

**AGREEMENTS  
between the  
Judicial Department of the State of  
Vermont**



**and the**

**VERMONT STATE EMPLOYEES'  
ASSOCIATION, INC.**



**JUDICIARY BARGAINING UNIT**

**Effective July 1, 2014— Expiring June 30, 2016**

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This Agreement, made and entered into this 8th day July, 2014 between the Judicial Department of the State of Vermont (hereinafter referred to as "Employer", "Judicial Department", "Judiciary" or the "Judicial Branch") and the Judicial Bargaining Unit of the Vermont State Employees' Association, Inc. (hereinafter referred to as the "VSEA" or the "Union");

PREAMBLE:

WHEREAS, the Legislature of the State of Vermont enacted legislation providing for collective bargaining between the Judiciary and those defined as eligible employees by 3 V.S.A. Ch. 28, as the same may be amended from time to time, and

WHEREAS, it is the intent of the parties to promote the efficient administration of Judiciary service; to provide for the well being of employees; and to maintain high standards of work performance on behalf of the public; and

WHEREAS, during the life of this Agreement, the parties agree that neither the Judiciary nor the VSEA will request the Legislature to pass legislation which alters or nullifies any provision of this Agreement,

NOW THEREFORE, the parties to this Agreement, in consideration of the mutual covenants herein set forth, agree as follows:

## **ARTICLE I**

### **RECOGNITION**

The Judiciary recognizes the VSEA as the exclusive representative of those Judiciary employees eligible for representation by a labor organization pursuant to Title 3, Vermont Statutes Annotated, Chapter 28, in the form in effect as of the date of execution of the Agreement. The Judiciary shall give the VSEA not less than annual written notice of any new managerial, supervisory or confidential position. At VSEA's request, the Judiciary will meet to discuss any such designation. The Judiciary will not designate an incumbent employee or position as managerial, supervisory or confidential unless there has been a change in duties. An Employee whose eligibility for representation under this Agreement changes for reasons other than a reclassification will be notified with a brief explanation of the decision and a statement of the employee's right to appeal the designation to the Vermont Labor Relations Board. The notice shall state explicitly both the old and new designations

The Judiciary shall not enter into any consultations, agreements, or informal discussions regarding employment relations matters with any other organization or individual purporting to represent any group of employees, and must not engage in any type of conduct which would imply recognition of any organization, group, or individual other than the VSEA as a representative of the employees in any bargaining unit. Employees shall have the right at any time to present complaints to their employer informally, and to have such complaints considered in good faith with or without the intervention of VSEA so long as any adjustment is not inconsistent with the terms of this Agreement.

## **ARTICLE 2**

### **MANAGEMENT RIGHTS**

It is understood and agreed that Ch. 2, Secs. 4 and 5 of the Vermont Constitution provides as follows:

Sec. 4 Judiciary – the judicial power of the Judiciary will be vested in a unified judicial system which shall be composed of a Supreme Court, a Superior Court, and such other subordinate courts as the General Assembly may from time to time ordain and establish.

Sec. 5 Departments to be Distinct – The Legislative, Executive and Judiciary departments, shall be separate and distinct, so that neither exercises the powers properly belonging to the others.

Consequently, except as specifically set forth herein, as required by law or otherwise specifically agreed to in writing between the parties, the Judiciary possesses the sole right and authority to operate its Department and direct the Judiciary employees in all aspects including, but not limited to, the right:

- To plan, direct and control Judiciary activities, to determine Judiciary policies and to establish standards of service offered to the public;
- To schedule and assign work to employees;
- To determine the means, methods, processes, materials and equipment utilized by the Judiciary, and to introduce new or improved methods, equipment or facilities;
- To determine the qualifications and staffing of jobs;
- To create, revise and eliminate jobs, or to furlough or lay off employees due to lack of work or funds or for other legitimate reasons in accordance with the procedures set forth in Article 19 hereof;

- To contract out work, and discontinue services or programs, in whole or in part. However, no employee will be laid off or otherwise be removed from employment as a result of contracting out except in circumstances where the work is beyond the capacity of Judiciary employees, or where the work or program can be performed more economically under an outside contract, or where an outside contractor has management techniques, equipment or technology which will result in better public service and increased productivity. Prior to any such lay off or other job elimination under this paragraph the VSEA will be notified and given an opportunity to discuss alternatives. A permanent status employee who, as a result of contracting out, loses his/her job will be deemed to have been reduced in force under the Reduction In Force Article. When the Judiciary contemplates contracting out bargaining unit work and publishes a formal request for proposal, a concurrent notice of such publication will be sent to the VSEA. Upon request, VSEA shall be permitted to inspect the RFP specifications. The notice of publication of an RFP, which may result in the layoff of Judiciary employee(s), shall serve as notice to VSEA of intent to contract out and shall give VSEA the opportunity to discuss alternatives. Such notice must be sent at least thirty (30) days before the effective date of any Reduction in Force (RIF) and at least five (5) days before any employee is officially notified of layoff. If the VSEA wishes to discuss alternatives, it shall so notify the Judiciary in writing within ten (10) days of the publication of such RFP. Such notification shall include a recitation of the alternatives the VSEA would like to discuss, but this shall not preclude the discussion of other possible alternatives. The period for discussing alternatives shall overlap the period for discussing alternatives under the RIF Article and

shall terminate at the same time as the end of the discussion period under the RIF Article.

- To hire and terminate employees, including the right to hire temporary employees;
- To maintain order, and to suspend, discipline and discharge permanent status employees for just cause;
- To make, publish and require observance of reasonable rules and regulations, it being understood and agreed that except to the extent specifically modified by this Agreement, the Judicial Personnel Policy which was last revised in March of 1998 all Appendices and subsequent amendments thereto, shall remain in full force and effect and be applicable to employees. However, if a particular subject is covered in both the Agreement and the Personnel Policy, covered employees shall look only to this Agreement and shall not be allowed to rely on the provisions of both documents.

The Judiciary shall give the VSEA at least twenty-one (21) business days advance notice of any proposed amendments to such policy and an opportunity to meet and confer with the Judiciary before implementation of any such amendment. If a proposed amendment involves a mandatory subject of bargaining, the VSEA will be given the opportunity to collectively bargain with the Judiciary concerning such change before its implementation. In the event of any conflict between this Agreement and such Judicial Personnel Policy, the provisions of this Agreement shall control.

- To promulgate other regulations incidental to the management of the Judiciary affecting the public health, safety and welfare.

## **ARTICLE 3**

### **VSEA RIGHTS**

1. The VSEA Director(s) or a representative shall be allowed to visit any Judiciary facility during working hours for the purpose of conducting VSEA business or investigating an employee complaint or grievance, provided that permission is obtained in advance from the appropriate managers, if available, and provided that such meetings do not adversely affect the efficient conduct of Judiciary business. Permission shall not be unreasonably withheld. VSEA stewards shall be allowed to visit any Judiciary facility in their designated areas of responsibility for the purpose of receiving or investigating grievances or complaints, subject to the procedures specified in this Article.

2. The Judiciary will include in its package of orientation materials for new bargaining unit employees a VSEA informational brochure, provided by the VSEA, identifying it as the exclusive bargaining agent, a copy of this Agreement and a copy of the Judicial Personnel Policy.

3. The Judiciary shall provide the VSEA with sufficient space on designated bulletin boards generally accessible to employees for the purpose of posting VSEA information.

4. Union organizing activity will not be conducted on Judiciary premises during scheduled work time, excluding all authorized breaks and meal periods.

5. If space is readily available on the premises, the Judiciary shall provide places where VSEA staff, representatives, and/or VSEA stewards can confer privately during working hours with bargaining unit

employees regarding any complaints or grievances they may have. Such places shall be within the VSEA steward's designated area of responsibility. The Judiciary shall provide space which is normally available for public meetings on the premises of State owned buildings controlled by the Judiciary for VSEA meetings during non-duty hours when these meetings do not conflict with established plans of the Judiciary. All necessary expenses charged by Non-Judiciary agencies included in such use shall be the responsibility of the VSEA. The VSEA must request the use of this space through the appropriate authority as far in advance of the anticipated meeting as is practical. For securing space to conduct VSEA elections, polling space shall be requested at least two weeks in advance.

6. A VSEA steward, and/or a VSEA staff representative may be permitted to attend any meeting held by the Judiciary when permission is granted by the appropriate supervisor.

7. The VSEA shall have exclusive payroll deduction for membership dues and non-membership agency fees. Dues, to include any VSEA approved insurance program premiums, shall be deducted on each payday from each bargaining unit employee who has designated VSEA as their representative. The amount of dues to be deducted will be certified by the VSEA to the designated Judiciary official. Agency Fees shall be deducted on each pay day from each bargaining unit employee who has not designated VSEA as his/her representative, in the same manner as regular VSEA dues; subject to the conditions in the Agency Fee Article.

8. VSEA Business: Subject to the efficient conduct of Judiciary business, which shall prevail in any instance of conflict, permission for reasonable time off during normal working hours without loss of pay and without charge to

accrued benefits shall not be unreasonably withheld in the following instances to:

(a) Members of the VSEA Board of Trustees to attend 12 regular Trustee meetings and up to two special Trustee meetings a year.

(b) Members of the Council for attendance at any of the four regular council meetings per year. The Judiciary may grant permission for attendance at not more than one additional special meeting.

(c) Officers/Delegates, up to a maximum of one for every fifty bargaining unit employees shall be allowed reasonable time off, not to exceed the limits established (h) below in any calendar year to attend national or regional meetings of the VSEA national affiliate;

(d) Unit Chairperson or Chapter Officer, up to 40 hours per year, subject to the operating needs of the Judiciary for conduct of unit Labor Relations/Contract Administration business;

(e) Members of VSEA standing committees will be permitted to attend ten meetings per year;

(f) Unit executive committee members will be given time off to attend five meetings per year;

(g) Up to ten (10) stewards for the processing and handling of complaints and grievances, including necessary appearances at all steps of the grievance procedure; up to 40 hours per steward per year shall be considered a reasonable time for processing and handling of complaints and grievances, and may be extended by mutual agreement in any instance. In addition, during the 2012-2014 contract years, stewards shall be entitled to an additional 24 hours per year of release time for training purposes.

(h) Any of the above listed categories and chapter officers for the purpose of attending training sessions approved in advance by the Judiciary. Approval shall not be unreasonably withheld. However, no employee will be permitted more than a total of 136 hours, 210 for Unit Chairpersons, of time off in any fiscal year under section 8, subsections a-g above.

(i) Members of Labor Management Committees for meetings scheduled by the Judiciary and the VSEA.

(j) Members of the bargaining team on any day when time off under this section is granted in their capacity as a member of the team. Except in the instance of conflicting Judiciary business, the Judiciary shall make a reasonable effort to assist employees who are scheduled for bargaining meetings with the Judiciary, by accommodating a request by the employee to readjust his/her schedule in order to preserve days off. Normally, the rescheduling will take place within the same pay period, with no guarantee of back-to-back days off when rescheduling occurs. Any such rescheduling shall be for a full workday off, unless by mutual agreement of the employee and supervisor. VSEA reserves the right to cancel the meeting when the absence of a team member results from inability to reschedule. VSEA agrees to hold the Judiciary harmless from VSEA-grievances relating to any complaint(s) due to rescheduling of a team member.

In any such instances, under this Section, such employees shall coordinate their absences from work to minimize the adverse impact on the efficient conduct of Judiciary business and in all cases must secure advance permission from appropriate supervisors and permission may be denied to more than one VSEA Officer to be absent from the same work site at any one time if such multiple absences will have an adverse impact on the efficient conduct of Judiciary business. The employee shall also give the Judiciary as much prior notice of any

such meetings as possible, including concurrent written notice to the appropriate manager when VSEA sends a notice of meetings to its own representatives. "VSEA business" as referred to in this Article involves the institutional role of the VSEA as required by current law in dealing with the Judiciary.

## **ARTICLE 4**

### **NO STRIKE – NO LOCKOUT**

1. The Judiciary and the VSEA subscribe to the principle that differences shall be resolved by peaceful and appropriate means without interruption of work. During the term of this Agreement, neither the VSEA nor its agents or any employee, for any reason, will authorize, institute, aid, condone or engage in a strike as defined by 3 V.S.A. 1011 (16), as amended. During the terms of this Agreement, neither the Judiciary nor its agents for any reason shall authorize, institute, aid, or promote any lockout of employees covered by this Agreement.

2. The VSEA agrees to notify all officers, representatives, and members of their obligation and responsibility for maintaining compliance with this Article, including their responsibility to remain at work during any interruption which may be caused or initiated by others, and to encourage employees to return to work unless there is a credible threat to the personal safety of such employees.

3. The Judiciary may discipline any employee who violates this Article and any employee who fails to carry out his/her responsibilities under this Article.

## **ARTICLE 5**

### **NON-DISCRIMINATION**

The provisions of this Agreement shall be applied equally to all employees. Neither the Judiciary nor the VSEA shall discriminate against, intimidate, nor harass any employee covered by this Agreement in a manner which would violate any applicable laws because of race, creed, religion, color, national origin, ancestry, marital status, disability, age, sex, sexual orientation or other protected characteristics, membership or non-membership in the VSEA, filing a complaint or grievance, or the Judiciary's gender bias policy. The Judiciary may promulgate and enforce regulations and policies deemed necessary to properly implement and enforce applicable laws and this Paragraph which prohibit discrimination based upon protected characteristics (e.g. sexual harassment and blood borne pathogen policies). The provisions of this Paragraph prohibiting discrimination on the basis of sexual orientation shall not be construed to change the definition of family or dependent in any employee benefit plan. Any complaint alleging a violation of this Article may be initiated and processed through the grievance and arbitration procedure set forth in Article 14 hereof. This does not waive any of the employee's rights granted under state or federal law or preclude the timely filing of any complaint.

## **ARTICLE 6**

### **EXCHANGE OF INFORMATION**

The Judiciary shall furnish the VSEA in hard copy or in electronic format with the records and documents specified in this section when they become available unless the Judiciary discontinues their compilation.

(a) One copy of each class specification and any revision thereto;

(b) One copy of the Judiciary Personnel Policy;

(c) One copy of each interpretive memorandum of personnel policies and procedures issued by the Judiciary after the effective date of this Agreement;

(d) One copy of any master list of legislatively approved Judiciary positions designating status as bargaining unit eligible or exempt;

(e) Lists of new hires into such categories, separations, transfers, position reallocations, reassignments, and promotions; and

(f) On a one-time basis, single copies of all forms currently in use by the Judiciary for personnel administration and all revisions thereto.

2. The Judiciary shall furnish the VSEA with one copy of all address changes of permanent and limited status classified employees within the bargaining unit who have completed their original probationary period.

3. The VSEA shall furnish the Judiciary with the following information and documents, and amendments or changes to these documents as they become available, in hard copy or in electronic format.

(a) A list of the VSEA's officers, trustees, council, chapter presidents, and standing committee members;

(b) A list of the VSEA's stewards, the stewards' places of employment and the stewards' designated areas of responsibility for the Judiciary bargaining unit;

(c) A list of names of the VSEA's staff members and legal counsel together with their telephone and pager numbers and their e-mail addresses; and

(d) The number of the VSEA's members in the Judiciary Unit on an annual basis.

(e) Additionally, the Judiciary shall establish a separate and distinct VSEA folder within the Judiciary electronic mail system. In connection with such separate folder, the Judiciary shall furnish the VSEA with the work e-mail contact information for each Unit employee. The VSEA and Unit employees may use such folder only for the purposes of Labor-Management and other VSEA state wide meeting announcements, and circulation of the minutes resulting from such meetings.

4. The Judiciary shall also provide to VSEA upon its request all such additional information to which VSEA is lawfully entitled in order to exercise its responsibilities as exclusive bargaining representative under Title 3 V.S.A. Chapter 28. Upon request by the VSEA, information which the Judiciary is required to furnish under this Article which can be made available in a computer-tape or other machine-readable format shall be furnished in such format to the VSEA provided, however, that such request would not result in more than a negligible cost differential relative to hard copy.

## ***ARTICLE 7***

### ***EMPLOYEE ASSISTANCE PROGRAM***

To the extent access to the current program outlined in the agreement between the State of Vermont and the Non-Management Unit of VSEA remains available to the Judiciary at a sustainable cost, the State's Employee

Assistance Program will continue to be available to covered employees. If the Judiciary should ever be of the judgment that such program is no longer available at a sustainable cost it shall meet and confer with the VSEA to attempt to develop a replacement program before making any determination to discontinue participation in the State's program. VSEA recognizes the value of employee assistance and will assist in developing the program and encourage employee participation. Employees participating in the Employee Assistance Program will be assured of strict confidentiality to the extent that this is within the control of the Judiciary.

## **ARTICLE 8**

### **TUITION REIMBURSEMENT**

1. The purpose of this article shall be to provide permanent status covered employees with career development opportunities by establishing policies and procedures relating to tuition reimbursement for post-secondary and/or graduate level courses taken by such employees during off-duty hours to the extent of funding authorized by the Court Administrator.

2. The Court Administrator shall appoint a three-person committee to process applications and make recommendations for tuition reimbursement. Any tuition reimbursement must be approved by the Court Administrator.

3. The applicant must have successfully completed the original probationary period, normally at the end of the first six (6) months of employment, at the time the class begins and must still be employed by the Judiciary upon completion of the course.

