



THE CITY OF NEW YORK OFFICE OF LABOR RELATIONS

40 Rector Street, New York, N.Y. 10006

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JAMES F. HANLEY

Commissioner

CAROLINE I. SULLIVAN

First Deputy Commissioner

Dennis Sullivan
Director of Research & Negotiations
DC 37, AFSCME, AFL-CIO
125 Barclay Street
New York, N.Y. 10007

Re: 1995 – 2001 Citywide Agreement

Dear Mr. Sullivan:

The following is offered by way of clarification as to the meaning and scope of certain provisions of the Citywide Agreement between the City of New York and District Council 37, AFSCME, AFL-CIO covering the period of January 1, 1995 - June 30, 2001.

1. **Article I, Section 1:** Are Employees in Rule X titles covered by the Agreement?
ANSWER: No. However they may be covered by the provisions of the Agreement if they are equated to a title that is covered by the Agreement, or to the extent that they are covered by the provisions of the applicable unit contract.
2. **Article III, Section 1(b):** When are employees eligible to receive payment for both night shift differential and straight time (1X) overtime?
ANSWER: Only employees who were receiving night shift differential during the hour that immediately preceded the straight time (1X) cash overtime are eligible. Employees whose normal tour of duty falls outside the night shift differential hours are not eligible to receive night shift differential when working hours subject to night shift differential.
3. **Article IV, Section 3(b):** Is an employee granted a shortened schedule under Article V, Section 18 who works less than the normal work week entitled to overtime compensated in cash?
ANSWER: Under certain circumstances. If such an employee is ordered to work hours in excess of the employee's shortened weekly schedule but less than the number of hours in the employee's normal work week, such employee would only be entitled to compensatory time at the rate of straight time (1x) [i.e. straight time compensatory time for work performed between 30 and 35 hours a week for 35 hour employees; between 32½ and 37½ hours a week for 37½ hour employees; and between 35 and 40 hours a week for 40 hour employees]. However, if such employee has been in pay status for all scheduled workdays in the calendar week and is ordered to perform work on a scheduled day off (i.e. a sixth day for a five day a week employee), the hours worked on such scheduled day off may be compensable in cash pursuant to Article IV as if the employee had not been granted a shortened schedule.

4. **Article IV, Section 3(d):** Can the Employer reschedule the normal work week of employees to regularly include Saturdays and/or Sundays as normal work days without violating this Section?

ANSWER: Yes.

5. **Article IV, Section 11(b):** How is the cash payment of standby pay calculated?

ANSWER: Except as may be otherwise provided by FLSA, the cash payment for standby is always compensated at the rate of one-half ($\frac{1}{2}X$) of the hourly rate as determined pursuant to Article IV, Section 6.

6. **Article V, Section 3:** May an agency head issue a blanket prohibition or limitation on the use of approved sick leave and annual leave in units of one hour?

ANSWER: No. The agency must consider each request on its merits.

7. **Article V, Section 5:** Do these sick leave provisions apply to pregnant employees?

ANSWER: Yes. These provisions are applicable to pregnancy-connected disability under the same terms and conditions as they are applicable to any conditions requiring or permitting the use of sick leave.

8. **Article V, Section 16(d):** May an Agency apply a fixed time based standard in determining whether to excuse lateness beyond the five minute grace period?

ANSWER: No. Each determination shall be made on a case by case basis.

9. **Article V, Section 17:** Is the following provision in Section 2.9 of the Leave Regulations superseded by this Section?

For an agency whose presently existing rules (as of June 30, 1956) permit the use of sick leave credits of an employee in connection with terminal leave with pay upon retirement, the agency is authorized to grant an employee on staff prior to the effective date of these Regulations but who retires subsequent thereto, either terminal leave with pay as specified in Regulation 2.9 or terminal leave with pay calculated under such presently existing agency rules, whichever is the most liberal for the employee; provided that the sick leave balance used in the application of the agency formula does not exceed the sick leave balance to the credit of the employee at the time these Regulations go into effect (July 1, 1956).

ANSWER: No.

10. **Article V, Section 18(b):** Are all outdoor and field employees who traditionally enjoyed shortened workday schedules and who are required to return to an office location entitled to summer schedules?

ANSWER: No. Only those employees who are required to return to an office location before the end of the workday to perform duties for at least one hour are entitled to the summer schedule enjoyed by office employees at that location on such day.

11. **Article V, Section 19:** Where certain part-time employees were receiving more beneficial leave credits under the terms of a unit contract in existence prior to the effective date of this Section, may they continue to do so?

ANSWER: Yes. They may continue to receive credits which may vary from the formula established by the terms of this Section. However, upon the expiration of said pre-existing unit contracts, the employees must either elect to be covered by the terms of this Section or they may continue to receive leave credits pursuant to said pre-existing formula.

12. **Article X, Section 1:** Is the evaluatory statement referred to in this Section limited only to the formal periodic performance evaluation?

ANSWER: No. It refers to any evaluatory statement.

13. **Article X, Section 1:** Are the requirements on evaluatory statements contained in this Section limited only to those statements to be placed in the permanent personnel folder in the central office?

ANSWER: No. They apply to evaluatory statements to be placed in any employee personnel folder maintained in the agency.

14. **Article XIII, Section 4:** Would an employee, who at the time of separation from City service was, and thereafter continued to be covered by the State Health Insurance Program, be eligible to continue receiving the Welfare Fund contribution on his behalf?

ANSWER: Yes. Such an employee shall continue to receive the Welfare Fund contribution in the employee's behalf provided said employee has five years NYCERS membership service at the time of the employee's separation and said employee remains a primary beneficiary of the State Program and is entitled to receive benefits paid for by the State through such program.

15. **Article XXI:** Does this Article intend to preclude the Union from engaging in activity to secure the enactment of the New Career Pension Plan legislation during the term of the Agreement?

ANSWER: No.

The provisions of this letter shall be deemed part of the 1995-2001 Citywide Agreement as if fully set forth therein. Except as is otherwise provided herein, the contents of this letter shall be effective the date of execution of the 1995-2001 Citywide Agreement and shall be coterminous therewith.

If you concur with the contents set forth herein, please execute the signature line provided below.

Very truly yours,

JAMES F. HANLEY

**AGREED AND ACCEPTED
ON BEHALF OF DISTRICT COUNCIL 37**

BY: _____
DENNIS SULLIVAN