

**AGREEMENT BETWEEN THE  
BOARD OF HIGHER EDUCATION  
AND  
THE MASSACHUSETTS TEACHERS ASSOCIATION/NEA**

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## **PREAMBLE**

This Agreement is entered into by and between the Board of Higher Education, acting through the Council of Presidents of the State Colleges, and the Massachusetts Teachers Association/NEA, as the exclusive collective bargaining agent for members of the bargaining unit described in Article I, Section A.

Each College is an integral part of the institutions of higher learning operated through the Board of Higher Education and the Boards of Trustees of the State Colleges under the laws of the Commonwealth of Massachusetts.

The basic functions of instruction, research and public service at each College are performed by a community of men and women who have chosen a profession whose primary functions are facilitating learning, assisting students in their quest for scholarly fulfillment, demonstrating the qualities associated with scholarship and performing public service. It is therefore fitting that, in accordance with the provisions of this Agreement, they participate with students and administrators in decision-making at each State College.

Accordingly, this Agreement seeks to establish a firm basis for the professional role of faculty and librarians at the State Colleges.

The Massachusetts Maritime Academy is an institution of public higher education which also has a military mission in accordance with the standards and regulations directed by the Maritime Administration of the United States Department of Commerce, under the Maritime Academy Act of 1958, as amended, and the United States Navy and Coast Guard. As such, the Academy prepares young men and women for careers as officers in the United States Merchant Marine and the seagoing components of the armed services. As a specialized College, it has programs, facilities, and goals which are unique to it.

The parties to this Agreement recognize the need and the opportunity for improvement and growth at each College. They pledge themselves cooperatively therefore to the task of attaining high standards in teaching, research and service to the community.



## ARTICLE I - RECOGNITION AND DEFINITIONS

### A. RECOGNITION

The Board of Higher Education recognizes the Massachusetts Teachers Association/NEA (hereinafter referred to as the "Association") as the exclusive collective bargaining representative with respect to the conditions of employment of a unit which comprises:

Every person employed at the State Colleges of the Commonwealth of Massachusetts and holding a full-time appointment to the position of Professor, Associate Professor, Assistant Professor, Instructor, Senior Librarian, Librarian, Associate Librarian, Assistant Librarian, Library Associate and Library Assistant; and further including any person who holds one of the foregoing titles and also the title of Department Chair; and further including any person holding a full-time appointment to any of the foregoing titles, or as a teacher, however designated, at a Campus School; and further including any person holding a part-time appointment as Professor, Associate Professor, Assistant Professor, or Instructor at the Massachusetts College of Art and Design; and further including any person who is employed on a full-time basis as an Adjunct Instructor at the Massachusetts Maritime Academy, subject to the exclusions set forth in the Decision and Direction of Election issued by the Labor Relations Commission and dated November 2, 1977; and further including any person holding a part-time appointment for three (3) or more consecutive semesters to a position defined in the Decision and Direction of Election issued by the Labor Relations Commission and dated April 21, 1987 (Case No. SCR-2172); and further including any person holding a part-time appointment as a Clinical Nursing Instructor. The parties recognize and understand that personnel at the Massachusetts Maritime Academy who are detailed to such Academy by the President of the United States pursuant to the provisions of the Maritime Education and Training Act of 1980 or otherwise, and military personnel assigned by the government of the United States to teach any ROTC programs at a State College, are not members of the bargaining unit.

With effect on February 28, 1989, the bargaining unit status of part-time unit members who have taught three (3) consecutive semesters, shall not be affected by:

- a. a temporary interruption of service of one (1) semester caused by the Employer/College administration;
- b. a temporary interruption of service of one (1) semester for study toward a graduate degree as approved by the Vice President of a College; or
- c. a temporary interruption of service of one (1) semester caused by an injury, illness or pregnancy.

With effect on July 1, 1995, any person who shall have retired after not less than ten (10) years of service as a member of the bargaining unit at a College

## ARTICLE I - RECOGNITION AND DEFINITIONS

or as a member of the administration of a College shall, if appointed to teach on a part-time basis at such College, thereupon become a member of the bargaining unit unless the appointment to teach on a part-time basis occurs more than one (1) year following the effective date of such person's retirement.

### B. JURISDICTION

During the term of this Agreement, the jurisdiction of the Association shall extend to those persons who now or hereafter hold appointments to a position included in the bargaining unit.

### C. DUES CHECK-OFF

The Association shall be permitted authorization for payroll dues deductions as set forth in Appendix J and for agency service fee deductions as set forth in Appendix K.

### D. DEFINITIONS

As used in this Agreement, the following words and phrases shall have the following meanings:

1. Academic Year. "Academic year" shall mean the nine (9)-month period from September 1 to and including May 31 following; provided, however, that in the case of members of the faculty employed at the Massachusetts Maritime Academy, the academic year shall mean the above-described nine (9)-month period together with such additional period, if any, as may be fixed from time to time pursuant to the provisions of Article XII-A of this Agreement.
2. Administration. "Administration" shall mean the President and other principal administrative officers serving as such at each College; such designation shall not include individuals and positions as defined in Article I, Section A, of this Agreement.
3. Administrator. "Administrator" shall mean any person serving in an administrative capacity and appointed as an administrator at any State College.
4. Association. "Association" shall mean the Massachusetts Teachers Association/NEA as recognized pursuant to Article I, Section A, of this Agreement.
5. Association President. "Association President" and "President of the Association" shall mean the person serving from time to time as President of the Association. The parties recognize and agree that the Association may, in the discharge of its responsibilities hereunder, act through its affiliate, the Massachusetts State College Association, and that the Association and its affiliate are jointly and severally liable for the discharge of such responsibilities.
6. Association Representative. "Association representative" shall mean any representative of the Association who is a member thereof and who has been officially so designated in writing by the President of the Association to the Board of Higher Education acting through the Chair of the Council of Presidents, and where such representative has

## ARTICLE I - RECOGNITION AND DEFINITIONS

responsibilities that are confined to a single College, to the President of such College, and shall, without further designation, include the Chapter President.

7. Board and Board of Trustees. “Board” and “Board of Trustees” shall both mean the Board of Trustees of any State College as established pursuant to Massachusetts General Laws, Chapter 15A, §21, and shall mean the successor in interest of any such Board of Trustees. Actions to be taken by any Board or Boards of Trustees are rights and obligations created or imposed by the terms of this Agreement and as such are binding upon the Board of Higher Education as the employer under Chapter 150E.
8. Board of Higher Education. “Board of Higher Education” shall mean the Board of Higher Education established pursuant to Massachusetts General Laws, Chapter 15A, §4, or its successor in interest.
9. Campus. “Campus” shall mean all facilities and properties which are now or shall hereafter be designated by the Commonwealth of Massachusetts, acting by the Board of Higher Education, by a Board of Trustees or otherwise, for the exclusive use of any one or another of the State Colleges, and shall, at the Massachusetts Maritime Academy, include any vessels used for training purposes or under the control of the Academy, including any vessel commonly known as the Training Ship.
10. Chapter. “Chapter” shall mean any organizational unit of the Association that is based at a single College.
11. Chapter President. “Chapter President” shall mean the member of the bargaining unit at each College who shall have been designated as such from time to time by the President of the Association.
12. Cognate Department. “Cognate department” shall, for purposes of Articles VIII and VIII-C of this Agreement, mean a department determined by the Vice President to be a department the academic discipline of which is by common practice in the academic world deemed to be related to the academic discipline of the department in question or of the library.
13. Commissioner. “Commissioner” shall mean the chief executive officer of the Board of Higher Education, or any person or persons acting in that capacity, duly appointed and authorized by the Board of Higher Education.
14. Cooperative Education. “Cooperative education” shall mean that mode of instruction in which a student is assigned work at an institution or agency with which the College has established programs of work-related studies and pursuant to which the regular direct supervision of such student is the responsibility of someone other than a faculty member. The responsibility of any faculty member with respect to cooperative education shall be confined to preliminary, periodic and final conferences with the student and his/her regular supervisor for the purpose of evaluating the student’s work and educational experience in accordance with the established guidelines of the cooperative education program at the College.
15. Council of Presidents. “Council of Presidents” shall mean the Presidents of the State Colleges, including any person designated by any such President to act in his/her stead

## ARTICLE I - RECOGNITION AND DEFINITIONS

at any meeting thereof, or such number of Presidents as they may determine, either generally or for any specific purpose, to constitute a quorum thereof, acting solely in order to exercise any right or discharge any responsibility required or permitted to be exercised or discharged by the Council of Presidents pursuant to any provision of this Agreement.

16. Chair of the Council of Presidents. “Chair of the Council of Presidents” shall mean the President of a State College selected by the Council of Presidents from time to time to serve as the Chair of said Council in its exercise of the rights and discharge of the responsibilities hereinbefore described. Notice of the President selected as the Chair shall be promptly provided to the Association.
17. Course Materials. “Course materials” shall mean lectures, exercises designed for online collaboration, multimedia developed for Web distribution, notes, outlines, syllabi, bibliographies, tests, instructional handouts, videotaped presentations and any like materials and documents (whether in electronic or other medium) that a member of the bargaining unit authors or creates in connection with the preparation or teaching of a course at a College.
18. Critique. “Critique” shall mean a course at the Massachusetts College of Art and Design in which the professional criticism of the student’s artistic and creative works or projects is the principal and paramount mode of instruction.
19. Day. Except as otherwise provided (e.g., “day” means “working day” in Article XI - Grievance Procedure), “day” shall mean a calendar day.
20. Dean. “Dean” shall, at each College, mean any person, however denominated, who is the administrative head of a School or Division of a State College, or any person serving or acting in that capacity, duly appointed and authorized therein by the President of such College and, further, shall mean any person holding the position, however denominated, of Dean of Undergraduate Studies or any person serving or acting in such capacity. The Academic Vice President may, consistent with usual and customary academic practice, delegate various Vice Presidential responsibilities to the Dean as those responsibilities are detailed in Articles VI, XII, XIV, and XV only. Notwithstanding any other provision of this paragraph, the Dean shall not be assigned duties of the Department Chair as set forth in Article VI.
21. Department. “Department” shall mean any organizational unit of faculty at any College that is now, or may from time to time hereafter be, established and so designated by the President of such College; provided, however, that any such organizational unit shall cease to be a department if at any time hereafter it shall have been disestablished in accordance with any applicable provisions of this Agreement.

“Home Department” shall have the meaning ascribed to it in Article X, Section J.

22. Department Chair. “Department Chair” shall mean any person appointed by the President of a College, in accordance with the provisions of Article VI of this Agreement, to fulfill the responsibilities set forth herein with respect to any department of such College.

## ARTICLE I - RECOGNITION AND DEFINITIONS

23. Faculty and Faculty Member. “Faculty” and “faculty member” shall mean any member of the bargaining unit who holds a full-time appointment at a State College as one of the following, namely:
- a. Professor,
  - b. Associate Professor,
  - c. Assistant Professor, or
  - d. Instructor,
- including any such person who, holding such appointment, also holds the position of Department Chair, and further including (i) any person who holds a part-time appointment as Professor, Associate Professor, Assistant Professor or Instructor at the Massachusetts College of Art and Design, (ii) any person holding an appointment as a part-time Clinical Nursing Instructor at any College, and (iii) any person holding a part-time appointment to a position defined in the Decision and Direction of Election issued by the Labor Relations Commission and dated April 21, 1987 (Case No. SCR-2172).
24. Fieldwork Supervision and Internship. “Fieldwork supervision” and “Internship” shall mean those modes of instruction in which a member of the faculty has responsibility for the educational objectives and for the observation, criticism and evaluation of a student in a learning experience in an area other than teacher education, such as, for example, human services or public services; the faculty member is expected to make regular on-site observations to the student and to confer with the student’s off-campus supervisor, if there be any.
25. Full-time Appointment. “Full-time appointment” shall mean such status of full-time employment, if any, as shall have been conferred upon any member of the bargaining unit as a term of such person’s appointment to teach twelve (12) semester hours of credit of instruction per semester in courses offered by his/her department, or the equivalent through the fulfillment of alternative professional responsibilities assigned pursuant to Article XII, or workload reductions made in accordance with this Agreement.
26. Graduate Faculty. “Graduate faculty” shall mean those members of the faculty who shall have been designated as such by the President at any College in accordance with criteria approved therefor after recommendation by the Graduate Education Council.
27. Graduate Teaching. “Graduate teaching” shall mean teaching a course that shall have been designated a graduate course by the President or his/her designee.
28. Grievance. “Grievance” shall mean a grievance as defined in Article XI of this Agreement.
29. Intellectual Property. “Intellectual property” shall mean a legally cognizable interest in a work or creation of whatever kind, including a copyright or patent.
30. Laboratory Instruction. “Laboratory instruction” shall mean that mode of instruction which consists of student learning activities, under the direction and supervision of a faculty member, using instruments, equipment and techniques appropriate to a particular discipline in which the student observes or measures phenomena, conducts experiments,

## ARTICLE I - RECOGNITION AND DEFINITIONS

undertakes projects, acquires specialized skills, and pursues similar kinds of experiences. "Laboratory instruction" shall not include instruction in a language laboratory.

31. Librarian. "Librarian" shall mean any member of the bargaining unit who holds a full-time appointment as one of the following, namely:
  - a. Senior Librarian,
  - b. Librarian,
  - c. Associate Librarian,
  - d. Assistant Librarian,
  - e. Library Associate, or
  - f. Library Assistant.
32. Library Director. "Library Director," "Director, Library," "Director of the Library," "Dean of the Library" and "Director of the Learning Resource Center" shall each mean the person, bearing whatever title, who, not being a member of the bargaining unit, from time to time holds the position of Library Director at a College or who from time to time is authorized to act in that capacity, whether solely for the purposes of this Agreement or otherwise.
33. Nursing Clinical. "Nursing clinical" shall mean that mode of instruction of students in which a member of the faculty provides patient care within a health care facility.
34. Official Personnel Correspondence. "Official personnel correspondence" shall mean correspondence from the Board of Trustees or from the Administration of any College to or concerning a member of the bargaining unit which states therein that it is Official Personnel Correspondence and which gives notice of any personnel action taken or proposed to be taken or of any official commendation, reprimand or disciplinary action, or from the Commissioner pursuant to the provisions of Article XX.
35. Part-time Appointment. "Part-time appointment" shall mean such status of employment as shall have been conferred upon any member of the bargaining unit as a term of such person's appointment to the rank of Professor, Associate Professor, Assistant Professor or Instructor at the Massachusetts College of Art and Design or as a Clinical Nursing Instructor at any College, and further including any part-time unit member holding a part-time appointment to a position defined in the Decision and Direction of Election issued by the Labor Relations Commission and dated April 21, 1987 (Case No. SCR-2172).
36. Physical Education Activity Courses. "Physical education activity courses" and "activity courses" shall mean that mode of instruction within any department of physical education, however denominated, in which the principal course work is the teaching of skills in some physical, athletic or recreational activity.
37. President. "President," when not otherwise qualified, and "President of the College" shall both mean the chief executive officer of each State College or any person or persons acting in that capacity, duly appointed and authorized therein.
38. Professional Maritime Faculty. "Professional Maritime Faculty" shall mean a full-time faculty member at the Massachusetts Maritime Academy who is appointed to perform

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services during the work year, as provided in this Agreement, of a member of the Professional Maritime Faculty and who holds a United States Coast Guard Merchant Marine License.

39. Program Area. Except as otherwise expressly provided in Article VI with reference to librarians, “program area” shall, at any College, mean any organizational unit of faculty, librarians or faculty and librarians that does not have the status of a department and that is now, or may from time to time hereafter be, established and so designated by the President of such College and shall include any subordinate unit, so designated by the President of such College, within any department or departments or within any other organizational unit of faculty; provided, however, that any such organizational unit shall cease to be a program area if at any time hereafter the President shall have ceased so to designate it.
40. Program Area Chair. “Program Area Chair” shall mean any unit member appointed by the President of a College, in accordance with the provisions of Article VI of this Agreement, to fulfill the responsibilities set forth herein with respect to any program area of such College.
41. Promotion. “Promotion” shall mean advancement from a lower faculty rank to the next higher faculty rank or advancement from a lower librarian rank to the next higher librarian rank, whichever may be applicable.
42. Rank. “Rank” shall mean any one of the four (4) faculty ranks of Instructor, Assistant Professor, Associate Professor and Professor, and any one of the six (6) librarian ranks of Library Assistant, Library Associate, Assistant Librarian, Associate Librarian, Librarian and Senior Librarian.
43. Regiment of Cadets. “Regiment of cadets” shall mean, collectively, all uniformed undergraduate students enrolled at the Massachusetts Maritime Academy excepting certain non-traditional commuter students.
44. Retrenchment. “Retrenchment” shall mean the laying off of any member of the bargaining unit pursuant to the provisions of Article X, X-A or X-B of this Agreement, respectively, and shall not mean termination.
45. Salaried Part-time Faculty Member. “Salaried part-time faculty member” shall mean those part-time members of the bargaining unit who are described in Sections H(1) and H(2) of Article XIII of this Agreement and shall not mean any of those part-time members of the bargaining unit who are described in Sections H(3) of Article XIII of this Agreement.
46. Sea Term. “Sea Term” shall mean the whole of an annual training exercise. Such period shall constitute the period of sea time required as a prerequisite for licensing under applicable Federal Regulations and shall not exceed seventy (70) days aboard the Training Ship.
47. Semester. At each College, “semester” shall, in the case of the first semester or “fall semester” of any academic year, mean the period commencing on the first day of the academic year and ending on the last day preceding the commencement of the second

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semester of such year, and shall, in the case of the second semester or “spring semester” of any academic year, mean the period commencing on the day appointed by the applicable academic calendar for such purpose and ending on the last day of the academic year.

48. State Colleges. “State Colleges” and “Colleges” shall mean, collectively, Bridgewater State College, Fitchburg State College, Framingham State College, the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts, the Massachusetts Maritime Academy, Salem State College, Westfield State College and Worcester State College; when used in the singular, the terms “State College” and “College” shall mean any one or another of such State Colleges.
49. Status of Training Ship. For the purposes of this Agreement, the status of the Training Ship at the Massachusetts Maritime Academy shall be as follows:
- a. Sea Term Status. “Sea Term status” shall mean any period when the Training Ship is not on dockside status or shipyard status, it being understood that such period shall be of a duration sufficient to meet the sea time requirements for licensing under applicable Federal Regulations; but shall not exceed seventy (70) days aboard the Training Ship.
  - b. Dockside Status. “Dockside status” shall mean any period during which the Training Ship is made fast alongside the Academy pier in Buzzards Bay except any such period during which the Training Ship, while so made fast, is determined by the President of the Academy or his/her designee to be on Sea Term status or shipyard status.
  - c. Shipyard Status. “Shipyard status” shall mean any period during which the Training Ship is proceeding to, is located at, or is returning from a shipyard or similar repair facility for the purpose of overhaul, repair or dry docking, and shall include a period of not less than ninety-six (96) hours prior to the Training Ship’s getting underway from the Academy pier in Buzzards Bay, and a period of not less than twenty-four (24) hours subsequent to its returning alongside the Academy pier in Buzzards Bay.

The status of the Training Ship, including the date and time of the commencement and termination of any such status, shall be determined from time to time by the President of the Academy.

50. Student. Unless otherwise specified, “student” shall mean any person enrolled as a student at a College and shall include any “cadet,” so called, at the Massachusetts Maritime Academy; and for the purposes of Article VII of this Agreement, a “full-time student” shall mean any student who, at the time of his/her selection to act in a representative capacity pursuant to the provisions of the said Article, is enrolled at a College in courses valued at not fewer than twelve (12) semester hours of credit per semester.
51. Student Government Association. “Student Government Association” shall mean the Student Government Association, however denominated, at each State College.



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52. Student Teaching Supervision. “Student teaching supervision” shall mean that mode of instruction in which a faculty member observes, critiques and evaluates a student teacher and confers with the supervisors of a student in an early-childhood, elementary, middle, junior high or secondary school classroom experience; the faculty member is expected to make regular on-site observations of the student and to confer with the student’s off-campus supervisor, if there be any; for these purposes, there shall be used as a guideline the making of four (4) such observations within a single quarter in respect of a student teaching on a full-time basis.
53. Studio Instruction. “Studio instruction” shall mean that mode of instruction in such courses as art, music and performance which are essentially skill-oriented and/or for the development of creativity.
54. Temporary Appointment. “Temporary appointment” shall mean a non-tenure track full-time appointment to a position within the bargaining unit. Such appointment shall not exceed four (4) consecutive academic semesters.
55. Tenure. “Tenure” as used in this Agreement shall mean the right of certain members of the bargaining unit to be terminated only upon a finding of just cause and a review and hearing prior to termination, all as is provided for in this Agreement.
56. Terminal Degree.
- a. In the case of any person first appointed to a position as a member of the bargaining unit at a State College prior to September 1, 1988, “terminal degree” shall mean the degree of Doctor of Philosophy (Ph.D.), the degree of Doctor of Education (Ed.D.), or such other doctoral degree (doctorate), other than the degree of Juris Doctor (J.D.), as is granted in and with reference to any specialized discipline or field of learning; provided, however, that a degree, including the degree of Juris Doctor (J.D.), other than a doctorate may be deemed to be a terminal degree for the purposes of this Agreement whenever the Board recognizes any such degree as one customarily regarded by members of any learned profession or field of learning as the final degree qualifying any person for the practice of such profession or for recognition within such field of learning but only to the extent that the holder of any such degree other than a doctorate is employed as a member of the bargaining unit to perform services, including teaching, within the scope of such profession or such field of learning.

The degrees of Master of Business Administration (M.B.A.), Master of Library Science (M.L.S.) or an equivalent Master’s degree, including Master of Library Science and Information Science (M.L.S.I.S), accredited by the American Library Association (but in all cases only after June 30, 1996), Master of Science in Nursing (M.S.N.), Master of Social Work (M.S.W.), and, for those faculty whose area of teaching is primarily in the creative and performing arts, the Master of Fine Arts (M.F.A.) shall be deemed to stand in lieu of a terminal degree when a bargaining unit member who holds such a degree has earned not fewer than seventy-two (72) hours of graduate credit, including the hours of credit for which such degree was awarded, in the

## ARTICLE I - RECOGNITION AND DEFINITIONS

academic or professional discipline in which he/she holds such degree, provided that such credits shall have been earned at an institution or institutions accredited at least to the level of such degree in the academic or professional discipline in question. Any such degree may stand in lieu of a terminal degree only to the extent that the holder of such degree is employed as a member of the bargaining unit to perform services, including teaching, within the scope of the profession or field of learning within which such degree has been awarded.

- b. In the case of any person first appointed to a position as a member of the bargaining unit at a State College on or after September 1, 1988, "terminal degree" shall mean the degree of Doctor of Philosophy (Ph.D.), the degree of Doctor of Education (Ed.D.), the degree of Doctor of Social Work (D.S.W.), the degree of Doctor of Nursing Science (D.N.S.), the degree of Doctor of Business Administration (D.B.A.), the degree of Doctor of Library Science (D.L.S.) or an equivalent doctoral degree, including the degree of Doctor of Library Science and Information Science (D.L.S.I.S.), accredited by the American Library Association, or such other doctoral degree (doctorate), other than the degree of Juris Doctor (J.D.), as is granted in and with reference to any specialized discipline or field of learning; provided, however, that a degree other than a doctorate may be deemed to be a terminal degree for the purposes of this Agreement whenever the Board recognizes any such degree as one customarily regarded by members of any learned profession or field of learning as the final degree qualifying any person for the practice of such profession or for recognition within such field of learning but only to the extent that the holder of any such degree other than a doctorate is employed as a member of the bargaining unit to perform services, including teaching, within the scope of such profession or such field of learning.

After June 30, 1996, the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), accredited by the American Library Association, shall be deemed to stand in lieu of a terminal degree when a bargaining unit member who holds such degree is employed as a librarian within the unit and has earned not fewer than seventy-two (72) hours of graduate credit, including the hours of credit for which such degree was awarded, in an academic discipline appropriate to the individual's role as a professional librarian, provided that such credits shall have been earned at an institution or institutions accredited at least to the level of such degree in the discipline of library science. For those faculty whose area of teaching is primarily in creative and performing arts courses, as distinguished from such courses as art history and musicology, the Master of Fine Arts (M.F.A.) shall be deemed to be a terminal degree when a bargaining unit member who holds such a degree has earned not fewer than sixty (60) hours of graduate credit, including the hours of credit for which such degree was awarded, in the creative or performing discipline in which he/she holds such degree, provided that such credits shall have been earned at an institution or institutions accredited at least to the level of such degree in the discipline in question.

## ARTICLE I - RECOGNITION AND DEFINITIONS

- c. Solely for the purpose of calculating a minimum salary (Articles XIII and XIII-A), any member of the faculty who holds the degree Master of Fine Arts (M.F.A.) that was awarded by an accredited college or university prior to December 31, 1977, shall be deemed to hold a terminal degree notwithstanding the fact that such degree was awarded on the basis of thirty (30) units of graduate credit; provided, however, that such degree shall be deemed to be a terminal degree for such purposes only if such faculty member shall have documented all additional uncredited work (e.g., an oral exam, a written thesis, or a final exhibition) that was a prerequisite to the awarding of such degree.

Any member of the faculty who holds a degree of Master of Fine Arts (M.F.A.) of the kind described in the preceding paragraph shall, in order to establish that it is a terminal degree for the purposes aforesaid, arrange to have the institution(s) awarding the degree(s) mail a certified copy of his/her transcript directly to the Academic Vice President. A certified academic transcript bears the official seal of the granting institution and is transmitted directly by it.

For those members of the faculty who earned the Master of Fine Arts (M.F.A.) degree after December 31, 1977, the terminal degree requirement shall be sixty (60) credit hours.

- d. Those members of the faculty who possess a Master of Fine Arts (M.F.A.) degree in a specific area (e.g., Creative Writing) will be deemed to hold a terminal degree only if they have met either of the criteria listed in the foregoing clause (c) and were hired to teach in the area in which they hold such degree (e.g., the posting listed as a required qualification an M.F.A. - Creative Writing), and such terminal degree shall thereafter be deemed to be a terminal degree for all purposes under this Agreement.
57. Termination. "Termination" shall mean the permanent severance of an existing employment relationship initiated by the administration of a College or by the Board of Trustees and shall not mean the non-renewal of a contract of employment.
58. Training Craft. "Training craft" shall mean and include any vessels, in addition to the Training Ship, used by the Massachusetts Maritime Academy for training purposes or instructional purposes.
59. Training Ship. "Training Ship" shall mean any vessel, being that commonly known as the "Training Ship", made available to the Massachusetts Maritime Academy pursuant to the provisions of the Maritime Education and Training Act of 1980, as amended, or otherwise, and used in the annual Sea Term.
60. Unit. In addition to its use in the terms "bargaining unit" and "unit member," as used in definition 39 above, Article X, Section E, and Article X-A, Section F, "unit" shall include Department, Program Area, Library and other similar related administrative organizational units pertaining to the performance of bargaining unit work.

## ARTICLE I - RECOGNITION AND DEFINITIONS

61. Vacancy. “Vacancy” shall mean a vacancy at any College in an approved full-time professional (AA) position for which moneys have been appropriated and allocated and which the Board, acting by its agents or otherwise, intends to fill.
62. Vice President. Unless otherwise expressly provided, “Vice President, Academic Affairs,” and “Vice President” shall mean, at each College, the Vice President, Academic Affairs, or any person or persons serving in that capacity, duly appointed and authorized therein.
63. Visiting Professor. “Visiting professor” shall mean a full-time faculty member appointed at any rank for a single semester or a single academic year in order to fulfill some special academic need or provide some special enhancement to an existing program. Any such appointment may be made pursuant to the first paragraph of Article XX, Section B.
64. Working Day. “Working day” shall mean any day on which the administrative offices of a College are open for business.
65. Work Year. “Work year” shall mean the following:
  - a. In the case of every faculty member other than a faculty member to whom paragraph (c) is applicable, the academic year;
  - b. In the case of every librarian, the twelve (12) month period from and including September 1 to and including the August 31 following; and
  - c. In the case of every Department Chair, the academic year together with such additional period or periods as are provided for in Section G of Article VI.

### E. CONSTRUCTION

Wherever the singular is used and the context clearly so requires, it shall include the plural.

Whenever any provision of this Agreement prescribes any particular benefit, right, limitation or exemption in respect only of persons holding appointments as part-time members of the faculty at the Massachusetts College of Art and Design, such benefit, right, limitation or exemption shall apply only to persons who, at the Massachusetts College of Art and Design, hold part-time appointments at the rank of Professor, Associate Professor, Assistant Professor or Instructor.

Whenever any provision of this Agreement shall require that any act be done by the Board of Trustees, by the Commissioner, by the Chair of the Council of Presidents, by the President of a College, by any member of the Administration of a College or by the President of the Association, such act may be done by the designee of the Board, the Commissioner, the Chair of the Council, the President, such member of the Administration or the President of the Association, respectively (and without regard to whether there is or is not any reference in such provision to the designee of the person or body required to act), but subject to such limits and requirements as the person or body appointing the designee may impose.

## ARTICLE I - RECOGNITION AND DEFINITIONS

### F. ENTITLEMENT UNDER THIS AGREEMENT

#### 1. Benefits

Except as otherwise provided in this Agreement, every member of the bargaining unit as described in Article I, Section A, of this Agreement shall be entitled to the applicable benefits of this Agreement, and shall have the right to participate in any election, referendum or like proceeding conducted pursuant to the provisions of this Agreement, subject to the following limitations:

No person in the bargaining unit holding a part-time appointment elsewhere than at the Massachusetts College of Art and Design or as a part-time Clinical Nursing Instructor shall be entitled to any of the benefits set forth in Article III, Section B, or Article IV of this Agreement, with the exception of the following:

- a. System-wide tuition remission benefits to the extent the same are provided pursuant to any policy of the Board of Higher Education;
- b. Health and Welfare benefits as may be determined by the Trustees of the Health and Welfare Fund; and
- c. Life Insurance, Group Insurance and Worker's Compensation to the extent permitted by Massachusetts law and the Massachusetts Group Insurance Commission.

#### 2. Elections

- a. No person in the bargaining unit holding a part-time appointment shall be entitled to vote in any election, referendum or like proceeding conducted pursuant to the provisions of this Agreement; provided, however, that any person holding an appointment of less than one-half-time at the Massachusetts College of Art and Design or as a part-time Clinical Nursing Instructor shall be entitled to vote in any such election, referendum or like proceeding except that each such vote shall be counted as a one-fourth (1/4) vote; and provided further that all part-time faculty holding appointments at the Massachusetts College of Art and Design or as a part-time Clinical Nursing Instructor of one-half-time or more shall be entitled to a full vote.
- b. Any person in the bargaining unit holding a part-time appointment at the Massachusetts College of Art and Design or a part-time appointment as a Clinical Nursing Instructor, but no other member of the bargaining unit holding a part-time appointment, shall be entitled to be selected for membership on any council or committee established in accordance with the provisions of this Agreement, and shall be entitled to full voting membership once selected for any such membership.

## ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION

### A. FAIR PRACTICES

1. As sole bargaining agent the Association shall continue its policy of accepting into membership all eligible persons in the unit without regard to age, race, color, creed and religious creed, national origin, sex, marital status, sexual orientation, veteran's status, handicap or membership or non-membership in any political or ideological organization. The Association shall represent equally all members of the bargaining unit without regard to membership or participation in the activities of any employee organization.
2. The Board of Higher Education and the Boards of Trustees agree to continue their policy of non-discrimination against any person on the basis of age, race, color, creed and religious creed, national origin, sex, marital status, sexual orientation, veteran's status, handicap, participation in or association with the activities of any employee organization, or membership or non-membership in any political or ideological organization.
3. The Association agrees to cooperate with the Board of Higher Education in the implementation of the Affirmative Action Program for the State Colleges in effect on the date of execution of this Agreement; provided, however, that nothing herein contained shall be deemed to prohibit the Board of Higher Education from amending such Program from time to time for the purpose of causing it to conform with any applicable state or federal law, any applicable rule or regulation made thereunder, or any applicable order or directive issued by any agency, including any court, having authority therein.
4. The parties to this Agreement are committed to a policy of affirmative action and non-discrimination. One purpose of the policy is to provide for equal access and equal opportunity through the recruitment and hiring of minorities, women, and the handicapped.
5. The parties support a policy of non-discrimination in all personnel actions.
6. At the request of the Chapter President, the President of the College, the Chapter President, the College Affirmative Action Officer, and the Vice President shall meet at least once each semester to confer on the College's Affirmative Action Program and to discuss any problems therein.
7. The parties mutually condemn any conduct that inflicts sexual harassment upon any member of the College community. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment for this purpose when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or his/her academic status or entitlements, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions that affect such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile or offensive academic or working environment.

## **ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION**

8. The parties agree that no provision of this Section A shall be deemed to create, or to confer on any person, any right enforceable under the terms of this Agreement, it being the common and agreed understanding of the parties that the public policies to which they hereby pledge themselves are properly established and enforced through mechanisms other than those pursuant to which the terms of this Agreement have been entered into and pursuant to which they may be enforced.

### **B. INDIVIDUAL CONTRACTS**

All rights, benefits, duties and obligations of members of the bargaining unit as set forth in this Agreement shall, during the term of this Agreement, be expressly incorporated by reference into, and made a part of, any contract of employment that has been or shall hereafter be entered into between a Board of Trustees and any person who is or shall thereafter become a member of the bargaining unit; and no such contract shall be contrary, in whole or in part, to the terms and conditions set forth herein.

### **C. CONSULTATION**

#### **1. General**

The Chair of the Council of Presidents and/or such others as he/she may designate shall meet with the Board of Directors of the Massachusetts State College Association at the request of either party once each semester for the purpose of maintaining good relationships through regular communication and for discussion of matters concerning the implementation of this Agreement. Such meeting shall be held within fifteen (15) days of such request having been made in writing to the other party, which request shall state the reason or reasons for which such meeting is to be held.

The Chair of the Council of Presidents and the Board of Directors of the Massachusetts State College Association may meet at other times and for such other purposes as either party may request and as they may mutually agree.

The President of each College and representatives of the Association shall meet at least once each semester at the request of the President of the College or of the Chapter President for the purpose of maintaining and improving relationships. Such meeting shall be held within ten (10) days of such request having been made in writing to the other party, which request shall state the reason or reasons for which such meeting is to be held.

The President of the College and representatives of the Association may meet at such other times and for such other purposes as they may mutually agree upon.