4. All courses must be of college level, undergraduate or graduate. The course number and a brief course description must be included in the application along with an articulation from the employee of how the knowledge gained will apply to the job or enhance the employee's performance. To be eligible for tuition reimbursement, the employee must complete the course with a passing grade of at least a "C".

5. The maximum available funding for tuition reimbursement for covered employees shall be \$7,000 annually. If approved by the Committee pursuant to these procedures, and subject to available funding, employees may receive reimbursement for up to four courses per year. The maximum reimbursement shall be \$500 per credit or up to 100% of the actual cost of tuition, whichever is lower, for courses that are deemed to be directly job-related or which are mandated part of an approved degree program. For courses that are deemed to be indirectly job-related such as required electives outside the major course of study, tuition reimbursement may be granted up to 100% of the cost of tuition. Only tuition fees may be included. No other fees or expenses such as travel, registration, activity fees, insurance, parking, or textbook purchases will be reimbursed.

6. Reimbursement must be for a job-related, off-duty course or a course of study as determined by the Committee. The term job-related means that there is a reasonable expectation that tangible benefits will accrue to the Judiciary by allowing the employee to take a course which will enable him or her to keep up with changing concepts or developments in their respective fields, or the course will result in increased knowledge or skill and is aimed primarily at improving the employee's performance and upward mobility. The term off-duty means that the course is conducted during a period when the employee is not expected to be on the job, for example, during hours

outside the normal work schedule or while on approved leave. The Judiciary will only pay for courses where there is a reasonable relationship between the course and the employee's current or progressive employment in the Judiciary.

7. When applications for reimbursement exceed available funds, the Committee shall give priority to employees working toward a post-secondary degree who have previously participated in the program and/or courses that are directly job-related. The Committee may adjust the rate of reimbursement to fit requests within the budget.

8. Requests for reimbursement shall be submitted for review by the Committee before the course begins. At a minimum, the Committee shall schedule two application periods per year with sufficient lead time to allow employees to request reimbursement for courses that begin in the fall, winter and summer semesters. The Committee shall allocate the available funding to meet the needs of employees considering the semester schedules of the educational institutions.

There will be no reimbursement of tuition if prior approval was not obtained. A notice of approval or disapproval will be mailed to the applicant after receipt and review of the application by the Committee.

9. Upon completion of the course the applicant shall submit:

- (a) A request for reimbursement with a copy of the notice of approval,
- (b) A grade report, and
- (c) Proof of tuition payment.

## **ARTICLE 9**

### **EMPLOYEE PERSONNEL RECORDS**

1. An employee's official personnel file is that file maintained at the Court Administrator's Office in Montpelier. An employee's annual performance evaluation as well as the record of any formal level of discipline (reprimands and more severe) shall be stored at such location. Supervisors at an employee's work location may also keep supplemental records regarding issues related to any need for corrective action and any other personnel record about which the employee is given actual notice at the time the supervisor places such record on file. If any form of discipline is proposed for an employee, such supervisory notes, as well as the official personnel file, must be regarded as discoverable and made available to the employee upon request.

2. With the exception of material that is confidential or privileged under law, an employee will be allowed access to his/her personnel file during normal working hours. Subject to the exception stated above, copies of all documents and materials placed in an employee's official personnel file(s) will be provided to the employee, on a one-time basis, at no cost to the employee. Additional copies will be provided to the employee and/or his/her authorized representative at the employee's request at the going rate for photocopy cost per page.

3. Any material, document, note, or other tangible item which is to be entered or used by the employer in any grievance hearing held in accordance with the Grievance Procedure Article, of this Agreement is to be provided to the employee on a one-time basis, at no cost to him/her.

4. The employee has the right to provide written authorization to the Judiciary for his/her bargaining representative or attorney to act for him/her in

requesting access to his/her personnel file and receiving the material (s)he is entitled to have in accordance with the preceding part of this Article. The Judiciary shall honor this authorization upon its receipt for the purpose of investigating a potential grievance or for processing an existing grievance, but not as a blanket authorization.

5. Letters of reprimand or warning, supervisors' notes, or written records of relief from duty (including investigation notes) which are more than two (2) years old and have not resulted in other discipline or adverse performance evaluation against the employee will be removed, on the employee's request to the Court Administrator, from the employee's official personnel file and destroyed.

6. An employee shall be allowed to place in his/her official personnel file a written rebuttal to a letter of reprimand, warning, counseling letter, disciplinary suspension, or personnel evaluation. Such rebuttal must be submitted within thirty (30) work days after receipt of such adverse personnel action (except in case of a later grievance settlement).

7. An employee, with the concurrence of the Manager, shall have the option of placing in his/her official personnel file any work-related commendations.

## **ARTICLE 10**

### **VACANCIES/PROMOTIONS**

1. When the Judiciary decides to fill a permanent, vacant bargaining unit position through competitive procedures, notice shall be posted internally within the bargaining unit for 10 workdays and then out to the open recruitment procedure for an amount of time determined by the Court Administrator.

2. Vacancy notices shall include minimum requirements, examination subject areas, a brief description of duties, and any special skills required.

3. The appointing authority or designee shall consider all certified applicants. Permanent employee candidates who meet the minimum requirements for a bargaining unit position shall be entitled to be interviewed.

4. In all other respects, the procedures set forth in Article IV of the Judicial Personnel Policy, as the same shall be amended from time to time, shall be applicable. However, if any proposed amendment relates to a mandatory subject of bargaining, the VSEA shall be given notice of the proposed change and opportunity to bargain about it before any implementation occurs.

## **ARTICLE 11**

### **PROBATIONARY EMPLOYMENT**

1. A newly hired employee shall serve a six (6) month probationary period. The probationary period may be extended at the discretion of the Judiciary. Prior to the end of the probationary period, the supervisor shall evaluate the performance of the probationary employee. The supervisor shall discuss the evaluation with the employee and forward the evaluation to the Court Administrator along with a recommendation to the Court Administrator that the employee become permanent, be terminated, or that the probationary period be extended. However, no failure to conduct such evaluation shall preclude the Judiciary from terminating a probationary employee in accordance with section 2 of this Article. Any recommendation for the extension of the probationary period shall include a new termination date of the probationary period and reasons for the extension.

2. Initial probationary employees may be extended in probationary status, disciplined, laid off or dismissed by the Judiciary solely at its discretion without regard to any other provision of this Agreement and with no right to the grievance process, but they shall otherwise be covered by all terms of this Agreement, except as restricted below.

(a) No provisions of the Performance Evaluation Article may be grieved.

(b) Upon successful completion of the initial probationary period, an employee will be credited with annual leave or personal leave accrued during such period.

(c) Initial probationary employees hired into another position shall be considered, for all purposes, to be a new hire.

(d) The following contract provisions shall not apply to initial probationers:

- Military Leave with Pay
- Medical Leave of Absence
- Sick Leave Bank and LTD Bank
- Tuition Reimbursement
- Injury on the Job - Disability RIF
- Parental Leave/Family Leave
- RIF Rights

## **ARTICLE 12**

### **PERFORMANCE EVALUATION**

1. The Court Administrator shall establish and revise as deemed appropriate a performance evaluation procedure. The determination of performance evaluation

standards and criteria is understood to be the exclusive prerogative of the Judiciary, provided, however, the Judiciary will notify VSEA twenty-one (21) days prior to the date of implementation of any proposed change in such standards and criteria as they appear on the form and give VSEA an opportunity to respond and suggest alternatives to the changed form prior to its implementation.

2. Performance evaluations shall be based exclusively on job duties, responsibilities, and other performance related factors. Once the standards are developed and communicated to employees, the supervisor will monitor performance, and then counsel and guide employees to help optimize performance. The supervisor may convene or will accommodate a reasonable request by an employee for a meeting to discuss any such work deficiency, suggested improvement, or rating or any performance evaluation standard or criterion that the employee considers unreasonable or not achievable.

3. Each supervisor must communicate to employees the duties the employee is to perform and the expected level of performance the employee is to achieve. After achieving permanent status, if an employee is not achieving the expected level of performance, a supervisor shall notify the employee as soon as possible of the deficiencies in the employee's performance. The supervisor has the responsibility and is expected to give reasonable counsel and assistance to an employee to help the employee improve job performance and meet job performance expectations. Employees shall be warned in a progressive manner of poor job performance.

(a) Level I – Oral Warning. This is a means by which the supervisor calls to the attention of the employee that the employee is not performing the job to established standards. The employee must be informed of what standards are to be achieved and when these standards

should be achieved. A notation of this warning must be included in the employee's personnel file and the employee shall be provided a copy. An employee shall be entitled to Union representation at any Level I meeting and shall be so advised.

(b) Level II – Written Warning. An employee shall be entitled to Union representation in connection with any Level II warning and shall be so advised. If the supervisor feels the employee has not responded adequately to the Level I warning after a reasonable period of time, the supervisor may give the employee a Level II warning. The Level II warning is a formal letter to the employee describing performance deficiencies and what improvement is expected. The Level II warning shall contain a specific date (normally between 3 and 6 months) on which a review of the employee's progress toward improvement will occur and the warning shall also notify the employee that, if significant progress has not occurred by the date of review, the employee may be placed in a warning period.

(c) Level III – Warning Period. A warning period shall be established upon recommendation of the supervisor and approval of the Court Administrator for employees who have not significantly improved their performance as a result of a written warning. The warning period shall be sixty (60) days in duration, but may be extended by the Court Administrator to a maximum of six (6) months. At the end of the warning period, the employee must consistently perform the job to expected standards. If the evaluation of the employee's performance still results in unsatisfactory performance, the employee may be demoted or terminated. The record indicating that an employee has been placed in a warning period for performance reasons shall be maintained in the employee's personnel file for a period of five (5) years. If there is a recurrence of the same performance deficiency

within a period of twelve (12) months, the initial response may be at the warning period stage

(4) An employee shall be allowed to place in their personnel file written rebuttal to a letter of reprimand, warning, counseling or a performance evaluation. Such rebuttal must be submitted within thirty (30) workdays after receipt of such adverse personnel action (except in case of a later grievance settlement). Employees may initiate appeals of Level I and Level II warnings, Level III warning periods and demotions at Step II of the Grievance Procedure. Appeals of terminations may be initiated at Step III of the Grievance Procedure. Employees in their original probationary period shall not have the right of appeal.

## **ARTICLE 13**

### **CODE OF CONDUCT AND DISCIPLINARY ACTION**

#### 1. Code of Conduct -

The Code of Conduct set forth in Article VII of the Judicial Personnel Policy, as the same may be amended from time to time, shall be considered a part of this Agreement. However, if any proposed amendment relates to a mandatory subject of bargaining, the VSEA shall be given advance notice and opportunity to bargain prior to the implementation of any such amendment.

#### 2. Just Cause Standard -

An employee who has completed his/her original probationary period shall not be disciplined except for just cause. Four levels of disciplinary actions are established.

Disciplinary actions will generally be imposed in the order of progressive severity described below. However, there may be cases that warrant bypassing steps in the progressive disciplinary procedures or applying discipline in differing degrees so long as it is imposed for just cause.

The Court Administrator or designee may relieve employees from duty with compensation and benefits pending the outcome of investigations or legal actions if the Court Administrator deems it is in the best interests of the Judiciary. A relief from duty of this nature may be for any period of time until a formal outcome is determined. An employee shall have the right to have a union representative present whenever the employee may be disciplined in any manner as a result of the meeting. The Judiciary shall inform an employee of such right prior to taking disciplinary action. With the consent of the employee and the VSEA, an employee may be relieved from duty without compensation and/or benefits pending the outcome of such investigations or legal actions.

The Court Administrator or designee may place an employee on administrative leave without compensation during an investigation into allegations of criminal misconduct once probable cause has been judicially determined. If the result of such an investigation determines that no unpaid leave is warranted, the employee shall receive any pay and benefits that have been withheld during the unpaid administrative leave. Health insurance benefits may be maintained upon continued payment of the employee's share by the employee. Accrued benefits may not be utilized to avoid the unpaid administrative leave.

### 3. Disciplinary Actions –

“Disciplinary Actions – An employee shall be entitled to Union representation in connection with any meeting with a supervisor which could result in disciplinary action being taken, and shall be so advised. This right of representation shall be recognized when the discussion of a particular matter turns from a general gathering of facts to determine what happened at an incident to a specific focus on an individual employee that specifically attempts to elicit information that may result in discipline. The supervisor or program manager shall inform the employee before asking any questions at such a meeting that a disciplinary action is contemplated, and that the employee is entitled to VSEA representation and at least one meeting at which he/she can hear the possible action and reasons therefore and state his/her defense if applicable, before any discipline is imposed. Discussions between the supervisor or program manager and employee regarding disciplinary actions shall:

- (a) Be conducted in private and in a manner that will not embarrass the employee;
- (b) Afford the employee opportunity for union representation;
- (c) Include a full explanation of the facts that surround the incident(s);
- (d) Include an opportunity for the employee to present his or her arguments or explanations; and
- (e) Be confidential.

If the employee refuses to participate in a meeting to discuss a disciplinary action, the employee shall be informed in writing of the incident(s) and the disciplinary action to be imposed within five working days. In those instances where the Court Administrator determines it is inappropriate for the supervisor to conduct the

disciplinary meeting, the Court Administrator or his or her designee, shall conduct the meeting. As soon after the meeting as possible, the employee shall be informed of the disciplinary action taken and of the right to appeal.”

(a) Oral Warning. This is the least severe of all disciplinary actions. It is a means by which a supervisor or program manager calls to the attention of an employee specific deficiencies in the employee’s job performance because of work rule violations or one or more violations of the work rules or regulations by the employee. At this step, counseling the employee is the most important concern. A record of an oral warning shall be made by the supervisor and placed in the employee’s personnel file at the Court Administrator’s office. The record of oral warning shall be removed from the employee’s file two (2) years after the issuance if no other disciplinary warnings concerning the same subject have been issued. An employee may appeal a Step I warning through the grievance procedure. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

(b) Written Warning. A written warning is the next more severe disciplinary action. It consists of a formal memorandum or letter in which the immediate supervisor informs the employee that the employee has violated a work rule or regulation. These memoranda or letters will warn the employee that behavior must be corrected within a specified period of time if more severe penalties are to be avoided and should give direct and concrete instructions for future conduct. The original of the written warning shall be presented

to the employee and a copy shall be included in the employee's personnel file. The written warning shall be removed from the employee's file two (2) years after issuance if there have been no additional disciplinary warnings issued concerning the same subject. An employee may appeal a written warning through the grievance procedure. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

(c) Suspensions. This is an action by which the Court Administrator, upon recommendation of a supervisor or program manager, temporarily suspends an employee from employment without compensation for a period not to exceed thirty work days. Suspensions include the following:

- i. Loss of pay for the time specified,
- ii. Loss of annual, sick, and personal leave accrual during the period involved, where applicable.
- iii. No accrual of service credit which may affect the calculation of longevity pay, additional annual leave, and step increases in salary, where applicable.

Employees may not use annual leave, personal leave, sick leave or compensatory time while suspended. Benefits for employees who are suspended without pay shall be administered as if the employee were on an unpaid leave of absence. Before they are suspended, employees shall be given a written memorandum specifying the

reasons for the suspension and the exact date and time when the employee is to return to work. A copy of this memorandum shall also be placed in the employee's personnel file. An appeal of a suspension action must be filed within the prescribed time established in Step III of the grievance procedure.

(d) Dismissal. The Court Administrator, upon recommendation of a supervisor or program manager, may dismiss an employee for just cause. Written notice of dismissal must be given to the employee within twenty-four (24) hours of oral notification. In the dismissal notice, the supervisor shall state the reason(s) for dismissal and inform the employee of the right to appeal the dismissal within the time limits established in Step III of the grievance procedure.

#### 4. Immediate Suspension/Discharge -

There are some work rule and regulation violations which are so serious that they may warrant the immediate discharge of the employee. The parties agree that there are appropriate cases that may warrant the Judiciary bypassing progressive discipline or corrective action; applying discipline or corrective action in different degrees or applying progressive discipline for an aggregate of dissimilar offenses, except that dissimilar offenses shall not necessarily result in automatic progression; as long as it is imposing discipline or corrective action for just cause. In deciding which disciplinary action to take, the Court Administrator, upon the recommendation of the supervisor or Human Resources manager should consider the factors for determining the appropriate level of discipline as determined by the Vermont Labor Relations Board.

## **ARTICLE 14**

### **GRIEVANCE AND ARBITRATION PROCEDURE**

1. Purpose - The intent of this Article is to provide for a mutually satisfactory method for settlement of complaints and grievances, as defined in Section 2 of this Article, filed by an individual, unit, or the duly certified bargaining representative. Complaints and grievances relating to classification are covered by Article 15 of this Agreement. It is expected that employees and supervisors, and the VSEA, will make a sincere effort to reconcile their differences as quickly as possible at the lowest possible organization level.

2. Definitions -

(a) "Complaint" is an employee's or group of employees' informal expression to the immediate supervisor of dissatisfaction with aspects of employment or working conditions under a collective bargaining agreement that are clearly identified to the supervisor as a complaint.

(b) "Grievance" is an employee's, group of employees' or the employee's collective bargaining representative's expressed dissatisfaction, presented in writing, with aspects of employment or working conditions covered by a collective bargaining agreement, or the discriminatory application of a rule or regulation.

