen (14) days of the initial contact by either party, the next Factfinder on the list will be utilized.
- (e) Any disputes remaining after submission to the Factfinder will be resolved pursuant to 5 U.S.C. § 7119, or other appropriate provisions of 5 U.S.C. § 7101, et seq. The party that moves such remaining disputes to the statutory impasse resolution process carries the burden of proof regarding the reasons the Factfinder's report does not resolve the issue at impasse.
- (f) If either party seeks impasse resolution pursuant to 5 U.S.C. § 7119, the changes to conditions of employment will be delayed pending resolution of the disputed issues, unless implementation is otherwise permitted by law. If a party seeks impasse resolution, the submitting party will ask the Federal Service Impasses Panel (FSIP) to expedite the matter.
- (g) If a dispute moves to the statutory process, the objecting party will pay the full costs of the Factfinder who produced the decision. Should neither party object, the costs of the Factfinder will be shared by the parties.

H. Neutrals

The parties at the national level agree to select a panel of neutrals with substantial mediation skills to mediate/arbitrate disputes arising under this Article. The parties will select neutrals so that the disputes, to the extent possible, may be resolved quickly and inexpensively.

1. The neutrals will make use of telephonic/virtual or face-to-face dispute resolution processes when applying the impasse procedures in subsection 2G above.
2. Dispute resolution meetings may be face-to-face for negotiations conducted consistent with Section 4 and 5, below, if participants, including the neutral, are located in the commuting area of the meeting. No travel and per diem is authorized for such meetings.
3. One (1) dispute resolution session, not to exceed three (3) consecutive days excluding travel to and from the meeting, may be face-to-face at the request of either party, for negotiations conducted consistent with Section 2 above. The national parties may

agree to additional face-to-face dispute resolution meetings consistent with the provisions of this subsection.

Section 3

Modified National Bargaining

- A. The provisions of Sections 4, 5 and 6, below, provide a basis for negotiating matters consistent with law involving: (1) the directed reassignment/realignment of employees; (2) space, furniture, parking and leases; and (3) other issues consistent with Section 6 below. All negotiations described in Sections 4, 5 and 6, below, will remain at the national level, however, to provide for more efficient and effective negotiations, the parties agree to local involvement. The local parties identified for such negotiations will act as representatives of the national parties.
- B. The Employer may elect to consolidate issues to minimize the use of official time. The location for any bargaining sessions will be determined consistent with subsection 1C above. However, the location of the bargaining will be within the geographic area of the proposed change.

Section 4

Directed Reassignments/Realignments

- A. Article 15, Sections 2 and 3 procedures will be used where the primary reason for a change is the need to reassign or realign employees, as defined in Article 15, subsection 1B2. If the modifications to the physical structure of the employee's office are incidental (e.g., minor changes to space and furniture) to the reassignment or realignment of the employee, then those incidental changes will also be addressed under this procedure.

B. Notice

1. Notice of proposed changes involving directed reassignments or realignments covered by Article 15, Sections 2 and 3 may be provided to the impacted Chapter Presidents at any time by the Employer. The proposed changes may be provided by the Employer individually or they may be provided as part of a group of changes. Notice will be provided by geographic area (Exhibit 47-1) to the impacted Chapters in that geographic area. The Union may ask for a briefing in contemplation of bargaining over the proposed change. The briefing must be held within ten (10) days following the notice from the Employer of the proposed changes.
2. Notice of reassignments/realignments impacting employees in more than one (1) geographic area will be provided to the National President of NTEU. The notice may be provided at

any time. The proposed changes will be negotiated under the procedures of Article 15, Sections 2 and 3 at the national level. However, the parties agree that the timeline for the expedited bargaining period will be extended to ninety (90) days under Article 15, Section 2.

Section 5

Space, Furniture, Parking and Lease Related Changes

- A. The parties recognize that building location and specifications, build out specifications, floor plans, and action plans used in the process of modifying or occupying such space are proper subjects to be negotiated between the parties prior to implementation. The parties also recognize the Employer's statutory right to determine its internal security practices.
- B. The procedures in this section will be used where the primary reason for the change involves space, leases, parking, or furniture. If a reassignment or realignment is also proposed as part of the change, the reassignment/ realignment will be addressed under this process.
- C. The Employer will bargain with the Union at the national level (i.e., national or modified national bargaining) to the extent required by law if free or subsidized parking is not provided to employees where employees were previously provided free or subsidized parking.
- D. The parties agree that proposed changes of a substantial nature with a timeline for completion projected by the Employer that exceeds four (4) years are not covered by this procedure. Instead, the Employer will provide notice of such changes to the NTEU National President under the provisions of Article 47, Section 2.
- E. Pre-Decisional Involvement on Space, Furniture and Lease Related Changes
 1. The parties agree that for all of the Employer's space projects, Chapter leaders will be provided meaningful input on the proposed changes before proposed plans are determined. The process is as follows:
 2. Once a project involving a lease, space or furniture is funded by the IRS, the Employer will provide each impacted Chapter with information regarding the project, including the general scope of the project and the projected completion date. The impacted Chapters may submit any pre-decisional comments, in writing, to the Employer within fifteen (15) days of receipt of the information.

3. Within fifteen (15) days of the submission, the Employer will respond as to whether the Chapter's pre-decisional comments are accepted or rejected.
4. Once the pre-decisional opportunity has been completed and plans are completed by the Employer for submission to the GSA or other appropriate outside party, the Employer will provide copies to the impacted Chapters for review. The impacted Chapters may submit any comments in writing to the Employer within fifteen (15) days of receipt of the plans. The Employer will respond to the Chapters comments within ten (10) days.
5. Following the receipt of any comments and once the proposed plans for lease, space or furniture changes are completed, the Employer will provide formal notice to the impacted Chapters pursuant to Section 5F, below.