#### **2. Employee Relations Committee**

The parties agree to establish and maintain a joint Employee Relations Committee, which shall consist of three (3) representatives of the Association appointed by the President of the Association and three (3) management representatives appointed by the Board of Higher Education acting through the Council of Presidents. The representatives of the parties may be accompanied by advisors of their choosing at any meeting of the Employee Relations Committee.

## **ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION**

The purposes of this committee shall be (1) to foster good labor-management relations through the implementation of the terms of this Agreement; (2) to seek to resolve, consistent with this Agreement, problems or disputes arising under this Agreement; (3) where appropriate, to seek the resolution of grievances consistent with the terms of this Agreement; and, (4) where appropriate, subject to the provisions of this Section, to enter into mutual agreements to effectuate the terms of this Agreement.

Anything herein contained to the contrary notwithstanding, no person or body referenced in this Section C(2) shall have the authority to alter, amend, extend or revise any term of this Agreement.

The Association and the Board of Higher Education acting through the Council of Presidents shall each designate a spokesperson who shall be the authorized agent of each party in the discharge of its responsibilities under this Section.

Meetings of the Employee Relations Committee will be scheduled monthly, and on the call of either party, through its spokesperson. Special meetings shall be scheduled at mutually agreeable times, but not later than five (5) working days from the date of receipt of the request. Special meeting requests may be made orally or in writing by the spokesperson of either party to the other and shall specify the reasons for which such special meeting is requested.

The spokesperson of the Association shall serve and preside as Chair at the first meeting; thereafter, the role of Chair will alternate between the spokesperson of the Association and the spokesperson of the Council of Presidents. A representative of the party not chairing the meeting will take minutes of the meeting.

The parties agree that their representatives shall have the authority and power to reach agreements, settlements, and other adjustments on their behalf.

Minutes of each meeting should be signed within forty-five (45) days after such meeting.

The Committee shall sponsor and arrange for a contract orientation meeting to be held at a State College no later than October 31, 2009. Each Chapter President and a person appointed by him/her and two (2) persons designated by the President of each College shall attend representing the parties at each College.

### **D. INFORMATION**

#### **1. General**

The Board of Higher Education shall make available to the Association, upon the written request of the President thereof and within a reasonable time thereafter, such statistics and information related to the collective bargaining unit in its possession as are necessary for the implementation of this Agreement. It is understood that this shall not require the Board of Higher Education to compile information and statistics in the form requested unless already compiled in that form, or to supply any information deemed by the Board of Higher Education to be confidential.



## ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION

### 2. Personnel Data

No later than October 31 in each academic year and, again, not later than February 28 in each academic year, each College shall submit to the Chapter President the information depicted on Appendix Q of this Agreement.

Whenever any person has accepted an appointment to a position within the bargaining unit, a copy of the countersigned letter of appointment (as depicted in Appendices N-1 through N-6) shall be transmitted to the Chapter President.

### 3. Concurrent Evaluation Files

The following provisions of this Section D shall be of no application to any person holding an appointment to a part-time position in the bargaining unit.

In addition to the foregoing, but solely in strict compliance with the procedures and limitations that are hereinafter set forth, the Board of Higher Education shall make available to the Association such concurrent evaluation files as are requested in conformity with the following provisions.

#### a. Whenever any member of the bargaining unit

- i. has been denied tenure after having been evaluated therefor pursuant to the applicable provisions of Articles VIII and IX of this Agreement, or
- ii. has, as a non-tenured member of the bargaining unit who holds a tenure-track appointment, been issued a terminal contract of employment pursuant to the applicable provisions of Articles VIII and XX of this Agreement,

the Association may request, and the Board of Higher Education shall thereupon make available, the concurrent evaluation files of other members of the bargaining unit.

#### b. No such request shall be made unless there is then properly pending at Step 3 or Step 4 of the Grievance Procedure contained in Article XI a grievance alleging that the grievant, being a member of the bargaining unit described in the provisions of the foregoing paragraph (a)(i) or (ii), has been denied tenure or has been granted a terminal contract of employment, as the case may be, either arbitrarily or capriciously; and no such request shall be made unless it is made by the President of the Association as a part of the written notice by which the Association, in accordance with the applicable provisions of Article XI, elects to submit the grievance for resolution at Step 3 or Step 4 of the Grievance Procedure.

#### c. Such request shall be made in writing and shall set forth a full and complete statement of the reasons therefor, which statement shall include the following:

## ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION

- i. the names of those members of the bargaining unit whose evaluation files are requested; and
  - ii. the reasons for which it is claimed that such evaluation files are materially relevant to the grievance in respect of which they are sought.
- d. Within ten (10) days following its receipt of any such request timely made, the Board of Higher Education, acting by the President to whom such request has been made, shall give not less than forty-eight (48) hours' notice to the Association of the time, date and place at which the Board of Higher Education will make such files available to it; provided, however, that the time and date so fixed shall be not more than ten (10) days following the giving of such notice; and provided further that no such files shall be made available to the Association save in the manner prescribed by the following paragraph (e).
- e. Upon the date, time and place fixed by the above-described notice, a representative of the Association and of the Board of Higher Education, acting by such President, shall meet and proceed as follows:
- i. they shall first review the request made by the President of the Association and shall determine
    - (A) whether the procedures for making such a request have been strictly complied with; and
    - (B) whether the evaluation files requested are concurrent evaluation files;
  - ii. if they determine that such procedures have not been strictly complied with or that any such evaluation file is not a concurrent evaluation file, they shall dismiss such request, and such dismissal shall constitute a final and binding denial thereof;
  - iii. if they determine that such procedures have been strictly complied with and that the evaluation files requested are concurrent evaluation files, they shall then examine the content of each such file. Such examination shall take place in camera;
  - iv. the representative of the Association and the representative of the Board of Higher Education shall determine whether the content of any such file or files is materially relevant, in whole or in part, to the grievance in respect of which such files have been sought:
    - (A) if they determine that the content of any such file or files is materially relevant, in whole or in part, to such grievance, they shall provide a certified copy of so much of the same as is agreed by them to be materially relevant to the President of the Association;

## ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION

- (B) if they determine that the content of any such file or files is not materially relevant to such grievance, they shall notify the President of the Association of their determination.

Whenever the representative of the Association and the representative of the Board of Higher Education shall have determined that a concurrent evaluation file is, in whole or in part, not materially relevant to the grievance in respect of which it is sought, such determination shall constitute a final and binding denial of so much of the request of the President of the Association as pertains thereto.

- v. Whenever the representatives of the Association and the representative of the Board of Higher Education shall have failed to agree whether a concurrent evaluation file requested by the President of the Association is materially relevant, in whole or in part, to the grievance in respect of which it is sought, they shall promptly so notify the President by which the Board of Higher Education is then acting and the President of the Association.
- vi. In the event the representative of the Association or the representative of the Board of Higher Education shall have failed or refused to attend the meeting required to be held pursuant to this paragraph (e), then, unless those representatives shall have otherwise agreed in writing, the representative who does attend such meeting shall have full authority to make any and every determination required or permitted to be made pursuant to this Section, and his/her determination shall be final and binding.
- f. If at the time a grievance is presented at a hearing before an arbitrator in conformity with the applicable provisions of Article XI, there remains unresolved a dispute between the parties whether the content, or any part thereof, of a concurrent evaluation file is materially relevant to such grievance, a certified copy of the content of such file, or so much of it as is in dispute, shall be presented to the arbitrator, and the arbitrator shall examine the same in camera for the purpose of determining whether it is materially relevant to the grievance then before him/her; provided, however, that the representative of each party shall be entitled to be present during such examination and to present arguments to the arbitrator concerning whether the content of such file is materially relevant to such grievance. The arbitrator may withhold his/her decision in that regard until such time as he/she thinks it appropriate, provided only that he/she shall render his/her decision prior to the close of the hearing. The decision of the arbitrator shall be final and binding on the parties.
- g. Whenever a certified copy of the whole or any part of a concurrent evaluation file shall have been made available to the President of the Association pursuant to the provisions of paragraph (e), (f) or (h) hereof, the same shall be used solely as evidence, or for the purpose of presenting evidence, in the hearing before the arbitrator concerning the grievance in respect of which

## ARTICLE II - RELATIONSHIP BETWEEN THE BOARD AND THE ASSOCIATION

such file was sought. The President of the Association shall take all measures reasonably necessary to ensure that the content of such file is maintained in the strictest confidence, and he/she shall not disclose the same except to counsel, nor shall any person to whom he/she properly discloses it disclose the same to any person unless such person is reasonably required to have access thereto for the purposes of presenting evidence at the aforesaid hearing before the arbitrator.

Whenever any document contained in a concurrent evaluation file is admitted as evidence at a hearing before an arbitrator, testimony shall be able to be taken by any party at such hearing concerning the evaluation, including any judgments made and opinions formed in connection therewith, of which such concurrent evaluation file is the record. Every such document so admitted shall become a part of the record in the matter then pending before the arbitrator and shall be able to be used by the parties in the presentation and argument of their case; provided, however, that they shall take reasonable care to protect the strict confidentiality of such document and shall make no disclosure thereof save for the purposes heretofore permitted. Nothing in this paragraph shall prohibit the disclosure of such document to any court of competent jurisdiction when done so pursuant to the prosecution of an appeal or like proceeding arising from or in connection with the decision of any arbitrator.

- h. Whenever it shall have been determined, whether pursuant to the foregoing paragraph (e) or (f), that any concurrent evaluation file is materially relevant to the grievance in respect of which it is sought, the Board of Higher Education may thereupon determine which, if any, of the concurrent evaluation files that have not been sought by the President of the Association are materially relevant to such grievance. It shall immediately make available to the President of the Association a certified copy of the content of any such concurrent evaluation file.
- i. For the purposes of this Section D, the following words and phrases shall have the meaning hereinafter ascribed to them:
  - i. The phrase “concurrent evaluation file” shall mean all documentary materials compiled or used in the conduct of an evaluation of a member of the bargaining unit where such evaluation
    - (A) has been conducted and completed pursuant to the provisions of Article VIII of this Agreement;
    - (B) has been conducted in respect of a member of the bargaining unit who is a member of the same academic department of which the grievant is also a member; and
    - (C) has been conducted for the same kind of personnel action and in the same academic year as the evaluation that, in the case of the grievant, gave rise to the personnel action that is the subject of the grievance.

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The phrase “concurrent evaluation file” shall not be deemed to be synonymous with the phrase “official personnel file.”

- ii. The phrase “materially relevant” shall mean that the content of a concurrent evaluation file bears in a direct and substantial way on the adjudication of the question whether the grievant has been denied tenure or been granted a terminal contract of employment arbitrarily or capriciously.
- j. Any matter required to be addressed to the Board of Higher Education under this Section D, or any action to be undertaken by, or on behalf of, the Board of Higher Education under this Section D shall be addressed to, or undertaken by, the President of the College at which the then-pending grievance has arisen, acting on behalf of the Board of Higher Education.
- k. Nothing contained in this Section D shall be deemed to confer on an arbitrator any jurisdiction, not otherwise conferred by the provisions of Article XI of this Agreement, to consider, adjudicate or arbitrate such portion of any grievance as relates to any determination or decision made pursuant to an exercise of academic judgment.

### E. FILLING OF VACANCIES

The President of each College shall post for the information of unit members written notice of all vacancies for professional positions at each College. In respect of each such vacancy, such notice shall be posted not later than the date on which such vacancy is advertised elsewhere. Copies of all such notices shall be sent to the Association President and the Chapter President within fifteen (15) days of the posting.

Each notice shall contain a description of the job to be performed, the applicable salary or salary range and the qualifications for the position to be filled.

## **ARTICLE III - USE OF COLLEGE FACILITIES**

### **A. THE ASSOCIATION**

1. Upon a request in writing made to the President of a College, the Association or any Chapter thereof shall have the right to meet at such College if appropriate facilities are available. All requests must be received at least twenty-four (24) hours prior to the time requested for the meeting. The parties agree not to schedule meetings involving members of the bargaining unit which would conflict with any previously scheduled meetings or regularly scheduled classes. The parties intend that this provision shall not be deemed to prevent the reasonable scheduling of Association meetings or to permit interference with the normal conduct of College affairs.
2. The Association shall be provided with an office on each campus with a desk, chair, and filing cabinet, reasonable use of an intra-College telephone, and a separate campus mailbox, for the purpose of contract administration.
3. The President of each College shall assign at least two (2) bulletin boards for the exclusive use of the Association for the purpose of posting Association notices concerning the administration of the provisions of this Agreement.
4. The Association shall be permitted to use the intra-College mail system and e-mail system for the distribution of Association communications.
5. The Association and members of the bargaining unit shall be entitled to make reasonable use of such telephones as may from time to time be available in their respective department for the purposes of local and intra-College communication of official Association or departmental business.

### **B. MEMBERS OF THE BARGAINING UNIT**

1. Each faculty member shall have office space, a desk and chair, use of a closet or its equivalent, space in a file cabinet, and reasonable access to an intra-College telephone. The Board hereby further agrees that it shall continue to provide at each College such number of private offices for unit members as exist at each such College on the date of execution of this Agreement.
2. The parties recognize the desirability of permitting members of the bargaining unit to have access to unit members' offices and work areas twenty-four (24) hours a day, seven (7) days a week. The parties further recognize the necessity for maintaining the security of all College properties and buildings. The parties therefore agree that procedures shall be established to permit bargaining unit members to have such access to their offices and work areas, but agree that such access shall be subject to any applicable rules and regulations that may be in effect from time to time at each College for the purpose of maintaining such security.
3. The Board shall continue to maintain available secretarial and/or clerical assistance for the use of unit members in connection with the proper discharge of their duties. This undertaking is made subject to the actual availability of secretarial and/or clerical assistance at each College as that availability may exist from time to time. Necessary

### ARTICLE III - USE OF COLLEGE FACILITIES

secretarial assistance shall be provided to unit members to whom the Vice President assigns responsibility for the preparation of accreditation reports, institutional reviews, work in the educational advising center, and other similar duties.

4. Essential teaching supplies such as paper, examination books, chalk and like materials, and stationery for use in College business, subject to the availability of the same, shall, upon request, be provided in reasonable amounts to members of the bargaining unit.

At each College, up to fifty (50) laboratory coats shall be provided at no cost to those faculty teaching in laboratories and in the industrial and fine arts. Notwithstanding the foregoing, the Boards shall not be required to expend more than Three Thousand Five Hundred Dollars (\$3,500.00) cumulatively, at the State Colleges, for the purpose of providing such coats.

In addition thereto the Board shall continue to provide sufficient typewriter, duplicating and computer equipment in good repair for the use of members of the bargaining unit, and shall do so in a manner that maintains typewriting, duplicating and computing services at a level not less than that which exists immediately prior to the date of execution of this Agreement.

5. To the extent that the same are now provided in the existing buildings of each College, the Board shall continue to provide in each such building that is used by members of the bargaining unit in the discharge of their responsibilities each of the following, namely:
  - a. Clean, separate restrooms and lavatories for male and female unit members; and
  - b. A faculty lounge furnished with appropriate lounge furniture.
6. The Board shall provide service for the distribution of all unit members' mail throughout the calendar year. During the months of June, July and August, the Board shall forward the first-class mail of any unit member who shall have submitted a written request for that purpose to the business office of the respective College, which request shall state the address to which such mail is to be forwarded.
7. The Board shall provide and maintain at each College properly surfaced parking facilities without cost for members of the bargaining unit, such parking facilities to be located as close as is practicable to the appropriate teaching and/or work areas of bargaining unit members. The Board further agrees that the number of designated unit member's parking spaces shall be at least equal to the number of parking spaces presently used by bargaining unit members.

New, secured and specified parking facilities may be established where they do not now exist upon the agreement of the President of the College and the Chapter President, and subject to the prior approval of the Chair of the Council of Presidents and the President of the Association.

At those Colleges where on the date of execution of this Agreement there exist secured parking facilities for the use of bargaining unit members, rules and regulations pertaining to such facilities in effect on the date of execution of this

### ARTICLE III - USE OF COLLEGE FACILITIES

Agreement shall not be altered or amended without the prior agreement of the Association.

Notwithstanding the foregoing there shall be reserved at each College preferred unit member parking spaces for those unit members who are handicapped or otherwise disabled, in accordance with the provisions of Chapter 5 of the General Laws of the Commonwealth.

In addition, each College shall maintain a system of parking stickers which shall be issued upon request to bargaining unit members annually at a cost for the sticker of not more than One Dollar (\$1.00). No additional sticker charge shall be made at secured facilities. Bargaining unit members shall maintain parking stickers on vehicles used by them in all parking facilities.

The College agrees to enforce rules prohibiting the unauthorized use of such designated facilities.

In addition, if the designated areas are filled or be otherwise unavailable, bargaining unit members shall be permitted to park in spaces other than those so designated for unit members whenever such unit member's vehicle has a unit member parking sticker affixed thereto.

8. The Board shall maintain reasonable security for instructional equipment, libraries and offices. The Board shall honor unit members' expectation of privacy in campus areas such as their offices, the offices of the Association, restrooms and locker rooms, and shall not use surveillance technology in such areas except as necessary for criminal investigations and in accordance with judicial standards. Additionally, no surveillance technology shall be used in classrooms, studios, laboratories, or meeting rooms except as necessary for criminal investigations and in accordance with judicial standards.
9. Members of the bargaining unit shall have access to computers or computer terminals at the College at which they are employed for the purpose of discharging their duties hereunder, provided that such access shall be governed by any applicable rules and regulations in effect from time to time at such College regarding the use of any such computer or terminal. No such computer or terminal shall be used for Association business.
10. All unit member work areas shall be cleaned regularly.
11. Part-time members shall have the use of college facilities to the extent that the same were provided at each College on June 30, 2009. Each College shall provide College e-mail addresses and access for part-time members during the semesters when they are teaching at the College.
12. Unless a member of the bargaining unit and a College otherwise agree, a unit member who creates intellectual property in any book, monograph, academic paper, article, course materials, musical composition, work of art, dissertation, thesis, software program, or like material shall own and hold all rights to such intellectual property; provided, however, as follows:



### **ARTICLE III - USE OF COLLEGE FACILITIES**

- a. that the ownership of any such right in any work whose creation was sponsored by a grant from a source external to Massachusetts public higher education shall be assigned by the terms of the grant;
- b. that nothing in this subsection shall be deemed to vest in any member of the bargaining unit any property right in or to any committee report, the content of any catalogue or any like material produced or created within the scope of his/her employment as a member of the bargaining unit; and
- c. that nothing in this Agreement shall be deemed to permit any member of the bargaining unit to charge to the College or to any student a fee in connection with the use of such unit member's course materials in connection with the performance of his/her own responsibilities as a member of the bargaining unit.

#### **C. SAFETY PROCEDURES**

The Boards shall comply with any and every applicable statute, federal and state, and with any such rules and regulations as may be promulgated thereunder, that govern the conditions of health and safety in the place of work of its employees. Each College may promulgate and enforce any such rules and regulations as it may deem appropriate from time to time to provide for the safety of its employees and to ensure compliance with any such statute or with the rules and regulations promulgated thereunder. Prior to the promulgation of any such rules or regulations by the College, the President of the College shall first consult with the Chapter President regarding such rules and regulations and their enforcement; provided, however, that such consultation shall not be required in respect of any such rules and regulations in force at any College on the date of execution of this Agreement.

Whenever, upon the recommendation of the Library Director or the Library Program Area Chair, as may be appropriate, the Vice President shall have determined that the work environment in the library or a portion thereof shall be intolerable, he/she shall take such steps as may be practical to provide alternative work areas for the performance of the unit member's contractual responsibilities.

Whenever any Board shall have been informed or shall have other cause to believe that any work location or part thereof is unsafe or unhealthy, it shall investigate the same and shall, as soon as may be practicable thereafter, take such steps as it deems necessary and appropriate to correct any unsafe or unhealthy condition that it determines actually to exist.

At the request of the Chapter President, the Board shall provide annual asbestosis tests, at no cost to any member of the bargaining unit, to those members of the bargaining unit who, while in the employ of the Board, have worked in buildings or other facilities where asbestos is or has been present. Members of the bargaining unit shall be provided information concerning test results promptly upon receipt of the information by the College.

Grievances involving the interpretation or application of the provisions of this Section may be processed through Step 2 of the Grievance Procedure contained in Article XI but shall not be processed to Step 3 or Step 4 thereof.

### **ARTICLE III - USE OF COLLEGE FACILITIES**

Grievances not resolved at Step 2 may be submitted by the Association for consideration by the Employee Relations Committee.

Consistently with the preservation of rights of privacy and the effective conduct of investigations by law enforcement personnel, the College shall, if the same are known to it, inform members of the bargaining unit of any threats made against their persons or property by any individual or group, including any member of the academic community.

#### **D. MONITORING OF ELECTRONIC COMMUNICATIONS**

1. The parties recognize that a substantial portion of any information (including e-mail and other communications and records of account usage) that is stored on a computer legally constitutes public records and is accessible as such to any person at any time. The Board and the Colleges therefore agree to treat such information as confidential only if and to the extent that it does not constitute a public record, provided always that the Board and the Colleges need not treat any information as confidential if the person whose confidential information it is (including any person to whom a communication has been transmitted) discloses it or otherwise disclaims its confidential nature. The Board and the Colleges shall not, in an arbitrary manner, selectively record or monitor the information transmitted or stored by unit members. Nothing in this undertaking shall:
  - a. constitute the Board or any College the guarantor of the privacy of any such information;
  - b. prohibit a College from having access to such information in order, in accordance with an acceptable use policy, to (i) back up and maintain the functionality of its electronic communications systems, (ii) enforce any lawful prohibition against the use of such systems for personal or commercial purposes, (iii) prevent or investigate unauthorized access to such systems, (iv) enforce any requirements of law, and (v) enforce any software or other licensing agreements or copyrights;
  - c. prohibit the College from having access to such information in order to comply with a subpoena lawfully issued and enforceable, to comply with a request for public records under the Public Records Act, or to comply with any like order or requirement of law;
  - d. prohibit the College from installing “spam” filters, firewalls, virus detectors or any like software or equipment that limits the use of or access to its electronic communications systems;
  - e. prohibit the College from monitoring and logging usage data on a routine basis, including network session connection times and end points, CPU and disk utilization for individual users, security audit trails, and network loading, pursuant to an acceptable use policy or as an incident of the troubleshooting, repair or maintenance of its electronic communications systems or the preservation or enhancement of their functionality;

### **ARTICLE III - USE OF COLLEGE FACILITIES**

- f. prohibit any person who is the lawful recipient of any electronic transmission or communication from making such disclosure of it as he/she chooses; or
  - g. permit any member of the bargaining unit to alter any College's electronic communications system (by altering, adding or deleting any software or equipment) or any College's website or its associated links without the College's prior written approval.
2. The provision of acceptable use policies shall not conflict with the provisions of this Agreement; in the event, therefore, that any provision of an acceptable use policy does conflict with any provision of this Agreement, the latter provision shall prevail. Nothing in the preceding sentence shall be deemed to limit or amend the preceding subsection of this Section D.

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

### A. PAID LEAVES OF ABSENCE

#### 1. Sick Leave

##### a. Entitlement

- i. All members of the bargaining unit shall be entitled to seventy-five (75) hours (the equivalent of ten (10) days) of sick leave for each complete year of service; provided, however, that all librarians shall be entitled to one hundred twelve and one-half (112.5) hours (the equivalent of fifteen (15) days) of sick leave for each complete year of service. Sick leave credit shall begin upon the commencement of employment and shall accumulate at the rate depicted in Table 1 of this Article IV (see page 53).

A renewal of contract shall be deemed to be a continuation of service.

- ii. Sick leave may be taken by a member of the bargaining unit whenever, with respect to any regular work day falling within the work year:

(A) he/she cannot perform his/her duties because he/she is incapacitated by illness or injury; or

(B) through exposure to contagious disease, his/her presence at his/her place of work would jeopardize the health of others.

- iii. In addition to the foregoing, sick leave may be taken by a member of the bargaining unit when his/her spouse or domestic partner, child, stepchild, domestic partner's child, parent, spouse's or domestic partner's parent, or relative living in his/her immediate household is seriously ill; provided only that not more than ten (10) days of accumulated sick leave may be so taken in a single calendar year.

- iv. In addition to the foregoing, a member of the bargaining unit may use up to twenty (20) days of his/her accrued sick leave during any calendar year for the following purposes:

(A) to care for (i) the unit member's spouse or domestic partner or (ii) the unit member's child or parent or (iii) the child or parent of his/her spouse or domestic partner or (iv) a relative of the unit member or of the unit member's domestic partner living in the unit member's immediate household whenever, in any such case, any such person has a serious medical condition within the meaning of the Family and Medical Leave Act (29 U.S.C. §2601, *et seq.*); and

(B) in connection with the birth or adoption of such unit member's child (whether the unit member is the child's father or mother)

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

or the child of such unit member's domestic partner (whether the domestic partner is the child's father or mother).

Such leave shall be taken and shall run concurrently with any leave then available under the Family and Medical Leave Act; and to the extent the same are congruent, leave taken hereunder or under the preceding subparagraph (iii) shall be taken together and shall run concurrently with one another.

- v. In addition to the foregoing, sick leave may be taken by a member of the bargaining unit in connection with a foster child's placement, by the Department of Children and Families, in the home of such bargaining unit member; provided only that not more than ten (10) days of accumulated sick leave may be so taken in a single calendar year. Such leave shall be taken and shall run concurrently with any leave then available under the Family and Medical Leave Act.
- vi. In addition to the foregoing, a member of the bargaining unit may use up to fifteen (15) days of his/her accrued sick leave for any purpose arising from his/her having been the victim of domestic violence. A member of the bargaining unit may, further, take up to six (6) months of unpaid leave for any such purpose; provided only that any other leave taken for such purpose, including any leave taken pursuant to the preceding sentence, shall be taken and run concurrently with any leave taken pursuant to this sentence, and with any leave then available under the Family and Medical Leave Act. The granting of leave hereunder shall not be deemed to limit any unit member's entitlement to sick leave.
- vii. Any member of the bargaining unit who is or anticipates being absent for any of the reasons described in the preceding subparagraphs (ii) and (iii) shall, as promptly as is practicable, give notice thereof to the College in accordance with College policy.
- viii. Any member of the bargaining unit who seeks to be granted any leave under the preceding subparagraphs (iv), (v) and (vi) shall submit to the College in accordance with College policy appropriate documentary confirmation of his/her entitlement to or qualification for such leave; and any member of the bargaining unit who seeks to be granted any such leave shall give advance notice to his/her Department Chair (in the case of faculty) or to the Library Director (in the case of librarians), when scheduling any discretionary absence and, in any event, as promptly as is practicable.
- ix. Sick leave not used in any year may be accumulated.
- x. A faculty member who takes part of a day for sick or personal leave shall be charged for the actual hours of class, office hours, or meetings missed or for hours unavailable for work that day.

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

By way of illustration, assume a faculty member is scheduled to teach from 8:00 a.m. to noon.

- (A) The faculty member teaches 8:00 a.m. to 10:00 a.m. and leaves campus because of illness. The faculty member would be charged for five and one-half (5.5) hours of sick leave (seven and one-half (7.5) hours less the two (2) hours spent teaching).
  - (B) The faculty member is unable to teach from 8:00 a.m. to 10:00 a.m. because of illness but comes to campus and teaches from 10:00 a.m. until noon. The faculty member would be charged for two (2) hours of sick leave.
  - (C) The faculty member is unable to teach from 8:00 a.m. to noon and does not render service on campus at all that day. The faculty member would be charged for seven and one-half (7.5) hours of sick leave.
- xi. A faculty member whose schedule does not require his/her presence on campus during every day of the work week will be charged for sick leave on days when his/her presence is not required whenever he/she is absent on both days that are contiguous with any such day.

By way of illustration, assume a faculty member is scheduled to teach on Monday from 10:00 a.m. to 11:00 a.m. and from 2:00 p.m. to 3:00 p.m., has no commitments requiring his/her presence on campus (e.g., scheduled advising hours, committee meetings) during Tuesday, and is scheduled to teach on Wednesday from 10:00 a.m. to 11:00 a.m. and from 2:00 p.m. to 3:00 p.m.

- (A) The faculty member is absent from 10:00 a.m. to 11:00 a.m. on Monday, but teaches from 2:00 p.m. to 3:00 p.m. on that day and is then absent for the whole of Wednesday. The faculty member would be charged for a partial day of sick leave on Monday (see subparagraph (x) above) and for an entire day (7.5 hours) on Wednesday but would not be charged for any absence on Tuesday.
- (B) The faculty member teaches from 10:00 a.m. to 11:00 a.m. on Monday, is absent from 2:00 p.m. to 3:00 p.m. and is then absent for the whole of Wednesday. The faculty member would be charged for a partial day of sick leave on Monday (see subparagraph (x) above) and for an entire day (7.5 hours) on both Tuesday and Wednesday.

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

- b. Sick Leave Bank (A summary description of the administration and operation of the sick leave bank is set out on pages 54-56.)

Upon the date of execution of this Agreement, every sick leave bank established pursuant to the provisions of the agreement that was the predecessor to this Agreement shall be maintained for the benefit of all those members of the bargaining unit who shall choose, pursuant to the provisions of this Agreement, to become a member thereof; and any member of the bargaining unit who is a member of any such bank on the effective date of this Agreement shall remain a member thereof subject to the terms and conditions of this paragraph (b).

On October 1st of each academic year, a member of the bargaining unit who is not already a member of a sick leave bank shall become a member thereof and be deemed to have assigned seven and one-half (7.5) hours (the equivalent of one (1) day) of his/her personal sick leave accumulation to the bank unless, during the preceding thirty (30) days, he/she shall have elected not to become a member of the bank; such election shall be made in writing and otherwise in accordance with such requirements as may be established by the College. Any person who becomes a member of the bargaining unit after September 1 in any work year shall become a member of the sick leave bank and be deemed to have assigned seven and one-half (7.5) hours (the equivalent of one (1) day) of his/her personal sick leave accumulation to the bank on the date on which he/she first accrues at least seven and one-half (7.5) hours (the equivalent of one (1) day) of such leave unless, during the preceding thirty (30) days and in the manner described above, he/she shall have elected not to become a member of such bank.

Whenever the accumulation of sick leave in the sick leave bank shall have fallen below three hundred seventy-five (375) hours (the equivalent of fifty (50) days), or, in the case of the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, whenever such accumulation shall have fallen below one hundred eighty-seven and one-half (187.5) hours (the equivalent of twenty-five (25) days), the President shall notify the Chapter President in writing, and on the fifteenth (15th) day following the giving of such notice, every member of the sick leave bank shall be deemed to have assigned seven and one-half (7.5) hours (the equivalent of one (1) day) of his/her personal sick leave accumulation to the bank unless, during the period of fifteen (15) days following the giving of such notice, he/she shall have elected, in the manner described above, not to remain a member of the bank; provided, however, that any member of the sick leave bank wishing to remain a member thereof and who shall have exhausted his/her personal sick leave accumulation on the date of the giving of such notice, shall be deemed to have assigned such additional hours within fifteen (15) days after the date on which such member is next entitled to personal sick leave, unless, within such period, he/she shall have elected, in the manner described above, not to remain a member of the bank; and provided further that such member shall retain all his/her rights in the bank until such election shall have been made.

#### **ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS**

Any member of the bargaining unit who is employed at the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts or the Massachusetts Maritime Academy and who wishes to become or to remain a member of the sick leave bank in accordance with any provision of this paragraph (b) shall be deemed to have assigned fifteen (15) hours (the equivalent of two (2) days), rather than seven and one-half (7.5) hours (the equivalent of one (1) day) of his/her personal sick leave accumulation to the bank for such purpose.

The President shall maintain a register of the membership of the sick leave bank and of the number of sick leave hours accumulated in the bank.

No member of the bargaining unit shall be entitled to become a member of the sick leave bank save as is hereinbefore provided.

Once he/she has been off the payroll for thirty-seven and one-half (37.5) hours, every member of the sick leave bank shall draw upon the sick leave bank as needed; provided, however, that no member of the bargaining unit shall, during any five (5)-year period commencing with the date on which he/she first draws upon the sick leave bank, draw in the aggregate therefrom more than the equivalent of two (2) work years of sick leave for any single illness or injury; and provided further that no two (2) absences shall be deemed to have been occasioned by the same illness or injury if separated from one another by more than one (1) calendar year. For a period not to exceed one hundred eighty-five (185) days during the applicable work year(s), a member of the sick leave bank who otherwise qualifies to draw upon the sick leave bank shall be entitled to draw upon the sick leave bank on a part-time basis in conjunction with part-time employment at the College; provided only that such member on the sick leave bank shall have documented the medical necessity or appropriateness of doing so, either as a reasonable accommodation for a disability or otherwise, by submitting to the College a statement or similar record from a qualified medical provider that confirms the same. The partial days from the sick leave bank shall be subtracted from the two (2) work years' maximum described in this paragraph.

Any member of the bargaining unit who shall have ceased to be eligible to draw upon the sick leave bank in respect of any illness or injury shall be entitled to be accorded an unpaid leave of absence for up to two (2) years for such illness or injury.

Whenever any person is drawing upon the sick leave bank and, while doing so, is entitled to accumulate personal sick leave in accordance with the provisions of the foregoing paragraph (a), the amount of such sick leave that would otherwise accrue to such person shall accrue in its full amount to the sick leave bank.

The President may at any time, and upon the written request of the Chapter President shall, require that any member of the bargaining unit who is on leave of absence by reason of sickness be examined by a physician chosen by



#### **ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS**

the President; and any member of the bargaining unit who thereafter fails or declines to be so examined shall not be entitled to draw upon any accumulated sick leave or upon any sick leave bank for so long as he/she fails or declines to be so examined. The cost of any such examination shall be borne by the College.

In the event that the physician conducting such examination thereafter certifies that the member of the bargaining unit in question is medically able to resume the performance of his/her duties, such member of the bargaining unit shall thereupon do so, and his/her entitlement to sick leave shall cease on the date he/she resumes the performance of his/her duties or at the expiration of the fifth (5th) day following the date of the physician's certification, whichever is sooner; provided that such entitlement shall not lapse during the pendency of any appeal from the physician's certification.

Any member of the bargaining unit wishing to appeal any physician's certification shall do so by giving notice thereof in writing to the President of the College within five (5) days following the date of such certification. Within ten (10) days following the giving of such notice, the member of the bargaining unit shall give further notice to the President of the name of a physician whom he/she thereby designates to serve as a member of a medical review panel, which panel shall be thereupon constituted for the purpose of considering the question whether the member of the bargaining unit in question is medically able to resume the performance of his/her duties. Failure to give either of the above-described notices in timely fashion shall constitute waiver of the appeal.