(c) A grievance shall contain the following information:

(1) The full name and address of the party or parties submitting the grievance;

(2) A statement of the facts concerning the grievance;

(3) Specific references to the pertinent section(s) of the contract or of the rules and regulations alleged to have been violated;

(4) A statement of the specific remedial action sought;

(5) A request for a grievance meeting, if desired.

### 3. Procedure -

#### (a) Step I (Immediate Supervisor)

The employee shall notify the immediate supervisor of a grievance within fifteen business days of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the grievance. The grievance may be made orally, but must be followed up in a written manner and must be identified as a grievance by the employee. If the grievance involves an action by the immediate supervisor, the Step I filing may be made exclusively with the supervisor's supervisor. If the grievance involves an action by the Court Manager, it may be initially filed at Step II.

i. Within 5 days of the submission of the grievance, the grievance shall be discussed informally by the aggrieved employee with the immediate supervisor and the Court Manager. The immediate supervisor and the Court Manager shall notify the employee in writing of the decision within five business days after the discussion of the grievance.

ii. Step I may be waived by procedures in Subsection 4 of this Article if the level of review is inappropriate to the type of grievance.

#### (b) Step II (Court Administrator's Office Level)

i. If no satisfactory settlement is reached at Step I or the responding supervisor does not respond to the grievance, the grievance shall be presented in writing to the Court Administrator. The submission must occur within five business days after the receipt of the Step I decision, otherwise the matter shall be considered closed. If Step I is by-passed for reasons above specified, the grievance must be submitted in writing to the Court Administrator within the time limit specified for a Step I submission. The submission of the grievance should also contain a request for a hearing if so desired.

ii. If a Step II grievance hearing is requested, the Court Administrator or designee shall hold the hearing within ten business days from receipt of the grievance unless a satisfactory solution can be agreed to before such hearing. The hearing shall be conducted informally. Within ten (10) business days of the hearing, the Court Administrator or designee shall notify the aggrieved employee and the VSEA of the decision in writing. If the grievance involves an action taken by the Court Administrator, the grievance shall be heard instead by the Chief Administrative Judge or his/her designee.

iii. If no Step II grievance hearing is requested, the hearing authority shall notify the aggrieved employee and the VSEA of the decision in writing within ten (10) business days after the receipt of the Step II grievance.

iv. The hearing authority may interview any witness or review any materials which may have a bearing on the grievance without resorting to a grievance hearing unless such a hearing has been requested.

v. A complaint as defined in Section 2 (a) above may not be appealed by the grievant or the VSEA beyond Step II.

(c) Step III (VLRB Level) If the grievance is not satisfactorily resolved at the level of the Court Administrator it may be appealed by the grievant or the VSEA to the Vermont Labor Relations Board (VLRB). If the grievance relates to the dismissal of a covered employee who has attained permanent status, it shall be initiated with the VLRB. A filing at this level must be made within thirty (30) days of the Step II decision or the dismissal of the employee, whichever the case may be. The decision of the VLRB shall be final and binding, except that questions of law may be appealed to the Vermont Supreme Court. By mutual agreement of the parties, the Step III appeal may be to final and binding arbitration under the labor relations rules of the American Arbitration Association, subject to the standards set forth in the Vermont Arbitration Act, Title 12 V.S.A. Chapter 192 as the same may be amended from time to time, in lieu of an appeal to the VLRB. Any administrative costs associated with Step III appeals will be shared equally by the parties.

#### 4. Extension of Time Limits -

Work schedules and job requirements may limit the ability of any party to initiate a grievance, respond to a grievance, hold a grievance hearing or proceed to the next level of a grievance within the established time requirements. If the employee or the reviewing party has just reason for not being able to meet the established time limits, he or she shall notify the other party prior to the expiration of the time limit and they may mutually agree to an extension of time. Neither party shall lose any rights due to a time extension. All extensions of time limits must be confirmed in writing.

## 5. Waiver of Review Level -

The level of review may be waived in the grievance procedure by mutual agreement of the parties if:

(a) The proposed resolution of the grievance is not within the authority of the reviewing party at that level; or

(b) The reviewing party believes he or she cannot appropriately respond to the grievance.

The parties may mutually agree to waive the grievance procedure at any level and proceed to the next level of review. All time limits shall be suspended until the parties have been notified of the decision of the waiver request. Neither party shall lose any rights while waivers are being considered, and all waivers shall be confirmed in writing.

## 6. The Parties' Rights -

(a) The employee has the right to the assistance of the VSEA, or private counsel of his/her choice and at his/her expense, to prepare the written grievance and to represent the employee in grievance hearings. The employee must notify the Court Administrator in advance of any meeting in which the employee intends to have a representative other than a VSEA representative present.

(b) Employees involved in complaint and grievance meetings, investigation meetings, or meetings with their VSEA Representative regarding disciplinary or other corrective actions, may do so during working hours without loss of pay and without charge to accumulated leave, after requesting permission from the supervisor to do so, which permission shall not be unreasonably withheld. Meetings with a VSEA Representative shall normally be limited to no more than one (1) hour in any given workday. This provision shall not be construed to

expand the release time afforded to VSEA officers under Article 3.

(c) The reviewing authority at any step of this procedure shall have the right to have a representative present. The reviewing authority shall notify the VSEA and the employee in advance if a representative will be present.

(d) Any material, document, note, or other tangible item which is to be entered or used by any party at Step II or Step III of any grievance proceeding shall be provided to the other party prior to the proceeding at no cost.

## 7. Alternative Dispute Resolution -

In recognition of the parties' commitment to reconcile their differences in the least adversarial manner possible, the VSEA and the Judiciary may agree to utilize mediation or other processes which will facilitate the goal of positive labor relations. In the event of an agreement to mediate, the mediator shall be jointly selected by the parties and all Grievance Procedure time limits will be suspended until the mediation process (or other agreed upon alternative process) is completed. No evidence or testimony which is presented in any process utilized pursuant to this subsection shall be utilized or referred to in any way should the formal grievance procedure be resumed, nor shall any mediator be called as a witness by either party. Either party may elect to discontinue utilizing the alternative process at any time. The cost of any such mediator shall be borne equally by the parties hereto.

8. Grievances, except those relating to compensation and benefits, may only pertain to events which occur or claims which arise on and after December 6, 2002.

## **ARTICLE 15**

### **CLASSIFICATION PLAN AND REVIEW PROCEDURE**

#### 1. Classification Plan –

(a) Classification Plan Scope: Positions included in the classification plan are all covered employees.

#### (b) Definitions

i. A classification review is defined as a request for a review of a new or existing position to determine the proper class assignment.

ii. A reconsideration of classification determination is defined as a request by the Judiciary, the VSEA or the employee for the classification committee as a whole to review a classification determination that resulted from a review performed under Section 1 hereof.

iii. A classification grievance is defined as an appeal of a classification determination which has been reconsidered by the classification committee.

iv. Wherever used, the term "employee" means employee or employees of the Judiciary, as appropriate, who are covered by the terms of this Agreement

v "Business days" means calendar days exclusive of Saturdays, Sunday, and legal holidays observed by the State of Vermont.

#### (c) Classification Review Procedure

i. The classification methodology for the Judiciary will be based on the Willis Classification System. The Judiciary will maintain a classification plan for all covered employees based on the analysis of a position's duties and responsibilities performed at a satisfactory level as they relate to the factors of the Willis Classification System. The plan shall group positions that have common characteristics and assign them to a class. For each class, a title shall be assigned, a general description prepared and minimum qualifications established. A copy of the 'Willis Guide To Classification' will be available on the Judiciary website.

ii. Classification Review – Step 1

If a significant change occurs in a position that alters its duties or responsibilities, the Court Administrator, the VSEA or the affected employee may request in writing that a classification review of the position occur to ascertain if it is assigned to the proper class. On or after July 1, 2011, the VSEA may submit a class action 'RFR' on behalf of employees in the same class, filing one (1) package of the same information as required herein; however, employees will be required to submit individual RFR forms for classification verification. If a request for class review is made, an employee within the affected class may elect via written notification to the Court Administrator not to have the results of the class review applicable to him/her until after such employee's next step increase occurs. The application shall be considered complete

when the Human Resources Manager certifies that the record is complete. Notice that the record is complete shall be sent to the employee(s) or in the case of a classification request, the VSEA, within five (5) business days.

A classification committee of Judicial Branch employees to be chaired by the Human Resources Manager shall be maintained to review requests for classification review. The classification committee shall consist of twelve members, nine of whom shall be appointed by the Judiciary and three of whom shall be Judicial Bargaining Unit members appointed by the VSEA. There shall also be two alternate members, one appointed by each of the parties hereto. The VSEA appointed members shall serve three (3) year terms. The Human Resources Manager shall preside over meetings of the committee relating to policy, training and procedures. The Human Resources Manager shall designate a panel of three committee members to conduct any requested classification review. For positions within the bargaining unit, one of such panel members shall be one of the three VSEA committee members. If requests for classification are pending, the panel shall meet on a bi-monthly basis and review the classification material, make a site visit when necessary or appropriate, conduct interview(s) as appropriate and make a written determination within 15 business days of the date the panel review is completed. The Judiciary, the VSEA or the employee may appeal this determination by using procedures set forth in Section 2 hereof. If a

request for classification review is made by a member of the Classification Committee, the Committee Chair shall conduct the review within 45 business days of receipt of the request and make a written determination within 15 business days of the review.

## 2. Reconsideration of Classification Determination –Step 2

The full Committee shall meet on a bi-monthly basis to determine reconsideration requests, if any such requests are pending. Such reconsideration shall occur at the first full Committee meeting following the request for reconsideration.

i. A request to reconsider a classification determination shall be filed in writing within fifteen (15) business days of the Step 1 determination or else shall be deemed withdrawn. An electronic filing which is not accompanied by a paper filing meeting the requirements of this subsection shall not be considered as properly filed. The request shall minimally include:

A. the name of the employee, employees submitting the request or a notation that it is submitted by the Judiciary or the VSEA;

B. the class title, pay grade equivalent and work unit of the position under review;

C. the specific issues which require reconsideration with a detailed rationale why the classification determination was not appropriate,

D. a copy of the classification report and the job description form upon which the classification review was based,

E. the specific remedial action requested, including class to which reassignment is sought;

F. appropriate signature and date.

ii. Procedure

The request to reconsider a classification determination shall be sent to the Human Resources Manager at the Court Administrator's Office. If the reconsideration request relates to a bargaining unit position and is made by the Judiciary or the employee, the VSEA shall be promptly notified of the request and shall have the opportunity to represent the employee before the committee. Reconsideration requested by a member of the Classification Committee covered by this Agreement for his/her position shall be conducted by an individual appointed by the Chief Justice from outside the Judiciary on the basis of a recommendation made by the Court Administrator and the VSEA.

Upon receipt of a request for reconsideration, the Human Resources Manager shall schedule such request at the next regularly scheduled meeting of the classification committee. A non-management member outside of the Judicial Bargaining Unit shall not be authorized to vote should a vote be taken to resolve the reconsideration

request made by or on behalf of an employee covered by this Agreement, nor shall the Judicial Bargaining Unit members be authorized to vote concerning any employee not covered by this Agreement. However, all members of the classification committee shall be qualified to participate in the review and any discussion related thereto. A majority of the classification committee shall constitute a quorum and the Human Resources Manager shall act as chair except in the instance where the Human Resources Manager participated on the initial classification panel. In that instance, the committee will select a member who was not involved in the initial review as acting chair. The Judiciary, the VSEA or the employee shall be allowed to make a presentation of the issues to the committee or, in the alternative, may rely on the written submission. The committee may require further information from the parties and may interview other personnel to obtain or confirm relevant information. If any of the parties wish to rely upon information which was not considered by the panel, all other parties will be provided such information at least forty eight hours in advance of the classification committee meeting.

The committee shall review the classification report in light of the original and supplemental information presented and attempt to reach a consensus on an appropriate classification determination. If a consensus cannot be reached, the matter shall be resolved by a vote of the committee, and a majority vote of those present, authorized to vote and voting shall constitute

the committee's determination. The committee shall reach a determination and notify the Court Administrator, the employee and the VSEA of the committee's determination within ten (10) business days of the classification committee meeting.

The committee and the parties may agree to extend any of the time frames set forth in this subsection. Any meetings shall be scheduled during working hours if possible. Any changes in the classification determination shall be deemed to be effective upon the same date of the original classification determination.

### (3) Classification Grievance Procedure – Step 3

i. Within ten (10) business days of the notification of the reconsideration determination, the Judiciary, or the VSEA or the employee may file a classification grievance. The grievance shall be filed in writing and shall include all materials submitted during the reconsideration phase plus:

A. a written description of the issues with rationale why the reconsideration determination is clearly erroneous;

B. the specific remedial action requested, including class to which reassignment is sought;

C. the name of a representative, appointed by VSEA, or an employee of

VSEA where the matter involves a covered employee.

D. appropriate signature and date.

E. the grievance shall include a completed job description and any supporting written information, arguments or documentation.

F. all other information which the party filing the grievance believes the Step 3 Panel should review in connection with the grievance. Evidence and/or testimony which is not pre-filed as required by subsections A-F hereof shall be excluded from consideration.

ii. Procedure

A. The grievance shall be filed with the Deputy State Court Administrator and General Counsel acting in the capacity as secretary of the Step 3 Judicial Branch Classification Grievance Panel. The Deputy State Court Administrator and General Counsel shall notify the parties of the grievance and of the date set for the Step 3 Panel's consideration thereof. Upon receiving a classification grievance the secretary shall notify the Chief Justice.

B. The Step 3 Judicial Branch Classification Grievance Panel shall consist of a chairperson appointed by the Chief Justice from outside the

Judiciary from lists separately submitted by the parties, the Deputy State Court Administrator and General Counsel shall also act as secretary to the Panel, and a person appointed by VSEA. The Step 3 Panel shall be formed within fifteen (15) days from such submission of names. No person shall be appointed a member of the Panel who will personally benefit from the outcome of the grievance. The chairperson shall not be actively connected with the parties or the grievance. The chair shall be a person knowledgeable in classification procedure and labor relations. The chair shall be compensated for time and necessary expenses at rates established and approved by the Chief Justice.

C. The Step 3 Classification Grievance Panel shall thoroughly review the grievance and meet to hear the grievance within thirty (30) business days from the date a chairperson was appointed. The procedure for the hearing shall be established by the Step 3 Panel's chairperson. It shall involve a review of the record of the committee's work and determination, consideration of the arguments of the parties and of any newly discovered evidence which was not reasonably available for presentation to the committee in the judgment of the Step 3 Panel. The Step 3 Panel shall issue a decision to the parties within (20) business days

of the date of the hearing. The parties and the Step 3 Panel may agree to extend these time limits prior to their expiration where circumstances warrant. The committee's determination shall be affirmed unless the Step 3 Panel finds that such determination was clearly erroneous. If the committee is found to have been clearly erroneous, the matter shall be remanded to the committee for reconsideration with appropriate instructions unless there is a unanimous decision by the Step 3 Panel as to the appropriate outcome, which shall in such cases be final and binding. A grievance that is remanded to the committee shall be heard within the timeframes established under (b)ii above. Otherwise, the Step 3 Panel's decision shall be by majority vote.

D. The Step 3 Panel shall base its decision upon the criteria set forth in 'Willis Guide To Classification' as it was applied by the classification committee. The burden shall be on the appellant to establish that the classification decision was clearly erroneous.

#### (d) Pay Adjustments

In the event of an appeal at any level, any classification pay adjustment shall be deferred until final disposition of the request. All reassignments are effective at the beginning of the next pay

period following the date of the original classification request submission to the CAO Human Resources Division.

(e) Rights and Restrictions

i. The employee has the right to the assistance of the VSEA or private counsel of his/her choosing to prepare the written grievance and to represent the employee at the employee's expense in the grievance proceedings. The parties must notify each other in advance of any meeting in which a party intends to have a representative present. In those cases where the VSEA is not representing the employee, the VSEA reserves the right to participate in all of the classification panel, grievance committee and grievance Panel proceedings.

ii. The employee may present the grievance on work time. If schedules do not permit the presentment to occur within the time constraints, a waiver of the time constraints should be obtained from the Panel. The grievant and all other participants shall be granted release time for the purpose of presenting the grievance.

iii. If the Panel decides to receive newly discovered evidence, witnesses may be called by the parties. Judicial Branch employees called as witnesses may attend grievance hearings during work time.

iv. Any material, document, note, or other tangible item which is to be entered or used by any party in any grievance proceeding held in accordance with this section is to be

provided to the other party at least forty eight hours prior to the proceeding at no cost.

### 3. Classification Plan/Procedures Information and Training

The Judiciary shall disseminate to all work sites written materials that describe the classification criteria and procedures. Additionally the Judiciary shall, on at least an annual basis, offer in-service educational programs at various regional work sites which covered employees may attend concerning such criteria and procedures, with emphasis upon how to present a classification request most effectively.

### 4. Classification Procedures Applicable to New Judiciary Positions -

The classification process outlined above shall be applicable to all current and any new Judiciary positions covered by this Agreement.

## **ARTICLE 16**

### **COMPENSATION/BENEFITS**

#### 1. Compensation -

- (a) A cost of living adjustment (COLA) shall be made in the form of a two and one-half (2.5%) percent increase in the pay plan for all covered positions above the amounts in effect on June 30, 2014, and such increase shall be applied to covered employees who remain employed by the Judiciary as of the date the Agreement is ratified and executed by both parties, such COLA to be effective as of the start of the first full payroll period in July, 2014.

