

### Section 3. - Performance Compensation

The Union acknowledges the Employer's right to pay additional compensation for outstanding performance.

The Employer agrees to notify the Union of its intent to pay such additional compensation.

## ARTICLE VI - GRIEVANCE PROCEDURE

### Section 1. - Definition:

The term "**Grievance**" shall mean:

- a. A dispute concerning the application or interpretation of the terms of this Agreement;
- b. A claimed violation, misinterpretation or misapplication of the rules or regulations, *written* policy or orders of the Employer applicable to the agency which employs the grievant affecting terms and conditions of employment; provided, disputes involving the Personnel Rules and Regulations of the City of New York or the Rules and Regulations of the Health and Hospitals Corporation with respect to those matters set forth in the first paragraph of Section 7390.1 of the Unconsolidated Laws shall not be subject to the grievance procedure or arbitration;
- c. A claimed assignment of Employees to duties substantially different from those stated in their job specifications;
- d. A claimed improper holding of an open-competitive rather than a promotional examination;
- e. A claimed wrongful disciplinary action taken against a permanent Employee covered by Section 75(1) of the Civil Service Law or a permanent Employee covered by the Rules and Regulations of the Health and Hospitals Corporation upon whom the agency head has served written charges of incompetence or misconduct while the Employee is serving in the Employee's permanent title or which affects the Employee's permanent status.
- f. Failure to serve written charges as required by Section 75 of the Civil Service Law or the Rules and Regulations of the Health and Hospitals Corporation upon a permanent Employee covered by Section 75(1) of the Civil Service Law or a permanent Employee covered by the Rules and Regulations of the Health and Hospitals Corporation where any of the penalties (including a fine) set forth in Section 75(3) of the Civil Service Law have been imposed.
- g. A claimed wrongful disciplinary action taken against an eligible provisional employee of a Mayoral agency who has served without a break in service for two years in the same or similar title or related occupational group in the same agency on a full-time per annum or full-time per diem basis and assigned regularly to work the normal, full-time work week established for that title.
- h. A claimed wrongful disciplinary action taken against a full-time non-competitive employee with one year of service in title, except for employees during the period of a mutually-agreed upon extension of probation. This provision shall not apply to non-competitive class employees with rights pursuant to Section 75(1) of the Civil Service Law.

### Section 2.

15005

The Grievance Procedure, except for grievances as defined in Sections 1(d), 1(e), 1(g) and 1(h) of this Article VI, shall be as follows:

Employees may at any time informally discuss with their supervisors a matter which may become a grievance. If the results of such a discussion are unsatisfactory, the Employees may present the grievance at **STEP I**.

All grievances must be presented in writing at all steps in the grievance procedure. For all grievances as defined in Section 1(c), no monetary award shall in any event cover any period prior to the date of the filing of the **STEP I** grievance unless such grievance has been filed within thirty (30) days of the assignment to alleged out-of-title work. No monetary award for a grievance alleging a miscalculation of salary rate resulting in a payroll error of a continuing nature shall be issued unless such grievance has been filed within the time limitation set forth in **STEP I** below for such grievances; if the grievance is so filed, any monetary award shall in any event cover only the period up to six years prior to the date of the filing of the grievance.

**STEP I** The Employee and/or the Union shall present the grievance in the form of a memorandum to the person designated for such purpose by the agency head no later than 120 days after the date on which the grievance arose except that grievances alleging a miscalculation of salary rate resulting in a payroll error of a continuing nature shall be presented no later than 120 days after the first date on which the grievant discovered the payroll error. The Employee may also request an appointment to discuss the grievance and such request shall be granted. The person designated by the Employer to hear the grievance shall take any steps necessary to a proper disposition of the grievance and shall issue a determination in writing by the end of the third work day following the date of submission.

*The following STEP I(a) shall be applicable only in the Health and Hospitals Corporation in the case of grievances arising under Section 1(a) through 1(c) of this Article and shall be applied prior to Step II of this Section:*

**STEP I(a)** An appeal from an unsatisfactory determination at **STEP I** shall be presented in writing to the person designated by the agency head for such purpose. An appeal must be made within five (5) work days of the receipt of the **STEP I** determination. A copy of the grievance appeal shall be sent to the person who initially passed upon the grievance. The person designated to receive the appeal at this **STEP I** shall meet with the Employee and/or the Union for review of the grievance and shall issue a determination to the Employee and/or the Union by the end of the fifth work day following the day on which the appeal was filed.

**STEP II** An appeal from an unsatisfactory determination at **STEP I** or **STEP I(a)**, where applicable, shall be presented in writing to the agency head or the agency head's designated representative who shall not be the same person designated in **STEP I**. An appeal must be made within five (5) work days of the receipt of the **STEP I** or **STEP I(a)** determination. The agency head or designated representative, if any, shall meet with the Employee and/or the Union for review of the grievance and shall issue a determination in writing by the end of the tenth work day following the date on which the appeal was filed.

**STEP III** An appeal from an unsatisfactory determination at **STEP II** shall be presented by the Employee and/or the Union to the Commissioner of Labor Relations in writing within ten (10) work days of the receipt of the **STEP II** determination. The grievant or the Union should submit copies of the **STEP I** and **STEP II** grievance filings and any agency responses thereto. Copies of such appeal shall be sent to the agency head. The Commissioner of Labor Relations or the Commissioner's designee shall review all appeals from **STEP II** determinations and shall issue a determination on such appeals within fifteen (15) work days following the date on which the appeal was filed.

**STEP IV** An appeal from an unsatisfactory determination at **STEP III** may be brought solely by the Union to the Office of Collective Bargaining for impartial arbitration within fifteen (15) work days of receipt of the **STEP III** determination. In addition, the Employer shall have the right to bring directly to arbitration any dispute between the parties concerning any matter defined herein as a "grievance". The Employer shall commence such arbitration by submitting a written request therefor to the Office of Collective Bargaining. A copy of the notice requesting impartial arbitration shall be forwarded to the opposing party. The arbitration shall be conducted in