The medical review panel shall be composed of the physician so designated by the member of the bargaining unit; the physician whose certification has given rise to the appeal or another physician chosen by the President if the first is unwilling or unable to serve; and a third physician chosen by the other two (2).

The medical review panel, as promptly as it may, shall, by a majority vote of its members, determine whether the member of the bargaining unit is or is not, at that time, medically able to resume the performance of his/her duties. The panel shall not be required to conduct any hearings in this regard but the panel may require such member of the bargaining unit to produce, or authorize the release of, such medical records as it deems relevant to the making of its determination, and it may conduct or cause to be conducted such physical examinations as it deems appropriate.

The decision of the panel shall be final and binding and shall not be the subject of any claim or grievance prosecuted pursuant to Article XI of this Agreement or otherwise. Notwithstanding the foregoing, upon the written request of either party to this Agreement, such decision may be reconsidered by the same panel or, in the event that any of its members are unwilling or unable to serve, by one constituted in like fashion. Any such panel shall have the authorities and responsibilities of the original panel.

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The College shall bear the cost of any physician designated by it to serve on a medical review panel, the member of the bargaining unit taking the appeal shall bear the cost of any physician designated by him/her for such purpose, and the parties to this Agreement shall, in equal shares, bear the cost of the third physician; provided, however, that they shall not be required to bear the cost of any laboratory tests or other medical procedures, exclusive of physical examinations conducted by members of the panel, without their first agreeing to do so.

The failure or refusal of any member of the bargaining unit who has taken an appeal to submit to any physical examination by a member or members of a medical review panel or to produce, or authorize the production of, any medical records requested by such panel shall be cause for it to dismiss such appeal.

Sick leave shall not be permitted to be drawn from the sick leave bank for use pursuant to subparagraphs (iii), (iv), (v) or (vi) of the preceding paragraph (a).

c. Alcohol and Drug Addiction

The parties recognize that alcohol and drug addiction may be treatable illnesses. The parties agree to cooperate in encouraging employees afflicted with alcohol and drug addiction to undergo a program of rehabilitation.

d. Re-employment

Any member of the bargaining unit who leaves the employ of the Board and is later re-employed shall be credited with any such personal sick leave accumulation as existed at the end of his/her previous service, unless such member of the bargaining unit shall have been compensated for his/her personal sick leave accumulation pursuant either to paragraph (g) of this subsection 1 or to any like provision of any predecessor agreement to this Agreement. Any such person so re-employed shall be entitled to draw on the sick leave bank if he/she was so entitled on the date on which he/she left the employ of the Board. The provisions of this paragraph shall not apply where re-employment occurs after an absence of three (3) years or more unless approval of the President is secured and only if such absence was for any of the following reasons:

- i. illness of such person and not because of illness in his/her immediate family;
- ii. dismissal through no fault or delinquency attributable to such person;  
or
- iii. injury sustained while in the service of the Commonwealth in the line of his/her duties and for which such individual would be entitled to receive worker's compensation benefits.

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e. Disability and Worker's Compensation

A member of the bargaining unit who receives disability compensation provided by statute and who is entitled to any personal sick leave allowance may take that portion of his/her personal sick leave allowance payment which, when added to the amount of the disability compensation provided by statute, will result in the payment to him/her of his/her full salary. The sick leave bank shall not be used for this purpose.

If and when a member of the bargaining unit has personal sick leave available and is injured while in the performance of his/her duty, and if such injury could result in a claim under Chapter 152 of the General Laws, as amended (Worker's Compensation Act), he/she shall be entitled to use his/her personal sick leave to the extent such leave is available until payments under the Worker's Compensation Law begin. Any adjustments due him/her because of the effects of this provision shall be made thereafter. The sick leave bank shall not be used for this purpose.

The provisions of this paragraph (e) shall not be deemed to be of application to a bargaining unit member who shall have retired.

f. Notice of Benefits

Unless regularly provided by HR/CMS, the President on or before September 30 of each year, shall inform every member of the bargaining unit at the College of the number of sick leave hours accumulated to his/her credit on that date. A copy of an aggregate report of such information shall be transmitted to the Chapter President on or before September 30 of each year.

g. Retirement: Sick-leave Buy-back

Employees, upon leaving the employ of the Board, shall not be entitled to compensation for accumulated sick leave; provided, however, that any employee who is eligible to retire in accordance with the State Retirement Act and who, having given the President not less than three (3) months' advance written notice thereof, does retire shall be paid twenty percent (20%) of the value of his/her unused accumulated sick leave at the time of his/her retirement, which value shall be calculated on the basis of such employee's rate of pay as it is on the date immediately prior to the date on which his/her retirement has effect. The President, for reasons deemed satisfactory to him/her, may waive the notice required by the preceding proviso.

In calculating the daily rate of pay of any member of the bargaining unit, the following formulas shall be used:

- i. in the case of any faculty member, the daily rate of pay shall be an amount equal to 1/195th of such unit member's annual salary rate as such annual salary rate is on the date on which or in respect of which such calculation is required to be made; or

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

- ii. in the case of any librarian, the daily rate of pay shall be an amount equal to 1/260th of such unit member's annual salary rate as such annual salary rate is on the date on which or in respect of which such calculation is to be made.

In determining the work year of a Department Chair for any of the foregoing purposes, the extension provided for at Section G(1) of Article VI of this Agreement shall be disregarded.

- h. Deferred Retirement

Any employee who is otherwise qualified to be paid the sick-leave buy-back, so called, that is described in the preceding paragraph (g) but who, having given notice thereof to the College, defers his/her retirement in accordance with the requirements of the State Retirement Act shall be entitled to be paid his/her sick-leave buy-back when he/she actually retires, and the value thereof shall be calculated on the basis of his/her rate of pay as it was when he/she was last employed as a member of the bargaining unit.

- i. Death

If at the time of an employee's death he/she was eligible to retire in accordance with the State Retirement Act (regardless of whether such employee was enrolled in the retirement program under such Act or was enrolled in the Optional Retirement Program established under Chapter 15A, §40), then the estate of such employee shall be paid twenty percent (20%) of the value of his/her accumulated sick leave at the time of his/her death, provided that no monetary or other allowance has been made therefor. The President shall authorize such payment upon the establishment of a valid claim therefor. In calculating the daily rate of pay of any such member of the bargaining unit, the formulas depicted in the preceding paragraph (g) shall be used.

- 2. Enhanced Paid Leave for the Birth, Adoption or Placement of a Child in Foster Care

Paid leave shall, at the request of any member of the bargaining unit, be granted to him or her (whether the unit member is the child's father or mother or whether the unit member's domestic partner is the child's father or mother) on any of the following occasions:

- a. for the birth of such unit member's child or the birth of such unit member's domestic partner's child;
- b. for the adoption of a child by the unit member or the unit member's domestic partner; and
- c. for the placement of a child as a foster child in the unit member's home.

The leave so granted shall be such number of consecutive days as the unit member may request but shall not exceed ten (10) such days.

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The granting of leave hereunder shall not be deemed to limit any member's entitlement to sick leave but shall be taken and shall run concurrently with any leave then available as maternity leave or paternity leave, including any leave then available under the Family and Medical Leave Act.

Any member of the bargaining unit who seeks to be granted any leave under this subsection 2 shall submit to the College in accordance with College policy appropriate documentary confirmation of his/her entitlement to or qualification for such leave; and any member of the bargaining unit who seeks to be granted such leave shall give advance notice to his/her Department Chair (in the case of faculty) or to the Library Director (in the case of librarians) and, in any event, as promptly as is practicable.

### 3. Bereavement Leave

Upon evidence satisfactory to the Board of the death of the husband, wife, domestic partner, child or stepchild of any member of the bargaining unit, bereavement leave with full pay shall be granted for a period not exceeding seven (7) days; upon such evidence of the death of the domestic partner's child, brother, sister, parent, parent of the spouse or domestic partner, grandparent, or grandchild of any member of the bargaining unit or of a person, including a domestic partner, living in his/her immediate household, bereavement leave with full pay shall be granted for a period not exceeding four (4) days; and upon such evidence of the death of the brother or sister of the spouse or domestic partner of a member of the bargaining unit, bereavement leave with full pay shall be granted for a period not exceeding two (2) days. A unit member may have up to three (3) hours to attend the funeral of a colleague or former colleague after filing a notice with the Vice President.

### 4. Military Leave

a. Every member of the bargaining unit shall be entitled, during the time of his/her service in the armed forces of the Commonwealth, under §§ 38, 40, 41 or 60 of Chapter 33 of the General Laws, or during his/her annual tour of duty of not more than seventeen (17) days as a member of a reserve component of the armed forces of the United States, to receive pay therefor without loss of his/her ordinary remuneration, and shall also be entitled to all leaves of absence provided in this Agreement.

Any member of the bargaining unit who is a member of a reserve component of the armed forces of the United States and who is called for duty other than the annual tour duty of not more than seventeen (17) days shall be subject to the provisions of Chapter 708 of the Acts of 1941, as amended, or of Chapter 805 of the Acts of 1950, as amended.

b. Any member of the bargaining unit who, on or after January, 1940, shall have tendered his/her resignation or otherwise ended his/her employment for the purpose of serving in the military or naval forces of the United States and who does or did so serve or was or shall be rejected for such service, shall, except as is otherwise provided by Chapter 708 of the Acts of 1941, as amended, be deemed to be or to have been on military leave, and no such member of the

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bargaining unit shall be deemed to have resigned or to have ended his/her employment until the expiration of two (2) years from the termination of said military or naval service by him/her.

- c. Leave of absence with pay shall be granted to any member of the bargaining unit for the period of time of his/her appearance before local draft boards or draft appeal boards, or for physical examinations ordered by such boards.
- d. A member of the bargaining unit who is rejected by the armed forces of the United States shall be granted leave of absence with pay from the date on which he/she is ordered to report to the draft board until the time of his/her rejection, and, in addition for such period of time, not to exceed forty-eight (48) hours, as may be required for travel in connection therewith.

### 5. Court Leave

- a. Members of the bargaining unit who are called for jury duty shall be granted court leave. Members of the bargaining unit shall file notice of service with the President of the College immediately upon receipt of summons.
- b. If jury fees received by a member of the bargaining unit amount to more than his/her regular rate of compensation, he/she may retain the excess of such fees and shall turn over the regular rate of compensation, together with a court certificate of service, to the President, and shall be deemed to be on leave of absence with pay. If the jury fees amount to less than his/her regular rate of compensation, he/she shall be deemed to be on leave of absence with pay and shall turn such fees over to the President with a court certificate of service.
- c. Expenses reimbursed by the court for travel, meals, room hire, etc., shall be retained by the member of the bargaining unit and shall not be considered part of the jury fees.
- d. Members of the bargaining unit who are summonsed to appear as witnesses on behalf of any town, city, county, state, or the federal government shall be granted court leave; provided, however, that if any member of the bargaining unit is summonsed to appear as a witness because of the duties of an additional position, whether part-time or not, with a city, town, county, state or the federal government or otherwise, such member of the bargaining unit shall not be granted court leave with pay. Members of the bargaining unit shall file notice of service with the President upon receipt of summons.
- e. Whenever a member of the bargaining unit is granted court leave with pay, witness fees and all other fees except jury fees shall be paid to the President of the College. Whenever a member of the bargaining unit is called for jury duty or summonsed to appear as a witness and such jury duty or appearance occurs during his/her vacation or, in the case of faculty, without the academic year, there shall be no necessity to account for any fees received during such period.

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- f. Expenses reimbursed the member of the bargaining unit for travel, meals, room hire, etc., shall be retained by him/her and shall not be considered as part of the witness fees.
- g. When a member of the bargaining unit has been granted court leave for jury or witness service, and is excused by proper court authority, he/she shall report back to his/her official place of duty whenever the interruption in jury or witness service shall permit four (4) or more consecutive hours of employment.
- h. Court leave shall affect no employment rights.
- i. Court leave shall not be granted when a member of the bargaining unit is the defendant or is engaged in personal litigation.

### 6. Volunteer Leave

At the sole discretion of the President, a member of the bargaining unit who requests the same may be granted up to one (1) day of paid leave each month to volunteer at a public school in the Commonwealth or to participate in a mentoring program to assist young people.

### 7. Other Leaves

Such other leaves as are herein authorized shall also be available to members of the bargaining unit, provided that whenever the granting of any such leave is discretionary, such discretion shall be exercised by the President.

- a. To permit members of the bargaining unit who are veterans to pay tribute at the funeral in Massachusetts of a dead veteran, the President shall grant leave of absence with pay to veterans who are members of firing squads, color details, pall bearers, buglers or escorts participating in such service.
- b. Members of the bargaining unit shall be entitled to leave of absence with pay for loss of time due to prophylactic inoculation required as a result of their employment. If such absence with pay exceeds one (1) week, the Board shall immediately initiate a worker's compensation claim and further payments because of such prophylactic inoculation shall cease.
- c. Members of the bargaining unit shall be entitled to leave of absence with pay for the period of absence due to quarantine because of exposure to contagious disease in the regular performance of duty.
- d. Leave of absence with pay may be granted for the following absences:
  - i. blood donations;
  - ii. oral and written examination for the State service conducted by the Civil Service Unit or the Division of Professional Licensure;

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- iii. practical and written examination for the renewal or upgrading of marine licenses conducted by the United States Coast Guard;
  - iv. physical examination for State service conducted by the Civil Service Unit or the Division of Professional Licensure;
  - v. State Retirement physical examinations; and
  - vi. to attend hearings in Industrial Accident cases as the injured person or as a witness therein. Any witness fees received for such attendance shall be refunded to the President.
- e. Leave of absence with pay may be granted members of the bargaining unit who are delegates or alternates to state or national veterans' conventions.
  - f. Leave of absence with pay, not to exceed two (2) hours, shall be granted to any member of the bargaining unit, if he/she makes written application therefor, to permit him/her to vote in the voting precinct, ward or town in which he/she is entitled to vote, provided that the hour of opening and the hour of closing of the polls at such voting place would preclude his/her working his/her regular hours of employment and his/her traveling to or from the polls.

### 8. Exclusions from Leave Deduction

Upon the written application of a member of the bargaining unit, made through his/her Department Chair, or through the Library Director or the Library Program Area Chair, as the case may be, the President of the College may grant such member of the bargaining unit permission to attend a convention, meeting of a learned society, or other professional function without loss of compensation or other penalty, and such attendance shall be deemed to be a part of the professional duties of such member of the bargaining unit.

### 9. Vacation Leave

Librarians shall be entitled during each such year to an annual vacation leave in accordance with and subject to the following provisions.

#### a. Vacation Year

The vacation year shall be the period July 1 to June 30 inclusive.

#### b. Vacation Accrual

For service beginning on the first working day of July in any vacation year, vacation leave shall accumulate monthly at the applicable rate depicted on Table 1 of this Article IV (see page 53).



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### c. Scheduling of Vacation Leave

In scheduling vacations, the Library Director or the Library Program Area Chair, as may be appropriate, and the Vice President shall endeavor to permit the taking of vacation at the times requested by each librarian, subject, however, to the maintenance of librarian services which are required at the College. Librarians shall make reasonable efforts to schedule their vacations during the times when the demand for library services at the College is diminished.

The Library Director or the Library Program Area Chair, as may be appropriate, shall ensure that the vacation leave is scheduled during the year succeeding the year of its accrual in order that the librarian may not lose vacation leave; provided, however, that vacation leave not so scheduled or taken may be converted to sick leave, but only as is hereinafter provided; and provided further that a vacation allowance so scheduled but not taken shall cease to be credited.

In no event shall vacation leave be accumulated in excess of four hundred eighty (480) hours (the equivalent of sixty-four (64) days) without the prior mutual agreement of the librarian and the Vice President. If, without such agreement, any librarian accumulates vacation leave in excess of four hundred eighty (480) hours (the equivalent of sixty-four (64) days), all such excess shall thereupon be converted to sick leave.

### 10. Leave Entitlement While on Shipyard Status

No paid leave of absence shall be available to any member of the bargaining unit during any period in which such member of the bargaining unit is serving aboard the Training Ship while such ship is on shipyard status, except with the prior approval of the President of the Academy.

### 11. Personal Leave

On each January 1, each librarian shall be credited with twenty-two and one-half (22.5) hours (the equivalent of three (3) days) of personal leave, which may be taken during the following twelve (12) months at a time or times requested by the employee and approved by the Vice President. Any such leave when so taken shall be taken without loss of pay. Any personal leave not taken by any December 31 will be forfeited by the member of the bargaining unit.

Every faculty member shall be credited with seven and one-half (7.5) hours (the equivalent of one (1) day) of personal leave for the spring semester and seven and one-half (7.5) hours (the equivalent of one (1) day) of personal leave for the fall semester. If unused, the day credited for the spring semester shall be carried forward to the ensuing fall semester, but no personal leave credited for or carried forward to the fall semester shall, if unused, be carried forward to the ensuing spring semester.

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### 12. Reimbursed Leave

A member of the bargaining unit shall be granted a paid leave of absence when

- a. it is necessary to be excused from all workload obligations under Article XII or XII-A in order either
  - i. to hold elective MTA or NEA office, or
  - ii. to engage in scholarship with the approval of the College President, and
- b. the agency or organization in which the office is held or which is sponsoring the scholarship will reimburse the College for the unit member's salary and all indirect costs that are attributable to the unit member's employment at the College and for which the College is responsible during the period of the leave.

### B. UNPAID LEAVES OF ABSENCE

#### 1. Professional Leave

Upon the application of a member of the bargaining unit, the President of a College may grant to such member of the bargaining unit leave without pay for such term, upon such condition and for such purpose as he/she may determine. The purposes for which a member of the bargaining unit may submit his/her application for such unpaid leave include, but shall not be limited to:

- a. advanced study, including creditable service at sea for the purpose of the renewal or upgrading of licenses;
- b. participation in an exchange-teaching program;
- c. participation in a cultural program related to his/her professional responsibilities;
- d. service in a public office to which he/she has been elected or appointed;
- e. service as an administrator at any College; and
- f. for such other purposes as may be allowed under the laws of the Commonwealth.

Any member of the bargaining unit granted an unpaid leave of absence shall retain those benefits accrued during the period of his/her leave which are permitted by statute and the policies of the Board of Higher Education; provided, however, that the period of any such leave shall not be included in the computation of the seniority of any member of the bargaining unit, nor shall the taking of any such leave be deemed to affect any prior-accrued seniority.

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### 2. Maternity Leave

Any female member of the bargaining unit who has been employed full-time for at least three (3) consecutive months, who has given notice at least two (2) weeks prior to her anticipated date of departure, and who has given notice of her intention to return to her employment at the College, is entitled to be absent from such employment for a period not exceeding eight (8) weeks for the purpose of giving birth or for the purpose of adopting a child under three (3) years of age; provided, however, that whenever such leave when so granted will terminate during the course of an academic semester, the President may, by agreement with the person in question, require that such leave shall terminate at the end of the semester during which it would otherwise terminate. Such leave shall be without pay for such period.

Any member of the bargaining unit taking such a maternity leave shall, upon her return to work, be restored to her previous position or a similar position, with the same status, pay, and seniority; provided, however, that any such restoration shall be subject to all the applicable provisions of Chapter 149, § 105D, of the General Laws. Accrued sick leave benefits shall be provided for disabilities caused or contributed to by the pregnancy, miscarriage, childbirth and recovery therefrom. Such benefits shall be provided for maternity leave purposes under the same terms and conditions which apply to other temporary disabilities.

Maternity leave shall not affect the right of any member of the bargaining unit to continue to accumulate sick leave.

### 3. Family Leave

Upon written application to the President, including a statement of reasons, any member of the bargaining unit who has been employed for at least three (3) consecutive months, who has given notice at least two (2) weeks prior to his/her anticipated date of departure, and who has given notice of his/her intention to return to his/her employment at the College, may be granted family leave from such employment for a period not exceeding one (1) year; provided, however, that whenever such leave when so granted to a member of the faculty will terminate during the course of an academic semester, the President may, at his/her sole discretion, require that such leave shall terminate at the end of the semester during which it would otherwise terminate. Such leave shall be without pay for such period.

The purposes for which a member of the bargaining unit may submit his/her application for such unpaid leave include, but shall not be limited to:

- a. the need to care for, or to make arrangements for the care of, a minor child of the member of the bargaining unit, whether or not such child is the natural, adopted or stepchild of such member of the bargaining unit;
- b. to discharge any other responsibilities or duties in his/her capacity as the parent of a minor dependent child, whether or not such child is the natural, adopted or stepchild of such member of the bargaining unit; or

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- c. the need to care for a member of the bargaining unit member's immediate family.

Any member of the bargaining unit taking such a family leave shall, upon his/her return to work, be restored to his/her previous position or a similar position, with the same status, pay, and seniority; provided, however, that any such restoration shall be subject to all the applicable provisions of Article X of this Agreement.

A member of the bargaining unit on family leave shall not be entitled to use any accumulated sick leave, but upon cancellation or expiration of the family leave, such member of the bargaining unit shall regain his/her right to use such accumulated sick leave.

4. Family and Medical Leave Act

Nothing contained in this Agreement shall be deemed to abridge any right conferred on any member of the bargaining unit or on either of the parties hereto by the Family and Medical Leave Act of 1993 (P.L. 103-3) as the same may be amended from time to time (the "FMLA"). At the request of any member of the bargaining unit who is then on leave under the FMLA, further leave shall, from and after the date on which the FMLA leave expires, be granted for up to an additional fourteen (14) weeks if and for so long as (but not for more than the additional fourteen (14) weeks) the condition for which the FMLA leave was originally granted persists. No such further leave will be granted on an intermittent basis hereunder.

5. Small Necessities Leave Act

Nothing contained in this Agreement shall be deemed to abridge any right conferred on any member of the bargaining unit or on either of the parties hereto by the Small Necessities Leave Act (Chapter 149, §52D of the General Laws) as the same may be amended from time to time.

### C. INSURANCE

1. Insurance

Every member of the bargaining unit who shall have paid such premium or share thereof as is required by law shall be afforded such group health insurance, group accidental death and dismemberment insurance and group life insurance as may be provided from time to time under and in accordance with the applicable provisions of Chapter 32A of the General Laws.

If authorized or permitted by the Group Insurance Commission, the teaching of six (6) semester hours of credit of instruction shall, during any academic semester, constitute half-time employment for purposes of any faculty member's eligibility for benefits of insurance under Chapter 32A of the General Laws. Nothing in this paragraph shall be deemed to obligate the Board or any College to provide any member of the bargaining unit with any insurance coverage or benefit.

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### 2. Worker's Compensation

The members of the bargaining unit shall be covered by the provisions of Chapter 152 of the General Laws to the extent that the Commonwealth has acted pursuant to §69 thereof to include them within the coverage of said Chapter 152.

### 3. Protection of Members of the Bargaining Unit

The parties recognize that members of the bargaining unit are employees of the Commonwealth for purposes of Chapter 258 of the General Laws.

### 4. Nurses Malpractice Insurance

The Board shall provide the sum of up to One Hundred Twenty Dollars (\$120.00) annually to each nursing faculty member of the bargaining unit who is required as a condition of his/her employment to carry malpractice insurance; provided, however, that each such member of the bargaining unit shall utilize such funds for the purchase of such insurance as is required to be maintained, and shall maintain the same in force and effect during each such year so required.

## D. TAX-DEFERRED ANNUITIES

The Board of Higher Education shall continue its policy of permitting the purchase of annuities by members of the bargaining unit pursuant to the provisions of Chapter 15, §18A, of the General Laws.

## E. HEALTH AND SAFETY

The parties recognize the need to maintain and preserve safe and healthful working conditions, and to this end, they agree to consult from time to time pursuant to the provisions of Article III, Section C, of this Agreement.

## F. TRAVEL EXPENSES

Subject to the following provisions, all members of the bargaining unit shall be compensated for travel expenses for which prior authorization has been given by the President:

1. For expenses incurred for travel that is required in the discharge of the prescribed duties of a member of the bargaining unit and that is authorized as such by the President, a member of the bargaining unit shall be reimbursed as follows:
  - a. Whenever use of a bargaining unit member's private car is necessary and has been so authorized, the IRS mileage rate as it is from time to time and the costs of parking and tolls shall be allowed.
  - b. Whenever use of any other mode of transportation is necessary and has been so authorized, the cost of all fares shall be allowed.
  - c. Transportation between a member of the bargaining unit's home and the College shall not be reimbursable.

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- d. Reasonable charges for hotel rooms shall be reimbursable. Receipted bills shall be submitted for such charges.
- e. Reasonable tips, including those for meals, shall be reimbursable.
- f. Reimbursement shall not be made for expenses incurred for the sole benefit of the traveler, such as, by way of example, valet service, entertainment and laundry service.
- g. Members of the bargaining unit shall be reimbursed for meals when on full travel status, which is defined as being temporarily absent from their home on assignment to duty for more than twenty-four (24) hours.
- h. Such reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed the following amounts unless higher amounts shall have been approved by the Commonwealth:

Breakfast	\$7.50
Lunch (midday meal)	\$12.50
Supper (evening meal)	\$20.00

provided that the maximum prescribed herein for lunch and supper may be reversed at the option of the person when he/she is entitled to both meals in one (1) day. These rates shall apply to the European Plan only.

- i. For travel status of twenty-four (24) hours or more, the following are the allowances on the first day: when travel status begins before 6:00 a.m., the member of the bargaining unit shall be entitled to breakfast, midday and evening meals. When the travel status begins between 6:00 a.m. and noon, the member of the bargaining unit shall be entitled to the midday and evening meals. When travel status begins between noon and 6:00 p.m., the member of the bargaining unit shall be entitled to the evening meal.
- j. When travel status of a twenty-four (24) hour period or more ends between 6:00 a.m. and noon, the member of the bargaining unit shall be entitled to breakfast. For travel ending between noon and 6:00 p.m., breakfast and the midday meal shall be allowed. For travel ending after 6:00 p.m., breakfast and the midday and evening meals shall be allowed.
- k. Breakfast at the beginning and the evening meal at the end of full travel status shall not be allowed unless the claim is accompanied by a statement of the necessity for early departure or later return.
- l. For travel of one (1) day's duration starting before 6:45 a.m. the member of the bargaining unit shall be entitled to the breakfast allowance. In no event shall the midday meal be allowed for travel of less than twenty-four (24) hours' duration. In the case of the breakfast allowance, every claim for reimbursement must state the time of departure; in the case of the evening meal allowance, every claim for reimbursement must state the time of arrival

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home. Such claim must also state the necessity for early departure or late return.

Every claim for reimbursement made pursuant to the provisions of subsection 1 shall be made on such form and, subject to the foregoing provisions, in such manner as may from time to time be approved by the President.

2. In order to facilitate and encourage participation by members of the bargaining unit in professional conferences, meetings and other activities related to the performance and development of their role as professional academics, the President may, in accordance with past practice but only insofar as it is possible and feasible so to do, approve the request of a member of the bargaining unit to pay, in whole or in part, such travel expenses as shall have been incurred by such member of the bargaining unit for the foregoing purpose, but only the following such expenses:
  - a. whenever a bargaining unit member's private car shall have been used, the IRS mileage rate as it is from time to time;
  - b. whenever any other mode of transportation shall have been used, the cost of fares;
  - c. reasonable charges for hotel rooms, receipted bills in respect of such charges having been submitted;
  - d. reasonable tips other than those for meals; and
  - e. actual meal expenses incurred, including tips; provided, however, that any reimbursement that may be so paid shall not exceed the following amounts unless higher amounts shall have been approved by the Commonwealth:

Breakfast	\$7.50
Lunch (midday meal)	\$12.50
Supper (evening meal)	\$20.00

Every request for reimbursement made pursuant to the provision of subsection 2 shall be made on such form and, subject to the foregoing provision, in such manner as may be from time to time approved by the President.

The President shall, at his/her sole discretion, determine whether and in what amount any moneys shall be paid to any member of the bargaining unit as reimbursement for travel expenses pursuant to the provisions of this subsection 2.

Nothing in this subsection 2 shall be deemed to derogate from the right of any President to allocate travel moneys to departments or program areas within a College in such manner and subject to such criteria as the President may deem appropriate.

3. Nothing in the foregoing provisions of this Section F shall be deemed to be of application to any member of the bargaining unit in respect of any period spent on board the Training Ship or any other vessel owned or operated by the Massachusetts Maritime Academy, irrespective of whether such ship or vessel is on Sea Term status; provided,

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

however, that the foregoing provisions of Section F shall be of application, in accordance with such provisions, to travel expenses incurred by a member of the bargaining unit while serving aboard such ship or vessel, when such ship or vessel is on Sea Term status or shipyard status if such expenses are incurred while away from such ship or vessel.

### G. TUITION WAIVER; TUITION REMISSION; LIMITATION ON FEES

#### 1. Tuition Waiver

The following tuition waiver provisions shall be of application during the term of this Agreement.

The spouse and/or child or children, including any such adopted or stepchild or children, of any present, former, retired or deceased member of the bargaining unit represented by the Massachusetts Teachers Association/NEA, who, after the date of execution of this Agreement, shall have been admitted as a student in the regular day program, or in any program of Continuing Education, at any Massachusetts State College, shall be entitled to enroll as a student in such program without the payment of tuition.

In addition, any member of the bargaining unit who shall have been admitted as a student at any institution of public higher education in the Commonwealth of Massachusetts, excluding the program for the Doctorate of Medicine at the University of Massachusetts Medical School, shall be entitled to matriculate as a student without the payment of any tuition; provided, however, that in the case of any course in any program of Continuing Education tuition shall be remitted in the amount of fifty percent (50%) thereof.

#### 2. Tuition Remission

The following tuition remission provisions shall be of application during the term of this Agreement.

The parties agree to continue in effect the present policy of the Board of Higher Education, acting through the Commissioner, regarding tuition remission applicable to all unit members, their spouses and dependent children. Such policy shall provide for full tuition remission in all institutions of public higher education in the Commonwealth exclusive of the University of Massachusetts Medical School, and shall, additionally, make provision for fifty percent (50%) tuition remission in courses in continuing education.

#### 3. Limitation on Fees

During the period commencing on July 1, 2009, and ending on June 30, 2012, the fees that any College charges to members of the bargaining unit and to their spouses and children as a condition of their enrollment in any undergraduate day course or program at such College (and exclusive, therefore, of any course or program in the Division of Graduate and Continuing Education at such College) shall not exceed the fees so charged on September 1, 2008.



## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

### H. FLEXIBLE SPENDING ACCOUNTS

1. The Board of Higher Education acting through the Council of Presidents agrees to enable bargaining unit members, who so elect, to participate in any Dependent Care Assistance Program (DCAP) or Health Care Spending Account (HCSA) that is generally made available to employees of the Commonwealth.
2. No dispute over a claim for any benefits extended by either such plan shall be subject to the grievance procedure.
3. It is expressly understood and agreed that the Board of Higher Education does not accept, nor is it to be charged with, any responsibility in any manner connected with the determination of liability to any employee claiming under any benefit extended by either such plan.

Every employee shall indemnify the Board of Higher Education and the Association in all respects, and hold them harmless from any deficiency assessment or tax lien arising out of any error or omission attributed to such employee on any federal or state tax return hereafter filed by such employee, as well as any damages and/or expenses whatsoever in connection therewith.

### I. HEALTH AND WELFARE

#### 1. Benefit

The Board of Trustees of the Health and Welfare Fund shall determine in their discretion and within the terms of this Agreement and the Agreement and Declaration of Trust made pursuant to the predecessor to this Agreement such health and welfare benefits as are to be extended by the Health and Welfare Fund to employees and/or their dependents.

#### 2. Funding

With effect on July 1, 2009, the Commonwealth shall continue to contribute to the Health and Welfare Fund on behalf of each full-time employee equivalent a total of Thirteen Dollars (\$13.00) per calendar week; commencing with effect on January 1, 2011, the Commonwealth shall contribute to the Health and Welfare Fund on behalf of each full-time employee equivalent a total of Thirteen and 50/100 Dollars (\$13.50) per calendar week; and commencing on January 1, 2012, the Commonwealth shall contribute to the Health and Welfare Fund on behalf of each full-time employee equivalent a total of Fourteen Dollars (\$14.00) per calendar week.

The amount of contributions for each year shall be based on the number of full-time equivalent employees as of the first or second payroll period in October of such fiscal year, whichever has the greater number of full-time equivalent members of the bargaining unit.

The contributions made by the Commonwealth to the Health and Welfare Fund shall not be used for any purpose other than to provide health and welfare benefits and to pay the operating and administrative expenses of the fund. The contributions shall be

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

made by the Commonwealth in an aggregate sum within forty-five (45) days following the end of the calendar month during which contributions were collected.

Nothing herein contained shall be deemed to obligate the Board of Higher Education or any College to make any contribution to the Health and Welfare Fund.

3. Non-grievability

No dispute over a claim for any benefits extended by this Health and Welfare Fund shall be subject to the grievance procedure.

4. Employer's Liability

It is expressly understood and agreed that the Board of Higher Education and the Colleges do not accept, nor are they to be charged with, any responsibility in any manner connected with the determination of liability to any employee claiming under any of the benefits extended by the Health and Welfare Fund. The Commonwealth's liability shall be limited to the contributions required by subsection 2 above.

### J. MISCELLANEOUS PROVISIONS

1. Members of the bargaining unit on leaves of absence on a full-time basis for whatever reason shall relinquish their rights to take part in campus activities, including voting privileges and participation in or attendance at committee meetings, during the periods of such leaves of absence.
2. Unpaid professional leaves of absence for members of the bargaining unit may be granted for any period of time but will not ordinarily be granted for periods in excess of two (2) consecutive work years, and in no event will they be granted for more than three (3) consecutive work years; provided, however, that leaves of absence granted (i) to enable a member of the bargaining unit to take up an appointment as an academic administrator in the manner described at Article XX, Section M, or (ii) for the purpose described in this Article IV at Section B(1)(d) shall be able to be granted for periods of any duration.
3. Members of the bargaining unit on leaves of absence shall not be eligible for promotion during the period of any such leave save in accordance with the provisions of Section L of Article VIII of this Agreement.

### K. HOLIDAYS

1. Paid Holidays

The following legal holidays will be observed as paid holidays during the term of this Agreement:

New Year's Day	Memorial Day	Veterans' Day
Martin Luther King Day	<sup>1</sup> Bunker Hill Day	Thanksgiving Day
Presidents' Day	Independence Day	Christmas Day
<sup>1</sup> Evacuation Day	Labor Day	
Patriots' Day	Columbus Day	

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<sup>1</sup> For librarians working in Suffolk County only.