- (b) An additional COLA shall be made in the form of a two and one-half (2.5%) percent increase in the pay plan for all covered positions above the amounts in effect on June 30, 2015 as of the start of the first full payroll period in July, 2015.
- (c) The ability of covered employees to move on step in accordance with the applicable provisions and timelines of the Agreement will remain in effect throughout the two year duration of the Agreement.
- (d) Reorganization – Terms of Compensation: During the life of this Agreement, any employee who, as a result of Judiciary restructuring, accepts a position with a rate of compensation which is less than the rate of compensation he/she is then earning which places the hourly rate between the pay grid steps or above the pay grade maximum, shall be at a “red circled” hourly rate. When a pay raise occurs within the Judicial Branch, the increase for red circled employees will be calculated as follows:

The hourly rate will be unchanged until such time as the step rate to which the red circled employee is assigned equals or surpasses his/her current rate of pay (this will most likely be achieved through the implementation of a COLA resulting from collective bargaining) or the employee meets the requirements to advance to the next step.

Any COLA increase that occurs prior to the employee’s next step date that does not raise the hourly rate for the applicable step

to the employee's current hourly rate will be paid entirely in cash;

If the COLA increase would raise the hourly rate for the applicable step higher than the employee's current hourly rate, such current hourly rate will be increased to the applicable hourly rate. Any portion of a COLA that is not included in the new step hourly rate for the employee will be paid in cash.

## 2. Compensation Plan -

(a) The compensation plan for Judiciary employees has 28 pay grades, each pay grade having salary steps. It is the policy of the Judiciary to establish pay grade equivalents to coincide with the compensation plan approved by the General Assembly. The Court Administrator shall assign each class established in the Judiciary classification plan to a pay grade equivalent. The positions shall be assigned to pay grade equivalents based on responsibility, prevailing salary rates for similar positions, and other pertinent information.

### (b) Hiring Rates

i. New employees - Employees new to Vermont State Government shall be hired at Step 1 of the pay grade equivalent to which the position class is assigned except as provided for by subsection iv. hereof.

ii. Employees from other state agencies - employees who are transferring from permanent positions in other state departments shall be treated as if they were

transferring between positions within the Judiciary.

A. If the Judiciary position's pay grade equivalent is greater than the pay grade of the employee's Executive Branch position, the employee shall start at the step within the new pay grade equivalent that guarantees at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades but never lower than Step 2.

B. If the Judiciary position's pay grade equivalent is equal to the employee's Executive Branch pay grade, the employee shall be assigned to the same step that the person was assigned in the Executive Branch.

C. If the Judiciary position's pay grade equivalent is lower than the employee's Executive Branch pay grade, the employee shall receive the end of probation salary level of the Judiciary position. If the Court Administrator determines the employee's Executive Branch experience will contribute to the employee's ability to perform effectively in the new position, the employee may be slotted on a step in the pay grade that exceeds Step 2, but does not exceed the employee's present salary. In no case may an employee's salary exceed the maximum salary step of the pay grade equivalent.

iii. Re-employment - A permanent employee in good standing who has voluntarily terminated employment from the Judiciary or left due to a reduction in force shall have salary restoration rights for two years after the separation. Salary restoration depends upon the relevance of experience gained in the previous position to the new position and the degree of responsibility of the previous position as compared to the new position. The maximum restored salary is defined as the salary at the time of termination plus any salary adjustment to which an employee would have been entitled, unless specifically excluded by the Legislature, had the employee remained employed with the Judiciary in the same pay grade equivalent. If a person's maximum restored salary falls in between steps in the pay grade equivalent, the maximum restored salary shall be the higher step. However, in no instance may a re-employed person's salary exceed the maximum salary step of the new position's pay grade equivalent.

A. Hiring rate where the new position is at a higher pay grade equivalent - If the person's previous experience warrants, the starting salary shall be the step within the new pay grade equivalent that guarantees at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades over the employee's maximum restored salary or step 2 of the new pay grade equivalent, whichever is greater.

B. Hiring rate where the new position is at the same pay grade equivalent - If the person's previous experience warrants, the person's starting salary shall be the maximum restored salary.

C. Hiring rate where the new position is at a lower pay grade equivalent. The person's starting salary shall be Step 2 of the new pay grade equivalent. If the person's maximum restored salary is greater than Step 2, depending on the person's previous Judicial Branch experience, the Court Administrator may establish a starting step above Step 2, but not to exceed the person's maximum restored salary.

iv. Hiring above the minimum salary - In instances of difficult recruitment or extraordinary qualifications of an applicant, the Court Administrator may authorize a starting salary above the minimum of the pay grade equivalent.

(c) Step Movement- advancement through the steps of a pay grade equivalent for permanent employees shall be governed by the time requirements set forth below.

i. Anniversary Date - The date on which an employee most recently completed an original probation, or in the case of restored or rehired employees, the date of restoration or rehire. In the case of completion of original probation, the date shall be the actual date of completion rather than the effective date of the associated pay increase.

This date will be used initially as the date upon which step increases may be granted in accordance with the compensation plan provisions.

Step Date - The date on which an employee moved to a specific pay grade and step.

The required time on each step shall be as follows:

Step 2 (End of Probation) through 5 - one year

Step 6 through 12 - two years

Step 13 through 15 - three years

Movement to a higher step level is predicated on satisfactory performance. Any employee who has been warned under Article 12, Section 3 of unsatisfactory job performance shall not advance to the next step level until the employee's supervisor has notified the Court Administrator that the employee is performing satisfactorily. The advance to the next step level should occur on the Monday of the first full pay period following the notification to the Court Administrator.

ii. Normally, step movement will take place on the employee's Step Date. The effective date for all pay increases will be as follows: If an employee's actual step date occurs before midnight Saturday of the first week of the applicable pay period, then the employee's effective date of increase shall be retroactive to the beginning of the same pay

period. If the employee's actual step date occurs after midnight Saturday of the first week of the applicable pay period, then the employee's effective date of increase shall occur on the first day of the pay period following the employee's step date.

(d) Reassignment of Pay Grades Due to Classification Review

A position class may be reassigned to a greater pay grade equivalent due to an action or an employee may be assigned to a new class at a greater pay grade equivalent due to a classification review. If adequate funding is available, all permanent status employees within the reassigned class or a reassigned permanent status employee to a class with a greater pay grade equivalent shall be slotted into step 2 of the new pay grade equivalent or into the step in the new pay grade equivalent which will give the employee at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades, whichever is greater. However, no employee may receive a salary that exceeds step 15 of the new pay grade equivalent. All reassignments are effective at the beginning of the next pay period following the date of the original classification request submission to the CAO Human Resources Division. Employees who are still in their original probationary period shall have their salary adjusted to the minimum rate of the new pay grade equivalent. If adequate funding is not available, the reallocation of pay grades shall become effective at the beginning of the first pay period in the next fiscal year. If an employee is reassigned to a higher class within two years of a previous reassignment to a higher class, the employee shall be slotted into the new pay grade at the step that results in a salary increase.

If a class or position is reassigned to a lower pay grade equivalent as a result of a classification study, the employees affected by the study shall have their compensation established as follows:

Where the review assigns the position one or two pay grades below its former pay grade assignment, the rate of pay shall be "red-circled" and shall not be subject to a reduction. Such employee will move to the step next above his/her red-circled rate on the next step date, except when the salary is over the maximum for the pay grade or falls on a step in the new Pay Grade. The next step date in such cases shall be based on the effective date of the reassignment, and will be calculated on the required time on step assigned to the step next below the employee's red circled rate.

Where the review assigns the position three or more pay grades below its former pay grade assignment, the employee shall be placed on a specific step in the new (lower) pay grade that is at least a 1.5% decrease in salary and then slotted down, but shall not be paid less than the minimum, nor more than the maximum for such lower pay grade. All such employees will establish a new Step Date.

After this action, any employee whose compensation was set by subsection i above and whose salary exceeds step 15 of the new pay grade will have their salary red-circled until such time as the compensation for step 15 exceeds the employee's salary and at that time the employee will be slotted on step 15. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period,

movement to a grade higher than the former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

When a reassignment pay raise results in a junior employee receiving a greater salary than a senior employee assigned to the same or a greater pay grade equivalent, the Court Administrator, in the interests of fairness and equity, may adjust the senior employees' salary. For purposes of this section, seniority is based upon total uninterrupted state service, except where the interruption is caused by a reduction in force.

#### (e) Promotion

Upon promotion, an employee shall receive a salary increase to the step in the new pay grade equivalent with at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades, or to step 2 of the new pay grade equivalent, whichever is greater. The employee will not receive a salary increase at the end of the promotional probationary period. For purposes of this provision, promotion shall mean the advancement of an employee from the employee's present pay grade equivalent to a higher pay grade equivalent through a change from one position to another position. If the new position is vacant, the pay raise associated with the promotion should be effective at the beginning of the pay period immediately following the acceptance of the promotion by the employee. If the position is not vacant when the promotion is accepted, the pay raise will occur at the beginning of the pay period immediately following the termination date of the previous incumbent.

## (f) Lateral Transfer

If an employee transfers from one position in the Judicial Branch to another position in the Judicial Branch at the same pay grade equivalent, the employee shall receive the same salary. The Court Administrator may increase the salary in accordance with subsection (e).

## (g) Demotion

### i. Voluntary demotion

An employee may voluntarily transfer from a position classified at a pay grade equivalent to a new position with a lower grade equivalent. If the pay grade for the new position is not more than two (2) pay grades lower than that of the current position, the employee will be placed on the step that is closest to but does not exceed the employee's then current rate of pay. If the pay grade for the new position is three (3) or more pay grades lower than that of the current position, the employee shall be placed on a specific step in the new (lower) pay grade that is within the range for salary upon demotion specified in Section 6.072, et seq., of the Executive Branch Rules and Regulations for Personnel Administration which represents at least a one and one-half (1.5%) percent decrease in salary and then slotted down, but shall not be paid less than the minimum, nor more than the maximum for such lower pay grade. All such employees will establish a new Step Date.

### ii. Involuntary demotion

An involuntary demotion may occur by either transferring an employee to a lower pay grade equivalent position in the work unit or by reassigning the employee's position to another class with a lower pay grade equivalent as a result of unsatisfactory performance. A reassignment to a lower pay grade equivalent that occurs as a result of a classification study or action shall not be considered an involuntary demotion. An employee who is involuntarily demoted shall have the base salary reduced to the maximum salary step of the new pay grade equivalent or, to the step in the new pay grade equivalent that reduces the employee's current salary by at least 5%, whichever is the greater reduction. In no event shall the salary be reduced to less than the step 2 salary rate of the new pay grade equivalent. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period, movement to a grade higher than the former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

#### (h) Original Probationary Period

Upon satisfactory completion of an original probationary period, an employee earning less than the step 2 salary rate for the employee's pay grade equivalent shall receive a salary increase to that step 2 rate. The increase shall be effective at the beginning of the bi-weekly pay period immediately following the date of the completion of the

probationary period. If an employee was hired at or above the step 2 salary rate, the employee will not receive an end of probation increase.

(i) Temporary Assignment

i. Alternate Rate Pay

Employees may be specially assigned by the Court Administrator to assume the duties of a position assigned to a higher pay classification than the employee's own within the bargaining unit. Upon completion of the assignment, the employee shall return to his/her regular position without the loss of any contract right that would otherwise have accrued. If this occurs the employee may be eligible for alternate rate pay as described below.

The alternate rate pay shall be the step in the new pay grade equivalent that is the promotion rate for the employee under subsection (e) above. For an employee to be eligible for alternate rate pay, the replaced employee's pay grade equivalent must be at least one pay grade equivalent greater than the employee's own. Alternate rate pay will apply only for the duration of the reassignment. At the end of the reassignment period, the employee will return to the employee's normal salary, plus any salary adjustments that would have normally been granted had the employee not been specially assigned. Any salary increase which occurs during the period of special assignment shall be given to the specially assigned person in the same manner as it would have applied to a person holding the position on permanent assignment.

Special assignment justifying alternate rate pay shall occur only when an employee is required by the Court Administrator to perform a majority of those duties of the specially assigned position which are substantially different from the employee's own normal duties for a period of eleven (11) or more consecutive full work days. If special circumstances warrant, the Court Administrator may approve alternate rate pay for shorter periods of time. The performance standard of a specially assigned employee shall be the same as that expected of a newly assigned permanent employee during the probationary period. If all of the above conditions are met, the Employee shall receive the alternate rate of pay during the special assignment retroactive to the first day of such assignment.

ii. Interim Appointment Outside Bargaining Unit

In the event of an interim appointment of a covered employee to a position exempt from the bargaining unit, such employee shall be compensated at an interim rate set by the Court Administrator. Upon completion of the assignment, the employee shall return to his/her regular position without the loss of any contract right that would otherwise have accrued. The employee shall make a written request to the Association for a leave of absence from the Bargaining Unit for the duration of such special assignment.

(j) Termination

Any employee who wishes to terminate employment voluntarily with the Judicial Branch must give the supervisor two (2) weeks written notice. The written notice shall indicate the last day

the employee will work and the reason for termination. The termination will be effective on the last day of work.

A terminating employee, regardless of the nature of the termination, will be paid for any unused annual leave or unused compensatory time if eligible for cash payment, provided proper notice was given in the case of voluntary termination. If insufficient notice is given, the employee's accumulated annual leave shall be reduced by the amount of time that the notice is insufficient. Where circumstances warrant, the Court Administrator may waive the notice provision.

The Court Administrator may withhold the employee's final pay check until all state-owned property which was assigned to the employee has been returned. In the case of an involuntary termination, the employee shall receive two week's notice or two week's pay in lieu of notice. Notwithstanding this provision, an employee may be dismissed without notice or pay in lieu of notice for a violation of a rule which notes that immediate dismissal could result. Regardless of the type of termination, the Court Administrator may require the employee to leave work immediately upon notice of termination. If this is required, it will have no impact on any payments due the employee.

#### (k) Employee Benefits

The Judicial Branch extends to its permanent employees working the equivalent of twenty (20) hours or more per week the benefits available to all state employees. All employees will be subject to deductions for F.I.C.A. Since the details of these benefits change from year to year, complete information about these benefits is available from

the Human Resources Manager. However, permanent employees employed prior to January 1, 1985 who work at least fifteen (15) hours per week and who were receiving benefits shall continue to be eligible for those benefits.

#### (l) Market Factor Adjustments

The Judiciary, upon the determination of the Court Administrator, may exceed established classified pay plan steps and maximums in order to implement market factor adjustments for the purpose of attracting and retaining qualified employees in the Judiciary. If the Court Administrator determines to make a market factor adjustment, the impact of such decision shall be negotiated for up to 45 calendar days with the VSEA. At the end of the 45 calendar day period, commencing with the notice to the VSEA, the Judiciary may implement any proposed adjustment without further negotiations or recourse to the statutory impasse procedures. The Judiciary may subsequently lower any rate which has been adjusted above the established step and maximum provided no then current employee is reduced in salary or step as a result.

#### (m) Employee Development Fund

The Judiciary shall provide funds in the amount of \$16,000 for fiscal year 2015 and \$16,000 for fiscal year 2016 in order to assist in the professional development, personal wellness activities, elder and day care expenses, of its employees covered by this Agreement and/or activity that will bring credit to the Judiciary. A joint committee consisting of two members appointed by each party shall, no later than August 1, 2008, put into place the eligibility standards for participation in the

program. These standards shall be designed to make eligible activities that assist an employee's professional performance, bring credit to the Judiciary or otherwise work to the mutual advantage of the parties. The deadline for applications for funding under this program shall be July 15, 2015 and July 15, 2016 respectively. An employee must be actively employed with the Judicial Branch bargaining unit at the deadline for annual application in order to be eligible for the reimbursement. Approved expenses incurred during the fiscal year are reimbursable if submitted by the deadline. Not more than \$120 shall be available to any employee per fiscal year. Within this limitation, and upon a majority of the committee's approval of each application, the yearly Fund amount shall be divided equally among those employees who provide sufficient proof to the joint committee of conducting an eligible activity. Payments will be disbursed after July 1, 2015 and July 1, 2016 respectively.

## ***Article 17***

### ***OVERTIME AND CALL-IN PAY***

#### **1. Eligibility for Overtime compensation**

(a) Those employees who are not normally eligible for overtime compensation may be eligible to receive compensatory time off for overtime hours worked at the discretion of the Court Administrator or designee.

(b) Employees in classes assigned to pay grades 5 through 22 shall receive overtime compensation at the

rate of one and one-half times their regular hourly rate for all hours worked in excess of eight in any work day or forty in any work week, excluding hours claimed as sick leave. Employees in classes assigned to pay grades 23 and above shall receive overtime compensation in the form of cash or compensatory time off, solely at the Judiciary's discretion, excluding hours claimed as sick leave.

i. Authorization of Overtime

A. Except as required by law, no employee will be compensated for work in excess of the employee's normal work schedule unless the work was approved in advance by the judge or the supervisor. Overtime, the use of permanent part-time employees beyond their established work schedule, must have the prior authorization of the Court Administrator or designee unless the supervisor's budget contains money to pay for those purposes. When a jury trial or other court hearing extends past the normal work schedule, judges or supervisors may authorize overtime as necessary to insure the efficient operation of court.