F. Formal Notice

1. Notice of proposed changes under this subsection in space, furniture, parking, and leasing matters may be provided at any time by the Employer to the impacted Chapter Presidents so long as the requirements of Section 5E have been met. The proposed changes may be provided by the Employer individually or they may be provided as part of a group of changes. Notice will be provided by geographic area (Exhibit 47-1) to the impacted Chapters in that geographic area. Changes impacting employees in more than one (1) geographic area will be provided to the National President of NTEU under the provisions of Article 47, Section 2.

The Notice will include the following information:

- (a) a copy of the SF-81, Request for Space;
- (b) a copy of space plans (includes space configuration and furniture layout);
- (c) a copy of floor plans approved by GSA;
- (d) a copy of building leases or occupancy agreements, only if the change involves a new lease or lease change;
- (e) a copy of the project schedule; and
- (f) the anticipated start and completion dates of the project.

G. Bargaining Procedures and Dispute Resolution

1. The Union may ask for a briefing in contemplation of bargaining over the proposed change. The briefing must be held within fifteen (15) days following the notice

from the Employer of the proposed changes. If a briefing is held, the Union must submit proposals to the Employer no more than ten (10) workdays after the briefing. If no briefing is held, the Union must submit proposals within fifteen (15) workdays following the notice of the proposed change from the Employer.

2. Bargaining will start no later than thirty (30) days following the Section 5.F notice of proposed changes from the Employer and must be concluded within forty-five (45) days of the Section 5.F notice of the proposed change.

Section 6

- A. Changes in working conditions, limited to a single geographic area as described in Exhibit 47-1, and involving one of the issues listed below, will be negotiated consistent with the procedures in Section 4 above. Changes impacting employees in more than one (1) geographic area will be provided to the National President of NTEU under the provisions of Article 47, Section 2. The following issues have been identified by the national parties:
 1. negotiable issues not resolved under Article 46, Section 4, or a DEEO Advisory Committee under Article 45, subsection 1K;
 2. changes to work procedures;
 3. reorganizations;
 4. building security and building access; and
 5. other issues agreed to by the national parties, including changes submitted on the monthly notice.
- B. At the completion of the bargaining period, either party may utilize the impasse procedures in Section 2, above, except that the time frame for the Factfinder to issue a recommendation to resolve the dispute will be within two (2) weeks of the initial contact with the Factfinder. The Factfinder's recommendation will be in writing. If the Factfinder is not available to commence mediation within seven (7) days of the initial contact by either party, the next Factfinder on the list will be utilized.

Section 7

Information Technology Changes

- A. When required by law, the Employer will provide notice of changes to the technology used by employees to perform their work pursuant to Article 47, Sections 1 and 2. [Note: i.e., within the first 3 workdays of the month]
- B. Upon request, the Union will be provided a briefing on the proposed change. The briefing

must be held within fifteen (15) days following the Employer's notice of the proposed changes. If a briefing is held, the Union must submit proposals to the Employer no later than fifteen (15) days after the briefing is held. If no briefing is held, the Union must submit proposals within twenty (20) days following the notice of the proposed change from the Employer.

- C. Bargaining will start no later than thirty (30) days following the notice of proposed changes from the Employer and must be concluded within sixty (60) days of the initial submission of proposals by the Union.
- D. At the completion of the bargaining period, either party may utilize the impasse procedures in Section 2, above, except that the time frame for the Factfinder to issue a recommendation to resolve the dispute will be within thirty (30) days of the initial contact with the Factfinder. The Factfinder's recommendation will be in writing. If the Factfinder is not available to commence mediation within fifteen (15) days of the initial contact by either party, the next Factfinder on the list will be utilized.

Article 48 | Furloughs

Section 1

Shutdown Furloughs Due to Lapse in Appropriations/Debt Ceiling Limitations

In the event that funds are not available through an appropriations law or continuing resolution, a shutdown furlough occurs. Such a furlough may be necessary when an agency no longer has the funds to operate and must shut down those activities which are not excepted pursuant to the Anti-deficiency Act, 31 U.S.C. § 1341 and 1342.

The following procedures will apply:

- A. The Employer will provide written notice to National NTEU when it is reasonably foreseeable that a shutdown furlough will occur. The notice to National NTEU will include an Excel spreadsheet list of bargaining unit employees (name, grade, series, business division, post of duty and building address) broken down by each business division¹ who are excepted as well as the employees who encumber positions that are exempt from the furlough.
- B. All Service employees will be furloughed except for those employees performing excepted functions or those employees whose positions are exempt. When there is more than one (1) qualified employee in the same position, grade, post of duty, and tour of duty available for an excepted position, the Employer

Signature Page

This agreement is deemed executed on August 26, 2021 and implemented on October 1, 2021 at Washington, D.C.

Jeffrey J.
Tribiano

Digitally signed by Jeffrey
J. Tribiano
Date: 2021.09.27
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Jeff Tribiano
Deputy Commissioner
for Operations Support
IRS

mphsb

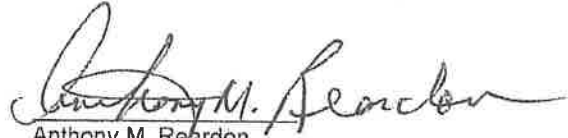
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Counselor to the Commissioner
IRS

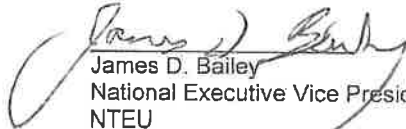
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