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

### 2. Compensation for Working on Holidays for Librarians

Any librarian scheduled to work on a holiday and who does work on that holiday shall be granted a compensatory day off within the next succeeding sixty (60)-day period. The specific day off may be requested by the individual librarian, subject to the approval of the Library Director or the Library Program Area Chair, as may be appropriate. If the compensatory day off is not granted by the administration within the sixty (60)-day period, such librarian shall be paid at the rate of one (1) additional tour of duty for working a holiday.

### 3. Exceptions

Any unit member not scheduled to work on a holiday during the applicable work year, shall not suffer a loss of pay for such holiday unless such unit member is on leave without pay or absent without pay on any part of a scheduled work day immediately preceding the holiday or any part of a scheduled work day immediately following the holiday.

Any librarian scheduled to work on a holiday who fails to report as scheduled shall be recorded as absent without pay unless the librarian properly notifies the Library Director or the Library Program Area Chair, as may be appropriate, at least one (1) hour prior to the beginning of the scheduled tour of duty and indicates, as a reason for such absence, a reason that, pursuant to the terms of this Agreement, warrants the granting of a paid leave of absence for such day; provided, however, that when sickness is the reason for such absence, the librarian may be required to produce evidence in the form of a doctor's certificate within the next succeeding seven (7)-day period. When a librarian who is absent by reason of sickness on a scheduled holiday complies with these procedures, no sick leave previously earned shall be applied for the holiday, and the holiday shall be granted but no additional day off shall be provided. This provision shall be of no application to Section B of this Article IV.

### 4. Additional Holidays

A librarian not otherwise entitled to the Suffolk County holidays and who is scheduled to work on such holiday shall be entitled to a day off with pay in lieu of each of the Suffolk County holidays. Such day off may be taken by the librarian at a time approved by the Library Director or the Library Program Area Chair, as may be appropriate, within the next succeeding sixty (60)-day period.

### 5. Religious Holidays

Members of the bargaining unit shall be permitted to observe religious holidays consistently with the requirements of their religious tenets and without loss of pay or any use of personal or vacation leave.

**ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS**

L. TABLE 1: LEAVE ACCRUAL

Employee	Sick Leave	Vacation Leave	Personal Leave
Faculty	Ten (10) days (seventy-five (75) hours) per academic year; (0.051282 hours per hour worked)	N/A	One (1) day (7.5 hours) per semester  15 hrs per year
Librarians	Fifteen (15) days (one hundred twelve and one-half (112.5) hours) per year; (0.057692 hours per hour worked)	<p><u>Less than eight (8) years of service:</u> twenty-two (22) days (one hundred sixty-five (165) hours) per year; (0.084615 hours per hour worked)</p> <p><u>At least eight (8), but less than sixteen (16), years of service:</u> twenty-three (23) days (one hundred seventy-two and one-half (172.5) hours) per year; (0.088462 hours per hour worked)</p> <p><u>At least sixteen (16), but less than twenty five (25), years of service:</u> twenty-five (25) days (one hundred eighty-seven and one-half (187.5) hours) per year; (0.096154 hours per hour worked)</p> <p><u>Twenty-five (25) or more years of service:</u> Thirty (30) days (two hundred twenty-five (225) hours) per year; (0.115385 hours per hour worked)</p>	Three (3) days (twenty-two and one-half (22.5) hours) per year

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

### SUMMARY DESCRIPTION:

#### OPERATION AND ADMINISTRATION OF THE SICK LEAVE BANK

This statement contains a summary description of the operation and administration of the sick leave bank (Section A(1)(b), at pages 32-35).

1. Sick Leave Bank Membership

Unit members entitled to sick leave are members of the sick leave bank in the following circumstances unless they opt out of participation in the bank.

- a. Unit members hired after September 1 automatically become members of the bank when they have accrued seven and one-half (7.5) hours (fifteen (15) hours at the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy) of sick leave, which are automatically contributed to the bank unless the unit members opt out of participation in the bank within the preceding thirty (30) days.
- b. Each year on October 1, unit members (other than those described in paragraph (a) above) not members of the bank automatically become bank members, and seven and one-half (7.5) hours (fifteen (15) hours at the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy) of their accrued sick leave are contributed to the bank unless they opt out of participation in the bank within the preceding thirty (30) days. Unit members who do not have the required number of hours of sick leave on October 1 and who do not opt out of the bank will contribute seven and one-half (7.5) hours or fifteen (15) hours, whichever applies, when those hours have accrued.
- c. When the balance of hours in the bank falls below the contractual minimum the College President shall give notice of such, and seven and one-half (7.5) hours (fifteen (15) hours at the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts or the Massachusetts Maritime Academy) of accrued sick leave are automatically contributed to the bank from each bank member, unless the bank member opts out of participation in the bank within fifteen (15) days of the notice.

2. Notification

- a. The only contractually required notice is that given by the College President to the Chapter President when the number of hours in the bank is falling below the contractual minimum.
- b. Additionally, at each College the administration will give notice of the sick leave bank and the ability to opt out of participation in the bank as follows:
  - i. To new unit members in time to opt out of participation in the bank.

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

- ii. To unit members who are not members of the bank, by September 30 each year.
- iii. To the extent possible, to unit members who are members of the bank, fifteen (15) days before automatic contributions are required to maintain the bank at the contractual minimum.
- iv. To the extent possible, to unit members who are members of the bank fifteen (15) days before the end of the semester if automatic contributions are likely to be required during the summer.

### 3. Duration on the Sick Leave Bank

#### a. Full-time Use:

- i. Faculty who are members of the bank may use up to two thousand seven hundred seventy-five (2,775) hours for one (1) illness/injury; charges to the bank are made only during the faculty work year, exclusive of ten (10) holidays.
- ii. Librarians who are members of the bank may use up to three thousand seven hundred five (3,705) hours for one (1) illness/injury; charges to the bank are made during the librarian work year, exclusive of thirteen (13) holidays.

#### b. Part-time Use:

- i. Faculty who are members of the bank may use up to one thousand three hundred eighty-seven and one-half (1,387.5) hours on a part-time basis for one (1) illness/injury; charges to the bank are made only during the faculty work year, exclusive of ten (10) holidays.
- ii. Librarians who are members of the bank may use up to one thousand three hundred eighty-seven and one-half (1,387.5) hours on a part-time basis for one (1) illness/injury; charges to the bank are made during the librarian work year, exclusive of thirteen (13) holidays.
- iii. Any sick leave drawn from the bank on a part-time basis is subtracted from the maximum amounts described in paragraph (a) above.

- c. If a unit member is drawing from the bank on a part-time basis and becomes fully incapacitated from working, the member shall draw from the bank on a full-time basis, regardless of the cause of the additional incapacity, without having to be off the payroll for an additional 37.5 hours.

### 4. Accrual of Sick Leave While on the Sick Leave Bank

A unit member earns sick leave while on the bank, but all such time accrues to the sick leave bank rather than to the unit member.

## ARTICLE IV - SUPPLEMENTAL BENEFITS AND HOLIDAYS

### 5. Personal Leave and Vacation Leave

- a. If a unit member who is drawing on the bank has unused personal leave before December 31, then the unit member's absence is to be charged to his/her remaining personal leave rather than to the bank. The member shall not be required to be off the payroll for an additional 37.5 hours.
- b. If a librarian who is drawing on the bank has accrued four hundred eighty (480) hours of vacation leave and there is no agreement with the Vice President to accrue more than four hundred eighty (480) hours of vacation leave, then the librarian's excess vacation credits are to be converted to sick leave. Such sick leave shall be credited to the bank.

## ARTICLE V - ACADEMIC FREEDOM AND RESPONSIBILITY

### A. ACADEMIC FREEDOM

The parties endorse the principles and standards of academic freedom and academic responsibility as generally and traditionally accepted in institutions of higher education. The parties agree to promote public understanding and support of academic freedom and agreement upon procedures to assure academic freedom in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interests of either the individual teacher or librarian or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Academic freedom is essential to these purposes and applies to both teaching and research.

Academic freedom is the right of scholars in institutions of higher education freely to study, discuss, investigate, teach, exhibit, perform and publish. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student in learning.

The scholar is entitled to full freedom in research and in the exhibition, performance and publication of the results of his/her research, and to full freedom in the classroom in discussing his/her subject, most specifically in the selection of his/her course materials and in the selection of texts. The scholar is entitled to discuss controversial issues. As both a teacher and scholar he/she recognizes his/her professional obligation to present various scholarly opinions and to avoid presenting totally unrelated materials, that being fundamental to the advancement of truth.

Faculty members and librarians have the right to determine the amount and character of the work and other activities they pursue outside the College provided such work and other activities do not interfere with the discharge of their responsibilities under the terms of this Agreement.

### B. ACADEMIC RESPONSIBILITIES

Academic freedom carries with it correlative responsibilities.

Faculty members and librarians have the responsibility to their colleagues and the College community to preserve intellectual honesty in their teaching and their research. They respect the free inquiry of their associates and avoid interference in their work.

The parties recognize that adherence to the complementary concepts of academic freedom and academic responsibility will most nearly ensure that the greatest contributions to the several Colleges will be made by their most valuable resource, the faculty. The college or university teacher or librarian is a citizen and a member of a learned profession affiliated with an educational institution. When he/she speaks, writes, or expresses himself/herself in any other fashion as a citizen, he/she should be free from institutional censorship or discipline, but his/her special position in the community imposes special obligations. As a person of learning, affiliated with an educational institution, he/she should remember that the public may judge his/her profession and his/her institution by his/her utterances. Hence he/she should at all times be accurate, should exercise appropriate restraint, should show



## **ARTICLE V - ACADEMIC FREEDOM AND RESPONSIBILITY**

respect for the opinions of others, and should make every effort to indicate when he/she is not an institutional spokesman.

Institutions of higher education are committed to the search for truth and knowledge and to contribution to the solution of problems and controversies.

## **ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS**

The provisions of this Article VI shall be of no application to part-time members of the bargaining unit except as otherwise provided in Article I, Section F.

No person who is a member of the bargaining unit by reason of the fact that he/she holds a temporary appointment of the kind described in Section C(6) of Article XX shall be entitled to vote in any election conducted pursuant to the provisions of this Article VI.

### **A. RESPONSIBILITIES OF THE DEPARTMENT CHAIR**

Each Department Chair shall exercise professional leadership in the department, shall conduct the routine operation of departmental affairs and shall take appropriate initiative in recommending the development of the curricular and resource requirements of the department. Where applicable, his/her responsibilities shall more specifically include but shall not be limited to the following:

1. in accordance with the other applicable provisions of this Agreement, providing for the scheduling of courses and classes, academic advising, independent and intra-departmental and interdisciplinary learning programs, student practica, fieldwork and internships, faculty research, and other student and faculty activities within the department;
2. making recommendations regarding the extension or modification of the curriculum structure within the department to strengthen the College's programs and to endeavor to provide students with maximum accessibility to the College's offerings;
3. assisting in the conduct of periodic academic program reviews and outcome assessments to strengthen and update the curriculum;
4. assisting in the recruitment of faculty;
5. periodically submitting requests for supplies, equipment, library holdings and other needs of the department;
6. maintaining communication with students, prospective students and other faculty at the College relative to departmental matters;
7. assigning on a fair and equitable basis student advisees to members of the faculty of the department; operating and monitoring the advising program of the department to provide for the quality of such program and, where appropriate, its proper interaction with the advising program of the College; and evaluating each faculty member in the department with respect to the quality of advising as it is rendered by him/her to students;
8. supervising members of the faculty in the department and conducting faculty evaluations;
9. advising faculty members of the receipt of any substantial complaint of a student or member of the faculty which the Chair believes may affect the employment status of the faculty member;

## **ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS**

10. seeking, where appropriate, to resolve informally complaints made against faculty and to resolve conflicts between a student and a faculty member or between one member of the faculty and another;
11. preparing annual and long-range academic and budgetary plans for the department;
12. maintaining an inventory of academic and instructional equipment assigned to the department and developing a long-range plan for the replacement of equipment;
13. meeting regularly with the Vice President and/or Dean or Deans and from time to time with members of the department and with the appropriate departmental committees in order to coordinate the interaction of departmental programs and activities with one another and with the programs and mission of the College and to facilitate the discharge of the responsibilities set forth above;
14. making recommendations concerning class sizes;
15. supervising clerical and other non-unit staff where appropriate; and
16. carrying out such other assignments as may be made from time to time by the Vice President.

The Department Chair shall meet regularly with the Vice President and/or any appropriate Dean or Deans and from time to time with the members of the department and the appropriate departmental committees to coordinate the interaction of the various programs, to discuss joint actions to improve educational effectiveness and, consistent with the terms of Section H below, to develop plans for modification and extension of the programs of the College, all in accordance with the terms of this Agreement. In addition, the Vice President and/or any appropriate Dean or Deans shall meet with the Department Chairs collectively at least twice during each semester and at such other times as he/she may deem necessary; provided only that the Vice President shall meet with the Department Chairs collectively on at least one (1) such occasion.

Whenever any of the foregoing responsibilities must, in the determination of the Vice President, be performed during any period when the Department Chair is unable to or cannot be required to perform such responsibilities, such responsibilities may be discharged by the Vice President. In any such situation, the Vice President shall endeavor to notify or inform the Department Chair of responsibilities he/she deems it necessary to perform, and the Department Chair, if so notified or informed, may undertake to discharge such responsibilities.

### **B. SELECTION OF DEPARTMENT CHAIRS**

Only members of the bargaining unit who are not on leaves of absence on a full-time basis shall be eligible to vote in making recommendations pursuant to the provisions of this Section B.

#### **1. Eligibility**

Every Department Chair shall be a member of the bargaining unit.

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

Except in rare and unusual circumstances, no person shall be chosen to serve as a Department Chair who is not also a tenured faculty member or, in the alternative, a non-tenured Associate Professor or Professor; provided only that nothing herein contained shall operate to prohibit the appointment of any person to serve as Department Chair pursuant to subsection 3(c) of this Section B. For the purposes of this paragraph, a member of the bargaining unit shall be deemed to have tenure from and after the date on which the Board of Trustees of a College shall have acted to accord tenure to him or her even if the effective date thereof has not yet arrived.

### 2. Terms of Office

The terms of office of all Department Chairs shall be of three (3) years' duration. Every such term of office shall commence on July 1 and shall expire on the June 30 succeeding three (3) years thereafter.

In the event that the chair of any department shall have been vacated prior to the expiration of the incumbent's term of office therein, a successor shall be chosen, in accordance with the applicable provisions of this Article VI, to serve in such office for the duration of his/her predecessor's unexpired term; provided only that if such unexpired term is of no more than six (6) months' duration, the successor so chosen shall be chosen to serve both for such unexpired term and, unless another has already been chosen therefor, for the term next succeeding.

No person, including the incumbent on the date of execution of this Agreement, shall serve as the Chair of a department of five (5) or more members for more than three (3) successive three (3)-year terms; provided, however, that (a) any such incumbent may complete his/her then-current term of office, and (b) a Department Chair's service in office for the unexpired term of a predecessor shall not be deemed to be a term of office for purposes of this rule of limitation, if such unexpired term shall have been no more than one and one-half (1.5) calendar years in duration. Whenever any person shall have served as the Chair of a department for three (3) successive three (3)-year terms of office, he/she shall not be eligible to serve again as Chair of such department until three (3) academic years shall have elapsed from the expiration of the last such term of office. For the purposes of applying this paragraph to the selection of the Chair of any department, the membership of such department shall be the number of its full-time members (excluding those on leaves of absence on a full-time basis) on the date when the procedures for selecting a Chair are to be conducted. No count of the membership of a department shall be applied retroactively for the purpose of determining any person's eligibility to serve as the Chair of such department.

### 3. Procedures for Selecting a Department Chair

#### a. General

Whenever the term of office of any Department Chair is to expire on June 30 of any year, the procedures for filling the chair of such department with effect on the ensuing July 1 shall be conducted during the period commencing on February 1 of such year and ending on April 30 thereof; provided only that nothing herein contained shall be deemed to require that such procedures be

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

completed within such period whenever, with respect to an appointment that is to be made pursuant to subsection 3(c) of this Section B, it is impracticable or infeasible to do so.

A vacancy in the chair of any department shall be filled within ten (10) working days after the date on which, in respect of any department, any of the following shall have come to pass, namely:

- i. The chair shall have been declared vacant by the President of the College, or
- ii. The chair shall have become vacant by reason of the recall of the incumbent Chair, or
- iii. The chair shall have become vacant by reason of the death, illness, resignation or other incapacity of the incumbent Chair.

b. Filling a Vacancy from within the Department

The unit members of each department to which these provisions apply shall meet upon the call of the Vice President to select and submit in writing to the President the name of a single nominee for the chair of the department.

The Vice President shall submit to the Department Chair, the department members and the Chapter President a list of the members of the department who are eligible to vote. The Department Chair will provide department members who are eligible to vote not less than ten (10) days notice of the meeting.

Such meeting shall be held between the hours of 8:30 a.m. and 4:30 p.m. during the academic year. If a scheduling conflict occurs, the Vice President shall make an appropriate decision in order to allow the department member to attend the meeting.

A quorum shall consist of a majority of those members of the department eligible to vote. The nominee shall be elected by a majority of those department members present and voting, and the nomination shall thereupon be transmitted to the President.

Selection of such nominee shall be accomplished pursuant to written departmental procedures established by the department, which procedures shall not be contrary to the terms and conditions of this Agreement.

Thereafter, the President shall, within ten (10) working days of his/her receipt of such nomination, either appoint or decline to appoint such nominee. Should the President decline to appoint such nominee, the department shall reconvene and select a different nominee in accordance with the foregoing procedures. This process shall continue until the President of the College shall have appointed a nominee duly submitted.

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

### c. Filling a Vacancy from outside the Department

The President, after first consulting with the Chapter President, and upon a majority vote of the members of a department, may fill a vacancy in a chair by someone not then employed as a member of the faculty of that department. Upon notification by the President, the Vice President and the Chapter President shall convene a meeting of the members of the affected department at which the members of the department shall elect not fewer than two (2) among them who shall serve as the members of the Search Committee to recruit a candidate or candidates for the position of Department Chair. The committee shall submit its recommendation to the Vice President.

A vacancy in a chair shall not be filled from outside the department unless the President shall have allocated or reallocated to and authorized the filling of a funded vacant faculty position in that department; provided, however, that such a vacant position shall have not been created by the retrenchment of any unit member.

During the period in which any search is being conducted, the responsibilities of the Department Chair shall be discharged, if applicable, by an acting Chair.

### C. DECLARATION OF A VACANCY

The President of the College shall have the authority to declare that a vacancy exists in the chair of any department; provided, however, that prior to the exercise of such authority, the President shall notify, in writing, the members of the department and the Department Chair thereby affected of his/her reasons therefor.

### D. APPOINTMENT OF AN ACTING CHAIR

The President may appoint an acting Chair to serve during any period when no Chair shall have been appointed in accordance with the provisions of this Article or when the Chair shall be on paid or unpaid leave, incapacitated or otherwise unable to fulfill his/her duties or upon the declaration of a vacancy or resignation; provided, however, that except in rare and unusual circumstances, no person shall be appointed as acting Chair who is not also a tenured faculty member or, in the alternative, a non-tenured Associate Professor or Professor, and such appointment shall not exceed twelve (12) months.

### E. RECALL OF DEPARTMENT CHAIR

The recall of a Department Chair by department members is an unusual occurrence and such recall should be based upon extraordinary circumstances. The following procedures for the recall of a Department Chair by department members shall not be used until a Chair has served at least one (1) calendar year from the date of appointment, or until an acting Chair has served at least one (1) semester from the date of appointment; provided, however, that in the case of any acting Chair who has been appointed pursuant to the provisions of the foregoing Section D and who is serving in such capacity by reason of the President's having declined to appoint as Chair a nominee duly submitted to him/her pursuant to the provisions of the foregoing Section B, the following procedures for the recall of a Department Chair by

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

department members may be used after such acting Chair shall have served in such capacity for a period of not fewer than ten (10) weeks during one (1) or more academic years.

Only members of the department who are not on leaves of absence on a full-time basis shall be eligible to participate in the procedures set forth in this Section E.

### 1. Informal Procedure

Within five (5) working days of the receipt of a statement setting forth specific complaints signed by one-third (1/3) of all full-time department members, the Chair shall meet to confer with all members of the department. This meeting shall be for the purpose of attempting to find an informal resolution of any complaints set forth in the signed statement.

If the complaints are not resolved to the satisfaction of one-third (1/3) of all full-time members of the department who are eligible to participate, the concerned members shall next meet informally with the Vice President to discuss the matter and obtain the Vice President's assistance in reaching an informal settlement of such complaints. Failing this, the department members may then proceed to the formal recall procedures hereinafter prescribed.

### 2. Formal Procedures

- a. Upon presentation to the Vice President of a petition, signed by one-third (1/3) of the full-time members of the department who are eligible to participate, excluding the Department Chair, stating specific reasons for recalling the Chair, the Vice President shall promptly give fourteen (14) days written notice to all full-time department members setting forth the time, date and place of a meeting to consider the recall petition and to vote on either a motion that the Chair continue in office or a motion to recommend to the President that he/she declare a vacancy to exist in the chair. The Department Chair may be present at this meeting.
- b. The Vice President and an impartial person from the faculty at large, who shall be elected by the majority of the eligible and voting unit members of the department, shall conduct the recall meeting, and, if the Vice President and the majority of such full-time members of the department shall have so decided, shall conduct successor meetings for the same purpose. The Vice President and such impartial person from the faculty at large shall record any subsequent vote(s) taken within the department on this matter.
- c. A vote by secret ballot of two thirds (2/3) of all full-time members of the department who are eligible to participate, including the Department Chair, shall be required to recommend to the President that he/she declare a vacancy to exist in the chair, together with a written record of the minutes of such department meeting, and a record of the number of votes cast; when any such vote has been taken and recorded in the manner prescribed above, the President shall thereupon declare a vacancy to exist in the chair of the department.

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

### F. REDUCTION OF INSTRUCTIONAL WORKLOAD OF DEPARTMENT CHAIR

In order to permit a Department Chair to function effectively as a teacher and at the same time permit him/her to fulfill his/her administrative obligations, his/her teaching workload shall, upon request, at Colleges other than Framingham State College, be reduced as follows:

<u>Number of Faculty Members in the Department</u>	<u>Reduction per Year (semester hours of credit of instruction)</u>
3	3
4 to 8	6
9 to 12	9
13 to 19	12
20 to 25	15
26 or more	18

At Framingham State College the teaching workload of each Department Chair shall, upon request, be reduced as follows:

<u>Number of Faculty Members in the Department</u>	<u>Reduction per Year</u>
3	one course
4 to 10	two courses
11 to 19	three courses
20 or more	four courses

At all Colleges, Chairs of departments having three (3) faculty members shall be granted the reduction above in the academic semester during which the Department Chair is required to conduct faculty evaluations pursuant to the provisions of Article VIII of this Agreement.

For the purposes of this Section, the membership of a department shall be calculated by the number of equivalent full-time teaching members of such department (which phrase shall be deemed to include any full-time member of such department part of whose workload has been assumed pursuant to Article XII, Section D, of this Agreement and shall be deemed to exclude any full-time member of such department who is then on a leave of absence on a full-time basis that is not to expire sooner than the expiration of the then-current semester) who are teaching on October 1 of the academic year preceding the academic year for which the reduction is granted.

Twelve (12) semester hours of credit of instruction, when taught in any department by part-time members of the faculty, shall for these purposes be the equivalent of one (1) full-time teaching member of such department; and every full-time member of the faculty shall, for the



## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

purposes of this paragraph, be counted as a full-time member of his/her home department as defined in Article X, Section J.

At the discretion of the President, upon recommendation of the Vice President, and where circumstances so require, the workload of a Department Chair may be further reduced.

Every reduction granted pursuant to the provisions of this Section is granted on the express understanding that the Department Chair to whom such reduction has been granted has undertaken to and will discharge those obligations and duties that are set forth in the other provisions of this Agreement and with the further express understanding that the President is charged with the responsibility for evaluating such Department Chair pursuant to Article VIII of this Agreement for the purpose, among others, of ascertaining whether such Department Chair is discharging such obligations and duties in accordance with the terms of this Agreement.

### G. WORK YEAR AND STIPENDS FOR DEPARTMENT CHAIRS

#### 1. Work Year

During a period cumulatively equal to ten (10) working days, exclusive of the period of the academic year, every Department Chair may be annually required to perform such additional services related to the functions and activities of the College as may be prescribed from time to time by the President. The days during which such services are to be rendered shall be scheduled such that they fall within the first fifteen (15) days following the end of the academic year or the final fifteen (15) days prior to the commencement of the academic year or both, provided that the total number of days so scheduled shall not exceed ten (10). Such days shall be annually scheduled not later than April 15 of each academic year, and each Department Chair shall be notified of such schedule not later than such date. Such schedule may or may not be of uniform application to all Department Chairs at a College as the President may determine.

#### 2. Stipends

In consideration of the foregoing, every Department Chair shall be paid a stipend for each academic semester in the following amount; provided, however, that any member of the bargaining unit who, in respect of any academic semester, shall serve as Department Chair for less than the whole thereof shall be paid a pro ration of such stipend for such academic semester:

<u>Effective Date</u>	<u>Stipend per Semester</u>
July 1, 2009	\$1,685
July 1, 2010	\$1,745
July 1, 2011	\$1,810

The cost at each College of all stipends required to be paid to Department Chairs in each fiscal year pursuant to this Section G shall be paid from moneys other than those that are (a) pooled for the purpose of paying salary increases or bonuses to members of the bargaining unit pursuant to Article XIII of this Agreement or (b) pooled for the

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

purpose of supporting professional development for members of the bargaining unit pursuant to Article XIV of this Agreement.

### H. DEPARTMENTAL COMMITTEES

#### 1. Departmental Undergraduate Curriculum Committee and Graduate Committee

On or before September 30, 2009, the Department Chair shall establish an Undergraduate Curriculum Committee and a Graduate Committee as follows.

##### a. Departmental Undergraduate Curriculum Committee

There shall be established a Departmental Undergraduate Curriculum Committee, the membership of which shall consist of the Department Chair and such other members of the department as shall be selected pursuant to departmental procedures that shall be published in written form and made available to the members of the department. Such procedures shall not be inconsistent with the provisions of this Agreement. In addition, the membership of the committee shall include not fewer than two (2) students who are registered as majors within the department or, in the case of departments without such majors, students who are registered as minors within the department, or in the case of departments with neither such majors nor minors, students with a significant interest in the program of the department.

The committee shall review and make recommendations concerning the undergraduate curriculum of the department.

The committee shall from time to time review the long-range educational objectives of the department as those may relate to its academic curriculum and to the goals and objectives of the College. The committee shall also make recommendations concerning the quality of student academic advising in the department and the manner of its most effective delivery to students, interdisciplinary cooperation, innovative instructional techniques, career opportunities for students, or such other related matters as the committee shall deem appropriate.

In respect of all of the foregoing matters, the committee shall consider such recommendations and proposals as the Vice President may from time to time submit to the committee. The Vice President may also meet with the committee from time to time to discuss matters of mutual concern.

The committee shall transmit its recommendations to the Department Chair, who shall transmit the committee's recommendation to the Vice President.

In considering and making its recommendations on the quality of academic advising in the department and its most effective delivery to students, the committee shall solicit recommendations and comments from those students who are advisees assigned to members of the department, and shall do so using Appendix H.

## **ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS**

### **b. Departmental Graduate Committee**

In those departments that sponsor graduate programs there shall be established a Departmental Graduate Committee, which shall consist of such members of the graduate faculty in each such department as shall be determined from time to time by the Department Chair after consultation with such faculty; the selection of members of the committee shall not be inconsistent with the provisions of this Agreement. The committee chair shall be selected by majority vote of the committee.

The Departmental Graduate Committee shall review and make recommendations concerning graduate curriculum, admissions, the criteria for appointment to membership on the graduate faculty and other related matters. From time to time the committee shall also review the long-range educational objectives of the department in relation to the department's graduate curriculum and make recommendations concerning interdisciplinary cooperation, career opportunities for students or such other matters as the committee shall deem appropriate.

The committee shall transmit its recommendations to the Department Chair, who shall transmit the committee's recommendation to the Graduate Dean.

### **2. Ad Hoc Committees**

Departmental ad hoc committees may be established from time to time by the Department Chair for the consideration of academic and other matters. The establishment of any such committee shall not be inconsistent with the provisions of this Agreement.

## **I. RECRUITMENT AND INTERVIEWING OF CANDIDATES**

### **1. General**

Whenever a vacancy is to be filled within a department, members of the department shall assist in the recruitment and interviewing of candidates, provided that the filling of such vacancy shall have been duly authorized by the President. Such assistance shall be rendered upon the request of the Vice President or the Department Chair and shall be rendered pursuant to such procedures as may be established from time to time by the department; such written procedures shall not be inconsistent with the provisions of this Agreement. Recommendations made by the members of the department, exclusive of the Department Chair, shall be transmitted to the Department Chair, who shall make such additional recommendations to the Vice President as he/she deems appropriate. Copies of the recommendation of the Chair shall be provided to the members of the department. Nothing in these provisions shall be deemed to abrogate or qualify the right of the Department Chair to participate in the recruitment and interviewing of candidates.

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

### 2. Special Procedures

Whenever a vacancy is to be filled by a faculty member whose responsibilities will include teaching in a department or departments outside his/her home department (i.e., the department filling the vacancy), those members of the faculty who assist in the recruitment and interviewing of candidates in accordance with subsection 1 shall, at the request of the Vice President, consult with members of the other department or departments in which the faculty member who fills the vacancy will have teaching responsibilities.

As used in this subsection 2, the phrase “home department” shall have the meaning ascribed to it in Article X, Section J, of this Agreement.

### 3. Conflicts of Interest

No member of the bargaining unit shall serve on a search committee or otherwise participate in any way in the hiring of a member of the bargaining unit if to do so would constitute a conflict of interest or the appearance of a conflict of interest. No unit member, for example, shall serve on a search committee if his/her spouse or domestic partner is a candidate for the position.

### 4. Departmental Procedures

The departmental procedures that are used in the recruitment and interviewing of candidates shall be published in written form and made available to the members of the department. All such procedures shall conform with the Affirmative Action/Equal Opportunity guidelines of the College and with other applicable policies and shall not be inconsistent with the provisions of this Agreement.

### 5. Recruitment of Part-time Faculty

The recruitment of part-time faculty shall be conducted by or under the supervision of the Department Chair.

### 6. Exclusions

The provisions of this Section I shall be of no application to any person who holds a professional position, and has academic rank and tenure, within the system of State Colleges on the date immediately prior to the date of his/her appointment, assignment or transfer to a position in a department unless such person shall have voluntarily applied for such position in accordance with the provisions of Section C(7) of Article XX of this Agreement.

## J. PROGRAM AREAS

### 1. Academic Program Areas

Except as is specifically provided in this Section J and in Section L, the provisions of this Article VI shall be of no application to any program area; and in the case of any program area that is not a subordinate unit within any department or departments, the

## ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS

President shall arrange for the discharge, by a member of the faculty in such program area or by such other unit member as the President may deem appropriate, of all those responsibilities provided for in this Agreement that would otherwise be those of a Department Chair.

At the discretion of the President, upon recommendation of the Vice President, and where circumstances so require, a reduction in the workload of any such program area chair may be granted.

### 2. Libraries

At any College which, on the first day of any academic year falling within the term of this Agreement, shall have in its employ six (6) or more librarians who are members of the bargaining unit, the Library shall (but subject, if applicable, to the provisions of Section D(1)(c)(i) of Article VII, and otherwise as the President shall have determined after consultation with the librarians) be constituted and be deemed to be a program area. At any library so constituted, the President shall designate one among the librarians who are members of the bargaining unit to discharge, during such academic year, those responsibilities, including, without limitation, the conduct of evaluations, which are required by the provisions of Section A of this Article VI to be performed by a Department Chair and which are relevant and appropriate to the conduct of affairs within the library. The librarian so designated by the President shall be known as the Library Program Area Chair.

Upon the recommendation of the Vice President and where circumstances so require, the President may grant a reduction in the workload of a Library Program Area Chair commensurate with the duties performed as such.

At such Colleges, the librarians shall review and make recommendations concerning policies applicable to the operation of the library after consultation with the Library Director. Such recommendation shall be submitted in writing to the Library Director and the Vice President.

The members of such library program area shall consider such recommendations and suggestions as the Vice President, the Library Director or the Library Program Area Chair may from time to time submit for consideration.

Not less than once each semester the Vice President, the Library Director and the Library Program Area Chair shall meet and confer to facilitate the operation of the library, which the parties recognize to be an essential professional service and resource of the College.

At those Colleges at which there are fewer than six (6) professional librarians so employed on the first day of any academic year during the term of this Agreement, there shall be created a Library Policies Committee which shall consist at such College of all such librarians except the Library Director. The Committee shall elect a chair who shall convene their meetings and shall convey to the Vice President and the Library Director the recommendations and suggestions of the committee concerning policies applicable to the operation of the library, which the parties recognize to be an essential professional service and resource of the College.

## **ARTICLE VI - SELECTION AND RESPONSIBILITIES OF DEPARTMENT CHAIRS**

### **K. DEPARTMENTS OF NAVAL SCIENCE AND OF HEALTH SERVICES, MASSACHUSETTS MARITIME ACADEMY; ROTC PROGRAMS**

This Article VI shall be of no application to the Departments of Naval Science and of Health Services at the Massachusetts Maritime Academy and to any ROTC program at any State College.

### **L. APPLICATION OF CERTAIN PROVISIONS TO PROGRAM AREA CHAIRS**

Any other provision of this Agreement to the contrary notwithstanding, the stipend payable pursuant to Section G(2) of this Article VI shall be payable, in accordance with the provisions of Section G(2), to all persons who from time to time hold the position of Program Area Chair (including Library Program Area Chair) at any State College; provided that such stipend may be paid in addition to a reduction of workload granted in accordance with Section J(1) of this Article VI or in lieu of such reduction; and provided further that such reduction in workload may, at the request of the Program Area Chair, be granted in lieu of such stipend.

### **M. WORKSHOPS**

During the month of September or October of each year during the term of this Agreement, there shall be held at each College a workshop for Department Chairs at which will be discussed their roles and responsibilities as such. Representatives of the College, at its election, and representatives of the Association, at its election, shall be permitted to participate jointly in such workshop.