B. All overtime work which has been assigned to an employee by the appropriate authority and is actually worked by the employee shall be compensated either by cash, if eligible for cash compensation under subsection A., compensatory time, or a combination of the two. Payment will be in cash, but the employee may request compensatory time in lieu of cash. Compensatory time shall be granted at the discretion of the supervisor.

C. No employees may authorize overtime for themselves.

ii. Computation of Overtime

A. The smallest division of an hour to be used in the computation of overtime is fifteen minutes.

B. It is expected that travel between work locations shall be conducted during normal working hours. An employee who is required by a supervisor to report to and remain at a work location other than the employee's normal work station at a time that would make it impossible for the employee to travel to the work location during normal working hours plus normal commuting time shall be granted overtime compensation or compensatory time off at the overtime rate applicable to the employee for the additional time required to travel to the work location. Voluntary in-state or out of state travel time shall not count as time worked. However, in-state travel time to and from and time attending required conferences, conventions, seminars, training courses and related activities will be considered as time actually worked for purposes of computing overtime compensation. Time spent for meals and the normal commutation time, when appropriate, shall be deducted from such travel time. Required out of state travel time above and beyond normal commuting time which is completed in a single day shall count as time worked. Required out of state travel which involves more than one day and which cannot be accomplished during scheduled work hours shall count as time

worked, but shall be compensated for by straight time compensatory time off. All compensation/reimbursement for travel time shall be subject to the protocols set forth in Bulletin #3.4 of the executive branch's Agency of Administration.

C. An employee who is required to be "on call" (i.e., required to carry a paging device or leave word with an appropriate authority where the employee can be reached while off duty) shall not be considered as having worked for purposes of computing overtime.

D. Hours actually worked, hours on annual leave, compensatory time off, unworked holidays, paid training time and personal leave shall be considered as time actually worked for the purpose of determining eligibility for overtime compensation.

### iii. After Hours RFA Stipend

A \$45 per pay period stipend shall be paid to any bargaining unit employee who is solely responsible for responding to requests for after hours RFA assistance, providing that the following criteria are met:

(1) the employee was solely responsible to respond for at least 48 hours of coverage during the pay period and received no call-in pay compensation; or

(2) the employee was solely responsible to respond for at least 96 hours of coverage during the pay period and received no more than 1 (one) call-in pay compensation;

(3) In all cases the jurisdiction for stipend eligibility is 1 (one) bargaining unit employee per

county, except by permission of the Court Administrator.

#### iv. Call-In Pay

When a full-time employee eligible for overtime is called in and required to work at any time other than the normally scheduled shift, the employee shall receive compensation at overtime rates for all hours worked. Any eligible employee called in under this section shall receive a minimum of four (4) hours of overtime compensation. If a part-time permanent employee who is eligible for overtime compensation is called in to work at a time outside normal court business hours, the employee shall receive a minimum of four (4) hours of overtime compensation. The overtime rate paid for call in pay shall not be reduced or affected by use of sick leave within the work week.

#### v. Call-In Pay, Domestic Abuse

An individual may volunteer to be subject to call and call-in for domestic abuse matters. Such employees will be eligible for the after hours RFA stipend as outlined above. The court managers shall solicit volunteers from court staff before engaging a contract worker. Once an employee has volunteered for such list, however, the employee may not remove himself/herself from such list without thirty (30) days advance written notice to the appropriate court manager. When such a full time employee eligible for overtime is called outside the hours of his/her normal shift to consider a domestic abuse matter, such employee shall receive a minimum of one hour's pay for handling the call and a minimum of four hours' pay if actually called out to deal with the domestic abuse matter, inclusive of the call. A second matter occurring within the four hour period shall not

require the payment of either an additional one hour for the call or an additional four hours for any call in, but instead the employee shall receive pay for time actually worked beyond the four hours. A subsequent call after the expiration of the original four hour period shall once again necessitate the payment of a minimum of one hour for handling the call and a minimum of four hours, inclusive of the call, if the employee is actually called out again. Such hours shall be paid at overtime rates. Each Court Manager shall establish a system in consultation with the impacted employees that is as equitable as possible in terms of distribution of on call assignments for domestic abuse matters. If an employee who is scheduled for such coverage on a given day is unable to perform such assignment, it shall be the responsibility of such employee to ensure the availability of another employee.

#### vi. Call Pay, Misdemeanor Bail

Employees recommended for misdemeanor bail calls by a Superior Court Clerk shall be paid according to the same terms outlined for RFA calls in Section v. When a full time employee is called outside the hours of his/her normal shift to consider a misdemeanor bail, such employee shall receive a minimum of one hour's pay for handling the call. Any subsequent calls occurring within the one hour period shall not require additional payment, however a subsequent call after the expiration of the original one hour period shall once again necessitate the payment of a minimum of one (1) hour for handling the call. Such hours shall be paid at overtime rates.

## **2. Compensatory Time**

### **(a) Accumulation**

i. Compensatory time may only be earned for authorized overtime hours worked.

ii. The amount of compensatory time earned shall be computed at the overtime rate applicable to the employee (See Overtime Section). For employees who are not normally eligible for overtime compensation, authorized compensatory time shall be computed at straight time rates.

A. The accrual year for compensatory time accumulation shall be April 1 to March 31.

B. No employee shall be allowed to accumulate more than 240 hours of compensatory time. Any subsequent overtime incurred by an employee covered by the Fair Labor Standards Act shall be paid in cash.

### **(b) Use of Compensatory Time**

i. Compensatory time off may be used and must be authorized in the same manner as the use of annual leave.

ii. Accumulated compensatory time will not be paid upon termination for employees not eligible to receive cash payment for overtime. Compensatory time that accumulated as a result of worked floating holidays shall be paid at the time of termination.

A. Any compensatory time earned during an accrual year ending March 31 must be used within the year following that March 31. If an employee covered by the Fair Labor Standards Act did not

use the compensatory time within the time period, the employee will be paid for the unused compensatory time in cash. Employees not covered by the Fair Labor Standards Act will lose any unused compensatory time at the end of the time period. Compensatory time that accumulated as a result of worked floating holidays shall be paid regardless of Fair Labor Standards Act status.

## **ARTICLE 18**

### ***INSURANCE PROGRAMS***

All other settlements reached in executive branch bargaining for the period from July 1, 2014 to June 30, 2016 with respect to health insurance, life insurance and dental insurance shall be applicable to the Judicial Unit, including, but not limited to, co pays and contributions.

## **ARTICLE 19**

### ***REDUCTIONS IN FORCE***

1. Initiation of a Reduction in Force (Layoff) – inadequate funding, changes in statutory mandate or judicial goals, reorganization, improved technology, or a lack of work may cause a reduction in the Judicial Branch's work force. When any of these situations occur, the Court Administrator shall establish a plan to accomplish the reduction in force. The plan shall designate positions, classes of positions, or programs within the Judiciary to be transferred, abolished or vacated by layoff. Once the plan is approved, employees in positions designated for transfer or reduction in force shall be given a twenty business day notice.

## 2. Status of Employees -

For purpose of a layoff, Judicial Branch employees shall be categorized into the following groups:

(a) Permanent Status Employees - Those employees who have successfully completed their original probationary with the Judicial Branch.

(b) Probationary Status Employees - Those employees who are currently in their original probationary period with the Judicial Branch.

(c) Temporary Employees - Those employees paid on the state payroll but not entitled to state employee employment benefits.

## 3. Programs of the Judicial Branch -

For the purpose of a layoff under this Agreement, the Judiciary is divided into the following programs:

(a) Supreme Court

(b) Court Administrator's Office and Associated Boards

(c) Trial Courts

In addition, each program is subdivided by geography based on county boundaries.

## 4. Seniority -

An employee's seniority shall be determined solely by eligible Judicial Branch service. Eligible Judicial Branch service shall include the following:

(a) All time served continuously in the Judiciary as a permanent, probationary or temporary employee.

(b) Any period of "leave of absence without pay" shall be deducted when computing time for seniority except for a "leave of absence without pay" due to a military service obligation as permitted in this Agreement.

(c) In computing eligible time for seniority, employees who now work or previously worked less than a full-time work schedule at any time during the eligible period of employment shall be credited for time actually worked. (For example: An employee who worked one half time for 2 years would receive one year credit toward seniority.)

(d) An employee eligible for veteran's preference under this policy shall have seniority over an employee who is not eligible for veteran's preference where a calculation of seniority between the employees is equal.

5. Reduction in Force Notice – when a reduction in force plan has been established, the Court Administrator shall send a notice by certified mail return receipt requested to employees whose positions are to be eliminated or transferred. The notice shall contain the effective date of the action, an explanation of retention rights, a list of eligible positions for the possible use of retention rights, and a deadline to notify the Court Administrator regarding the election to use retention rights.

6. Reduction in Force Procedures -

An employee designated for layoff due to the employee's position being abolished or transferred may exercise retention rights. Retention rights shall be exercised in the following manner:

(a) No employee may exercise retention rights over any employee who has greater seniority regardless of class or pay grade.

(b) An employee designated for layoff or transfer who has seniority shall exercise retention rights on the least senior employee in the same position class in the program and the geographic area to which the employee's position is assigned.

(c) If there are no employees on which to exercise retention rights under b., a senior employee may exercise retention rights over any employee who has less seniority in a position within the same program and geographic area where the position's pay grade is equal or not more than five (5) pay grades lower, as long as the employee meets the minimum qualifications of the "new" position.

(d) If there are no employees on which to exercise retention rights under c., a senior employee may exercise retention rights on any employee with less seniority in the same program statewide in a position with an equal or lower pay grade as long as the employee meets the minimum qualifications of the "new" position.

(e) An employee designated for layoff or transfer shall receive as part of their notice a list of positions on which the employee may exercise retention rights. Within 3 business days of receipt of the notice of layoff, the employee must notify the Court Administrator of the employee's intent to exercise their rights of retention and at that time must designate the position on which they wish to exercise their rights.

(f) Employees funded by a grant, federal or special funds, shall not be a member of a status group for layoff purposes. The time worked by employees originally funded by these funds shall not count toward seniority.

## 7. Demotion in Lieu of Layoff or Transfer -

A permanent status employee designated for layoff or transfer may request to be demoted rather than laid off

or transferred. If the employee requests demotion, the employee shall be entitled to be reassigned to a vacant position in a position class which has an equal or lower pay grade equivalent and is in the same location or program, as long as the employee scheduled to be laid off meets the minimum qualifications and testing requirements of the position in the equal or lower position class. An employee must request this option within three business days after receiving notice of layoff or transfer. The notice of layoff shall inform the employee when the demotion option is available. An employee demoted under this section shall be paid in accordance with the provisions of this Agreement relating to Re-Employment.

## 8. Reduction in Force (RIF) Rights -

An employee who was laid off because of a RIF shall have certain rights for thirty days prior to the effective date of layoff and for two years after the effective day of the layoff.

(a) The employee has mandatory re-employment rights to any position at the same or lower pay grade which becomes vacant in the geographic location and program from which the employee was laid off while RIF rights are in force. The Court Administrator must notify the employee. The employee must meet the minimum qualifications of the position to exercise this right.

(b) If an employee refuses or waives three offers of re-employment, mandatory re-employment rights pursuant to subsection "a)" above, shall be terminated.

(c) An employee who is rehired after a layoff, shall be paid in accordance with Article 16 Section 2(b)iii hereof entitled Re-employment. The employee will have any unused sick leave credits at the time of layoff restored. The employee will be considered to have been continuously employed except that the period during

which the employee was laid off will not count toward seniority.

(d) An employee must accept an offer of re-employment in writing within five days. Failure to accept an offer within five days shall be considered a waiver of re-employment rights to that position. An employee accepting an offer must begin work within three weeks of the date of acceptance.

(e) An employee who is laid off shall be paid for any annual leave or earned compensatory time at the employee's prevailing straight time rate.

(f) If two or more employees who were laid off are eligible for mandatory re-employment, the employee with greater seniority shall be re-employed first.

## **ARTICLE 20**

### **EMPLOYEE WORK WEEK**

#### 1. Hours of Personnel Staffing –

In order to serve the public effectively, it is expected that all full time courts and offices be open to the public during the hours from 8:00 A.M. to 4:30 P.M. Courts, especially those with two or more employees in the clerk's or register's office, are expected to be open during the noon hour for the convenience of the public, unless otherwise authorized by the Court Administrator. All courts and offices should post their hours of operation prominently.

## 2. Employee Work Week -

The Vermont General Assembly has established 40 (forty) hours to be the standard full time state employee work week. Covered employees shall be assigned a forty (40) hour per week work schedule so as to ensure courts and offices are appropriately open for Judicial Branch business.

### **ARTICLE 21**

#### **OBSERVANCE OF HOLIDAYS**

Holidays -

(a) Observances of Holidays

i. The following legal holidays as established by 1 V.S.A. Sec. 371 shall be observed by Judicial Offices:

**New Year's Day** January 1

**Martin Luther King Day** Third Monday in January

**President's Day** Third Monday in February

**Town Meeting Day** First Tuesday in March

**Memorial Day** Last Monday in May

**Independence Day** July 4

**Bennington Battle Day** August 16

**Labor Day** First Monday in September

**Columbus Day** Second Monday in October, *Floating Holiday*

**Veterans' Day** November 11

**Thanksgiving Day** Fourth Thursday in November

**Christmas Day** December 25

Leave without loss of pay shall be granted to each employee on the day after Thanksgiving. The day after Thanksgiving shall not be considered a holiday under 1 V.S.A. Sec. 371 but shall be counted as hours worked for the purpose of determining eligibility for overtime compensation. An employee who is on a regularly scheduled day off on the day after Thanksgiving and does not work that day shall receive compensatory time off instead of normal holiday compensation.

ii. Any legal holiday which falls on a Saturday shall be observed on the preceding Friday. Any legal holiday which falls on a Sunday shall be observed on the following Monday.

iii. Columbus Day, the second Monday in October, shall be designated as a "floating holiday." Employees who are assigned to work on the day that would otherwise be observed as Columbus Day holiday shall be entitled to choose a day off, including the day of observance or any day thereafter, as a "floating holiday". Use of the "floating holiday" shall be administered in the same manner as the use of compensatory time. Part-time employees shall accrue pro-rated pay for such "floating holiday." An employee may designate with proper approval and with one month's advance notice a day for use as the "floating holiday". Work on Martin Luther King Day shall be compensated in the same manner as set forth in the Non-Management Unit Agreement between the VSEA and the State of Vermont.

iv. The Chief Justice may declare an administrative holiday in addition to those days designated by 1 V.S.A. Section 371. Judicial Branch offices shall close on such a day except for those operations which must maintain essential services. Time worked on an administrative holiday shall be compensated for in the same manner as time worked on a legal holiday.

(b) Compensation for holidays –

i. A permanent employee, including a permanent part-time employee, who is normally scheduled to work on the day a holiday falls shall receive the regular pay as if the day had been a work day. A permanent employee, including a permanent part-time employee, who is not scheduled to work on the day on which a holiday falls shall receive holiday compensation proportional to the number of hours he or she is regularly scheduled to work during the pay period (for example, an employee who works half, or 50% of the time but does not work on Thursdays would receive half a day's pay for the Thanksgiving holiday; an employee who works four days a week, or 80% of the time, but does not work Mondays, would receive 80% of a day's pay for Monday holidays). After hours RFA work on a holiday or administrative holiday shall be compensated at time and one-half rates.

ii. The effective date of a permanent employee's separation from Judicial Branch service shall be the last workday of actual performance on the job. If it is a calendar day immediately preceding a day observed as a legal holiday, the effective date of separation shall be the workday observed as a legal holiday.

iii. Permanent employees shall receive their regular compensation for legal holidays. Permanent employees required to work on legal holidays except for Town

Meeting Day and Bennington Battle Day shall be paid their normal holiday compensation plus one and one-half times their normal hourly rate for each hour worked. Permanent employees required to work on Town Meeting Day, Bennington Battle Day or any administrative holiday declared by the Chief Justice shall be paid their normal holiday compensation plus their normal hourly rate for each hour worked. Permanent employees required to work on the day after Thanksgiving shall receive their normal day's pay plus compensatory time off on an hour for hour basis for each hour worked.

iv. An employee who is off payroll due to disciplinary suspension or is absent without authorization on the scheduled workday or any portion thereof immediately prior to or the next workday following the day observed as a holiday and who does not work on such holiday shall not be eligible for holiday compensation. An employee who is off payroll for any other reason the day before or after a day observed as a holiday shall be eligible to receive holiday compensation.

If an employee scheduled a "floating holiday" in writing at least a month in advance with approval in accordance with the use of compensatory time provisions of this policy and was subsequently required to work on that day, the employee shall be paid normal holiday compensation plus one and one-half times their normal hourly rate for each hour worked. If an employee has earned but not used the "floating holiday" at the time of the employee's termination, the holiday shall be paid as if it were unused compensatory time at the normal holiday compensation.

## **ARTICLE 22**

### **ANNUAL LEAVE**

#### Annual Leave -

Consistent with the workload requirements of the Judicial Branch, a permanent employee may accrue and use annual leave so the employee may have periods of rest and relaxation from the job for health and well being. Employees are encouraged to request annual leave in blocks of time sufficient to ensure rest and relaxation. However, annual leave may also be taken in brief amounts for the personal convenience of the employee.

#### (a) Accrual of Annual Leave Credits

i. Annual leave credits are not accumulated and may not be used during the first six months of employment for an employee in an original probationary period. However, an employee who has completed an original probationary period in state government will be allowed to accumulate annual leave credits upon employment in the Judicial Branch.

ii. A permanent full time employee accrues annual leave as follows:

A. A permanent employee shall be credited with six days, or 48 hours, of annual leave upon completion of the employee's first six months of service.

B. A permanent employee with more than six (6) months but fewer than five (5) years of full time service shall accrue annual leave at the rate of one day per completed calendar month of service, or 3.69 hours per biweekly pay period as of 7/7/96. Total accumulation may not exceed thirty (30) workdays, or 240 hours.

C. A permanent employee with five (5) or more but fewer than ten (10) years of full time service shall accrue annual leave at the rate of one and one-quarter days per calendar month of service, or 4.62 hours per biweekly pay period as of 7/7/96. Total accumulation may not exceed thirty-five (35) workdays, or 280 hours.

D. A permanent employee with ten (10) or more years but fewer than fifteen (15) years of full time service shall accrue annual leave at the rate of one and one-half days per calendar month of service, or 5.54 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty (40) workdays, or 320 hours.

E. A permanent employee with fifteen (15) or more years but fewer than twenty (20) years of full time service shall accrue annual leave at the rate of one and two-thirds days per calendar month of service, or 6.13 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty-two and one-half (42.5) workdays, or 340 hours.

F. A permanent employee with twenty (20) or more years, but fewer than thirty (30) years of full time service shall accrue annual leave at the rate of one and three-quarters day per calendar month of service, or 6.46 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty-five (45) workdays, or 360 hours.

G. A permanent employee with thirty (30) or more years of full-time service shall accrue annual leave at the rate of two days per calendar month of service, or 7.38 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty-five (45) workdays, or 360 hours.

iii. A permanent part-time employee earns leave on a prorated basis for their regularly assigned hours. For example, an employee with fewer than five years of

service who works a half-time schedule earns one-half day of annual leave per month, or 1.85 hours per biweekly pay period beginning 7/7/96; if the employee worked 32 hours or four full days a week, four-fifths day per month, or 2.95 hours per biweekly pay period beginning 7/7/96 would be earned.

iv. Except in the instances of reduction in force, or for an employee who left state service in good standing within two years of the rehire date (restored employee), an employee rehired by the Judicial Branch shall not receive credit for prior state service in establishing the employee's rate of annual leave accrual. An employee re-employed after layoff by the Judicial Branch or a restored employee shall receive credit for prior permanent Judicial Branch and state employment in establishing the employee's rate of annual leave accrual. For these employees, credit for prior permanent Judicial Branch and state government service is limited to the last period of continuous state service. An employee with multiple service breaks shall be eligible to have all prior Judicial and State service re-accredited provided that the length of the service break was less than 2 years and all prior service had been restored during the previous employment period. A written request, together with verification of prior service and its restoration must be submitted to the Court Administrator's Office within sixty (60) days of hire. The employee shall not, however, accrue leave credits for the period during which the employee was not on the payroll.

v. Time spent on leave of absence without pay shall not be counted in determining rates of annual leave accrual.

vi. Upon satisfactory completion of the first six months of employment as a permanent employee, annual leave shall be earned on the basis of a completed pay period of service. A permanent employee shall not be penalized

annual leave credit for any pay period during which the employee is off payroll for 20 hours or less. However, an employee who is off payroll for more than 20 hours during a pay period shall not accrue annual leave for that pay period. This test shall also apply to the accumulated annual leave credited to the employee's account upon completion of the first six (6) months of employment. For example, an employee who was off payroll for more than 20 hours during one pay period of the first six (6) months of employment would be credited with only five and a half (5.5) days of leave upon completion of probation. If the same employee was off payroll for more than 20 hours during the two different pay periods during the first six (6) months of employment, the employee would only be credited with five (5) days.

vii. An employee rehired after layoff or a restored employee shall accrue annual leave upon completion of the first calendar month of service.

#### (b) Use of Annual Leave Credits

i. Annual leave credits shall not be advanced for use prior to being earned.

ii. A permanent employee granted a leave of absence without pay may use accumulated annual leave before entering upon leave of absence status, or the employee may request that it be retained on account until the employee returns to active duty.

iii. Vacation scheduling is the exclusive prerogative of the supervisor. Leave must be requested in advance by the employee and is subject to approval by the supervisor. The supervisor shall not unreasonably withhold approval of the use of annual leave.

iv. An employee shall not be charged annual leave for absence on a legal holiday or an administrative holiday.

v. Annual leave accrued by an employee separating from Judicial Branch service shall be paid as a lump sum with the final payment for active service. A separating employee who has been in an "on payroll" status for all of the employee's scheduled workdays during the final calendar month of employment, shall be entitled to annual leave accrual for that month.

vi. An employee who fails to give two weeks' notice of resignation shall forfeit the number of unused annual leave days by which his notice is deficient, unless the notice requirement is waived by the Court Administrator.

vii. Employees will be charged for annual leave if there is insufficient accumulated compensatory time when they are unable to report or are delayed for work due to weather conditions, impassable roads or other emergency situations. Employees may be allowed to make up missed time within the same pay period at the supervisor's discretion. This provision will not apply to employees who are assigned to work at locations other than their home station.

viii. The supervisor may authorize the use of annual leave on the same day of request. The employee must request use of annual leave within the first hour of work. The granting of the use of annual leave in this manner is totally at the discretion of the supervisor.

ix. The supervisor may retroactively authorize the use of annual leave if the employee did not obtain proper authorization and the circumstances so warrant.

(c) Responsibilities

i. The employee shall:

A. Make a timely request for the use of annual leave and receive prior approval for the use of annual leave for vacation or personal convenience.

B. Notify the supervisor within the first hour of work, if possible, if the employee is unable to report or will be delayed for work due to weather conditions, impassable roads, or other emergency situations.

ii. The supervisor shall:

A. Make a reasonable effort to schedule vacations in accordance with the wishes of employees consistent with the needs of the court.

B. Establish reasonable procedures for requesting use of annual leave.

C. Report the use of annual leave to the Court Administrator's Office in accordance with the provisions of this section and the instructions from the Court Administrator's Office.

## **ARTICLE 23**

### ***SICK LEAVE/FAMILY MEDICAL LEAVE***

1. Sick Leave - It is the policy of the Judicial Branch to help protect the income of permanent employees when they cannot work due to illness, injury or incapacity for emergency periods when the employee must be absent from duty due to death or illness in his/her immediate family. Sick leave shall be administered in accordance with the following provisions:

(a) Accrual of Sick Leave Credit

- i. A permanent full time employee shall receive sick leave credit as follows:
- A. Upon appointment (original or restoration), the employee shall be credited with six (6) sick leave days, or 48 hours, which may be drawn upon during the first six (6) months of service.
  - B. At the end of the first pay period following the completion of six months of service and at the end of every pay period thereafter, the employee shall be credited with sick leave.
  - C. An employee with fewer than five (5) years of service shall accrue sick leave at the rate of one (1) workday per calendar month, or 3.69 hours per biweekly pay period beginning 7/7/96.
  - D. An employee with five (5) or more but fewer than ten (10) years of service shall accrue sick leave at the rate of one and one-quarter workdays per calendar month, or 4.62 hours per biweekly pay period beginning 7/7/96.
  - E. An employee with ten (10) or more but fewer than twenty (20) years of service shall accrue sick leave at the rate of one and one-half workdays per calendar month, or 5.54 hours per biweekly pay period beginning 7/7/96.
  - F. An employee with twenty (20) or more years of service shall accrue sick leave at the rate of one and three-

fourths workdays per calendar month, or 6.46 hours per biweekly pay period beginning 7/7/96.

G. There shall be no limit placed on the total accumulation of earned sick leave days.

ii. A permanent part time employee earns leave on a prorated basis for their regularly assigned hours. For example a part time employee who works a half time schedule earns one-half of the regular accrual per pay period of sick leave; if the employee works four (4) days a week, the employee earns four-fifths of the regular accrual per pay period of sick leave.

iii. When a permanent employee separates from state service, the entire amount of unused sick leave shall lapse. An employee rehired by the state shall not receive credit for prior state service in establishing the rate of sick leave accrual, except in the instance of separation due to reduction in force or an employee who is restored to state service. A restored employee is one who is eligible for salary restoration under the terms of this Agreement. A restored employee or employee re-employed after separation due to reduction in force shall receive credit for prior state service in establishing the rate of sick leave accrual. An employee re-employed after separation due to reduction in force shall be credited with the amount of unused sick leave credit at the time of the employee's layoff. Credit for prior state service is limited to the approved service credit determined under the terms of this

Agreement. The employee shall not, however, accrue sick leave credits for the period during which the employee was separated from state service.

iv. Time spent on leave of absence without pay shall not be counted in determining the rates of sick leave accrual.

v. Sick leave benefits may not be used by an employee prior to being credited to the employee's account.

vi. Upon satisfactory completion of the first six (6) months of employment as a permanent employee, sick leave shall be granted on the basis of completed calendar months of service. A permanent employee shall not be penalized sick leave credit for any pay period during which the employee is off payroll less than or equal to 20 hours. However, an employee who is off payroll for more than 20 hours during a pay period shall not accrue sick leave for that pay period.

#### (b) Use of Sick Leave

i. The use of earned sick leave credits shall be authorized by the supervisor for employees who are absent from work and unable to perform their duties because of illness, injury, or quarantine for contagious disease. Employees may request in advance the use of sick leave credits for the employee's and the employee's dependents' medical or dental appointments which cannot reasonably be made outside the employee's normal working hours. As long as the medical or dental appointments do not

interfere with the employee's work assignments, the supervisor shall authorize the use of sick leave credits. The time within a pay period used for sick leave shall not count as time worked for overtime purposes. The use of sick leave within a pay period shall not effect overtime compensation paid for call in pay. The employee shall notify his/her supervisor or manager in advance as to the estimated length of time necessary for such medical or dental appointment and shall return to work as quickly as reasonably possible following completion of such appointment. Additionally, an employee who estimates the use of 10 or more consecutive days of sick leave shall, if reasonably possible, notify his/her supervisor or manager in advance as to the estimated length of such sick leave and shall update the supervisor if the leave will continue longer than the time estimated.

ii. The use of sick leave credits may be authorized by a supervisor to permit a permanent employee to be absent from duty due to death or illness in the employee's immediate family. See definition of employee's immediate family Part II.B, page 3 of the Judicial Personnel Policy, but expanded to include civil union partners. The use of sick leave for this purpose shall normally be limited to ten (10) workdays, which should be sufficient time in which to make funeral arrangements and to attend to family matters, or in instance of family illness, to arrange for continued care of the ill family member. In unusual or special circumstances, the Court Administrator or designee may authorize use of additional

sick leave credits or allow the use of sick leave for instances where the immediate family is not involved. This provision should not be construed to limit any rights or benefits to which the employee is entitled under the Family Medical Leave Act.

iii. An employee who has an accumulated sick leave balance shall be authorized its use although recovery and return to duty is impossible. However, periodically, at the request of the Court Administrator, the disability or illness and inability to perform job related duties must be certified to by a licensed physician or osteopath.

iv. If a woman is unable to work because of pregnancy, miscarriage, abortion or illness resulting there from, she may use accumulated sick leave credits, under the same conditions which apply to other illnesses and disabilities. If the employee wishes to extend her period of absence beyond the time of physical disability for the purpose of child rearing, she may request use of accumulated annual leave, personal leave, compensatory time off, and/or she may request a leave of absence without pay pursuant to sub-section xi. hereof. A leave of absence without pay may also be requested if the employee does not have sufficient sick leave credit to cover the period of physical disability.

v. An employee shall notify the supervisor no later than one (1) hour prior to the beginning of the scheduled workday, unless another protocol allowing for less notice has been established by a particular Court

Manager, of the employee's inability to report to work due to illness unless the employee is physically unable to do so.

vi. The supervisor may require the submission of a certificate from a physician or other evidence to justify the approval of sick leave or to ensure the employee is in good health and is able to perform the job without risk to the employee, co-workers, or the public. The Judicial Branch may require an employee to be examined at state expense by a physician chosen by the Judicial Branch to ensure the employee is fit to return to duty or to determine, in the case of an employee still on the job, the employee's fitness for duty.

vii. An employee who misrepresents a claim for sick leave or shows a pattern of abuse of the use of sick leave shall be subject to disciplinary action including dismissal.

viii. An employee shall not be charged sick leave for absence on a day observed as a legal holiday or an administrative holiday.

ix. If, during a scheduled vacation, an employee becomes ill to the extent that hospitalization is required, the employee's absence from date of hospitalization may be charged to sick leave rather than annual leave. Similarly, if an employee becomes ill during a vacation and is confined at home or temporary residence for three (3) or more days pursuant to a doctor's order, as evidenced by a doctor's certificate, the period of confinement may be charged to sick leave rather than annual leave.

x. When a permanent employee is awarded weekly compensation under the provisions of the Worker's Compensation Act or by the State Board on State Employee Benefits, the employee may be granted sick leave, or annual leave when sick leave credits are exhausted, to the extent of the difference between such compensation and the employee's regular weekly rate.

xi. The supervisor may retroactively authorize the use of sick leave if the employee did not obtain proper approval and when the circumstances so warrant.

xii. Use of Sick Leave – no employee who is out as a result of being on off-payroll status shall be allowed to return to work earlier than scheduled with the Judiciary if the effect of such early return would be to cause the Judiciary to be obligated to pay for two individuals doing the same job, provided however that any such employee shall provide the Judiciary a minimum of two weeks advance notice of the desire to return to work earlier than scheduled and shall be granted permission to do so in all other circumstances.

#### (c) Sick Leave Banks

i. An employee who is unable to perform his or her duties because of an extended, non-job-related, illness or injury of more than ten (10) work days duration, and who has exhausted all accrued sick leave may be allowed to borrow up to ten (10) days of future sick leave accrual, with the approval of the Court Administrator or designee.

Employees who borrow sick leave shall not accrue additional sick leave until the negative leave balance has been eliminated. Use of other types of accrued leave shall not be unreasonably denied if an employee with a negative sick leave balance is subsequently unable to perform his or her duties because of illness or injury. Any loan unpaid at time of termination of employment will be deducted from the employee's final two (2) paychecks. Factors considered when reviewing a request for leave time, including but not limited to: years of service, other leave balances, rate of leave accrual and past leave usage.

## ii. Long Term Disability Sick Leave Bank

### A. Purpose

The Judicial Branch Long Term Disability (LTD) Sick Leave Bank is established for the benefit of all employees of the Judicial Branch who are absent and unable to perform their duties because of a non-job related, long-term illness or disability, and who have, or will, exhaust all of their sick leave, whether or not the employee has contributed to the bank, or is expected to return to work. For purposes of this subsection only the term "employee" shall not be limited to those employees eligible for inclusion in the Judiciary Bargaining Unit notwithstanding the definition of "Employee" set forth in Appendix A hereof.

## B. Eligibility

Permanent employees of the Judicial Branch who have completed their original probationary period, including both full and part time permanent employees, are eligible to donate to the Judicial Branch LTD Bank and to apply for use of sick leave from the Bank.

## C. Donating Leave

Non-management personal leave and/or annual leave only may be donated to the Judicial LTD Sick Leave Bank. Employees may donate up to 100% of their personal leave balance, and up to 50% of their annual leave balance; however, employees must retain the equivalent at least 10 days of annual leave (normally 80 hours).

The Judicial Branch LTD Sick Leave Bank is operated on a continuing basis and an employee may donate leave at any time. There will be at least one formal donation drive each year and additional donation drives may be conducted as needed.

## D. Application Process

Employees may apply to the Court Administrator for use of leave from the LTD Sick Leave Bank via applications which shall be available through the Human Resources Manager at the Court Administrator's

Office. Employees applying for use of sick leave from the LTD Bank should apply as soon as they have information about the illness, including specific information as to the nature and duration of the illness or disability, and any medical certification that may be available (i.e. information from a health care provider regarding the diagnosis and/or prognosis). If for any reason the employee cannot disclose the nature of the illness or disability when completing the application for leave from the bank, the employee should contact the Human Resources Manager at the Court Administrator's Office.

Completed applications should be returned to the Human Resources Manager at the Court Administrator's Office, who will forward it to the Court Administrator for a decision. If approved, a memorandum of approval will be sent to the Payroll Division authorizing the use of the additional sick time.

#### E. Criteria for Applying to the LTD Bank

A long-term disability is defined as a physical or mental condition causing the employee to be unable to perform his or her duties, and resulting in his or her absence from work for more than 30 continuous calendar days. The applicant must have previously exhausted all of his or her sick leave

or anticipate exhausting his or her remaining balance during the absence. The applicant must also have previously borrowed the authorized ten (10) days of future sick leave accrual before becoming eligible to access the Long Term Disability Sick Leave Bank.

Requests are limited to a maximum of 13 weeks, although employees are not limited to one request. Employees are not required to pay back any leave granted from the Sick Leave Bank that they have used. However, employees are required to give back any unused sick leave that has been granted.

Factors considered when reviewing a request for leave time, including but not limited to: years of service, other leave balances, rate of leave accrual, past leave usage and the balance available in the bank.