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

### A. INTRODUCTION

In recognition of the fact that the faculty and librarians have fundamental and unique responsibilities in matters affecting the academic well-being of the several State Colleges, the parties hereby agree to establish a firm basis for the professional role of faculty and librarians in the decision-making process at the several State Colleges; provided, however, that the provisions of this Article VII shall be of no application to part-time members of the bargaining unit except as otherwise provided in Article I, Section F, and no member of the bargaining unit shall participate in the decision-making process hereunder while on a leave of absence on a full-time basis.

It is therefore fitting that such unit members assume a primary role in academic decision-making at the several State Colleges in accordance with the terms of this Agreement.

### B. THE ALL-COLLEGE COMMITTEE: MEMBERSHIP AND RESPONSIBILITIES

#### 1. Establishment of the All-College Committee

In order to ensure participation by members of the bargaining unit, by students and by administrators in the formulation of policies affecting such academic matters of common concern as are hereinafter prescribed, with effect on September 1, 2009, there shall be established at each College an All-College Committee. The Committee shall consist of

- i. eight (8) representatives of members of the bargaining unit;
- ii. three (3) student representatives; and
- iii. three (3) administrative representatives,

who shall be chosen at each College as follows:

#### a. Representatives from the Bargaining Unit

At each of Bridgewater State College, Framingham State College, the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts, the Massachusetts Maritime Academy, Salem State College and Westfield State College, the bargaining unit representatives to the Committee shall, under the auspices of the Association, be selected from among the members of the bargaining unit on or between May 1 and May 31 of each academic year.

At Fitchburg State College and Worcester State College, the bargaining unit representatives to the Committee shall, under the auspices of the Association, be elected from among the members of the bargaining unit on or between May 1 and May 31 of each academic year.

Notice of the procedures for selecting or electing unit members shall be published as an official Association communication at least ten (10) days prior

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

to the date on which such selection or election is to take place. The term of office of each representative shall commence on the September 1 following such selection or election and shall end on the next following August 31. Except as is otherwise provided in this Agreement, all members of the bargaining unit as described in Article I, Section A, of this Agreement shall be eligible for membership on the All-College Committee.

In providing for the selection or election of unit member representatives to the All-College Committee and to every other committee constituted pursuant to the provisions of this Article VII, the Association agrees to conduct the selection or election fairly and equitably and without reference to whether any member or members of the bargaining unit is or are a member or members of the Association.

b. Student Representatives

The three (3) student representatives to the Committee shall be selected under the auspices of the Student Government Association within thirty (30) days after the student ratification of this Article in accordance with Sections G and H hereof and, thereafter, on or between April 15 and May 31 of each succeeding academic year; provided, however, that at the Massachusetts Maritime Academy, of the three (3) student representatives, one (1) shall be selected under the auspices of the Student Government Association and two (2) under the auspices of the cadet officers of the Regiment of Cadets. Notice of the procedures for nominating and selecting student members shall be published as an official College communication at least ten (10) days prior to the date on which such selection is to take place. The term of office of each student representative shall be from the date of his/her selection to the date of his/her successor's selection on or between the April 15 and May 31 next following. All full-time students of the College shall be eligible to serve on the All-College Committee.

c. Administrative Representatives

The three (3) administrative representatives to the Committee shall be appointed from time to time by the President of the College and shall serve at his/her discretion. Notice of such appointments shall be thereafter published as an official College communication.

d. Vacancies on the All-College Committee

In the event that any duly selected or elected member of the bargaining unit or student representative to the Committee shall be unable or unwilling to serve in that capacity, the College President, the Chapter President, the President of the Student Government Association or the Regimental Commander, as the case may require, shall appoint a representative to complete the term of a member who is unwilling to serve or to serve in the place of a member while he/she is unable to serve. Such appointment shall be made within thirty (30) days after the Chair of the Committee shall have given notice to any such President or the Regimental Commander that such vacancy exists.



## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

### 2. Officers of the All-College Committee

At the first meeting of the Committee convened on or after September 1 of each academic year, which meeting shall be convened by the President of the College prior to September 15 in such year, a Chair, a Vice Chair and a Secretary of the Committee shall be elected by and from among the membership thereof; provided, however that the Chair of the All-College Committee shall be a unit member elected by and from among the members of the Committee. All nominations shall be from the floor and elections shall be by secret written ballot. A majority vote of the members present shall be necessary for the election of each such officer. The officers of the Committee shall serve until the next subsequent election and shall take office immediately upon election. An officer shall be eligible for re-election.

Whenever, other than by virtue of the expiration of a term of office, there shall be a vacancy in any office of the Committee, then, pursuant to the procedures prescribed in this Section, there shall be an election of such officer as may be required to fill the vacancy until the expiration of the then-current term of office.

### 3. Duties of Officers

a. The Chair shall:

- i. preside at all meetings of the All-College Committee;
- ii. make provision for the discharge, *pro tempore*, of the duties of members who are absent; and
- iii. carry out assignments and instructions given to him/her by vote of the Committee.

b. The Vice Chair shall:

- i. be an aide to the Chair; and
- ii. in case of the absence or disability of the Chair, assume and perform the duties of the Chair.

c. The Secretary shall:

- i. maintain minutes, records and reports of the Committee; and
- ii. regularly forward copies of such minutes, records and reports to the members of the Committee, the President of the Student Government Association, the Regimental Commander, the Chapter President, the President of the College and the Department Chairs for posting.

The administration shall provide secretarial services to the Chair and Secretary of the Committee in order to allow them to fulfill the duties of their offices.

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

### 4. Meetings of the All-College Committee

The Committee shall meet regularly during the academic year at such times and places as may be convenient to its members and in such manner as will permit it to complete its work. In the case of all meetings, an agenda shall be published. The Committee shall meet at the call of its Chair or at the request of a majority of any constituency of voting representatives.

The All-College Committee shall establish an Executive Committee with full power to meet and carry out the work of the All-College Committee during the months of June, July and August and at such other times when classes are in recess for ten (10) or more consecutive working days. The membership of the Executive Committee shall consist of six (6) individuals drawn from the membership of the All-College Committee. The six (6) members shall be elected by the All-College Committee and shall include two (2) bargaining unit representatives, two (2) student representatives and two (2) administrative representatives. During such period, a quorum of the Executive Committee shall consist of one (1) bargaining unit representative, one (1) student representative and one (1) administrative representative.

### 5. Responsibilities of the All-College Committee

The All-College Committee shall encourage the participation of all members of the bargaining unit, members of the College administration, and members of the student body in the process of decision making. The Committee shall be the primary agency for coordinating and implementing such participation in accordance with the provisions of this Article. Whenever any matter is submitted by any person who is a member of the College community for consideration by the All-College Committee or any standing committee, such matter shall be submitted to the All-College Committee and shall thereafter be promptly referred by the Committee to such standing committee, if any, within whose purview such matter falls; provided, however, that in the event that there shall be no standing committee within whose purview such matter falls, the All-College Committee shall, in accordance with Section D(3) hereof, refer such matter to an ad hoc committee. Such assignments to standing committees shall be made in accordance with the duties of such committees as they are hereinafter set forth.

Through the vehicle of official minutes, the All-College Committee shall monitor the proceedings of the standing committees constituted pursuant to the provisions of this Article. All recommendations and reports from any standing or ad hoc committee shall, without exception, be made to the All-College Committee in accordance with the provisions of this Agreement. The All-College Committee may take up and act upon any recommendation, report or other matter submitted to it by any standing or ad hoc committee, provided only that a majority of its members shall have voted to do so. No later than thirty (30) days following its receipt thereof, the All-College Committee may, by majority vote, make to the President such recommendation as it deems appropriate concerning any recommendation or report that has been made to it by any standing or ad hoc committee. During that thirty (30) day period the All-College Committee may request of the President an additional thirty (30) days within which to make such recommendation.

## **ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS**

Whenever any recommendation of the All-College Committee shall be contrary in whole or in part to any recommendation or report of a standing or ad hoc committee, the All-College Committee shall, with its own recommendation, transmit to the President, a copy of the recommendation or report of such committee. When conducting its own review of a matter, the All-College Committee shall make every effort to resolve any conflicts and difference in the recommendations of standing committees prior to their being transmitted by such committees to the appropriate administrative officer.

The Board of Trustees has the statutory responsibility for development of the institutional Five-Year Plan and its annual updates and for the submission thereof to the Board of Higher Education.

The parties recognize the desirability of providing all segments of the College community an opportunity to participate in the preparation of the Five-Year Plan and its annual updates. The Board of Trustees, acting through the President, shall establish a timetable for the development of the Five-Year Plan and its annual updates which shall provide for such participation. In addition, in order to ensure full participation the President of the College shall submit to the All-College Committee a draft of the Five-Year Plan and update for its review and recommendation prior to its adoption by the Board of Trustees.

A copy of all minutes of the All-College Committee, together with any reports and recommendations, shall be sent to the administrative officer within whose purview such matter falls and to the President of the College, to the Chapter President, to the President of the Student Government Association and to the Regimental Commander.

### **C. THE PRESIDENT OF THE COLLEGE: ROLE AND RESPONSIBILITIES**

All recommendations of the All-College Committee, or of any standing committee, or of any other committee established under the terms of this Agreement shall be transmitted to the President of the College for final review.

In reviewing such recommendations and prior to making any decision in respect of the specific subject matter thereof, the President shall consider any recommendations, then current, made by any committee or other body in respect of such specific subject matter, giving due weight to the knowledge and expertise of the members of such committee or other body. Whenever the President shall have declined to accept, in whole or in part, any recommendation made to him/her pursuant to the provisions of this Article, he/she shall, within a reasonable time thereafter, transmit his/her reasons therefor in writing to the committee or other body by which such recommendation shall have been made.

Without derogating from the exclusive rights of the Association as those are provided for in Chapter 150E of the General Laws, the President and the Board may, in making decisions and in considering recommendations, consult with those persons or bodies that either of them thinks necessary or desirable.

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

### D. COMMITTEES OF THE COLLEGE

#### 1. Standing Committees of the College

##### a. Establishment and Composition of Standing Committees

With effect on September 1, 2009, there shall be established at each College the following standing committees:

##### i. Curriculum Committee

The Curriculum Committee shall consist of sixteen (16) members of the bargaining unit, three (3) students, and three (3) administrators; provided, however, that in the case of the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, the Curriculum Committee shall be composed of ten (10) members of the bargaining unit, two (2) students, and two (2) administrators.

##### ii. Academic Policies Committee

The Academic Policies Committee shall consist of sixteen (16) members of the bargaining unit, at least one (1) of whom shall be a librarian, three (3) students, and three (3) administrators; provided, however, that in the case of the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, the Academic Policies Committee shall be composed of ten (10) members of the bargaining unit, at least one (1) of whom shall be a librarian, two (2) students, and two (2) administrators.

##### iii. Student Affairs Committee

The Student Affairs Committee shall consist of five (5) members of the bargaining unit, nine (9) students, and five (5) administrators.

##### b. Selection of Members of Standing Committees

The membership of each standing committee shall be selected as follows.

The representatives of the bargaining unit shall be selected under the auspices of the Association from among the members of the bargaining unit who are employed at the College. The representatives so selected shall serve from the September 1 following said selection until the next following September 1.

Representatives chosen from among the members of the bargaining unit shall be eligible to succeed themselves as representatives to any standing committee.

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

Except as is otherwise provided in this Agreement, all members of the bargaining unit as set forth in Article I, Section A, of this Agreement shall be eligible to serve as representatives to any standing committee.

Within thirty (30) days after the date on which the students shall have ratified this Article in accordance with the provisions of Sections G and H hereof, the student representatives shall be selected under the auspices of the Executive Committee of the Student Government Association at the College; provided, however, that only students who will be full-time juniors or seniors during their service in office shall be eligible to be selected to serve as such representatives; and provided further that at the Massachusetts Maritime Academy, one (1) of such representatives shall be selected under the auspices of the cadet officers of the Regiment of Cadets. The representatives first so selected shall serve until their successors are chosen pursuant to the foregoing provisions between April 15 and May 31 of each year.

The administrative representatives to the committee shall be appointed by the President of the College and shall serve at his/her discretion.

c. Responsibilities of the Standing Committees

i. Curriculum Committee

After receiving from the All-College Committee any recommendation submitted by any Department Chair or by any member of the College community, the Curriculum Committee, after consultation with any appropriate department or departments, shall from time to time prepare and transmit to the Vice President reports and recommendations with respect to the general coordination and improvement of the College's academic program. In carrying out this charge, the committee shall evaluate and make recommendations concerning the following:

- (A) all deletions from, additions to, or changes in the College inventory of courses;
- (B) major and general educational requirements and proposed changes therein; and
- (C) proposals for new major programs of study.

In addition to the foregoing, the committee shall from time to time conduct a College-wide study of the overall academic program in order to consider and propose major changes in the curriculum design.

Prior to making any decision to establish or disestablish any academic or library department or academic or library program area at the College, the President shall inform the Curriculum Committee of such intended or pending decision, and the Curriculum Committee may thereafter make any such recommendation in respect thereof as it may

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

deem appropriate. No other provision of this Article VII shall apply to any such decision.

### ii. Academic Policies Committee

After receiving from the All-College Committee any recommendation submitted by any member of the College community, the Academic Policies Committee shall from time to time prepare and transmit to the Vice President reports and recommendations with respect to the following:

- (A) the academic calendar;
- (B) academic standards;
- (C) standards for admission to the College;
- (D) policies governing selective retention;
- (E) educational services that the College should render to the local community; and
- (F) library services.

### iii. Student Affairs Committee

After receiving from the All-College Committee any recommendation submitted by any member of the College community, the Student Affairs Committee shall from time to time prepare and transmit to the Vice President, Student Services, reports and recommendations with respect to the following:

- (A) needs of the student population to be served;
- (B) student activities, including, at the Massachusetts Maritime Academy, activities of the Regiment of Cadets; and
- (C) student participation in the cultural and social activities of the College.

The Committee shall make studies of the practices, policies and trends related to student life at other institutions of higher education in the Commonwealth and in the nation.

## 2. Graduate Education Council

### a. Establishment of a Graduate Education Council

With effect on September 1, 2009, there shall be established at each College at which there is a graduate education program a Graduate Education Council.

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The membership thereof shall be as follows:

- i. the President of the College shall appoint three (3) administrators who shall serve at his/her discretion;
- ii. under the auspices of the Association, five (5) members of the graduate faculty shall be selected from among all members of the graduate faculty of the College; and
- iii. the members of the council selected pursuant to the foregoing provisions shall elect one (1) member who shall be a student at the College enrolled in two (2) or more graduate courses in a semester.

The terms of office of members of the council shall commence on the September 1 following said selection and shall end on the next following August 31. Whenever a vacancy shall have occurred in the membership of the council, such vacancy shall be filled pursuant to the applicable provisions of the foregoing paragraph.

### b. Responsibilities of the Graduate Education Council

Matters in respect of which the council may make reports and recommendations shall be the following:

- i. the changing of course requirements within the existing graduate curricula;
- ii. the addition of new courses and the deletion of existing courses within such curricula; and
- iii. the criteria to be applied in designating as such members of the graduate faculty.

The council shall receive and may solicit from the academic departments of the College recommendations pertaining to the preceding item (iii).

The council shall also hear appeals from graduate students to the College's graduate program.

### c. Reporting Procedure Applicable to the Graduate Education Council

Anything in this Article VII to the contrary notwithstanding, every report and recommendation made by the Graduate Education Council shall be transmitted directly to the President of the College through the Vice President, and a copy thereof shall be transmitted to the Chapter President and to the Chair of each department that sponsors a graduate program. No such report or recommendation shall be required to be transmitted to the All-College Committee or to any standing or other committee thereof. The Graduate Education Council shall send copies of minutes and its agenda to the All-College Committee.

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### 3. Ad Hoc and Special Committees

#### a. Establishment of Ad Hoc Committees

Upon a majority vote of the members of any one (1) of its three (3) constituencies, or upon the request of the President, the All-College Committee shall from time to time establish one (1) or more ad hoc committees of the College to make recommendations and reports to the Committee in respect of any matter duly referred to it by the Committee pursuant to the provisions of this Agreement. No such ad hoc committee shall be constituted for the purpose of receiving, nor shall any such committee receive, any assignment regarding a matter falling within the purview of any standing committee, any Graduate Education Council, or the Sea Term Council at the Massachusetts Maritime Academy, constituted pursuant to the terms of this Agreement; nor shall any ad hoc committee be constituted for the purpose of receiving, and no such committee shall receive, any assignment regarding any matter agreed to be dealt with through any other process or procedure prescribed or deferred to by this Agreement; nor shall any ad hoc committee be constituted for the purpose of receiving, and no such committee shall receive, any assignment regarding any matter of the kind described in Section J.

Every such ad hoc committee shall be responsible to the Committee for the completion of its assignment.

#### b. Membership of Ad Hoc Committees

The membership of any ad hoc committee shall consist of at least one (1) representative from the bargaining unit, one (1) student and one (1) administrative representative and shall in every case consist of an equal number of voting members from among the bargaining unit, students and administrators, respectively. The number of such representatives shall be determined by the All-College Committee. The representative or representatives of the bargaining unit shall be selected under the auspices of the Association; the student representative or representatives shall be selected under the auspices of the Student Government Association and, at the Massachusetts Maritime Academy, the Regiment of Cadets; and the administrative representative or representatives shall be selected by the President.

The ad hoc committee may also invite an administrator, a member of the bargaining unit and/or a student having expertise in the matter being considered by the committee to assist it in a consultative capacity.

#### c. Establishment of Special Committees

Whenever the President of the College, the Chapter President, and, by a majority vote thereof, the All-College Committee shall have agreed upon the establishment of any special committee at any College (including any such committee on strategic planning, on long-range planning for the use of space



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and facilities or any like matter), such committee shall be established in accordance with the terms of such agreement and shall have such responsibilities and membership and shall exist for such term, not being greater than the term of this Agreement, as shall have been so agreed upon. Any such committee so established shall be governed by any and every provision of this Agreement, except to the extent that the contrary shall have been so agreed upon, that is of general application to the standing committees otherwise established pursuant to the provisions of this Agreement; provided, however, that the provisions of Section H of this Article shall be of no application to the establishment of any such committee.

### 4. Committee Reporting Procedures and Meetings

#### a. Reporting Procedures

Each of the aforesaid committees, excluding the Graduate Education Council but including any ad hoc or special committee, shall submit reports and recommendations to the All-College Committee in accordance with the following procedures:

At the time of its submission of any final report and/or recommendation to the All-College Committee, each committee shall simultaneously submit such final report and/or recommendation to the following, namely:

- i. the President of the College;
- ii. the Chapter President;
- iii. the President of the Student Government Association and, in the case of the Massachusetts Maritime Academy, the Regimental Commander; and
- iv. such administrator as may from time to time be designated for such purpose by the President in respect of such committee.

Not later than May 15 of each academic year, each standing committee shall submit to the All-College Committee and to the President a report setting forth its activities during such academic year.

#### b. Meetings

Each standing committee shall meet regularly during the academic year at such times and places as may be convenient to its members and in such manner as will permit it to complete its work. The academic calendar may prescribe a regular weekly period during which classes are not normally scheduled in order thereby to provide a convenient time during which members of the academic community may attend meetings of the All-College Committee and other committees established in accordance with this Article.

## ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS

Each member of the All-College Committee and of any other committee established in accordance with this Article shall have one (1) vote.

Not less than annually, each committee shall elect a chair by a majority vote of all the committee members present at a meeting called for such purpose; each committee shall also elect a secretary who shall record minutes of each meeting of the committee and maintain its records and reports, and who shall regularly forward copies of minutes, records and reports to the Chapter President, the President of the Student Government Association, the Regimental Commander and the President of the College.

Every committee shall have the prerogative of asking the advice and assistance of any student, member of the bargaining unit, administrator or departmental committee in the performance of its responsibilities.

### 5. Notice of Selections, Elections and Appointments

Written notification of all selections, elections or appointments to the All-College Committee and to other committees established in accordance with this Article shall be sent by the President of the College, the Chapter President, the President of the Student Government Association and the Regimental Commander, as the case may require, to the All-College Committee, the President of the College, the Chapter President, the President of the Student Government Association and the Regimental Commander.

### 6. Filling Vacancies on Committees

In the event that any duly selected representative of the bargaining unit, any student representative or any administrative representative serving on any standing, special or ad hoc committee, including the Graduate Education Council, shall be unable or unwilling to serve in that capacity, the Chapter President, the President of the Student Government Association, the Regimental Commander or the President of the College, as the case may require, shall, pursuant to the applicable provisions of this Article, provide for the filling of the vacancy thereby created for the purpose of completing the term of the retiring member; provided however, that a vacancy of a student representative to the Graduate Education Council shall be filled in accordance with the provisions of subsection 2(a)(iii) above.

### 7. Establishment of a Sea Term Council at the Massachusetts Maritime Academy

#### a. Membership

The President of the Massachusetts Maritime Academy may establish a Sea Term Council whose membership, if so established, shall consist of the following:

- i. the Chairs of the departments of Engineering, Marine Transportation and any other department having a training component on the Sea Term;

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- ii. a member of the bargaining unit from each of the departments of Engineering and Marine Transportation and from any other department having a training component on the Sea Term;
- iii. the Master, Chief Engineer or Chief Mate of the Training Ship;
- iv. the Commandant of Cadets; and
- v. three (3) student representatives.

The three (3) student representatives shall be chosen annually in an election conducted under the auspices of the Executive Committee of the Student Government Association. One (1) such representative shall be a member in good standing of the second class, one (1) of the third class and one (1) of the fourth class of cadets at the Academy.

### b. Responsibilities

The Sea Term Council, if so established, shall make recommendations to the President, by way of the Vice President, concerning the following:

- i. the itinerary of the annual Sea Term;
- ii. the training program of the annual Sea Term; and
- iii. the staffing requirements for the annual Sea Term.

## E. ROLE OF THE ASSOCIATION AND OF THE STUDENT GOVERNMENT ASSOCIATION

The College Chapter of the Association, by its duly constituted officers, and the Student Government Association at each College, by its duly constituted officers, may, respectively, submit a recommendation to the President in respect of any matter that is the subject of a prior recommendation made by the All-College Committee, by any standing committee, including the Sea Term Council at the Massachusetts Maritime Academy, and by the Graduate Education Council, by any special committee or by any ad hoc committee, as they or either of them may deem appropriate.

Whenever the Chapter President and the President of the Student Government Association, or either of them, shall, within five (5) days following the receipt of such recommendation, have given written notice to the President of an intention to make a recommendation in respect of such prior recommendation, the College Chapter of the Association or the Student Government Association may, having given such notice, make any such recommendation within ten (10) days following the receipt of such prior recommendation; provided, however, that whenever, prior to the expiration of such ten (10) day period, the Chapter President and the President of the Association, or either of them, having given such notice, shall have given further notice of any intention to discuss such prior recommendation at a meeting of the faculty or of the students, as the case may be, the College Chapter of the Association or the Student Government Association may, having given such further notice, make any such recommendation within fifteen (15) working days following the receipt of such prior

## **ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS**

recommendation. Nothing in the foregoing shall be deemed to prohibit either the Chapter President or the President of the Student Government Association from giving both of the aforesaid notices within five (5) days following the receipt of the recommendation in question.

Until the expiration of such period of time or until his/her receipt of any such recommendation from the College Chapter of the Association or from the Student Government Association, whichever shall first occur, the President shall make no final decision in respect of the matter that is the subject of such recommendation.

### **F. PLANS FOR ACADEMIC REORGANIZATION**

Prior to implementing in whole or in part any plan of a kind described in Section A of Article X-A and of Article X-B of this Agreement, but only to the extent that such plan or part of such plan will, if implemented, change any academic program, curriculum or structure at any one or more of the State Colleges, the Board of Trustees, or the Board of Higher Education, as the case may be, shall transmit such plan or part thereof, to the extent that the same will, if implemented, change any academic program, curriculum or structure at any College, through the President of such College to the All-College Committee. A copy of the same shall also be transmitted to the Chapter President and to the President of the Association. Upon its receipt thereof, the All-College Committee shall refer the same to any such standing committee or committees within whose jurisdiction such plan or part thereof falls, but only to the extent, in the case of each such standing committee, that such plan or part thereof so falls.

At the time of such transmittal, the appropriate Board, acting through the President, shall give written notice to the All-College Committee of the date by which any final recommendation or recommendations are required to be submitted to the President, pursuant to the provisions of this Article VII, in respect of such plan or part thereof; provided, however, that different dates may be so established with respect to different portions of such plan or plans; and provided further that if after its receipt of any recommendation or recommendations from any standing committee, the All-College Committee shall have determined that an extension of time is reasonably required for its consideration of any such recommendation, it shall so notify the President in writing and it shall thereupon be granted, during an academic year, an additional thirty (30) days for such purpose from and after the date first set for the making of any final recommendation. The date or dates that are established pursuant to the foregoing provision for the making of any recommendation in respect of any such plan or part thereof shall govern the making of any such recommendation made, whether by the All-College Committee or otherwise, pursuant to the provisions of this Article VII, anything in such provisions to the contrary notwithstanding.

### **G. STUDENT ELIGIBILITY**

No student may be selected to or continue to serve on the All-College Committee or any committee established hereunder who is not a full-time student and in good academic standing.

## **ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS**

### **H. STUDENT PARTICIPATION IN DECISION-MAKING**

#### **1. Acceptance**

At each College student participation as provided in this Article shall be subject to acceptance of the terms of this Article to be evidenced by a vote, taken by secret ballot, of the student body which shall be determined by a referendum to be conducted by the Student Government Association at each College not later than October 31, 2009. Every student shall be eligible to vote. A majority of those voting shall be required for acceptance. Acceptance by such vote shall be for the term of this Agreement. The referendum question shall be as follows:

“Shall the students of \_\_\_\_\_ [name of institution] participate in decision-making at the College as provided for in the contract executed between the Massachusetts Teachers Association/MSCA and the Board of Higher Education?”

“Yes \_\_\_ No \_\_\_

“(Acceptance or rejection shall in no way affect the entitlement of students to participate in other duly authorized student or campus organizations.)”

The ballots cast in such referendum shall be counted at a meeting open to members of the College community and shall, after completion of the tally, be kept for the duration of this Agreement in the records of the Student Government Association.

#### **2. Effectiveness**

Acceptance of this proposal by the students of the College in accordance with the provisions of this Article shall be a condition precedent to the right, at such College, of students to participate in the decision-making procedures provided herein. Non-acceptance shall make the terms of this Article, insofar as they grant to students the right to participate in such decision-making procedures, null and void, but shall in no way otherwise impair any other term of this Article or of this Agreement.

### **I. COMPLIANCE WITH BOARD TIME SCHEDULES**

Any assignment, report, recommendation or other action of any committee provided for in this Article shall be completed in compliance with such reasonable time schedules as may be established from time to time by the Board or the President.

Written notice of such time schedules shall be provided by the President of the College to the Chair of the All-College Committee, the Chapter President and the President of the Student Government Association. Notice to the All-College Committee shall be deemed to be notice to all other committees established by or pursuant to the provisions of this Article. In the event that any such committee, having received such notice, shall not have so completed its work, the President or the Board, as the case may be, may in his/her or its discretion make such recommendations or take such actions as he/she or it deems appropriate, and the making of such recommendations or the taking of such actions shall not be in violation of the procedures set forth in any provision of this Agreement.

## **ARTICLE VII - PARTICIPATION IN THE DECISION-MAKING PROCESS**

### **J. EXCLUSIONS: TRUST FUNDS, DEPARTMENT OF NAVAL SCIENCE, ROTC**

Anything in this Agreement to the contrary notwithstanding, no provision of this Article VII shall be of any application to any person, committee, council or body to the extent that such person, committee, council or body has any responsibilities concerning the administration of any trust fund or funds at any College or Colleges; nor shall any provision of this Article VII be of any application to the curriculum, or to any course of the curriculum, of the Department of Naval Science at the Massachusetts Maritime Academy or any ROTC program at any College.

### **K. SYSTEM-WIDE TASK FORCES**

1. Whenever a system-wide task force is to be formed, the Commissioner shall inform the Chair of the Council of Presidents and the President of the Association of the creation of that task force and provide the purview of that task force.
2. In the selection of unit members to serve on the task force, the Commissioner shall request the Chair of the Council to submit the names of such unit members. The Chair of the Council of Presidents shall request such names from the President of the Association and shall forward such names to the Commissioner.

### **L. CONFLICT OF INTEREST**

No member of the All-College Committee, its standing or ad hoc committees shall be permitted to serve as such while he/she is simultaneously performing duties as a member of any institutional Board of Trustees or the Board of Higher Education.

### **M. COLLEGE-WIDE ADVISORY COMMITTEES**

Whenever the President of the College shall establish an Advisory Committee to which he/she wishes to appoint representatives of the bargaining unit, he/she shall confer with the Chapter President and request the names of nominees for such positions from the Chapter President. The President of the College shall appoint from the nominees provided by the Chapter President.

## **ARTICLE VIII - EVALUATIONS**

Evaluations are conducted for the purposes of making personnel decisions, encouraging and assessing professional and pedagogical experimentation, assisting members of the academic community in the improvement of performance and programs.

No unit member may serve on his/her own evaluation committee. No member of the bargaining unit shall serve on an evaluation committee or otherwise participate in the conduct of an evaluation if to do so would constitute a conflict of interest or the appearance of a conflict of interest. No unit member, for example, shall participate in the evaluation of his/her spouse or domestic partner.

No written materials shall be used in the conduct of any evaluation pursuant to the provisions of this Article VIII except such materials as shall have been submitted at the commencement of such evaluation in accordance with the provisions of Section E(1) hereof. Every member of the bargaining unit who is the subject of any such evaluation shall be entitled to see and inspect all such materials.

All evaluations conducted pursuant to this Article shall be performed in accordance with the applicable academic Personnel Calendar in Appendix M.

Incidental observations of any unit member shall not be used, in whole or in part, in any manner whatsoever, in conducting an evaluation pursuant to the provisions of this Agreement.

All members of the bargaining unit at each College shall be evaluated in accordance with the following provisions, subject where applicable, however, to the provisions of Article VIII-A.

Every provision of this Article VIII that is of application to full-time members of the faculty shall also be of application to salaried part-time faculty members, and every provision of this Article VIII that is of application only to part-time members of the faculty shall be of such application only to part-time members of the faculty who are not salaried part-time faculty members.

Regular evaluations shall be made of each member of the faculty and of each librarian, and, in accordance with the requirements of the other applicable provisions of this Agreement, a written record shall be kept of the substance of the evaluation. Every such evaluation shall be conducted in accordance with the provisions of this Article VIII.

No person who is a member of the bargaining unit by reason of the fact that he/she holds a temporary appointment of the kind described in Section C(6) of Article XX shall be entitled to vote in any election conducted pursuant to the provisions of this Article VIII.

Except as otherwise provided in this Agreement, persons who are responsible for evaluating others pursuant to this Article VIII have a duty to keep in confidence any evaluations or evaluation materials to which they are privy in that capacity.

### **A. CRITERIA FOR EVALUATIONS**

#### **1. Criteria for the Evaluation of Full-time Faculty**

The following criteria shall be used in the evaluation of all full-time members of the faculty:

## ARTICLE VIII - EVALUATIONS

- a. i. teaching effectiveness, including pedagogical experimentation, as exhibited in lectures, seminars, internships, independent studies and other instructional settings;
- ii. academic advising, as prescribed in Section A(3) of Article XII;
- b. i. continuing scholarship, including
  - (A) contributions to the content of the discipline;
  - (B) participation in or contributions to professional societies and organizations;
  - (C) research as demonstrated by published or unpublished work (or, where applicable, artistic or other creative activities); and
  - (D) work toward the terminal degree or relevant post-graduate study.

Nothing in this paragraph (b)(i) shall be deemed to require any member of the faculty to engage in all or in any particular one of the activities that constitute continuing scholarship; and no member of the bargaining unit shall be denied a personnel action by sole reason of his/her not having engaged in any one or another of such activities. In evaluating each member of the faculty it shall be the responsibility of those charged with doing so to assess the quality, significance and relevance of that faculty member's continuing scholarship.

- ii. other professional activities, which by way of example shall include such matters as public service, and contributions to the professional growth and development of the college community (which contributions may include (x) service on inter-institutional and system-wide committees, (y) service as a program area chair without a reduction of workload pursuant to Article XII, Section D, and (z) academic advising of students in excess of thirty (30) assigned at the beginning of the semester); and
- iii. such responsibilities, if any, as may be assumed by a faculty member in lieu of, in whole or in part, the normal faculty instructional workload in academic subject areas by serving as a Department Chair pursuant to Article VI, by performing services in a counseling center, facility or program pursuant to Section A(3)(b) of Article XII, by discharging any alternative professional responsibilities pursuant to Section D of Article XII (including service as a program area chair if accompanied by a workload reduction), and/or by undertaking any program of professional development pursuant to Article XIV.

In applying these criteria, regard shall be had to the fact that the State Colleges are primarily teaching institutions.



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### 2. Criteria for the Evaluation of Part-time Faculty

The following criteria shall be used in the evaluation of all part-time members of the faculty who are members of the bargaining unit:

- a. teaching effectiveness, as exhibited in lectures, seminars, internships, independent study, and other instructional settings;
- b. academic advising of students whom they are assigned to teach; and
- c. the fulfillment of their obligations under the applicable provisions of Article XII.

### 3. Criteria for the Evaluation of Librarians

The following criteria shall be used in the evaluation of all librarians:

- a.
  - i. effectiveness in performing assigned responsibilities within the library;
  - ii. effectiveness in rendering assistance to students, faculty and the academic community;
- b.
  - i. continuing scholarship, including
    - (A) contributions to the content and pedagogy of the discipline as evidenced by the participation in and contributions to the improvement and development of library programs or library services;
    - (B) participation in or contributions to professional societies and organizations;
    - (C) research as demonstrated by published or unpublished work; and
    - (D) work toward the terminal degree or relevant post graduate study;
  - ii. other professional activities, which by way of example shall include such matters as public service, and contributions to the professional growth and development of the college community (which contributions may include (y) service on inter-institutional and system-wide committees and (z) service as a program area chair without release time); and
  - iii. such responsibilities, if any, as may be assumed by a librarian in lieu of, in whole or in part, the normal librarian workload in library service areas, by serving as Library Program Area Chair, by discharging any alternate professional responsibilities pursuant to Section D of Article

## ARTICLE VIII - EVALUATIONS

XII and/or by undertaking any program of professional development pursuant to Article XIV.

Whenever a librarian teaches a credit-bearing course pursuant to the provisions of this Agreement, his/her teaching shall be evaluated pursuant to the provisions of this Article VIII that pertain to the evaluation of a faculty member's teaching.

In applying these criteria, regard shall be had to the fact that the State Colleges are primarily teaching institutions.

### 4. Application of the Criteria

The foregoing criteria are to be used as a measure with reference to each work year or years (or, in the case of part-time faculty, each semester or semesters) in respect of which an evaluation is being conducted. The overall evaluation of each unit member will be based upon his/her entire professional performance during each such year or years (or each such semester or semesters), and, in the conduct of any such evaluation, regard may properly be had to evaluations conducted in respect of any prior year or years (or any prior semester or semesters).

The basis for every evaluation shall be professional quality demonstrated with reference to each of the applicable criteria. Whenever any unit member is being evaluated as a candidate for promotion, such criteria shall be applied together with the requirements applicable to promotion to the rank for which such person is a candidate: it being the understanding of the parties that for promotion to each higher rank, a higher order of quality may properly be demanded. Whenever any unit member is being evaluated for tenure, such criteria shall be applied together with the applicable provisions of Articles IX and XX of this Agreement.

In cases where consideration shall be given to the performance of a member of the bargaining unit during any prior review period when evaluating the unit member's performance during the current review period, the then-applicable criteria as set forth in any predecessor agreement or agreements shall be applied only to the applicable review period or periods.

## B. FREQUENCY OF EVALUATIONS

### 1. Full-time, Non-tenured Members of the Bargaining Unit

Except as is provided in Section C(1)(a), every full-time, non-tenured member of the bargaining unit shall be evaluated annually. Tenure-track unit members shall not be evaluated during a terminal appointment unless, upon the recommendation of the Department Chair (or the Library Director or the Library Program Area Chair, as may be appropriate) or the Vice President, the President requires the conduct of an evaluation.

### 2. Tenured Members of the Bargaining Unit

a. Any tenured member of the bargaining unit who has signified that he/she wishes to be considered for promotion shall be evaluated during the academic

## ARTICLE VIII - EVALUATIONS

year preceding the academic year in which such promotion, if granted, would first have effect.

- b. Upon the recommendation of the Department Chair (or the Library Director or the Library Program Area Chair, as may be appropriate), or the Vice President, the President may require any tenured member of the bargaining unit to be evaluated for the purpose of considering the taking of any other personnel action. In such case, the President shall provide the unit member with written notice of such determination and a statement of the reason(s) therefor. Such an evaluation may be conducted once during an academic year. The evaluation shall be conducted in accordance with the terms of the Agreement and shall be completed within sixty (60) days of such notice.

### 3. Part-time Members of the Faculty

Every part-time member of the faculty shall be evaluated during the first semester of his/her employment as such and, thereafter, during (a) the sixth (6th) ensuing semester in which he/she teaches or (b) the semester in which he/she teaches the thirty-second (32nd) credit (at Framingham State College, the eleventh (11th) course) following the semester in which the last evaluation was conducted, whichever first occurs. Nothing in this paragraph shall require the evaluation of a part-time faculty member more frequently than once in any academic year unless the Vice President shall require one (1) or more frequent evaluations in the case of any individual part-time member of the faculty.

## C. PERIODS RELATED TO EVALUATIONS

### 1. Review Period

A review period is the period within which falls the performance that is the subject of an evaluation.

A review period shall not encompass any period that falls without the work year of the member of the bargaining unit being evaluated.

- a. In the case of any full-time member of the faculty who is in the first year of his/her employment, student evaluations shall be administered pursuant to Section D(1)(a) and classroom observations shall be conducted pursuant to Section D(1)(b). The Department Chair shall forward the record of such observations to the Vice President as promptly as is practicable after they have been completed.

Any full-time member of the bargaining unit who is in the first year of his/her employment as such shall be evaluated for the first time pursuant to this Article VIII during the next academic year. The review period for that first evaluation shall be the period that commences on the date of his/her first employment and ends on the date of commencement of his/her evaluation during such next year.

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Nothing in this or any other provision of this Agreement shall prohibit any College from terminating, in accordance with this Agreement, any such unit member's employment during or at the end of his/her first year of employment regardless of the fact that no evaluation shall have been conducted during that year.

- b. In the case of all other full-time members of the bargaining unit, the review period shall be that which encompasses all work years since the end of the last review period.
- c. In the case of any part-time faculty member who is in the first semester of his/her employment as a member of the bargaining unit, the review period shall encompass that semester; but in the case of any other part-time faculty member, the review period shall be that which encompasses all semesters since the end of the last review period.
- d. In the case of any member of the bargaining unit who is being evaluated for tenure, the review period shall encompass the entire period of full-time, tenure-track service that has been included in computing such member's eligibility to be considered for tenure (including any initial spring semester of tenure-track employment).
- e. In the case of any member of the bargaining unit who is being evaluated for promotion, the review period shall encompass the entire period of full-time service since the end of the review period that was considered with respect to his/her last promotion or, if there was none, since the date on which he/she commenced employment in his/her present rank.
- f. Nothing herein contained shall prohibit consideration being given to the performance of a member of the bargaining unit during any prior review period when evaluating such member's performance during the most current review period.

### 2. Evaluation Period

An evaluation period is that period during which an evaluation is conducted.

In the case of any unit member who is not being considered for a personnel action, such period shall commence not sooner than the expiration of the review period and shall end not later than the date such evaluation is transmitted to the President.

In the case of any unit member who is being considered for a personnel action, the evaluation period shall commence not sooner than the expiration of the review period and shall end not later than the date on which the President submits or declines to submit recommendations to the Board of Trustees. Nothing in this provision shall be deemed to prohibit the extension of any such evaluation period in accordance with the provisions of Section C(1) of Article XI.

## ARTICLE VIII - EVALUATIONS

### D. MATERIALS TO BE USED IN THE CONDUCT OF EVALUATIONS

Any member of the bargaining unit who is the subject of any evaluation shall be entitled to see and inspect all written materials used in the conduct of such evaluation.

The following materials shall be used in the conduct of evaluations.

#### 1. Materials to Be Used in the Evaluation of Full-time Members of the Faculty

##### a. Student Evaluations

##### i. The Administration of Student Evaluations

Student evaluations shall be used giving due consideration to the number of courses and sections that were taught during the review period and for which student evaluations are available, as well as the number of students by which such evaluations have been made. Student evaluations should be used, to the extent possible, to discern the pattern or patterns evidenced with reference to teaching effectiveness; provided, however, that in the case of non-tenured faculty, nothing herein contained shall be deemed to prohibit, merely by reason of the short duration of any such faculty member's service at a College, the making of any recommendation or any personnel decision.

No student evaluation made pursuant to the provisions of this Article shall be published or conveyed to any person save in accordance with the provisions of this Article, of Article II and of Article XVI.

The Department Chair shall annually obtain student evaluations of the teaching effectiveness and of the courses taught by each full-time faculty member. Unless required by the faculty member, the Department Chair or the Vice President, student evaluations shall include one (1) section of each type of course for all tenured faculty members. Student evaluations shall include all sections of each type of course each semester for all non-tenured faculty members.

All student evaluations, other than those administered using the web-based SIR II, shall be administered in accordance with the procedures specified in Appendix C-1 and otherwise in accordance with the requirements of Section D(1) of this Article VIII.

Student evaluations shall be administered using either the Student Instructional Report II (SIR II), including any Instructor's Cover Sheet, as the same is published from time to time by the Educational Testing Service of Princeton, N.J., or, in the case of non-lecture or non-laboratory courses, the Student Instructional Rating Form for Non-lecture Courses that is attached to this Agreement as Appendix C-4. Student evaluations of distance education courses shall be administered using the web-based version of the above-described SIR

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II; provided only that any item on the web-based version of the SIR II that solicits student comments shall be blocked and shall not be accessible for student use.

Copies of the Instructor's Cover Sheet and the SIR II form as they are on the date of execution of this Agreement are annexed to it as its Appendices C-2 and C-3, respectively.

Prior to the conduct of student evaluations, each member of the faculty shall, for each course in respect of which such evaluations are to be administered, prepare for submission with the completed student evaluations the Instructor's Cover Sheet.

Notwithstanding any statement appearing on the SIR II, individual written student comments are prohibited on student evaluation forms. Any such individual comments made shall be disregarded.

Nothing in this subsection 1 shall be deemed to prohibit the use of student evaluation forms that have been rendered in a computer-readable (op-scan) format, nor shall it be deemed to prohibit the use of any compilation, whether by computer or otherwise, of summaries of student evaluations and the results thereof in respect of each faculty member. No faculty member shall be given any negative evaluation by sole reason of the fact that his/her student evaluations, as revealed by any such summary, are less favorable than those of some other member of his/her department. No such summary shall be used pursuant to this Article VIII for the purpose of comparing faculty members in one department with those in another.

Whenever two (2) or more members of the faculty team-teach a course, student evaluations shall be administered in such course as follows and otherwise in accordance with the preceding paragraphs of this subparagraph (i). If each faculty member teaches a discrete portion of the course, student evaluations for each such faculty member shall be administered when that faculty member's portion of the course is completed. If the faculty members do not teach discrete portions of the course, student evaluations for each faculty member shall be administered separately near the end of the course (on the usual schedule) with appropriate instructions to the students concerning the separateness of each evaluation.

### ii. Limitations

The absence of student evaluations from the evaluation record of any member of the bargaining unit for any semester listed below shall not be considered, either positively or negatively, in the evaluation of his/her teaching effectiveness:

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Fall 1999

Spring 2000

Fall 2000

Fall 2003

Spring 2004

Fall 2004

Spring 2005

Fall 2005

Additionally, the absence of student evaluations from the evaluation record for distance education courses prior to the spring semester of 2008 of any member of the bargaining unit shall not be considered, either positively or negatively, in the evaluation of his/her teaching effectiveness.

The absence of student evaluations from the evaluation record for distance education courses during the spring semester of 2008 of any member of the bargaining unit at Fitchburg State College and Salem State College shall not be considered, either positively or negatively, in the evaluation of his/her teaching effectiveness.

### b. Classroom Observations

The Department Chair shall observe one (1) section of each course taught by each first-year faculty member.

For full-time faculty (i) being evaluated in accordance with the provisions of this Article for reappointment, tenure or promotion and (ii), in the case of a full-time temporary faculty member, during the first (1st) semester and third (3rd) consecutive semester of employment, the Department Chair shall observe one (1) section of each type of course taught for the purpose of evaluating teaching effectiveness.

The preceding paragraph notwithstanding, no more than two (2) observations shall be required. If a faculty member is teaching both in-class and distance education courses, one (1) observation shall be conducted in an in-class course and one (1) in a distance education course.

Any faculty member may request that the Department Chair conduct more observations than otherwise required by the preceding three (3) paragraphs.

A record of each in-class observation shall be made using Appendix D-1(a) and a record of each distance education observation shall be made using Appendix D-1(b).

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For the purposes of this Article VIII and Article VIII-C, the phrase “classroom observation” shall include any electronic observation of a class conducted pursuant to the preceding paragraphs.

Prior to the conduct of any such observation, the faculty member shall meet with the Department Chair, the members of the Peer Evaluation Committee or the Vice President, as appropriate, in order to provide them with a plan of the class to be observed and any materials intended to be used in the class.

Whenever the Peer Evaluation Committee is obligated to conduct an evaluation of a faculty member in accordance with the provisions of this Article, each member of the committee shall observe one (1) course (but not necessarily the same course) that is taught by such faculty member for the purpose of evaluating his/her teaching effectiveness. Any faculty member may request that the committee observe one (1) class in addition to those otherwise required to be observed by this paragraph, and in such event the committee shall decide who, if any, among its members (including all of its members) shall conduct such observation.

As soon as is practicable after the conduct of such observations, the Department Chair shall meet with each member of the faculty whose class or classes he/she has observed for the purpose of discussing his/her observations of the faculty member’s performance in the classroom. During any semester in which its members observe any class or classes of a faculty member, and as soon as is practicable thereafter, the Peer Evaluation Committee shall meet with the faculty member for the purpose of discussing its observations of the faculty member’s performance in the class(es).

Whenever he/she deems it appropriate, the Vice President may observe the class or classes of any faculty member for the purpose of evaluating his/her teaching effectiveness, if such faculty member is being evaluated in accordance with Section B(1), B(2)(a) or B(2)(b) of this Article. During any semester in which the Vice President observes any course or courses of a faculty member, and as soon as is practicable thereafter, he/she shall meet with the faculty member for the purpose of discussing his/her observations of the faculty member’s performance in the classroom.

The regular sequence of classroom observations is, in summary, the following:

- i. For first-year faculty and for non-tenured faculty who are being evaluated for reappointment, the Department Chair shall conduct classroom observations every semester.
- ii. For members of the faculty seeking promotion or tenure, the Department Chair shall conduct classroom observations in the final spring semester of the review period, and no such observations shall be conducted during the ensuing fall semester unless the observations that were to have been conducted in the final spring semester of the review period were not conducted.



## ARTICLE VIII - EVALUATIONS

- iii. For full-time temporary faculty, the Department Chair shall conduct classroom observations in the first (1st) semester and third (3rd) consecutive semester of a temporary appointment.
- iv. When required to conduct classroom observations, peer evaluation committees shall conduct them during the fall semester of the evaluation period unless it is foreseen that the faculty member to be evaluated will not be teaching in that fall semester. In that case classroom observations should be conducted during the final spring semester of the review period.
- v. Except as provided in subparagraph (ii) above, no classroom observations shall be conducted during the spring semester of a promotion or tenure evaluation year.

c. Continuing Scholarship, Professional Activities, Comprehensive Resume

Each full-time faculty member shall indicate on Appendix A-1 the continuing scholarship, other professional activities and, when applicable, alternative responsibilities in which he/she has engaged, together with appropriate supporting documentation. Each full-time faculty member shall also complete and submit the resume form as set forth in Appendix B-1 and shall ensure that there are, in his/her Official Personnel File, current official transcripts of his/her course work.

d. Additional Evaluation Reports

Where applicable, there shall be used any evaluation reports that pertain to the performance of other professional responsibilities of the kind referred to in Section A(1)(b)(iii) of this Article VIII. This paragraph (d) shall be of no application in the case of any responsibilities discharged by any faculty member in his/her capacity as an officer of the Association or of the Massachusetts State College Association.

e. Course Documents

For each course taught by the faculty member during the review period, there shall be submitted by the faculty member a course outline, including a syllabus and, where used, a bibliography.

f. Interim Assessment by a Department Chair

Whenever any person shall cease, other than by reason of death or disability, to serve as Department Chair, he/she shall prepare and submit to his/her successor in office an assessment of each member of the faculty in the department whom his/her successor will be required to evaluate during the academic year in which his/her successor will first be required to conduct evaluations pursuant to this Article VIII. The person ceasing to serve as Department Chair shall prepare such assessment making use of all the materials that are otherwise permitted to be used in accordance with this

## ARTICLE VIII - EVALUATIONS

Section D and that are then available with respect to the review period that will be the subject of the evaluation first required to be done by his/her successor. A copy of any such assessment shall, at the time it is prepared, be provided to the faculty member to whose performance it pertains.

g. Other Information or Materials

In addition to the foregoing, there shall be considered in the conduct of an evaluation any other relevant and validated materials and information submitted by the faculty member being evaluated, by such faculty member's Department Chair, and/or by the Vice President. Such information or materials shall include any written self-evaluation which may have been submitted by the faculty member.

Nothing in these provisions shall prohibit a faculty member from submitting for consideration as a part of his/her evaluation any relevant and validated materials or information regarding professional activities undertaken by him/her during any period falling without a work year since the last review period that was the subject of an evaluation.

h. Academic Advising

There shall be considered in the conduct of an evaluation any documents or records that are descriptive of the faculty member's academic advising, including, where applicable, any documents or records pertaining to the faculty member's advising in excess of thirty (30) students.

2. Materials to Be Used in the Evaluation of Part-time Faculty

a. Student Evaluations

i. The Administration of Student Evaluations

Student evaluations shall be used giving due consideration to the number of courses and sections that were taught during the review period and for which student evaluations are available, as well as the number of students by which such evaluations have been made. Student evaluations should be used, to the extent possible, to discern the pattern or patterns evidenced with reference to teaching effectiveness; provided, however, that nothing herein contained shall be deemed to prohibit, merely by reason of the short duration of any such faculty member's service at a College, the making of any recommendation or any personnel decision.

No student evaluation made pursuant to the provisions of this Article shall be published or conveyed to any person save in accordance with the provisions of this Article, of Article II and of Article XVI.

The Department Chair shall obtain student evaluations of the teaching effectiveness and of the courses taught by each part-time member of

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the faculty each semester. Student evaluations shall be obtained in respect of every section taught by each part-time faculty member before the end of each semester.

All student evaluations, other than those administered using the web-based SIR II, shall be administered in accordance with the procedures specified in Appendix C-1 and otherwise in accordance with the requirements of Section D(1) of this Article VIII.

Student evaluations shall be administered using either the Student Instructional Report II (SIR II), including any Instructor's Cover Sheet, as the same is published from time to time by the Educational Testing Service of Princeton, N.J., or, in the case of non-lecture or non-laboratory courses, the Student Instructional Rating Form for Non-lecture Courses that is attached to this Agreement as Appendix C-4. Student evaluations of distance education courses shall be administered using the web-based version of the above-described SIR II; provided only that any item on the web-based version of the SIR II that solicits student comments shall be blocked and shall not be accessible for student use.

Copies of the Instructor's Cover Sheet and the SIR II form as they are on the date of execution of this Agreement are annexed to it as its Appendices C-2 and C-3, respectively.

Prior to the conduct of student evaluations, each part-time member of the faculty shall, for each course in respect of which such evaluations are to be administered, prepare for submission with the completed student evaluations the Instructor's Cover Sheet.

Notwithstanding any statement appearing on the SIR II, individual written student comments are prohibited on student evaluation forms. Any such individual comments made shall be disregarded.

Nothing in this subsection 2 shall be deemed to prohibit the use of student evaluation forms that have been rendered in a computer-readable (op-scan) format, nor shall it be deemed to prohibit the use of any compilation, whether by computer or otherwise, of summaries of student evaluations and the results thereof in respect of each faculty member. No faculty member shall be given any negative evaluation by sole reason of the fact that his/her student evaluations, as revealed by any such summary, are less favorable than those of some other member of his/her department. No such summary shall be used pursuant to this Article VIII for the purpose of comparing faculty members in one department with those in another.

Whenever two (2) or more members of the faculty team-teach a course, student evaluations shall be administered in such course as follows and otherwise in accordance with the preceding paragraphs of this subparagraph (i). If each faculty member teaches a discrete

## ARTICLE VIII - EVALUATIONS

portion of the course, student evaluations for each such faculty member shall be administered when that faculty member's portion of the course is completed. If the faculty members do not teach discrete portions of the course, student evaluations for each faculty member shall be administered separately near the end of the course (on the usual schedule) with appropriate instructions to the students concerning the separateness of each evaluation.

### ii. Limitations

The absence of student evaluations from the evaluation record of any member of the bargaining unit for any semester listed below shall not be considered, either positively or negatively, in the evaluation of his/her teaching effectiveness.

Fall 1999

Spring 2000

Fall 2000

Fall 2003

Spring 2004

Fall 2004

Spring 2005

Fall 2005

Additionally, the absence of student evaluations from the evaluation record for distance education courses prior to the spring semester of 2008 of any member of the bargaining unit shall not be considered, either positively or negatively, in the evaluation of his/her teaching effectiveness.

The absence of student evaluations from the evaluation record for distance education courses during the spring semester of 2008 of any member of the bargaining unit at Fitchburg State College and Salem State College shall not be considered, either positively or negatively, in the evaluation of his/her teaching effectiveness.

### b. Classroom Observations

At least once in any semester during which a part-time member of the faculty is to be evaluated, the Department Chair shall observe one (1) section of each course (including distance education courses, if any) taught by such member of the faculty for the purpose of evaluating his/her teaching effectiveness. Any such faculty member may request that the Department Chair conduct more observations than are otherwise required by this paragraph.

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Prior to the conduct of any such observation, the faculty member shall meet with the Department Chair in order to provide the Chair with a plan of the class to be observed and any materials intended to be used in the class.

Whenever he/she deems it appropriate, the Vice President may observe the class or classes of any part-time member of the faculty for the purpose of evaluating his/her teaching effectiveness.

A record of each such observation shall be made using Appendix D-1(a) or D-1(b), as appropriate.

c. Comprehensive Resume

Each part-time faculty member shall complete and submit the resume form set forth in Appendix B-1 and shall ensure that there are, in his/her Official Personnel File, current official transcripts of his/her course work.

d. Course Documents

For each course taught by the faculty member during the review period, there shall be submitted by the faculty member a course outline, including a syllabus and, where used, a bibliography.

e. Other Information or Materials

In addition to the foregoing, there shall be considered in the conduct of an evaluation any other relevant and validated materials and information submitted by the faculty member being evaluated, by such faculty member's Department Chair, and/or by the Vice President. Such information and/or material shall include any written self-evaluation which may have been submitted by the faculty member.

f. Interim Assessment by a Department Chair

Whenever any person shall cease, other than by reason of death or disability, to serve as Department Chair, he/she shall prepare and submit to his/her successor in office an assessment of each member of the faculty in the department whom his/her successor will be required to evaluate during the academic year in which his/her successor will first be required to conduct evaluations pursuant to this Article VIII. The person ceasing to serve as Department Chair shall prepare such assessment making use of all the materials that are otherwise permitted to be used in accordance with this Section D and that are then available with respect to the review period that will be the subject of the evaluation first required to be done by his/her successor. A copy of any such assessment shall, at the time it is prepared, be provided to the faculty member to whose performance it pertains.

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### 3. Materials to Be Used in the Evaluation of Librarians

#### a. Direct Observation of the Librarian's Performance

There shall be used direct observation of the librarian's performance of his/her professional responsibilities, a record of which observation shall have been reduced to writing by the Library Director or the Library Program Area Chair, as may be appropriate, and filed in the Official Personnel File of such librarian, including any such reports of the librarian's performance as may be required to be submitted from time to time by persons supervising the librarian.

#### b. Continuing Scholarship, Professional Activities, Comprehensive Resume

Each librarian shall indicate on Appendix A-2 the continuing scholarship, other professional activities and, when applicable, alternative responsibilities in which he/she has engaged, together with appropriate supporting documentation. Each librarian shall also complete and submit the resume form as set forth in Appendix B-1 and shall ensure that there are, in his/her Official Personnel File, current official transcripts of his/her course work.

#### c. Additional Evaluation Reports

Where applicable, there shall be used any evaluation reports that pertain to the performance of other professional responsibilities of the kind referred to in Section A(3)(b)(iii) of this Article VIII, but only if such librarian shall have been granted a reduction in his/her regular workload in order to permit the assumption of such responsibilities. This paragraph (c) shall be of no application in the case of any responsibilities discharged by any librarian in his/her capacity as an officer of the Association or of the Massachusetts State College Association.

#### d. Other Information or Materials

In addition to the foregoing, there shall be considered in the conduct of an evaluation any other relevant and validated materials and information submitted by the librarian being evaluated, by the Library Director or the Library Program Area Chair, as may be appropriate, and/or the Vice President. Such information or materials shall include any written self-evaluation submitted by the librarian, if any.

Nothing in these provisions shall prohibit a librarian from submitting for consideration as part of his/her evaluation any relevant and validated materials and information regarding professional activities undertaken by him/her during any period falling without a work year since the last review period that was the subject of an evaluation.

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### 4. Teaching Assignments in More than One Department

In the case of faculty with teaching assignments in more than one (1) department or librarians teaching in any one (1) or more departments, student evaluations and classroom observations of their courses shall be conducted as follows and otherwise in accordance with the applicable provisions of this Section D:

- a. Student evaluations shall (as otherwise required) be administered in courses in each department by the chair of the respective department;
- b. Classroom observations shall (as otherwise required) be conducted in courses in each department by the chair of such department;
- c. As promptly as is practicable after they have been completed, the record of all such student evaluations and observations that are conducted outside a faculty member's home department or, in the case of librarians, conducted in any academic department, shall be transmitted either to the chair of the faculty member's home department or to the Library or the Library Program Area Chair, as may be appropriate; and
- d. The Peer Evaluation Committee having responsibility for the evaluation of any such faculty member or librarian shall have the right to conduct classroom observations in courses the faculty member or librarian teaches in any department.

### E. PROCEDURES FOR THE CONDUCT OF EVALUATIONS

Every faculty member shall be evaluated in his/her home department as defined in Section J of Article X. In the case of any faculty member who teaches one (1) or more courses in any other department, his/her teaching effectiveness in respect of any such course shall be evaluated within the other department, which shall transmit such evaluation, together with the results of all student evaluations and any classroom observations, to the Chair of such faculty member's home department.

#### 1. Submission of Materials

##### a. Full-time Faculty Members

Prior to the commencement of his/her evaluation, every full-time faculty member shall submit to his/her Department Chair all those materials that he/she intends should be considered in the conduct of his/her evaluation. Included among those materials shall be the faculty member's current comprehensive resume, course documents and other materials as required or permitted by Section D(1)(c), (e), (g) and (h).

The materials described above in Section D(1)(a), (b), (d), (f) and (g) shall be secured or submitted by the Department Chair prior to the commencement of the evaluation.

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Any SIR II evaluation reports that are received during a fall semester of the evaluation period and that pertain to the preceding spring semester shall be added to the evaluation materials, together with any response thereto submitted by the affected faculty member, as promptly as is practicable after they become available. The record of any classroom observation required to be conducted during a fall semester in connection with an evaluation commencing during such fall semester shall be added to the evaluation materials, together with any response thereto submitted by the affected faculty member, as promptly as is practicable after it becomes available.

b. Part-time Faculty Members

Prior to the commencement of his/her evaluation, every part-time faculty member shall submit to his/her Department Chair all those materials that he/she intends should be considered in the conduct of his/her evaluation. Included among those materials shall be the faculty member's current comprehensive resume and course documents as required by Section D(2)(c), (d) and (e).

The materials described above in Section D(2)(a), (b), (e) and (f) shall be secured or submitted by the Department Chair prior to the commencement of the evaluation.

Any SIR II evaluation reports that are received during a semester in which an evaluation is being conducted and that pertain to the preceding semester shall be added to the evaluation materials, together with any response thereto submitted by the affected faculty member, as promptly as is practicable after they become available. The record of any classroom observation required to be conducted during a semester in which an evaluation is being conducted and that pertain to that semester shall be added to the evaluation materials, together with any response thereto submitted by the affected faculty member, as promptly as is practicable after it becomes available.

c. Librarians

Prior to the commencement of his/her evaluation, every librarian shall submit to the Library Director or the Library Program Area Chair, as may be appropriate, all those materials that he/she intends should be considered in the conduct of his/her evaluation. Included among those materials shall be the librarian's current comprehensive resume and other materials as required or permitted by Section D(3)(b) and (d).

The materials described above in Section D(3)(a), (c) and (d) shall be secured or submitted by the Library Director or the Library Program Area Chair, as may be appropriate, prior to the commencement of the evaluation.



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### 2. Preliminary Evaluation

#### a. Full-time Faculty Members: Departmental Evaluation

##### i. Evaluation of Candidates for Reappointment or Promotion (or, Pursuant to Section P, for Tenure) by the Departmental Peer Evaluation Committee

In the case of any full-time faculty member who is a candidate for reappointment, for promotion or (but only pursuant to Section P of this Article) for tenure, the Department Chair shall transmit to the Peer Evaluation Committee a complete set of the documentary materials submitted pursuant to the preceding subsection 1. Any such faculty member, upon a request in writing to the chair of the committee, may examine any and all materials used by the committee pertaining to his/her evaluation; he/she shall also be entitled, upon a written request to the chair of the committee, to a conference with the committee to hear and discuss its final recommendation.

The Departmental Peer Evaluation Committee shall conduct an evaluation of each such faculty member; provided only that the Peer Evaluation Committee shall, for reappointment, be required to evaluate a member of the faculty first granted a tenure-track appointment with effect on or after January 1, 2006, only when he/she is being evaluated for reappointment during the second (2nd) and fourth (4th) years of such appointment.

The committee shall conduct all such evaluations on the basis of the criteria set forth in subsection 1 of Section A using Appendix D-2(b). The committee shall conduct an evaluation and shall make a recommendation with respect to the personnel action for which the faculty member is a candidate.

After completion of its work, the chair of the committee shall transmit a copy of the committee's written evaluation and recommendation to the faculty member, who shall have the right to submit a written response thereto within ten (10) calendar days after its receipt by him/her.

Thereafter, the chair of the committee shall submit to the Department Chair the written report of the committee's evaluation and recommendation, together with all written materials used in the evaluation, including any written response submitted to it by the faculty member.

Any comments recorded on Appendix D-2(b) shall reflect the views of a majority of the Peer Evaluation Committee by which the evaluation has been conducted; such comments shall not reflect the view or views of any minority of members of such committee. Such report shall also set forth the names of the members of the Peer Evaluation Committee

## ARTICLE VIII - EVALUATIONS

together with a record of the votes cast with respect to the committee's final recommendation. The chair of the committee shall sign the committee's report and shall include therein or in a letter of transmittal a statement certifying that the procedures herein prescribed have been complied with.

ii. Evaluation by the Department Chair

The Department Chair shall conduct an evaluation of each full-time faculty member who is required to be evaluated and shall do so on the basis of the criteria set forth in subsection 1 of Section A using Appendix D-2(a).

After the Department Chair shall have received the evaluation and recommendation of the Peer Evaluation Committee in accordance with the preceding subparagraph (i), if applicable, he/she shall conduct an evaluation and, where applicable, shall make specific recommendations with respect to reappointment, promotion, the granting of tenure or the taking of any other personnel action.

Any faculty member, upon a request in writing to the Department Chair, may examine any and all materials used by the Chair pertaining to his/her evaluation; he/she shall also be entitled, upon written request to the Department Chair, to a conference with him/her to hear and discuss the Chair's final recommendation.

After completion of his/her work, the Department Chair shall transmit a copy of his/her written evaluation and, where applicable, his/her recommendation to the faculty member, who shall have the right to submit a written response thereto within ten (10) calendar days after its receipt by him/her.

Thereafter, the Department Chair shall submit directly to the Vice President his/her written evaluation and, where applicable, any recommendation, together with all written materials used in the evaluation, any written response submitted to him/her or to the Peer Evaluation Committee by the faculty member, and the evaluation and recommendation of the Departmental Peer Evaluation Committee, if any. The Department Chair shall include therein or in a letter of transmittal a statement certifying that the procedures herein prescribed have been complied with.

Whenever the Department Chair is not a tenured member of the faculty, the responsibilities described in this subparagraph (ii), Section D(1)(b) and Section H(2) of this Article shall, for the purpose of evaluating any member of the faculty who is a candidate for tenure, be discharged by a tenured member of the faculty who has been elected to act in the Department Chair's stead for such purpose.

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If a Department Chair does not hold tenure, a tenured member of the department, elected by and from among the tenured members of the department, shall serve in the Department Chair's stead for the purposes described in the preceding paragraph. If a tenured member of the department is not available for such purposes, a tenured member of a cognate department shall be elected by the tenured members of the affected department (or by the tenure-track members of that department if there are no tenured members).

b. Part-time Faculty Members: Evaluation by the Department Chair

The Department Chair shall conduct an evaluation of each part-time faculty member who is required to be evaluated and shall do so on the basis of the criteria set forth in subsection 2 of Section A using Appendix D-2(c).

Any such faculty member, upon a request in writing to the Department Chair, may examine any and all materials used by the Chair pertaining to his/her evaluation.

After completion of his/her work, the Department Chair shall transmit a copy of his/her written evaluation to the faculty member, who shall have the right to submit a written response thereto within ten (10) calendar days after its receipt by him/her.

Thereafter, the Department Chair shall submit directly to the Vice President his/her written evaluation, together with all written materials used in the evaluation, including any written response submitted by the faculty member. The Department Chair shall include therein or in a letter of transmittal a statement certifying that the procedures herein prescribed have been complied with.

The Vice President shall thereafter take such action thereon as he/she shall deem appropriate.

c. Librarians

i. Evaluation of Candidates for Reappointment or Promotion by the Library Peer Evaluation Committee

In the case of any full-time librarian who is a candidate for reappointment or for promotion, the Library Director or the Library Program Area Chair shall transmit to the Peer Evaluation Committee a complete set of the documentary materials submitted pursuant to the preceding subsection 1. Any such librarian, upon a request in writing to the chair of the committee, may examine any and all materials used by the committee pertaining to his/her evaluation; he/she shall also be entitled, upon a written request to the chair of the committee, to a conference with the committee to hear and discuss its final recommendation.

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The Library Peer Evaluation Committee shall conduct an evaluation of each such librarian; provided only that the Peer Evaluation Committee shall, for reappointment, be required to evaluate a librarian first granted a tenure-track appointment with effect on or after January 1, 2006, only when he/she is being evaluated for reappointment during the second (2nd) and fourth (4th) years of such appointment.

The committee shall conduct all such evaluations on the basis of the criteria set forth in subsection 3 of Section A using Appendix E-1(b). The committee shall conduct an evaluation and shall make a recommendation with respect to the personnel action for which the librarian is a candidate.

After completion of its work, the chair of the committee shall transmit a copy of the committee's written evaluation and recommendation to the librarian, who shall have the right to submit a written response thereto within ten (10) calendar days after its receipt by him/her.

Thereafter, the chair of the committee shall submit to the Library Director or the Library Program Area Chair, as appropriate, the written report of the committee's evaluation and recommendation, together with all written materials used in the evaluation, including any written response submitted to it by the librarian.

Any comments recorded on Appendix E-1(b) shall reflect the views of a majority of the Peer Evaluation Committee by which the evaluation has been conducted; such comments shall not reflect the view or views of any minority of members of such committee. Such report shall also set forth the names of the members of the Peer Evaluation Committee together with a record of the votes cast with respect to the committee's final recommendation. The chair of the committee shall sign the committee's report and shall include therein or in a letter of transmittal a statement certifying that the procedures herein prescribed have been complied with.

ii. Evaluation by the Library Director or Library Program Area Chair

The Library Director or the Library Program Area Chair, as appropriate, shall conduct an evaluation of each librarian who is required to be evaluated and shall do so on the basis of the criteria set forth in subsection 3 of Section A using Appendix E-1(a).

After the Library Director or the Library Program Area Chair, as appropriate, shall have received the evaluation and recommendation of the Peer Evaluation Committee in accordance with the preceding subparagraph (i), if applicable, he/she shall conduct an evaluation and, where applicable, shall make specific recommendations with respect to reappointment, promotion, the granting of tenure or the taking of any other personnel action.