#### F. Confidentiality

The Court Administrator has the right to request specific information relating to the nature and duration of the illness or disability. This information will be kept confidential.

#### G. Procedure for Confidentiality

No information will be placed in the Employee Personnel File, and there will be no computer records regarding requests for sick leave from the Bank.

All information will be kept by the Human Resources Manager in a Sick Bank File, and will be destroyed after a two-year period.

The Sick Leave Bank is administered solely by the Human Resources Manager and the decision making authority rests solely with the Court Administrator. However, the Judiciary Unit Chair shall be advised on a quarterly basis concerning the status of the Bank and any decisions made with respect to requests during the preceding quarter. The Court Administrator and Human Resources Manager shall keep all information including names confidential.

#### (d) Responsibilities

##### i. The employee shall:

A. Give the supervisor advance notice of absence due to illness if the employee has advance knowledge of the inability to perform the essential functions of the position.

B. In other instances, notify the supervisor no later than one (1) hour before the beginning of the scheduled work day, if possible, of the employee's inability to report to work unless the work site manager has a protocol allowing less notice.

1) Notify the supervisor as soon as possible when time off from

work is necessitated by a family emergency.

2) Obtain a doctor's certificate if requested by the supervisor.

ii. In case of a paid or unpaid medical leave of absence the supervisor shall:

A. In the instance of extended illness, keep informed as to the employee's ability to perform the essential functions of the position and anticipated date of return to work.

B. Ensure that sick leave is not misused, and if necessary, require submission of a doctor's certificate as to the necessity for the leave.

#### (e) Medical Expenses

If, in the performance of duty, an employee is exposed to contagious diseases or to persons who have contagious diseases, or to hazardous materials or chemicals, or is expected to be so exposed, the state will authorize and provide for the necessary medical examinations, inoculations or both at no cost to the employee.

2. Family Medical Leave – Except as specifically provided for in Section 1. above, the Judiciary will meet its obligations under the Federal Family and Medical Leave Act (FMLA) and Vermont's Parental and Family Leave Act (PFLA) as the same are amended from time to time. The entitlement to FMLA and PFLA benefits will be based upon a rolling twelve

(12) month period following the first utilization thereof by a covered employee.

## **ARTICLE 24**

### **OTHER LEAVE**

#### 1. Personal Leave

##### (a) Non-management Employees

i. A non-management employee who in any fiscal three-month period commencing as of the first payroll period in July, October, January or April:

A. Does not use sick leave beyond eight (8) hours except that if any such employee provides the Judiciary with a written communication from a licensed medical doctor certifying that such employee has a serious medical condition which requires on-going medical care the eight (8) hour maximum shall not be applicable;

B. Is not off payroll, or on any type of leave of absence without pay or suspension without pay;

C. Completes original probationary period by the end of the three month period: shall be entitled to twelve (12) hours of personal leave. An employee who earns personal leave shall have that time credited to the employee's account at the beginning of the next calendar three (3) month period. The use of personal leave days shall be administered in the same manner as annual leave. Personal leave days must be used in the same fiscal year in which they were credited to the employee's account. In the case of personal leave days earned for the April 1-

June 30 period, the day must be used in the July 1-September 30 period. Personal leave days cannot be accumulated from fiscal year except as above, nor are they compensable in cash, or convertible to another form of leave.

ii. In any event, no employee shall be entitled to earn more than forty-eight hours of personal leave per fiscal year under the terms of Section a) above.

iii. Personal leave accrual and eligibility criteria shall be pro-rated, as appropriate for permanent part-time employees on the basis of their regularly assigned hours.

(b) Professional Employees and Program Managers

Commencing with the first payroll period in July 2003, covered employees at pay grade 23 and above shall be entitled to personal leave days as prescribed in this subsection. Provided, however, that all current covered employees in pay grades 21 and 22 who are presently receiving personal leave pursuant to this subsection shall continue to do so.

i. Accrual

A. Employees who have fewer than five (5) years of continuous state service on any July 1 shall earn three (3) days of personal leave to use during each fiscal year.

B. Employees with at least five (5) but fewer than ten (10) years of continuous state service on any July 1 shall earn four (4) days of personal leave to use during each fiscal year.

C. Employees with at least ten (10) but fewer than fifteen (15) years of continuous state service on any July 1 shall earn five (5) days of personal leave to use during each fiscal year.

1) Employees with fifteen (15) or more years of continuous state service on any July 1 shall earn eight (8) days of personal leave to use during each fiscal year.

ii. Use of Personal Leave

Personal leave shall be taken by the employee at times mutually agreed upon by the employee and the supervisor. Unused personal leave is not compensable in cash, shall not be convertible to other forms of leave, and shall not be accumulated from year to year. The use of personal leave may be authorized retroactively by the supervisor if the employee did not obtain proper authorization and the circumstances so warrant.

2. Military Leave

(a) Active Duty for Training

i. A permanent employee entering the Armed Forces for active duty for training shall be granted a leave of absence without pay for the period of the active duty for training and for training for the employee's military occupational specialty. The employee shall be reinstated to the position provided that:

A. The employee satisfactorily fulfilled the military assignment, and

B. The employee indicated the desire to return to the position upon completion of the active duty training.

ii. A permanent employee returning to work following leave of absence for active duty for training shall be compensated at an amount at least equivalent to the base salary the employee was receiving at the time of departure. A returning employee shall be granted any salary adjustment to which the employee would have been entitled. The employee shall not be entitled to merit

increases except as the guidelines relating thereto shall provide, and will not be eligible for the end of probation salary increase until the full probationary period is served.

iii. A permanent employee on leave of absence for active duty for training who returns to state employment in accordance with the conditions outlined above shall have that time counted in computing the total years service for purposes of determining the rate of annual and sick leave accrual and reduction in force rights. However, the employee shall not accrue those leave credits during the period of leave of absence.

iv. A permanent employee on leave of absence for active duty for training may receive service credits in the retirement system by special action of the Retirement Board.

v. A permanent employee on leave of absence for active duty for training may, at the employee's option, receive cash payment for accrued annual leave upon the commencement of employee's absence. Sick leave credits shall be retained in the employee's account upon the employee's return to active employment.

#### (b) Annual Training

A permanent employee who is a member of the Organized Reserve or National Guard shall be allowed military leave with pay at the rate of the employee's minimum compensation for annual training scheduled by military authority in any Federal Training Year - October 1 to September 30 up to a maximum of eleven (11) workdays. A permanent employee who has more than eleven (11) days of field training scheduled in one Federal Training Year shall be entitled to leave without pay for those days in excess of eleven (11), and shall be placed in an off payroll status, unless the employee elects to use accumulated annual leave, compensatory time, or

personal leave credits for the period of absence. A permanent part-time employee shall be granted military leave with pay on a prorated basis.

#### (c) Miscellaneous Military Obligations

i. A permanent employee ordered to take a selective service pre-induction physical examination shall be granted leave with full pay for time necessarily absent for the examination.

ii. A member of the National Guard ordered to duty by the Governor for emergency or other reasons shall receive military pay differential in lieu of the employee's minimum biweekly compensation prorated for each workday involved.

#### (d) Inactive Duty Training

An employee shall not be granted leave with pay for any scheduled weekly or monthly training activities nor the "equivalent training" scheduled for the convenience of the employee. However, an employee whose work schedule conflicts with scheduled drills (for example, an employee whose regular work schedule includes Sunday) shall be granted time off either without pay or by use of the employee's annual leave credits, to satisfy military obligations.

#### (e) Responsibilities

Each employee shall notify the supervisor as soon as possible of scheduled military obligations and give a copy of the employee's military orders to the supervisor.

### 3. Court and Jury Duty

It is the policy of the Judicial Branch to encourage employees to recognize and perform civic responsibilities.

An employee summoned as a witness in court or selected for jury duty shall be excused from work to perform that duty when the employee furnishes to the supervisor timely notice of subpoena or summons. It is the obligation of the employee to notify the supervisor as soon as the employee is notified of the appearance date.

(a) Job Related Court Appearances

Attendance at court in connection with an employee's official duties or where the state is a party to the case, shall not be considered absent from work. When an employee appears in court as a witness in connection with official duties, the employee shall be entitled to reimbursement of travel expenses in the same manner as the employee is reimbursed during the normal course of employment. The employee shall not be entitled to witness fees or witness travel expense reimbursement.

(b) Non-Job Related Court Appearances

An employee who has been absent from work because of jury duty shall be considered to have worked for the time spent on jury duty and shall receive normal compensation for the time of service. Employees do not have to use accrued leave for this purpose. The employee shall be entitled to receive reimbursement for mileage at the rate established for state employees. An employee who requests annual leave, personal leave, or compensatory time off, to appear voluntarily as a party or as a witness in a civil or criminal action shall be granted time off to the extent that the employee has accrued such leave time.

## **ARTICLE 25**

### **OFF PAYROLL AND OTHER LEAVES OF ABSENCE**

#### Off Payroll and Other Leaves of Absence

##### (a) Leave of Absence

A leave of absence without pay may be granted to an employee who expects to return to work provided that, in the opinion of the Court Administrator, the leave of absence is for family reasons covered under 21 V.S.A, §470 et seq. or based on a legitimate need and not detrimental to the interests of the Judicial Branch. Unless specific permission is granted for unpaid leave by the Court Administrator or designee, no leave of absence without pay may be granted under the provisions of this article to a covered employee who has paid leave available which could be utilized for the leave of absence. The Court Administrator may spread out unpaid leave to minimize the adverse impacts of an extended leave period, but this must also involve the exhaustion of any paid leave entitlement.

##### i. Family Leave

###### A. For Medical Reasons

###### 1) Employee

A leave of absence without pay for medical reasons shall be granted to enable a permanent status employee to recover from an extended illness or injury when the employee's accumulated sick leave has

expired. If an employee is requesting a leave of absence for medical reasons, the Court Administrator may request the employee to provide a physician's certificate stating the reason for the medical leave and an estimate of the anticipated length of time the employee would need to recover. All medical leaves must have a definite period of time with an established date for return to duty. The employee should contact the Human Resources Manager at the Court Administrator's office for information concerning the continuation of benefits (i.e. medical, dental, etc.) for the duration of the leave of absence. An employee who seeks and is determined to be qualified for a disability retirement must, if requested by the Judiciary, submit to and be determined to be fit for duty by a physician hired and paid for by the Judiciary if such employee wishes to continue working rather than retiring from Judiciary employment immediately following such determination.

## 2) Employee's Family

A leave of absence without pay shall be granted for a period not

to exceed twelve weeks during any twelve month period to enable a permanent status employee to stay with the employee's family due to serious illness of or injury to a member of the immediate family or other family emergency. If the employee decides to use paid leave as part of the leave granted under this provision, the employee shall use up to ten days of accumulated sick leave, accumulated compensatory time off, personal leave, annual leave in excess of fifteen (15) days, and accumulated sick leave in that order. For leaves of absence granted under this provision, the total paid and unpaid leave shall not exceed twelve weeks and an employee may not use in excess of six weeks of sick leave during the leave of absence. At the employee's request, the Court Administrator may extend or shorten the leave without pay at his/her discretion.

B. For Parental Leave:

1) Childbirth

A leave of absence without pay shall be granted under the conditions set forth in this section to an employee during

the period of physical disability due to pregnancy, child birth, miscarriage, abortion, or illness resulting there from if the employee has no or insufficient sick leave credit and does not wish to use accumulated annual or personal leave credits or compensatory time off. For those employees with sufficient accumulated sick leave, use of sick leave will be granted for a period up to six weeks following childbirth/delivery and it may be extended for the period of continuing disability by the Court Administrator. The Court Administrator may require a doctor's certificate regarding the continuing disability.

A leave of absence without pay or use of annual leave, personal leave, or compensatory time off, in any combination, shall be granted to an employee for a period up to four months for the purpose of child rearing. The combination of leaves of absence for the period of physical disability due to childbirth and child rearing may not exceed six months without the approval of the Court Administrator. This provision shall pertain to probationary as well as permanent status employees.

## 2) Adoption

A leave of absence without pay or the use of compensatory time off, personal leave or annual leave shall be granted for a period up to six months during adoption proceedings of a child 16 years of age or younger and for subsequent child care.

## C. Short-term Family Leave

Employees shall be entitled to take unpaid leave not to exceed four (4) hours in any thirty (30) day period or twenty-four (24) hours in any twelve month period for the following purposes:

- 1) to participate in preschool or school activities directly related to academic educational advancement of the employee's child, stepchild, foster child, or ward who lives with the employee, such as a parent-teacher conference.

- 2) to attend or to accompany the employee's child, stepchild, foster child or ward who lives with the employee or the employee's parent, spouse, civil union partner or parent-in-law to routine medical and dental appointments.

3) to accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being.

4) to respond to a medical emergency involving the employee's child, stepchild, foster child or ward who lives with the employee or the employee's parent, spouse, civil union partner or parent-in-law.

For purposes of taking leave under this section, the employee shall provide the supervisor with as early a notice as possible, except in the case of an emergency, in no case later than five days. Employees may use accrued annual or personal leave or compensatory time off.

ii. Other leaves of absence

A. To permit an employee to accept temporary assignment with another unit of government in accordance with the provisions of the Federal Intergovernmental Personnel Act; or

B. Any other justifiable reason at the request of the employee and with the concurrence of the Court Administrator.

1) General provisions governing leaves of absence

Unless specifically provided for elsewhere, the following provisions shall apply to all leaves granted under this section.

2) Serious illness means an accident, disease or physical or mental condition that poses imminent danger of death; requires inpatient care in a hospital; or requires continuing in-home care under the direction of a physician.

3) An employee shall not be granted a leave of absence to accept a temporary or permanent position or to enter into a contractual agreement. The Court Administrator may waive this provision when it is in the best interest of the Judicial Branch.

4) An employee granted a leave of absence without pay shall not receive annual and sick leave credits for the period of absence, nor shall that time be counted in determining the rate of annual and sick leave accrual or for other compensation or employee fringe benefits that are based on length of service. The employee shall maintain his

or her insurance during this leave of absence by paying the entire premium during the leave except in the instance of a medical leave of absence where the Judiciary will continue to pay the Judiciary's share of the health insurance premium. In the case of leaves of absence for family or parental leave, the employee will only be responsible for the employee's share of the benefits.

5) All leaves of absence must be approved in advance and must be for a definite period of time with an established date for return to duty. All requests for a leave of absence must be made in writing and approved in writing by the Court Administrator or designee. The Court Administrator or designee shall notify the employee of the decision within ten (10) business days of the request receipt. The employee or the employee's designee shall provide reasonable notice to the Court Administrator's Office of the need to extend leave.

6) The Court Administrator may grant a leave of absence for a period of more than ten (10) days up to twelve (12) months (see Off-Payroll status below) and may extend the leave of

absence under the same conditions not to exceed an aggregate of eighteen (18) months in any five-year period of employment. However, an employee injured on the job and eligible for benefits under Worker's Compensation or from the Judiciary Board on Judiciary Employee Benefits may be granted leave for up to two years in a five year period.

7) An employee granted leave in accordance with the provisions of the Federal Intergovernmental Personnel Act shall be granted leave for a two-year period which may be extended for an additional two years. In the event a conflict arises between the provisions of this policy and the Intergovernmental Personnel Act, the provisions of the Act shall prevail.

8) If an administrative leave of absence without pay is granted, the Human Resources Manager at the Court Administrator's Office shall contact the employee to give information concerning the continuation of benefits (i.e. medical, dental, etc.) for the duration of the leave of absence.

9) An employee who fails to return from a leave of absence on the scheduled return date shall be considered "absent without leave" and shall be subject to disciplinary action.

10) An employee who fails to return from a leave of absence, paid or unpaid for five (5) consecutive workdays after a leave is terminated, or a employee who is absent from work for five (5) consecutive workdays without calling in shall be considered to have voluntarily quit. This provision does not prevent discipline for absenteeism.

11) Upon return from leave taken, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority or any other term or condition of the employment existing on the day leave began. This shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This shall not apply if the employer can demonstrate by clear and convincing evidence that:

A. During the period of leave the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the condition for which the leave was granted; or

B. The employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to prevent substantial and grievous economic injury to the operation of the Judiciary.

#### (b) Off-Payroll

An employee's supervisor may grant time off payroll for short periods when it is necessary for the employee to be absent from duty and the employee has no accumulated leave credits. Off-payroll time ordinarily cannot exceed ten consecutive workdays. If an employee anticipates being unable to work for more than ten days, the employee must request a leave of absence under the provisions outlined above.

Covered employees shall be eligible for up to two voluntary off payroll days per contract year without pay upon receiving the approval of their Clerk or

designee. Unused off payroll days under this provision shall not accumulate from year to year.

An employee who does not report for work or who is absent from duty during any portion of a workday and who does not have authorization for such absence shall be considered "absent without leave". Any such absence shall be without pay and, in addition, may be grounds for disciplinary action. However, an absence which is not authorized in advance later may be approved and leave granted retroactively if the circumstances warrant.

An employee shall not accrue annual or sick leave credit for any pay period during which the employee is off the payroll for twenty (20) or more hours. An employee who is off payroll on the scheduled workday or portion thereof immediately prior to or following the day observed as a holiday and who does not work on such holiday shall not be eligible for holiday compensation. An employee who is off payroll on the scheduled workday or portion thereof immediately prior to or following the day observed as a holiday and who does not work on such holiday shall not be eligible for holiday compensation. However this provision shall not apply to any voluntary and pre-approved off-payroll up to two (2) days per calendar year."