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Any librarian, upon a request in writing to the Library Director or the Library Program Area Chair, as appropriate, may examine any and all materials used by the Library Director or the Library Program Area Chair pertaining to his/her evaluation; he/she shall also be entitled, upon written request to the Library Director or the Library Program Area Chair, as appropriate, to a conference with him/her to hear and discuss the Library Director's or the Library Program Area Chair's final recommendation.

After completion of his/her work, the Library Director or the Library Program Area Chair, as appropriate, shall transmit a copy of his/her written evaluation and, where applicable, his/her recommendation to the librarian, who shall have the right to submit a written response thereto within ten (10) calendar days after its receipt by him/her.

Thereafter, the Library Director or the Library Program Area Chair, as appropriate, shall submit directly to the Vice President his/her evaluation and, where applicable, any recommendation, together with all written materials used in the evaluation, any written response submitted to him/her or to the Peer Evaluation Committee by the librarian, and the evaluation and recommendation of the Library Peer Evaluation Committee, if any. The Library Director or the Library Program Area Chair, as appropriate, shall include therein or in a letter of transmittal a statement certifying that the procedures herein prescribed have been complied with.

Whenever the Library Program Area Chair is not a tenured librarian, the responsibilities described in this subparagraph (ii) and in Section D(3)(a) of this Article shall, for the purpose of evaluating any librarian who is a candidate for tenure, be discharged by a tenured librarian who has been elected to act in the Library Program Area Chair's stead for such purpose.

If a Library Program Area Chair does not hold tenure, a tenured librarian, elected by and from among the tenured librarians, shall serve in the Library Program Area Chair's stead for the purposes described in the preceding paragraph. If a tenured librarian is not available for such purposes, a tenured member of a cognate department shall be elected by the tenured librarians (or by the tenure-track librarians if there are no tenured librarians).

d. Evaluation of Candidates for Tenure by the Peer Evaluation Committee (Optional)

Whenever, within ten (10) days following his/her receipt of the report of the Department Chair, the Library Director or the Library Program Area Chair, as appropriate, any faculty member or librarian who is a candidate for tenure shall have made a request in writing to the Vice President, the Peer Evaluation Committee shall conduct an evaluation of such faculty member or librarian as

## ARTICLE VIII - EVALUATIONS

a candidate for tenure unless such an evaluation has already been conducted by the Peer Evaluation Committee pursuant to Section P of this Article.

The Department Chair, Library Director or the Library Program Area Chair, as appropriate, shall forthwith transmit to the Peer Evaluation Committee the written report of his/her evaluation and recommendation, together with all written materials used in the evaluation, including any written response submitted to him/her by the faculty member or librarian.

The committee shall thereupon meet to review the evaluation, recommendation, materials and response, if any, for the purpose of conducting its own evaluation and shall do so on the basis of the criteria set forth in subsection 1 or 3 of Section A, as appropriate. The committee's recommendation shall be made using Appendix D-2(b) or E-1(b), as appropriate.

Upon a written request to the chair of the committee, the faculty member or librarian may examine any and all materials used by the committee pertaining to his/her evaluation; he/she shall also be entitled, upon a written request to the chair of the committee, to a conference with the committee to hear and discuss the committee's final recommendation.

After completion of its work, the chair of the committee shall transmit a copy of the committee's written evaluation and recommendation to the faculty member or librarian, who shall have the right to submit a written response thereto within seven (7) calendar days after its receipt by him/her.

Thereafter, the chair of the committee shall submit directly to the Vice President the committee's written evaluation and recommendation, together with all written materials used in the evaluation, including any written response submitted to it, to the Department Chair, or to the Library Director or the Library Program Area Chair by the faculty member or librarian.

Any comments recorded on Appendix D-2(b) or E-1(b) shall reflect the views of a majority of the Peer Evaluation Committee by which the evaluation has been conducted; such comments shall not reflect the view or views of any minority of members of such committee. Such report shall also set forth the names of the members of the Peer Evaluation Committee together with a record of the votes cast with respect to the committee's final recommendation. The chair of the committee shall sign the committee's report and shall include therein or in a letter of transmittal a statement certifying that the procedures herein prescribed have been complied with.

### 3. Recommendations of the Vice President

Prior to conducting his/her evaluation, the Vice President shall receive every evaluation and recommendation made by a Peer Evaluation Committee, Department Chair, Library Director or the Library Program Area Chair, as may be appropriate, and shall receive all materials used in the conduct of those evaluations. The Vice President shall thereafter act as follows.

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- a. Where a recommendation pertains to reappointment, the Vice President shall make to the President his/her own recommendation thereon.
- b. Where a recommendation pertains to promotion, the Vice President shall make to the President his/her own recommendation thereon only after he/she shall have first received the recommendation of the Committee on Promotions.
- c. Where a recommendation pertains to tenure, the Vice President shall make to the President his/her own recommendation thereon only after he/she shall have first received the recommendation of the Committee on Tenure.

Prior to making any recommendation to the President, the Vice President may consult with any appropriate Dean concerning the reappointment, promotion or grant of tenure to any faculty member or librarian.

A record of the Vice President's evaluation and recommendation shall be made using Appendix G.

Prior to its transmittal to the President, a copy of the Vice President's recommendation shall be transmitted to the faculty member or librarian, who may, within seven (7) days thereafter, submit a written response, which shall be attached thereto. The Vice President shall forward all such recommendations, evaluations and responses, if any, to the President of the College and shall make available to the President all materials used in the conduct of such evaluations. Included with each recommendation shall be a statement certifying that all procedures herein prescribed have been complied with.

Whenever the Vice President shall be unable to participate in the evaluation of any candidate for tenure, whether by reason of any challenge of the kind described Section H(2) of this Article VIII or otherwise, the President shall designate another administrator at the rank of vice president from among those administrators at the College whose duties are primarily academic in their nature to serve in the stead of the Vice President; and where no such administrator is available, the President shall designate a tenured Professor at the College who shall serve in the stead of the Vice President.

### 4. Evaluations by the Committee on Promotions

Before making any recommendation pertaining to the promotion of any unit member, the Vice President shall first transmit to the Committee on Promotions the recommendation made in that regard by the Department Chair or by the Library Director or the Library Program Area Chair, as may be appropriate, and by the Peer Evaluation Committee, together with all materials used by them in making such recommendations. When doing so, the Vice President shall first determine whether each candidate for promotion is eligible therefor in accordance with the applicable provisions of Article XX, Sections B(1) and B(2) or Section D, and shall inform the committee of his/her determination in that regard.

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The Committee on Promotions shall thereafter make to the Vice President a recommendation in respect of each candidate for promotion and shall do so in accordance with the provisions of Section G of this Article VIII.

### 5. Evaluations by the Committee on Tenure

Before making any recommendation pertaining to a grant of tenure to any faculty member or librarian, the Vice President shall first transmit to the Committee on Tenure the recommendation made in that regard by the Department Chair, or by the Library Director or the Library Program Area Chair, as may be appropriate, and by the Peer Evaluation Committee (if the candidate requested one), together with all materials used by them in making such recommendations.

The Committee on Tenure shall thereafter make to the Vice President a recommendation in respect of such candidate for tenure and shall do so in accordance with the provisions of Section H of this Article VIII.

### 6. The Role of the President of the College

With respect to the evaluation of any member of the bargaining unit, the President shall receive for his/her review all reports, recommendations, and materials submitted to him/her by the Vice President and take such action thereon as he/she may deem appropriate. Thereafter the President shall submit to the Board of Trustees his/her recommendation regarding reappointment, promotion, the awarding of tenure or termination, as the case may be.

A copy of the record of such action, including any recommendation made by the President, shall be transmitted to the member of the bargaining unit and shall be included in his/her Official Personnel File.

### 7. The Role of the Board

During the term of this Agreement the Board of Trustees at each State College shall, upon the written recommendation of the President, exercise its authority and may determine whether to reappoint, promote, award tenure to or terminate unit members so recommended. The written recommendation of the President shall contain a comprehensive statement of his/her reasons therefor; provided, however, that when making any recommendation to the Board the President shall state whether such recommendation is supported or opposed by each person or body acting pursuant to this Article VIII. In any case where the Board shall not have accepted such recommendation of the President, it shall set forth in writing its reasons therefor, fully and completely. Subject to the terms of this Agreement and in strict compliance therewith, the Board or the President as its designee may reappoint unit members.



## **ARTICLE VIII - EVALUATIONS**

### **F. EVALUATION OF DEPARTMENT CHAIRS**

#### **1. Departmental Evaluation**

##### **a. Evaluation of Department Chairs in Their Capacity as Faculty Members**

In his/her capacity as a member of the faculty, each Department Chair shall be evaluated in accordance with the provisions of the foregoing Section E; provided, however, that the sole preliminary evaluation required to be conducted pursuant to subsection 2(a) of Section E shall be conducted pursuant to subparagraph (i) thereof.

##### **b. Evaluations of Department Chairs in Their Capacity as Department Chairs**

The performance of each Department Chair in his/her capacity as such shall be evaluated by the Departmental Peer Evaluation Committee during the second (2nd) and third (3rd) years of his/her first (1st) term and during the third (3rd) year of any subsequent consecutive term(s).

The committee shall evaluate the Department Chair's performance of the duties and responsibilities set forth in Section A of Article VI of this Agreement and shall do so using Appendix D-4. In conducting such evaluation, the Committee shall solicit evaluations from other members of the department regarding the Department Chair's performance of his/her duties as Department Chair.

#### **2. Evaluations Transmitted to the Vice President**

Every evaluation conducted pursuant to the foregoing subsection 1 shall be transmitted to the Vice President.

### **G. EVALUATION BY THE COMMITTEE ON PROMOTIONS**

#### **1. Role of the Committee on Promotions**

The Committee on Promotions shall consider the recommendations and all related materials that pertain to each member of the bargaining unit who is a candidate for promotion and shall thereafter make in writing to the Vice President its recommendation either supporting or declining to support such promotion. In each case the committee's report shall, as required by Section I(2) or I(3) of this Article VIII, contain a statement of the reasons in support of its recommendation. The chair of the committee shall sign the committee's report and shall include therein or in a letter of transmittal a statement certifying that the procedures prescribed herein have been complied with.

If the Vice President shall have determined thereafter that he/she intends to make, in respect of the promotion of any candidate therefor, a recommendation contrary to that made by the Committee on Promotions, he/she shall so notify the committee. The Vice President and the committee shall then meet and consult concerning each such contrary recommendation. Promptly thereafter the Committee on Promotions shall

## ARTICLE VIII - EVALUATIONS

submit to the Vice President a statement of its final recommendation concerning any candidate whose promotion was the subject of such consultation. Nothing in this paragraph shall be deemed to prohibit the Vice President and the committee from meeting at any time before or after the committee shall have submitted its recommendation to the Vice President.

In considering a candidate for promotion, the Committee on Promotions may request that the Vice President make available to it any evaluations of the candidate completed during the applicable review period as defined in Section C of this Article.

### 2. Composition of the Committee on Promotions

There shall be constituted at each College a Committee on Promotions, which shall be composed of:

- a. at each of Bridgewater, Fitchburg, Framingham, Salem, Westfield and Worcester State Colleges, seven (7) tenured members of the bargaining unit; and
- b. at each of the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, five (5) tenured members of the bargaining unit

all of whom shall be from among the Associate Professors, Professors, Associate Librarians, Librarians and Senior Librarians at such College.

All such members shall be elected at large by and from among the members of the bargaining unit in elections conducted for that purpose under the auspices of the Association. No member of the bargaining unit shall be entitled to participate in such election while on a leave of absence on a full-time basis. No more than one (1) member shall be elected from any particular academic department or from the library. No Department Chair shall be eligible to serve on the committee and no person serving as a member thereof shall be eligible to be considered for promotion during any period of such service.

The term of office of each member shall be for two (2) years commencing with the date of his/her first election; and if any member leaves office prior to the expiration of his/her term, the vacancy so created shall be filled for the balance of the departing member's term.

The members of the Committee on Tenure identified in Section H(2)(a)(i) or Section H(2)(b)(i) of this Article shall not be eligible to serve on the Committee on Promotions during the period of their membership on the Committee on Tenure. A member of the Committee on Tenure identified in Section H(2)(a)(ii) or Section H(2)(b)(ii) of this Article shall be eligible to serve on the Committee on Promotions only if the candidate for tenure is not also a candidate for promotion during the same evaluation period.

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### H. EVALUATION BY THE COMMITTEE ON TENURE

#### 1. Role of the Committee on Tenure

The Committee on Tenure shall consider the recommendations and all related materials that pertain to the member of the bargaining unit who is a candidate for tenure. The chair of the committee shall schedule the necessary meetings of the committee. Each candidate for tenure shall be invited by the chair of the committee to meet with the committee during some part of its evaluation of the candidate. The meetings of the committee shall not be recorded by audio or video tape.

The candidate shall be allowed to submit to the committee, within seven (7) days after his/her meeting with the committee, any additional information relating to his/her evaluation.

Upon a request in writing to the chair of the committee, the candidate for tenure may examine any and all materials used by the committee pertaining to his/her evaluation.

The Vice President shall be responsible for the maintenance of a tenure evaluation file for the candidate being considered by the Committee on Tenure, which shall include all written materials submitted to the committee. He/she shall also appoint a non-voting secretary, who shall keep minutes and record the bases for the recommendations of the committee, including any minority recommendations of the committee, and a record of the votes of the committee. The secretary of the committee shall, within seven (7) days following each committee meeting, submit to each member thereof the foregoing minutes and record. Each member of the committee shall, within five (5) days of the receipt of such minutes and record, certify that it constitutes a true and accurate minutes and record and, if not, he/she shall sign it nevertheless, but shall file therewith a written statement of his/her objections thereto with the secretary of the committee. The signed minutes, together with any objections thereto, and the record of the votes of the committee shall become a part of the tenure evaluation file of the candidate for tenure.

Failure of any member of the committee to sign such minutes and record or to file a written statement of his/her objection, if any, shall not impair the work of the Committee on Tenure, but shall disqualify him/her from participation in any proceeding arising under the terms of this Agreement, or in any court of competent jurisdiction.

Upon the conclusion of its deliberations, the committee shall make in writing to the Vice President its recommendation either supporting or declining to support such grant of tenure. The committee's report in each case shall contain a record of the votes cast for and against its recommendation and a statement of the reasons in support of its recommendation. The chair of the committee shall sign the committee's report and shall include therein or in a letter of transmittal a statement certifying that the procedures prescribed herein have been complied with. At the same time a copy of such recommendation shall either be sent to the candidate by certified mail, return receipt requested, or be delivered to the candidate in hand and accepted with a written acknowledgement of receipt. Within either ten (10) days of

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such mailing or seven (7) days of such delivery, the candidate for tenure may submit to the Vice President a written response to the recommendation of the committee.

### 2. Composition of the Committee on Tenure

The Committee on Tenure shall be constituted as follows:

- a. At each of Bridgewater, Fitchburg, Framingham, Salem, Westfield and Worcester State Colleges, there shall be constituted a Committee on Tenure composed of the following persons:
  - i. four (4) tenured members of the bargaining unit, all of whom shall be from among the Assistant Professors, Associate Professors, Professors, Assistant Librarians, Associate Librarians, Librarians and Senior Librarians at each College; and
  - ii. in the case of each candidate for tenure, one (1) person elected by and from among the tenured members of the candidate's home department or, in the case of a librarian, elected by and from among the tenured librarians; the person so elected shall not be precluded from serving on more than one (1) tenure committee.
- b. At each of the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, there shall be constituted a Committee on Tenure composed of the following persons:
  - i. two (2) tenured members of the bargaining unit, both of whom shall be from among the Assistant Professors, Associate Professors, Professors, Assistant Librarians, Associate Librarians, Librarians and Senior Librarians at each College; and
  - ii. in the case of each candidate for tenure, one (1) person elected by and from among the tenured members of the candidate's home department or, in the case of a librarian, elected by and from among the tenured librarians; the person so elected shall not be precluded from serving on more than one (1) tenure committee.

The Department Chair of any faculty member who is a candidate for tenure shall serve as a consultant to the Committee on Tenure in respect of such faculty member's candidacy for tenure. The members identified in subsections 2(a)(i) and 2(b)(i) above shall be elected at large at each College by and from among the members of the bargaining unit in elections conducted for that purpose under the auspices of the Association. No member of the bargaining unit shall be entitled to participate in such election while on a leave of absence on a full-time basis. No more than one (1) such member shall be elected from any particular academic department or from the library. No Department Chair shall be eligible to serve on the committee, but no Department Chair shall be hereby disqualified from serving as a consultant to the committee.

The members of the Committee on Promotion shall not be eligible to serve as members of the Committee on Tenure under subsections 2(a)(i) or 2(b)(i) above. A

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member of the Committee on Promotions shall be eligible to serve as a member of the Committee on Tenure under subsection 2(a)(ii) or 2(b)(ii) only if the candidate for tenure is not also a candidate for promotion during the same evaluation period.

If there are no tenured members of the candidate's home department who are eligible to be elected pursuant to subsection 2(a)(ii) or 2(b)(ii) above, as the case may be, then a tenured member of a cognate department shall be elected by the tenured members of the candidate's home department (or by the tenure-track members of the candidate's home department if there are no tenured members). In the case of librarians, if there are no tenured librarians who are eligible to be elected pursuant to subsection 2(a)(ii) or 2(b)(ii) above, as the case may be, then a tenured member of a cognate department shall be elected by the tenured librarians (or by the tenure-track librarians if there are no tenured librarians).

The term of office of each of the members identified in subsections 2(a)(i) and 2(b)(i) above shall be for two (2) years commencing with the date of his/her first election.

One of the members identified in subsections 2(a)(i) and 2(b)(i) above shall be annually elected by the members of the committee to serve as its chair.

Whenever on the basis of bias or prejudice any candidate for tenure shall have objected to or otherwise challenged the membership on the committee of any person who is to serve thereon pursuant to the foregoing provisions, he/she shall do so by fully stating his/her reasons therefor in writing to the President, who shall thereupon review the allegations and make inquiry regarding them, and who shall thereafter make such final and binding decisions as he/she deems appropriate; every such decision shall be made in writing.

For the purpose of serving as a consultant to the Committee on Tenure, the Department Chair of the faculty member whom the committee is evaluating for tenure shall be present during at least one (1) of the committee's substantive meetings (i.e., a meeting at which members of the committee are engaged in deliberations concerning the candidate's suitability to be granted tenure and are not merely considering organizational or procedural matters) in order to summarize his/her assessment of the candidate and the reasons for such assessment and to answer questions from the members of the committee. The Chair's presence during any other portion of the meeting or at any other meeting, whether for the purpose of answering further questions from the members of the committee or otherwise, is a matter for the committee's discretion; in no case, however, shall the Chair be present at the portion of any meeting during which the members of the committee vote on the question whether to recommend that the candidate be granted tenure.

At the request of the President or the candidate for tenure, or upon the independent determination of the committee, the committee shall employ as a consultant and member of the committee a tenured person in the same academic discipline at another four-year institution of higher learning; provided, however, that the person to be so employed shall in every event be selected by the committee and shall have no prior direct personal or professional relationship with the candidate for tenure.

## **ARTICLE VIII - EVALUATIONS**

Each of the persons serving as members of any committee on tenure constituted pursuant to this Section H may, but is not obligated to, observe a class or classes of the person whose candidacy for tenure the committee is charged with evaluating.

### **I. BASES FOR PERSONNEL ACTIONS**

1. It shall be the responsibility of any member of the bargaining unit who is a candidate for reappointment, promotion or tenure to verify and demonstrate that he/she has fulfilled the criteria that pertain to the personnel action for which he/she is a candidate.
2. If any person or body recommends that any member of the bargaining unit be reappointed, promoted or granted tenure, he/she or it shall, when transmitting such recommendation to the person or body next required to act thereon, also transmit to such person or body a written statement setting forth clear and convincing reasons in support of such recommendation, a copy of which shall be sent to the unit member.
3. If any person or body recommends that any member of the bargaining unit not be reappointed, promoted or granted tenure, he/she or it shall, when transmitting such recommendation to the person or body next required to act thereon, also transmit to such person or body a written statement setting forth fully and completely the reasons therefor, a copy of which shall be sent to the unit member.
4. The provisions of subsection 2 shall not apply to recommendations concerning any personnel actions other than those to which such subsection is of express application.

### **J. MISCELLANEOUS PROVISIONS**

1. All recommendations for personnel actions regarding promotions or tenure shall be forwarded to the Vice President whether they support or oppose such actions.
2. A person shall not be eligible for promotion unless he/she has been recommended therefor by either the Committee on Promotions and/or by the Vice President.
3. A person shall not be eligible for tenure unless he/she shall have been recommended therefor by the Department Chair, or by the Library Director or the Library Program Area Chair, as may be appropriate, by the Committee on Tenure and/or by the Vice President.

### **K. EVALUATION FORMS**

All evaluations shall be conducted using Appendices C through G of this Agreement.

### **L. LEAVES OF ABSENCE AS THEY AFFECT EVALUATIONS**

#### **1. Leaves of Absence as They Affect Evaluations for Promotion**

Members of the bargaining unit on leaves of absence shall not be eligible for promotion during the period of any such leave except in accordance with the provisions of this subsection 1.

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### a. Leaves of Absence Occurring during Any Applicable Review Period

#### i. Sabbatical Leaves

Whenever any unit member was on a sabbatical leave during the whole or any part of any review period that is the subject of an evaluation, there shall be included as a part of the materials to be considered in the conduct of such evaluation any information, whether submitted by such unit member or otherwise, necessary and pertinent to a complete assessment of the work performed by him/her in the fulfillment of the purposes for which such sabbatical leave was granted. Those persons conducting such evaluation shall have regard to and shall evaluate the quality of such work.

#### ii. Other Leaves of Absence

Whenever any unit member was on any leave of absence, other than a sabbatical leave, during any review period that would be the subject of an evaluation conducted for the purpose of considering such member's candidacy for promotion, he/she may be considered and evaluated for such promotion only if he/she shall have rendered services at a College, pursuant to this Agreement or the predecessor thereto, during at least one (1) full academic year that falls within such review period. As a part of the materials to be considered in the conduct of any such evaluation, there may be included any information that is submitted by the unit member and that is necessary and pertinent to a complete assessment of any professional accomplishments achieved by such member during such leave; provided, however, that no work performed by any unit member while in the employ of any person other than a Board of Trustees shall be so considered without the prior approval of the Board.

### b. Leaves of Absence Occurring during Any Applicable Evaluation Period

Any unit member who is on a leave of absence, including a sabbatical leave, during the whole or any part of an evaluation period may elect to be evaluated for promotion notwithstanding the fact that he/she is on such leave during the whole or any part of such period. No evaluation conducted in respect of any such unit member shall be deemed to be defective or incomplete by reason of the fact that such member has done the following:

- i. failed or been unable to respond, in writing or otherwise, to any such evaluation in the manner permitted by any provision of this Article VIII;
- ii. failed or been unable to meet with any person or persons conducting such evaluation in the manner permitted by any provision of this Article VIII;

## ARTICLE VIII - EVALUATIONS

- iii. failed or been unable to provide any materials that might properly have been considered during the conduct of any such evaluation in accordance with any applicable provision of this Article VIII;
- iv. failed or been unable to initiate any procedure permitted by any applicable provision of this Article VIII; or
- v. failed or been unable in any other manner to participate in the conduct of such evaluation to the extent permitted by any provision of this Article VIII.

c. Leaves of Absence Occurring during the Fourth Year of an Instructor's Employment

Any Instructor who is on a leave of absence during the whole or any substantial position of his/her fourth (4th) year of employment as such shall, for the purposes described in Article XX, Section C(1), be evaluated for promotion during the academic year next commencing after the expiration of such leave and the academic year in which such leave falls shall not be deemed to be his/her fourth (4th) year of such employment.

2. Leaves of Absence as They Affect Evaluations for Personnel Actions Other than Promotion

A unit member who will be on any leave of absence during the period in which he/she would otherwise be required to be evaluated pursuant to the provisions of this Article (including the provisions of Section B(2)(b)) shall be so evaluated during the semester next following such leave. No unit member shall be required to be evaluated during any period in which he/she is absent from the College on leave.

M. EFFECTIVENESS OF PRIOR EVALUATIONS

The provisions of this Article VIII shall be of no application to any evaluation commenced in respect of any academic year prior to the date of execution of this Agreement, it being the understanding of the parties that any such evaluation shall be completed in accordance with such practices and procedures as were in effect on the date immediately prior to the date of execution of this Agreement.

Nothing contained in this Article shall be deemed to affect the validity of any evaluation commenced or completed prior to the date of execution of this Agreement or be deemed to affect the validity of any personnel action taken, in whole or in part on the basis of or with reference to, any such evaluation.

N. ESTABLISHMENT OF PEER EVALUATION COMMITTEES

On or before September 30 of each academic year, each department and each library shall elect two (2) tenured members thereof who shall serve, until their successors are chosen in like fashion, as members of its Peer Evaluation Committee. Whenever the committee is required to evaluate any member of either the department or the library as a candidate for reappointment, promotion or tenure (or is required to evaluate the Department Chair as such),



## ARTICLE VIII - EVALUATIONS

the candidate therefor (or the Department Chair when being evaluated as such) shall select one (1) tenured member of either the department or the library or of either a cognate department or the library to serve as the third (3rd) member of the committee; the person so selected shall not be precluded from serving on more than one (1) Peer Evaluation Committee. Failure or refusal of any such candidate for reappointment, promotion or tenure (or of the Department Chair when being evaluated as such) to select a person to serve as the third (3rd) member of the committee shall not disable the committee from discharging its responsibilities.

Whenever, by reason of the size of any department or library the absence therefrom on leave on a full-time basis of any of its members, it shall not be possible to select any or both of the two (2) members required to be selected therefrom, such member or members shall be selected from a cognate department, departments or the library in accordance with the procedures described in the preceding paragraph.

### O. DELETED

Section O is intentionally left blank.

### P. FACULTY OF SOCIAL WORK

The provisions of this Agreement that are modified by this Section P shall be of application as follows only to faculty members who are employed in the School of Social Work at Salem State College, in the Master of Social Work Program at Bridgewater State College or in the Program in Social Work at Westfield State College.

1. Whenever any such faculty member is a candidate for tenure, he/she shall be evaluated by a Peer Evaluation Committee, which committee shall be constituted pursuant to Section N of this Article VIII and shall conduct its evaluation pursuant to the provisions of Section E(2)(d) without its being required that such faculty member make any election in that regard.
2. There shall be considered in every evaluation of any such faculty member any relevant and validated materials or information and any recommendations submitted by, as appropriate, the Dean/Director of the School of Social Work of Salem State College, the Director of the Master of Social Work Program at Bridgewater State College or the Dean/Director of the Program in Social Work at Westfield State College. Such materials, information or recommendations so submitted shall be in addition to any other information or materials submitted by the faculty member, the Department Chair, the Peer Evaluation Committee and/or the Vice President, pursuant to the provisions of Article VIII, Section D(1)(g).

**ARTICLE VIII-A - EVALUATION OF UNIT MEMBERS AT THE MASSACHUSETTS  
MARITIME ACADEMY**

**A. FACULTY MEMBERS AND LIBRARIANS**

All unit members at the Massachusetts Maritime Academy, including all Professional Maritime Faculty, shall be evaluated on the basis of the criteria prescribed at Section A(1), A(2) or A(3) of Article VIII of this Agreement and on the basis of the following supplementary criterion:

effectiveness in enforcing the regulations for the correction and disciplining of cadets when necessary.

**B. PROFESSIONAL MARITIME FACULTY**

In addition to the criteria made of application by the preceding Section A, all Professional Maritime Faculty shall be evaluated on the basis of the following criteria:

1. achievements in the individual's specialized field;
2. maintenance of a proper uniform; and
3. contributions to maritime training and shipboard operations.

**C. APPLICATION OF ARTICLE VIII**

In all other respects the provisions of Article VIII of the Agreement shall be of full application to all members of the bargaining unit employed at the Academy.

**ARTICLE VIII-B - EVALUATION OF CAMPUS SCHOOL TEACHERS**

Article VIII-B is intentionally left blank.

## **ARTICLE VIII-C - POST-TENURE REVIEW**

During the annual periods commencing on July 1, 2009, and July 1, 2010, the provisions set forth at Sections E(1), E(2), F and G below shall have effect in lieu of post-tenure review.

Commencing with effect on July 1, 2011 (but subject to the notice requirement of Section B), the processes set forth in the following Sections A through D shall govern the conduct of post-tenure review under this Agreement.

### **A. GENERAL**

Unit members who have held tenure for not less than six (6) years shall be eligible for post-tenure review in accordance with the provisions of this Article VIII-C.

No member of the bargaining unit shall be evaluated for promotion and reviewed under this Article VIII-C during the same academic year.

Any member of the bargaining unit who, by reason of illness or being on a leave of absence on a full-time basis, is disabled on April 1 from giving timely notice of his/her election under Section B of this Article VIII-C shall be entitled to give notice of his/her election within a reasonable period after his/her disability ceases.

### **B. ELIGIBILITY FOR AND CONDUCT OF REVIEWS**

#### **1. Initial Post-tenure Review**

This subsection 1 shall apply to members of the bargaining unit who have not before been reviewed pursuant either to this Article VIII-C or to Alternative One of Article VIII-C of the 2004-2007 or 2007-2008 predecessor agreement to this Agreement. Any such member of the bargaining unit who, at the commencement of any academic year, will have held tenure for not less than six (6) academic years may, on or before the immediately preceding April 1, give to the Vice President written notice of his/her election to be reviewed during such academic year.

#### **2. Subsequent Post-tenure Reviews**

This subsection 2 shall apply to members of the bargaining unit who have been reviewed at any time pursuant either to this Article VIII-C or to Alternative One of Article VIII-C of the 2004-2007 or 2007-2008 predecessor agreement to this Agreement. Any such unit member who, at the commencement of any academic year, will have held tenure for not less than six (6) academic years since the conclusion of the academic year in which was conducted his/her most recent preceding review may, on or before the immediately preceding April 1, give to the Vice President written notice of his/her election to be reviewed during such academic year.

In the case of any such member of the bargaining unit who, at the conclusion of his/her most recent preceding review, elected to participate in a professional development plan pursuant to Section B(10), the academic year in which such preceding review occurred shall be the following:

## ARTICLE VIII-C - POST-TENURE REVIEW

- a. if the review conducted following completion of the professional development plan yields a rating higher than the rating given in the original review, the academic year in which was conducted the review following completion of the professional development plan shall, for the next subsequent post-tenure review, be the most recent preceding review; or
- b. if the review conducted following completion of the professional development plan yields no rating higher than the rating given in the original review, the academic year in which was conducted the original review shall, for the next subsequent post-tenure review, be the most recent preceding review.

### 3. Rescission of Election to Be Reviewed

An election to be reviewed during any academic year may be rescinded up until the April 1 immediately preceding the academic year during which the review is to be conducted. Thereafter, any election to be reviewed may (up until the deadline for submitting materials for the review) be rescinded only for a medical emergency. No review may be postponed for any reason.

### 4. Schedule of Eligibility for Review

Beginning with academic year 2011-2012, the schedule of eligibility for review is depicted on Appendix 1 of this Article VIII-C.

### 5. Review Period

The post-tenure review of each member of the bargaining unit shall address itself to his/her performance during the period encompassing the lesser of all academic years (including the period of any leaves of absence) since and including either (a) the academic year in which he/she first held tenure or (b) the academic year in which was conducted his/her most recent preceding post-tenure review; provided only that a member of the bargaining unit may elect a review period that encompasses not fewer than the seven (7) academic years immediately preceding the academic year during which the post-tenure review is to be conducted.

Beginning with academic year 2011-2012, the review periods for unit members electing to be reviewed in their first year of eligibility for any initial or subsequent post-tenure review are depicted on Appendix 1 of this Article VIII-C.

### 6. Materials for the Review

The following materials shall be submitted for and considered in the post-tenure review of each member of the bargaining unit under this Section B.

- a. all the materials that are described in Section D(1) (in the case of faculty) or Section D(3) (in the case of librarians) of Article VIII of this Agreement and that pertain to the period of the review; and
- b. a statement in which the member of the bargaining unit addresses, with reference to the criteria depicted in Section A(1) (in the case of faculty) or

## ARTICLE VIII-C - POST-TENURE REVIEW

Section A(3) (in the case of librarians) of Article VIII of this Agreement, his/her academic and professional activities, including his/her continuing scholarship, during the period of the review.

All such materials shall be submitted to the Vice President by September 30 of the review year.

### 7. Conduct of the Review

During the fall semester of the review year, the Department Chair of each faculty member (and of any librarian then teaching in the department) who is being reviewed under this Section B shall conduct a classroom observation in the manner described in Section D of Article VIII of the Agreement. When completed, the record of such observation shall be transmitted to the Vice President and added to the materials submitted in accordance with subsection 6.

If a Department Chair does not hold tenure or is being reviewed under this Article VIII-C, a tenured member of the department, elected by and from among the tenured members of the department, shall serve in the Department Chair's stead for all purposes under this Article VIII-C. If a tenured member other than the Department Chair is not available for the purposes of this paragraph, a tenured member of a cognate department shall be elected by the tenured members of the affected department (or by the tenure-track members of that department if there are no tenured members other than the Department Chair).

The Vice President shall conduct and complete the review by April 1st of the review year. In doing so, he/she may consult with the Chair of the unit member's department or, in the case of librarians, with the Library Director. The Vice President shall record his/her determination that the unit member's work is rated "no adjustment warranted," "3% adjustment warranted" or "6% adjustment warranted" and shall set forth clear and convincing reasons for it. Promptly upon the completion of all such reviews and the transmittal of each to the member of the bargaining unit to whom it pertains, the Vice President shall transmit to the Chapter President a list on which is set out the name of and the rating given to each such member of the bargaining unit.

Within ten (10) days following receipt of the Vice President's decision, the unit member shall have the right to submit a response for inclusion with the review material and, within ten (10) days thereafter, shall have the right, in company (at the unit member's discretion) with an Association representative, to discuss the Vice President's assessment. Within five (5) days following such meeting, the Vice President, who shall not have the authority to reduce a rating but may increase one, shall communicate his/her final assessment to the unit member in writing. Promptly upon the completion of all such final assessments and the transmittal of each to the member of the bargaining unit to whom it pertains, the Vice President shall transmit to the Chapter President a list on which is set out the name of and the final rating given to each such member of the bargaining unit.