### (c) Civic Duty Leave

Employees who serve as select person, city councilor, alderperson, village trustees, zoning board members, school board members, or board of civil authority members or the functional equivalent thereof may, subject to the operating needs of the Judicial Branch, be granted up to three days off per year without loss of pay for the

purpose of conducting official business which cannot be accomplished outside the normal working hours. The Court Administrator or his designee must approve in advance the use of civic duty leave.

(d) Fire and Rescue Duty

An employee who is a member of a municipal fire department or rescue team reachable within a 30 minute drive from the employee's work location shall, subject to the operating needs of the Judicial Branch, be granted leave without loss of pay or benefits to answer emergency alarms or calls, not drills, within the employee's municipality or outside the employees' municipality as part of a mutual aid call or multiple alarm call or conflagration for which the employee is reasonably available and is called and has so notified the appointing authority to the extent practicable.

(e) Leave of Absence for Political Activity

i. Leave of absence to run for office

Subject to the operating needs of the Judicial Branch, and subject to any conflict of interest or any other legal barrier as may be determined by the Attorney General, and subject to the Hatch Act or any other applicable federal law, leave of absence without pay may be granted to run for any public office at the state, national or local level or to act in any such capacity if elected. Leave under this situation must be specifically approved in advance by the Court Administrator and the Chief Justice. No employee shall be discriminated against

under this Section based on the employee's lawful political activity.

(f) Legislative Leave

To the extent authorized by 21 V.S.A. 496, and subject to any conflict of interest or legal barrier as may be determined by the Attorney General, the Hatch Act or any other applicable federal law, state employees shall be entitled to leave of absence in order to serve in the General Assembly. Leave under this situation must be specifically approved in advance by the Court Administrator and the Chief Justice.

(g) Political Activity

An employee shall not use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office. An employee shall not command or solicit in a coercive fashion from any other employee direct or indirect participation in any political activity or enforce or solicit in a coercive fashion contribution for any political party, organization or candidate. An employee shall retain his or her right to vote and express freely his or her opinion on all political subjects. An employee shall not be prohibited from participation in local community activities or from holding public office in the community in which the employee resides, provided that such activity does not conflict with Section 3.01 of the Rules and Regulations for Personnel Administration for the Executive Branch and the Federal Hatch Act.

## **ARTICLE 26 WORK ASSIGNMENTS**

Subject to the operating needs of the Judiciary, which may require the permanent re assignment of an employee to a different work location, if the reassignment is to a regular duty station outside a thirty five (35) mile radius of the employee's current duty station, the Judiciary will consider qualified volunteers who possess the special skill or experience which fulfills the Judiciary's needs.

If no suitable volunteer is identified by the Judiciary within ten (10) workdays, the Judiciary will select, at its sole discretion, the qualified employee possessing the special skill or experience which fulfills the Judiciary's needs. The Judiciary will give four (4) week's prior notice of any such permanent re assignment and will try to accommodate those persons who need extra time to make the change or move. The Judiciary will also try to give additional notice of such changes or moves if feasible.

## **ARTICLE 27**

### **MISCELLANEOUS PROVISIONS**

#### **1. Employment of Relatives in Non-Statutory Judiciary-Paid Positions**

The anti-nepotism regulations of the Vermont Department of Personnel shall apply to employment of bargaining unit employees.

#### **2. Judicial Personnel Policy Appendix**

a. The Court Administrator shall notify the VSEA and the Unit Chair of any changes, additions or revisions to the

Judicial Personnel Policies and shall negotiate with the VSEA about any changes, additions or revisions which regard wages, hours, and working conditions, prior to their implementation.

## **ARTICLE 28**

### **EMERGENCY CLOSING**

1. The Judiciary shall decide when, if and to what extent Court facilities shall remain open or closed during emergencies, such as adverse weather conditions, force majeure, equipment breakdown, inoperable bathroom facilities, extreme office temperatures, etc.

2. The Judiciary shall designate one person in each facility who will be responsible to call the Court Administrator or his/her designee if office, weather or other conditions exist which suggest closing is appropriate.

3. In facilities that must remain in operation despite emergency conditions, continued operations with a reduced work force may be authorized. In such instances, employees who are authorized to leave work early may do so without loss of pay or benefits. Employees who are required to remain at work shall receive compensatory time at straight time rates.

4. An employee who is unable to report to work due to weather or other emergency conditions shall have the absence charged against accumulated compensatory time or annual leave, in that order.

5. If the Judiciary authorizes the complete closing of facility for emergency reasons, employees who leave the workplace shall receive their regular pay for time they are out of the closed office. In the event that the facility is

not closed, but an employee believes it is necessary to leave because of concern for personal safety, such a departure shall be permissible, but the time lost shall be deducted from the employee's annual or compensatory leave, as the Judiciary may determine.

6. Employees required by the Judiciary to work during complete emergency closings under (5) above, shall receive hourly pay at straight time rates for the hours so worked. This payment will be in addition to the employee's regular pay.

## **ARTICLE 29**

### **COLLECTIVE BARGAINING SERVICE FEE**

1. Non Members of the VSEA will pay collective bargaining service fees in the manner and as required by law and the VSEA will provide the Judiciary with all protections required by law including, but not limited to, 3 V.S.A. Sections 1011 (4) and 1012( c).

## **ARTICLE 30**

### **LABOR MANAGEMENT COMMITTEE**

1. A Judiciary Labor Management committee consisting of not more than five members selected by the VSEA from among the bargaining unit and not more than five members selected by the Judiciary shall meet periodically to discuss a mutually agreed agenda which may include methods of improving labor relations, productivity, safety, and health problems of a continuing nature. The Committee shall also consider the development of

appropriate employee evaluation forms and other problems which have an impact on conditions of employment; provided, however, these sessions are not for the purpose of discussing pending grievances or for collective bargaining on any subject.

2. The Labor/Management Committee shall also determine the appropriate appearance of the Judiciary blazers for Court Officers. Court Officers shall receive reimbursement or vouchers for the purchase of two (2) blazers upon hire, and one (1) blazer for each year thereafter before July 1. Existing practices with regard to the cleaning and maintenance of such blazers shall be continued. The annual sum of \$100 per Court Officer shall be allocated for this purpose.

3. The Court Administrator's Office shall comply with VOSHA and other State and Federal statutory safety and health requirements. Complaints over health and safety concerns may be referred to the Statewide Labor-Management Committee.

4. This Article is not intended to enlarge or diminish the rights and obligations of the parties as otherwise required by law to engage in collective bargaining, nor to prevent informal meetings between fewer than three representatives of each party.

5. Agreements which result from labor management discussions shall not produce any modifications to the collective bargaining agreement unless signed off by the VSEA's Director(s) and the Court Administrator. Participation in labor-management discussions shall not be construed as a waiver of the right of access to the collective bargaining process over mandatory subjects for collective bargaining.

6. A request to include work related items as agenda items for continuing discussion or recommendation shall

be carefully considered and shall not be unreasonably denied.

7. During the 2012-2014 contract period, the Judiciary and the VSEA shall have discussions regarding the implementation of any new case management system for the Vermont Judiciary and how the introduction of new technology may result in changes to the unit workforce, strategies for implementation and participation by unit employees, as well as effect on employee position structure and/or job responsibilities. Any subject for discussion in this area shall not include mandatory subjects for bargaining if applicable, but shall be referred directly to the VSEA.

### **ARTICLE 31**

#### **DURATION AND PROCEDURE FOR NEGOTIATING SUCCESSOR AGREEMENT**

The duration of this Agreement shall be from July 1, 2014 to midnight June 30, 2016. The parties agree to meet not later than February 1, 2016 to commence negotiations concerning the successor agreement to commence July 1, 2016.

### **ARTICLE 32**

#### **EXPENSES REIMBURSEMENT**

1. All Judiciary employees, when away from home and office on official duties, shall be reimbursed for actual expenses incurred for travel accommodations, postage, parking, tolls, telephones, telegraph, express, other incidentals, and reasonable subsistence as detailed below.

2. The maximum allowable reimbursement for subsistence is as follows:

<b>IN-STATE:</b>		<b>OUT-OF-STATE</b>
Breakfast	\$5.00	\$6.25
Lunch	\$6.00	\$7.25
Dinner	\$12.85	\$18.50

In state mid-tour meals are not reimbursable expenses, except for lunches after an overnight stay when away from home and official duty station. Judiciary employees participating in meetings, seminars, conventions, training or conference sessions shall be reimbursed for out-of-pocket meal expenses incurred without regard to location of the meal or meal maximum provided the meal is a necessary part of a prearranged or programmed meeting in which all participants are served from a pre-selected menu with no control over the cost of the meal. "Necessary" means the employee must attend the meal and the employee must pay for the meal. In certain cases, when an in-state lunch is not the mid-tour meal and is otherwise eligible to be reimbursed under this Article, the maximum allowable reimbursement will be \$6.00.

3. Employees shall be expected to make a reasonable effort to procure lodging and meals with as little expenses as possible while not unreasonably sacrificing personal convenience and comfort. The maximum allowable reimbursement for lodging shall be the government rate offered by the facility providing overnight accommodations to employees.

4. Reimbursement for other work-related expenses not covered above arising from emergency or other unusual circumstances will be made at the discretion of the Judiciary only after application for reimbursement is made by the employee in writing. Such application will include the nature and amount of the expense, the date on which it occurred and full written justification for the reimbursement.

5. When an employee is away from home or work station, the cost of a dinner may be reimbursed when the employee is eligible to claim lodging or is required to work well beyond the normal dinner hour.

## **ARTICLE 33**

### **MILEAGE REIMBURSEMENT**

1. For authorized automobile mileage actually and necessarily traveled in the performance of official duties, a Judiciary employee shall be reimbursed at the rate established by the GSA, unless the employee is traveling in a Judiciary-owned or leased vehicle.

2. The Labor-Management Committee shall be utilized as a discussion vehicle for exploring the suggestions of both parties concerning energy conservation, reduction of energy costs and appropriate incentives therefore.

3. The normal commutation distance between an employee's home and his/her official duty station shall not be deducted from mileage incurred in the course of business.

## **ARTICLE 34**

### **DEFINITIONS**

Unless a different meaning is plainly required by the context, the following words and phrases mean:

**ADMINISTRATIVE HOLIDAY** - a workday on which the Chief Justice officially closes Judicial Branch offices except those operations which must maintain essential services.

**ALLOCATION** - the determining of the classification of a new position. See also **REALLOCATION**.

**ANNUAL TRAINING** - annual active duty for training limited to a maximum of eleven workdays in a calendar year for a member of an organized reserve or the National Guard.

**ANNUAL LEAVE** - paid authorized absence for vacation or personal convenience.

**APPOINTING AUTHORITY** - the person authorized by statute, or lawfully-delegated authority, to appoint and dismiss employees.

**APPOINTMENT** - the designation of a person as an employee.

**AREA OF RESPONSIBILITY** - a specific region or locale, together with the employees stationed therein, which region and employees are served by a single steward.

**ARMED FORCES** - United States Army, Navy, Marine Corps, Coast Guard, Air Force, and all reserve units, and the National Guard, including the Air National Guard.

**ASSIGNMENT** - the placing of a new class in pay grade. See also **REASSIGNMENT**.

**CLASS** - one or more positions sufficiently similar as to the duties performed, degree of supervision exercised or received, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same test of fitness, and the same pay grade may be applied to each position.

**CLASSIFIED EMPLOYEE** - an employee of the Judiciary who is hired in the classified service.

CLASSIFICATION PLAN - the arrangement of positions into separate classes and the ranking of the classes in relative order.

CLASSIFIED POSITION - a position in the Judicial Branch which is assigned to a class.

CONTINUOUS STATE SERVICE - uninterrupted service by an employee; authorized military leaves, educational leaves and other authorized leaves of absence shall not be an interruption of service.

DAYS - Business days unless otherwise specifically indicated as calendar days.

DEMOTION - As defined in Article 16, §2(g) as the same may be amended from time to time.

DIVISION - A component of the Judicial Branch headed by a Director.

EMPLOYEE - as defined in Chapter 28 of T. 3 V.S.A., as the same may be amended from time to time.

ESSENTIAL SERVICES - services which must be continued in order to ensure the safety and welfare of the residents and property of the State and the convenience of the public.

EXAMINATION - all the tests including, but not limited to, written tests, ratings of training and experience, oral boards, performance tests, probationary periods and any authorized extensions thereof.

HOURS ACTUALLY WORKED - (see TIME ACTUALLY WORKED).

IMMEDIATE FAMILY - As set forth in Article 19, §6, (b)ii, as the same may be amended from time to time.

**JURY DUTY** - the day or part of a day when an employee serves as a juror, is examined for jury duty or is required to report to the court as a prospective juror.

**LACK OF WORK** - when (1) there is insufficient funds to permit the continuation of current staffing; or (2) there is not enough work to justify the continuation of current staffing.

**LAY OFF** - the separation of a classified employee due to lack of work or otherwise pursuant to management rights.

**LEAVE OF ABSENCE** - the means by which an employee may be absent from his/her position without pay for a period of time in excess of ten workdays.

**LIMITED STATUS** - that condition which applies to an employee who has completed an original probationary period and is occupying a limited service classified position. An employee with limited status is entitled to all the rights and privileges of a permanent status employee except reduction in force and reemployment.

**MILITARY PAY DIFFERENTIAL** - the difference between the employee's base salary received from the State of Vermont and base pay received from the military, if any.

**MINIMUM QUALIFICATIONS** - the lowest level of skills, experience and educational qualifications.

**NORMAL WORKING HOURS** - the hours between the beginning and ending of an employee's regularly scheduled shift.

**PAY GRADE** - one of the established ranges within the total compensation plan for which a minimum and maximum rate is provided. Each class is assigned to a pay grade.

**PERMANENT STATUS** - that condition which applies to an employee who has completed an original probationary period and is occupying a permanent classified position.

**POSITION** - a group of current duties and responsibilities normally requiring the full-time or part-time employment of only one person.

**ORIGINAL PROBATIONARY PERIOD** - that working test period, normally six months from effective date of appointment, plus any extensions, during which the employee is expected to demonstrate satisfactory performance of job duties.

**PROMOTION** - a change of an employee from a position of one class to a different position of another class assigned to a higher pay grade.

**REALLOCATION** - change of a position from one class to another class.

**REASSIGNMENT** - the change of a class from one pay grade to another pay grade. See also **ASSIGNMENT**.

**RED-CIRCLED** - the freezing of an employee's salary between steps or above the maximum of a pay grade to which an employee is assigned.

**REDUCTION IN FORCE** - a reduction is the layoff of a classified employee from employment due to lack of work or otherwise pursuant to management right.

**REGULAR HOURLY RATE** - the amount of money obtained by dividing an employee's basic weekly salary by 40.

**RESTORATION** - as set forth in Article 16, §2(b)iii of the Agreement as the same may be amended from time to time.

SENIORITY – the length of continuous Judicial Branch Service.

SICK LEAVE – as set forth in Article 19, §6 of the Agreement, as the same may be amended from time to time.

SPECIFICATION - a written description of the nature, level of responsibilities, required skills, and minimum qualifications for a class.

TIME ACTUALLY WORKED - authorized time spent by an employee in the actual performance of assigned job-related duties, or on annual leave, compensatory time off, at a grievance hearing at the request of the State, unworked holidays, paid Association leave time and personal leave. "Hours Actually Worked" is defined the same as "Time Actually Worked."

WORKDAY - a regularly scheduled day of work which shall begin at the time the employee's regular and normal work schedule begins and continues for twenty-four consecutive hours. For filing procedure and prior notice purposes the terms "Workday(s)" and "Business day(s)", as referred to in this contract, shall be considered to be Monday through Friday, excluding legal and administrative holidays and the day after Thanksgiving.

Inset Wage Schedule

IN WITNESS WHEREOF, the Judiciary Department of the State of Vermont and the Judicial Bargaining Unit of the Vermont State Employees' Association hereby execute this Agreement by duly authorized representatives as of the day above first written:

For the Judicial Department  
of the State of Vermont:

Patricia Gabel, Court Administrator:

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Bargaining Team:

\_\_\_\_\_

Matthew Riven

\_\_\_\_\_

John McGlynn

\_\_\_\_\_

Gabrielle Lapointe

\_\_\_\_\_

Linda Richard

\_\_\_\_\_

Anne Damone

\_\_\_\_\_

Tina de la Bruere

\_\_\_\_\_

Theresa Davidson

\_\_\_\_\_

Joseph McNeil (Legal Counsel)

\_\_\_\_\_

Susan Gilfillan (Legal Counsel)

For the Bargaining Unit of the  
Vermont State Employees'  
Association, Inc.:

\_\_\_\_\_

Margaret Crowley (Chair)

\_\_\_\_\_

Elizabeth Aiken (Vice-Chair)

\_\_\_\_\_

Shannon Bessery

\_\_\_\_\_

Cindy Foster

\_\_\_\_\_

Evan Hill

\_\_\_\_\_

Keith Kennedy

\_\_\_\_\_

Kathy Rotondi

\_\_\_\_\_

Kelly Burns (VSEA)

\_\_\_\_\_

Mark Mitchell (VSEA)

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Adam Norton (VSEA)

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Brian Morse (VSEA)