Within five (5) days following his/her receipt of the Vice President's final assessment, the unit member may elect, by a written notice, to appeal the Vice President's assessment to the President. At the request of the unit member made with

## ARTICLE VIII-C - POST-TENURE REVIEW

such notice, the President, within ten (10) days thereafter, shall convene a meeting with the unit member, in company (at the unit member's discretion) with an Association representative, to discuss the Vice President's assessment. Within five (5) days following such meeting (or within five (5) days following the written notice of appeal if no such meeting has been requested), the President, who shall not have the authority to reduce a rating, shall communicate his/her decision to the unit member in writing. Promptly after making all such decisions on appeal and transmitting each to the member of the bargaining unit to whom it pertains, the President shall transmit to the Chapter President a list on which is set out the name of and the rating given to each such member of the bargaining unit.

### 8. Effect of Ratings

A rating of "6% adjustment warranted" shall yield a base salary increase of 6%; a rating of "3% adjustment warranted" shall yield a base salary increase of 3%; and a rating of "no adjustment warranted" shall yield no base salary increase. Each base salary increase shall be based on the unit member's salary as it was on the preceding October 1 and shall have effect on the preceding July 1.

A rating of "no adjustment warranted" shall not affect a unit member's eligibility for promotion.

### 9. Funding of Post-tenure Review Increases

From and after academic year 2011-2012, each College shall annually expend in the form of base salary increases under these provisions not less than an amount equal to one-half of one percent (0.5%) of the full-time unit payroll as such payroll is on April 1 of the year during which the reviews are being conducted. Such amount shall, if necessary, be adjusted as follows at each College:

- a. the undertaking to expend not less than an amount equal to one-half of one percent (0.5%) of the full-time unit payroll during each academic year is premised on the supposition that twenty-five percent (25%) of the tenured unit members at such College will be reviewed during each such year;
- b. in the event, therefore, that either more or fewer than twenty-five percent (25%) of the tenured members of the bargaining unit are reviewed at such College in any such year, then the amount minimally required to be expended in such year for post-tenure reviews at such College shall be one-half of one percent (0.5%) of the full-time unit payroll at such College multiplied by the fraction equal to (y), the number of tenured members of the bargaining unit at such College who are to be reviewed in such year, divided by (z), the number equal to twenty-five percent (25%) of the tenured members of the bargaining unit at such College. This calculation shall be done as of the April 1 preceding the conduct of the post-tenure reviews to the funding of which the calculation pertains.

## ARTICLE VIII-C - POST-TENURE REVIEW

### 10. Professional Development Plan

A unit member who receives a final rating of either “3% adjustment warranted” or “no adjustment warranted” shall thereupon have the right to make the following election: (i) to engage in a professional development plan in the manner described below; or (ii) to take no further action.

Following completion of a professional development plan, a further review will be conducted in accordance with the provisions of subsections 5, 6 and 7 above. The review period shall comprise the review period of the review that occasioned the professional development plan and the period during which the unit member was engaged in the professional development plan itself.

A member of the bargaining unit whose original rating was “no adjustment warranted” may, following completion of a professional development plan, receive a rating of “no adjustment warranted,” “3% adjustment warranted” or “6% adjustment warranted.” A member of the bargaining unit whose original rating was “3% adjustment warranted” may, following completion of a professional development plan, receive a rating of “3% adjustment warranted” (affording no additional base salary increase) or “6% adjustment warranted” (affording an additional three percent (3%) base salary increase). The base salary increase, if any, shall be effective on the then preceding July 1, as described in subsections 8 and 9 above.

If a unit member elects a professional development plan, it will be established and implemented as follows.

- a. The Vice President shall prescribe the plan of professional development, including its duration, by May 15th of the review year after consultation with the Department Chair or Library Director, as may be appropriate, and with the unit member. The unit member shall have the right to bring an Association representative to any meeting with the Vice President when the plan of professional development is being discussed.
- b. The plan of professional development shall prescribe the action that should be undertaken to improve the unit member’s performance and the criteria that will be used to determine whether the unit member’s rating shall be increased. The College shall bear any costs associated with the completion of the plan of professional development, including the cost of workload reductions necessary to complete the plan. The plan of professional development under this Article VIII-C is different and separate from the plan described in Article XIV of this Agreement.
- c. The content of the plan of professional development may be appealed to the President. The unit member shall have the right to meet with the President to discuss the appeal and to bring an Association representative to such meeting. The President shall decide on the content of the plan within seven (7) days following his/her meeting with the unit member.



## ARTICLE VIII-C - POST-TENURE REVIEW

- d. At the conclusion of the period of professional development, and by May 31st of the final year of the plan (or sooner if a request is made under paragraph (h)), the unit member's performance shall be evaluated by the Vice President.
- e. If the Vice President gives the unit member's work the same rating it was given in the initial review, the unit member may elect to participate in an extended/revised plan of professional development for a period not to exceed an additional academic year. Implementation of the plan shall be governed by the preceding paragraphs (a), (b) and (c).
- f. After completion of the second plan of professional development (or sooner if a request is made pursuant to paragraph (h)), the unit member shall again be evaluated in accordance with the preceding paragraph (d).
- g. If the Vice President gives the unit member's work after the second professional development plan the same rating it was given at the completion of the first professional plan, the process may repeat itself in accordance with the preceding paragraphs (e) and (f).
- h. During the period when a unit member is engaged in a plan of professional development, he/she shall be entitled to be re-evaluated upon his/her request by the Vice President in order to try to improve his/her rating. A re-evaluation shall be done in accordance with the procedure described in the preceding paragraph (d) within thirty (30) days of the request.

### 11. Grievances

No decision made under this Section B, whether a decision concerning a rating, the content of a professional development plan or any other, shall be subject to the Grievance Procedure of Article XI; and grievances may be filed and pursued under Article XI only concerning adherence (i) to the procedures for review set out in this Section B and (ii) to the requirement that each College expend not less than the percentage of the full-time unit payroll prescribed by Section B(9).

### 12. Report of Expenditures

On or before May 31 of each year, the President shall report to the Chapter President (i) the full-time unit payroll as it was at the College on the preceding April 1, and (ii) the amount awarded to each member of the bargaining unit at the College during such academic year pursuant to the preceding subsection 8.

## C. MISCELLANEOUS

### 1. Application of Article IX

Nothing in this Article shall limit, or constitute a condition precedent to, the application of any provision of Article IX, Section E, of the Agreement.

## **ARTICLE VIII-C - POST-TENURE REVIEW**

### **2. Use of Record under Article IX**

No record of any evaluation conducted or any action taken pursuant to any post-tenure review shall be introduced into the record of, or otherwise used in connection with, any proceeding conducted pursuant to Article IX, Section E, of the Agreement. The following items produced or implemented under this Article shall constitute the record to which the prohibition of this subsection 2 applies:

- a. ratings of satisfactory or unsatisfactory, exemplary, meritorious, not acceptable, no adjustment warranted, 3% adjustment warranted and 6% adjustment warranted;
- b. classroom observations;
- c. professional development plans;
- d. penalties;
- e. statements submitted pursuant to Section C(5)(b) or D(3)(b)(v) of the 2004-2007 and 2007-2008 predecessor agreements to this Agreement; or
- f. statements submitted pursuant to Section B(2)(e) of the 2001-2003 predecessor agreement to this Agreement.

### **D. CONTINUING APPLICATION**

Subject only to such agreements as the parties may hereafter make, post-tenure reviews shall continue from and after July 1, 2012, in accordance with the provisions of this Article VIII-C; and, subject as aforesaid, base salary increases shall continue to be granted on and after July 1, 2012, in accordance with the provisions of Section B.

### **E. LONGEVITY ADJUSTMENTS FOR COMPRESSION AND INVERSION**

#### **1. Longevity Adjustment: July 1, 2009**

- a. With effect on July 1, 2009, the annual salary of each full-time unit member and salaried part-time faculty member who is then employed shall be increased by an amount equal to the longevity adjustment that corresponds to his/her years of full-time State College service as a unit member. The total cost of all such longevity adjustments shall be one-quarter of one percent (0.25%) of the unit payroll as it was on April 1, 2009.
- b. For the purpose of this subsection 1, the years of full-time State College service of a member of the bargaining unit shall be measured as of July 1, 2009, by the length of his/her service as a full-time member of the faculty or librarian at any State College or as a salaried part-time faculty member; provided only that all such salaried part-time service shall be counted on a prorated basis.

## ARTICLE VIII-C - POST-TENURE REVIEW

- c. The amount of each longevity adjustment shall be determined on the basis of the unit member's membership in a longevity cohort (which shall be determined by his/her years of full-time State College service in the bargaining unit) and the number of shares that correspond to such cohort:

	<u>Longevity Cohort</u>	<u>Number of Shares</u>
i.	Less than 5 years	1
ii.	5 or more but less than 10 years	2
iii.	10 or more but less than 15 years	3
iv.	15 or more but less than 20 years	4
v.	20 or more but less than 25 years	5
vi.	25 or more but less than 30 years	6
vii.	30 or more but less than 35 years	7
viii.	35 or more but less than 40 years	8
ix.	40 or more but less than 45 years	9
x.	45 or more but less than 50 years	10
xi.	50 or more years	11

- d. The value of each longevity share shall be calculated as follows:
- i. The number of eligible members of the bargaining unit in each longevity cohort shall be multiplied by the corresponding number of longevity shares for that cohort, and the eleven (11) products shall be summed to obtain a total number of longevity shares;
  - ii. The total number of longevity shares so calculated shall be divided into the pool of moneys available pursuant to the preceding paragraph (a); and
  - iii. The result shall equal the value of one (1) longevity share.

### 2. Longevity Adjustment: July 1, 2010

- a. With effect on July 1, 2010, the annual salary of each full-time unit member and salaried part-time faculty member who is then employed shall be increased by an amount equal to the longevity adjustment that corresponds to his/her years of full-time State College service. The total cost of all such longevity adjustments shall be one-quarter of one percent (0.25%) of the unit payroll as it was on April 1, 2010.
- b. For the purpose of this subsection 2, the years of full-time State College service of a member of the bargaining unit shall be measured as of July 1, 2010, but otherwise in conformity with the provisions of the foregoing subsection 1(b) of this Section E.

## ARTICLE VIII-C - POST-TENURE REVIEW

- c. The amount of each longevity adjustment shall be determined on the basis of the unit member's membership in a longevity cohort (which shall be determined by his/her years of full-time State College service in the bargaining unit) and the number of shares that correspond to such cohort in the manner set forth in the provisions of the foregoing subsection 1(c) of this Section E.

### 3. Longevity Adjustment: July 1, 2011

- a. With effect on July 1, 2011, the annual salary of each full-time unit member and salaried part-time faculty member who is then employed shall be increased by an amount equal to the longevity adjustment that corresponds to his/her years of full-time State College service. The total cost of all such longevity adjustments shall be one-half of one percent (0.5%) of the unit payroll as it was on April 1, 2011, less, in the aggregate, the amount minimally required to be expended to fund post-tenure reviews at each college during academic year 2011-2012.
- b. For the purpose of this subsection 3, the years of full-time State College service of a member of the bargaining unit shall be measured as of July 1, 2011, but otherwise in conformity with the provisions of the foregoing subsection 1(b) of this Section E.
- c. The amount of each longevity adjustment shall be determined on the basis of the unit member's membership in a longevity cohort (which shall be determined by his/her years of full-time State College service in the bargaining unit) and the number of shares that correspond to such cohort in the manner set forth in the provisions of the foregoing subsection 1(c) of this Section E.

## F. FORMULARY ADJUSTMENTS FOR COMPRESSION AND INVERSION

### 1. Formulary Adjustment: July 1, 2009

- a. With effect on July 1, 2009, the annual salary of every full-time unit member and salaried part-time faculty member who is then employed shall be increased by an amount (the "formulary adjustment") equal to his/her share, if any, of the formulary pool. The formulary pool shall be an amount equal to one-quarter of one percent (0.25%) of the unit payroll as it was on April 1, 2009, and the total cost of all formulary adjustments shall equal the amount of the formulary pool.
- b. The formulary adjustment of each eligible member of the bargaining unit shall be calculated as follows:
  - i. His/her salary as it was on June 30, 2009, divided by the number (either 1.03 or 1.06) that corresponds to the percentage value (either 3% or 6%, respectively) of any increase earlier granted pursuant to Alternative One of Article VIII-C of the 2004-2007 or 2007-2008 predecessor agreement to this Agreement (the "PTR-adjusted salary")

## ARTICLE VIII-C - POST-TENURE REVIEW

shall be compared with the salary calculated for him or her under the formula depicted in the following paragraph (c) (the “formula salary”).

- ii. If the unit member’s PTR-adjusted salary equals or exceeds his/her formula salary, he/she shall not be entitled to a formulary adjustment; if the unit member’s PTR-adjusted salary is less than his/her formula salary, he/she shall be entitled to a formulary adjustment (as defined below).
  - iii. The amount, if any, by which the formula salary of each unit member exceeds the amount of his/her PTR-adjusted salary (the “formula deficit”) shall be aggregated with the formula deficit of all other unit members (the “total formula deficit”).
  - iv. The amount of the formulary pool described in the preceding paragraph (a) shall be divided by the amount of the total formula deficit. The result shall be the “pool ratio.”
  - v. The amount of the formula deficit of each unit member shall be multiplied by the pool ratio. The result shall be the amount of the formulary adjustment payable to such unit member.
- c. The following formula shall be used to calculate the formula salary of each unit member pursuant to the preceding paragraph (b)(i):

<b>Formula</b>				
<b>Rank</b>	<b>Base</b>	<b>Rank</b>	<b>Terminal Degree</b>	<b>Per Year of FT<sup>2</sup> MSCA Unit Service</b>
Professor or Senior Librarian	\$37,563	\$21,000	\$6,000	\$800
Associate Professor or Librarian	\$37,563	\$13,000	\$6,000	\$600
Assistant Professor or Associate Librarian	\$37,563	\$2,772	\$6,000	\$400
Instructor or other library ranks	\$37,563	\$0	\$6,000	\$400

- d. The following examples depict the calculations required by the preceding paragraphs (a) through (c):
- i. Calculation of the Pool Ratio

**Example:**

If 0.25% of the unit payroll on April 1, 2009, is \$300,000, and if the total formula deficit is \$6,000,000, then the pool ratio will be  $\$300,000 \div \$6,000,000 = 0.050$ .

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<sup>2</sup> Prorated for salaried part-time members of the bargaining unit.

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### ii. Calculation of the Formulary Adjustment

#### **Example 1:**

A faculty member holds the rank of Associate Professor, does not possess a terminal degree, has 26 years of full-time State College service in the bargaining unit on July 1, 2009, received a 6% salary increase under post-tenure review, Alternative One, and has a salary on June 30, 2009, of \$66,250. The formulary adjustment is:

Base		\$37,563
Rank		\$13,000
Terminal Degree		\$0
State College Service	$\$600 \times 26 =$	<u>\$15,600</u>
Formula Salary		\$66,163
Salary on June 30, 2009		\$66,250
PTR-adjusted Salary	$\$66,250 \div 1.06 =$	\$62,500
Formula Deficit	$\$66,163 - \$62,500 =$	\$3,663
Formulary Adjustment	$0.050 \times \$3,663 =$	\$183

#### **Example 2:**

A librarian holds the rank of Senior Librarian, possesses a terminal degree, has 27.25 years of full-time State College service in the bargaining unit on July 1, 2009, received a 3% salary increase under post-tenure review, Alternative One, and has a salary on June 30, 2009, of \$78,000. The formulary adjustment is:

Base		\$37,563
Rank		\$21,000
Terminal Degree		\$6,000
State College Service	$\$800 \times 27.25 =$	<u>\$21,800</u>
Formula Salary		\$86,363
Salary on June 30, 2009		\$78,000
PTR-adjusted Salary	$\$78,000 \div 1.03 =$	\$75,728
Formula Deficit	$\$86,363 - \$75,728 =$	\$10,635
Formulary Adjustment	$0.050 \times \$10,635 =$	\$532

### 2. Formulary Adjustment: July 1, 2010

- a. With effect on July 1, 2010, the annual salary of every full-time unit member and salaried part-time faculty member who is then employed shall be increased by an amount (the "formulary adjustment") equal to his/her share, if any, of the formulary pool. The formulary pool shall be an amount equal to one quarter of one percent (0.25%) of the unit payroll as it was on April 1, 2010, and the total cost of all formulary adjustments shall equal the amount of the formulary pool.

## **ARTICLE VIII-C - POST-TENURE REVIEW**

- b. The formulary adjustment of each eligible member of the bargaining unit shall be calculated in accordance with the provisions of the preceding subsection 1(b) using the formula depicted in the preceding subsection 1(c) as illustrated in the preceding subsection 1(d).

### **G. SEQUENCE OF PAYMENTS**

The salary increases payable pursuant to the preceding Sections E and F shall be paid and added to the annual salary rate of each eligible member of the bargaining unit before the salary increases depicted in Article XIII, Section C(1) (for July 1, 2009), Section C(2) (for July 1, 2010) and Section C(3) (for July 1, 2011) are paid and added to the annual salary rate of each such member of the bargaining unit.

## ARTICLE VIII-C - POST-TENURE REVIEW

### H. APPENDIX 1

Descriptions for years shown after June 30, 2012, are for purposes of illustration only and are not binding on the parties except as otherwise agreed in Article XXI.

<b>For unit members who:</b>	<b>Eligibility begins<sup>3</sup>:</b>	<b>If reviewed during first year of eligibility, the review period is:</b>
Were granted tenure with effect on 9-1-05	9-1-11	9-1-05 through 8-31-11
Were tenured on 9-1-04 but were not reviewed under Alternative One under the 2004-2007 or 2007-2008 agreements	9-1-11	At least from 9-1-05 through 8-31-11, but unit member may elect any longer period back to effective date of tenure.
Were granted tenure with effect on 9-1-06	9-1-12	9-1-06 through 8-31-12
Were reviewed under Alternative One during AY 2005-2006	9-1-12	9-1-05 through 8-31-12
Were tenured on 9-1-04 but were not reviewed under Alternative One under the 2004-2007 or 2007-2008 agreements and had not returned to unit status by 9-1-11	9-1-12	At least from 9-1-06 through 8-31-12, but unit member may elect any longer period back to effective date of tenure.
Were granted tenure with effect on 9-1-05 but were on academic administrative leave during AY 11-12	9-1-12	9-1-05 through 8-31-12
Were granted tenure with effect on 9-1-07	9-1-13	9-1-07 through 8-31-13
Were reviewed under Alternative One during AY 2006-2007	9-1-13	9-1-06 through 8-31-13
Were tenured on 9-1-04 but were not reviewed under Alternative One under the 2004-2007 or 2007-2008 agreements and had not returned to unit status by 9-1-12	9-1-13	At least from 9-1-07 through 8-31-13, but unit member may elect any longer period back to effective date of tenure.
Were granted tenure with effect on 9-1-06 but were on academic administrative leave during AY 12-13	9-1-13	9-1-06 through 8-31-13
Were granted tenure with effect on 9-1-08	9-1-14	9-1-08 through 8-31-14

<sup>3</sup> Once eligible, the unit member remains eligible until reviewed under this procedure.



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Were reviewed under Alternative One during AY 2007-2008	9-1-14	9-1-07 through 8-31-14
Were tenured on 9-1-04 but were not reviewed under Alternative One under the 2004-2007 or 2007-2008 agreements and had not returned to unit status by 9-1-13	9-1-14	At least from 9-1-08 through 8-31-14, but unit member may elect any longer period back to effective date of tenure.
Were granted tenure with effect on 9-1-07 but were on academic administrative leave during AY 13-14	9-1-14	9-1-07 through 8-31-14
Will have been granted tenure with effect on 9-1-09	9-1-15	9-1-09 through 8-31-15
Were reviewed under Alternative One during AY 2008-2009	9-1-15	9-1-08 through 8-31-15
Were tenured on 9-1-04 but were not reviewed under Alternative One under the 2004-2007 or 2007-2008 agreements and had not returned to unit status by 9-1-14	9-1-15	At least from 9-1-09 through 8-31-15, but unit member may elect any longer period back to effective date of tenure.
Were granted tenure with effect on 9-1-08 but were on academic administrative leave during AY 14-15	9-1-15	9-1-08 through 8-31-15
Will have been granted tenure with effect on 9-1-10	9-1-16	9-1-10 through 8-31-16
Were tenured on 9-1-04 but were not reviewed under Alternative One under the 2004-2007 or 2007-2008 agreements and had not returned to unit status by 9-1-15	9-1-16	At least from 9-1-10 through 8-31-16, but unit member may elect any longer period back to effective date of tenure.
Were granted tenure with effect on 9-1-09 but were on academic administrative leave during AY 15-16	9-1-16	9-1-08 through 8-31-16

## ARTICLE IX - TENURE

The granting of tenure is the single most important type of decision made in an educational institution. Barring unforeseen circumstances, tenure obligates the institution to employ the recipient of tenure for the balance of his/her professional life. It not only makes a major financial commitment to the individual until retirement, but even beyond. Tenure has its place in the academic community as the principal means through which academic freedom is preserved.

It must be accomplished with the utmost care, concern and searching evaluation by the faculty and the administration of the institution.

The serious decision of granting tenure demands that the President, before making recommendations to the Board, have substantial evidence, determined through professional evaluation, that the candidate will be a constructive and significant contributor to the continuous development of high quality education in the institution. It is the responsibility of the candidate for tenure to produce such substantial evidence based on his/her prior academic and professional work.

For the purposes of this Article, but subject to the provisions hereof, the phrase "faculty member" shall include "librarian."

### A. ENTITLEMENT

1. Only faculty members who hold full-time appointments as Assistant Professor, Associate Professor, Professor, Assistant Librarian, Associate Librarian, Librarian or Senior Librarian shall be eligible to be considered for or granted tenure.

The provisions of this Article IX shall be of no application to any person holding a part-time appointment.

2. a. Any faculty member whose tenure-track appointment had effect on or before December 31, 2005, and who serves at a College as a full-time faculty member for four (4) consecutive academic years and is reappointed as such for a fifth (5th) consecutive academic year shall, in accordance with the provisions of Article VIII of this Agreement, be evaluated for tenure during such fifth (5th) academic year. This provision shall be of no application to any such faculty member who has been duly notified that he/she will not be reappointed as a full-time faculty member at the completion of his/her fifth (5th) academic year; and this provision shall be of no application to any such faculty member who has been evaluated for tenure prior to his/her fifth (5th) year of consecutive service as a full-time faculty member. The service of librarians shall be measured with reference to consecutive work years.
- b. Any faculty member whose tenure-track appointment had effect on or after January 1, 2006, and who serves at a College as a full-time faculty member for five (5) consecutive academic years and is reappointed as such for a sixth (6th) consecutive academic year shall, in accordance with the provisions of Article VIII of this Agreement, be evaluated for tenure during such sixth (6th) year. This provision shall be of no application to any such faculty member who has been duly notified that he/she will not be reappointed as a full-time faculty member at the completion of his/her sixth (6th) academic year; and

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this provision shall be of no application to any such faculty member who has been evaluated for tenure prior to his/her sixth (6th) year of consecutive service as a full-time faculty member. The service of librarians shall be measured with reference to consecutive work years.

- c. Any faculty member whose tenure-track appointment is initially granted at the rank of Associate Professor or Professor and who is reappointed as such for a third (3rd) consecutive academic year shall, in accordance with the provisions of Article VIII of this Agreement, be evaluated for tenure during such third (3rd) academic year. This provision shall be of no application to any such faculty member who has been duly notified that he/she will not be reappointed as a full-time member of the faculty at the completion of his/her third (3rd) academic year; and this provision shall be of no application to any such faculty member who has been evaluated for tenure prior to his/her third (3rd) year of consecutive service as a full-time faculty member.
3. No member of the faculty shall be a candidate for tenure more than once and, if denied tenure on the occasion of such candidacy, shall thereupon be granted a final appointment for the period of the ensuing academic year; provided only that nothing in this subsection 3 shall bar a member of the bargaining unit from being a candidate for tenure on more than a single occasion if a candidacy for tenure subsequent to the first such candidacy occurs in the circumstances described at Article XX, Section C(9)(b), of the Agreement.
4. If granted, tenure shall first have effect no later than the September 1 next following the date on which the Board of Trustees votes to grant tenure.
5.
  - a. Every faculty member who holds a tenure-track appointment of the kind described in subsection 2(a) and who shall have been evaluated for tenure shall be notified by the President, not later than September 1 of his/her sixth (6th) academic year of service, of the decision of the Board of Trustees to grant or to deny such faculty member tenure. Every such faculty member other than an Instructor who serves the College as a full-time faculty member for more than six (6) consecutive years (exclusive of a seventh (7th) terminal year) shall thereby gain tenure.
  - b. Every faculty member who holds a tenure-track appointment of the kind described in subsection 2(b) and who shall have been evaluated for tenure shall be notified by the President, not later than September 1 of his/her seventh (7th) academic year of service, of the decision of the Board of Trustees to grant or to deny such faculty member tenure. Every such faculty member other than an Instructor who serves the College as a full-time faculty member for more than six (6) consecutive years (exclusive of a seventh (7th) terminal year) shall thereby gain tenure.
6.
  - a. Nothing in this Article IX shall abrogate the right of the Board of Trustees to request that a faculty member who holds an appointment of the kind described in subsection 2(a) be evaluated for tenure prior to such faculty member's fifth (5th) consecutive year of serve as such.

## ARTICLE IX - TENURE

- b. Nothing in this Article IX shall abrogate the right of the Board of Trustees to request that a faculty member who holds an appointment of the kind described in subsection 2(b) be evaluated for tenure prior to such faculty member's sixth (6th) consecutive year of service as such.
  - c. Nothing in this Article IX shall abrogate the right of the Board of Trustees to grant tenure upon appointment to any faculty member without prior service; provided, however, that before the granting of tenure, upon initial appointment or otherwise, the candidate shall be evaluated under the terms of this Agreement.
7. Any other provision of this Article IX to the contrary notwithstanding, no faculty member serving pursuant to the terms of a temporary appointment made in accordance with the provisions of Article XX of this Agreement shall be considered for or gain tenure, nor shall service pursuant to the terms of any such temporary appointment be included in any calculation of the number of years of consecutive service rendered by any faculty member prior to such faculty member's being considered for tenure.
  8. Tenure, when granted, shall be granted and shall have effect only at the College at which the faculty member to whom tenure is granted holds, or may thereafter hold, his/her appointment.
  9. Whether taken on a full-time or part-time basis, leaves of absence for non-tenured persons shall not interrupt service towards tenure. The periods during which full-time or part-time leave is taken shall not be included in the calculation of the number of years of service rendered by any faculty member prior to his/her being considered for tenure.
  10. Department Chairs do not have tenure in that capacity but shall hold and retain such tenure, if any, as shall have been granted to them as members of the faculty.
  11. Anything in the foregoing to the contrary notwithstanding, any faculty member who shall have been first given a full-time appointment after December 1 but prior to the expiration of the then-current academic year shall, solely for the purpose of calculating such faculty member's eligibility for tenure, be deemed to have been so appointed with effect on the date of commencement of the academic year next following; and any faculty member first given a full-time appointment after the expiration of any academic year but prior to December 1 in the next academic year shall be deemed to have been so appointed on the date of commencement of such next academic year.
  12. No member of the bargaining unit who holds an appointment as Library Assistant shall be considered for or gain tenure, nor shall any service as Library Assistant be included in any calculation of the number of years of consecutive service rendered by him/her prior to his/her being considered for tenure.
  13. Except as otherwise expressly provided in this Section A, the actions required to be taken by a Board of Trustees pursuant to this Article IX may not be delegated.

## **ARTICLE IX - TENURE**

### **B. EVALUATION FOR TENURE**

1. When a person is being considered for tenure in accordance with the provisions of this Agreement, a thorough evaluation of his/her achievement and potential shall be made in accordance with the applicable provisions of Article VIII of this Agreement.
2. Each such evaluation shall be accomplished in such timely fashion as to provide proper notice to those individuals who are not to be granted tenure.
3. Whenever pursuant to Article XX, Section C(3) or Section M, any person is granted an initial faculty appointment with tenure, and whenever pursuant to Article XX, Section M, any person is to take up a faculty appointment after having served in an academic administrative position for more than six (6) years, he/she shall be evaluated for tenure in accordance with the requirements of Article VIII subject only as follows:
  - a. The schedule and timing of such evaluation need not comply with the schedule depicted in Appendix M (the Personnel Calendar) but shall be scheduled as promptly as is feasible for the purpose (while preserving all contractually prescribed steps, including the candidate's right to respond to evaluations and recommendations) of completing the evaluation before the faculty appointment is to have effect; and
  - b. The candidate's dossier of materials shall, to the extent they are reasonably available, include materials that are like or analogous to those described at Article VIII, Section D, and that address themselves to the criteria depicted at Article VIII, Section A; in the case of an initial faculty appointment with tenure under Article XX, Section C(3) or Section M, the materials used in the evaluation shall include any assessment and recommendation of the departmental search committee.

### **C. APPLICATION TO CERTAIN LIBRARIANS**

This Section C is intentionally left blank.

### **D. APPLICATION TO CERTAIN CAMPUS SCHOOL TEACHERS**

This Section D is intentionally left blank.

### **E. REMOVAL OF A TENURED MEMBER OF THE BARGAINING UNIT**

1. A tenured member of the bargaining unit, without regard to the means by which he/she attained tenure, shall not be removed from his/her position except upon a finding by the Board that just cause exists, which finding shall be made in accordance with the provisions of this Article and shall not be arbitrary or capricious. Just cause shall be deemed to be the following:
  - a. substantial and manifest neglect of professional duty;
  - b. demonstrated incompetence in the performance of duties assigned pursuant to the provisions of this Agreement;

## ARTICLE IX - TENURE

- c. dishonesty in research;
- d. conviction of a felony; or
- e. misrepresentation of academic credentials.

Activities protected by the principles of academic freedom incorporated in Article V of this Agreement shall not constitute cause for removal.

- 2. Termination of a tenured faculty member shall be subject to the following procedures:
  - a. The President of the College shall have the sole authority to initiate formal termination proceedings. Such proceedings may only be initiated during the academic year.
  - b. The President, after consultation with the Vice President, shall give notice in writing to the faculty member of the grounds for the recommendation for removal, which notice shall be given not less than thirty (30) days nor more than sixty (60) days prior to any removal hearing.
  - c. The grounds for removal shall be presented at a hearing to a committee composed of five (5) tenured members of the faculty, together with two (2) alternate tenured members of the faculty, who shall be chosen in the following manner:
    - i. The members of the committee shall be selected by lot at a meeting which shall be held not sooner than ten (10) days following the giving of the notice required by the preceding paragraph (b) nor later than five (5) days prior to the date of such hearing.
    - ii. Written notice of such meeting shall be given to the faculty member whose removal is to be considered and to the Chapter President, which notice shall be given, as a part of the notice required by the preceding paragraph (b) or otherwise, not less than seven (7) days prior to such meeting.
    - iii. Such meeting shall be convened by an arbitrator selected in accordance with the provisions of Step 4 of Article XI of this Agreement. The faculty member and/or his/her representative and the President shall be entitled as of right to attend such meeting.
    - iv. The arbitrator shall draw at random by lot the names of twenty-five (25) tenured faculty members who shall be eligible to serve on the committee in the order in which their names are drawn.
    - v. Every tenured faculty member whose name is drawn by lot shall serve except in the case of illness, sabbatical or other approved leave of absence on a full- or part-time basis, extraordinary hardship, or disqualification as provided below. In the event of the inability to

## ARTICLE IX - TENURE

serve or the disqualification of a faculty member, the next faculty member, in order of the drawing, shall become eligible to serve.

- vi. Challenges by the President or by the faculty member under consideration or his/her representative shall be made promptly upon completion of the drawing of the said twenty-five (25) names and shall be made in the order in which names have been drawn. The President and the faculty member under consideration or his/her representative shall each be allowed three (3) peremptory challenges. Additional challenges shall be made for cause, i.e., demonstrable bias against the faculty member under consideration as evidenced by a consistent pattern of past behavior, or direct involvement in the pending case. The arbitrator shall decide whether the cause for challenge is valid, which decision shall be final and binding.
  - vii. If necessary to establish a committee of five (5) members with two (2) alternates an additional twenty-five (25) names shall be selected at random, and so on, until a full committee is established.
  - viii. In the event that the faculty member under consideration appeals the case through the faculty grievance procedure described in Article XI of this Agreement, the arbitrator shall be disqualified from serving as arbitrator in the processing of that grievance.
- d. The committee so chosen shall convene on the date prescribed in the notice given pursuant to the foregoing paragraph (b) for the purpose of conducting a hearing regarding the reasons given in such notice for the removal of the faculty member in question. The hearing shall be conducted in the following manner:
- i. The committee shall elect a chair.
  - ii. The committee hearings shall be closed to the public except upon the written request of the faculty member under consideration; provided, however, that such faculty member shall have the right to have one (1) other faculty member attend the committee hearings, but only as a non-participating observer; and provided further that a representative of the Association may be present at such hearings.
  - iii. A recording shall be kept of the proceedings, with the right of the faculty member under consideration, upon written request, to have all or part of the recording reproduced at the expense of the Board of Trustees. The chair of the committee shall designate a recorder and shall be allowed to use the necessary facilities of the College.
- e. The committee's written report shall be forwarded to the President of the College within ten (10) days of the close of the hearing. The report shall contain a detailed statement of the committee's recommendations and findings of fact. A copy of the report shall also be forwarded to the faculty member under consideration. Upon written notice to the President, the faculty member

## ARTICLE IX - TENURE

may file a written rebuttal to the report within ten (10) days of receipt of the report from the committee. Majority and minority reports may be filed if the committee or any of its members so desire. The committee's report shall be advisory only.

- f. The President may, after consideration of the committee's report and within ten (10) days after his/her receipt of the report, file with the Board of Trustees a recommendation for removal of the faculty member under consideration. The President's recommendation to the Board shall also include a copy of the written notice of the grounds for removal as presented to the faculty member, a copy of the full text of the committee's report, and everything a part thereof, and any rebuttal statement submitted by the faculty member in accordance with the provisions of this Article. A copy of the President's recommendation shall be forwarded to the faculty member under consideration.
  - g. The recommendation for removal of the faculty member shall be deemed to be withdrawn if the President does not file a recommendation with the Board within ten (10) days. The President shall promptly notify the faculty member under consideration, in writing, of the withdrawal of the recommendation.
  - h. Upon written request of the faculty member, the Board of Trustees shall grant the faculty member a full hearing, which shall be conducted before the Board, a committee thereof or a designee thereof, as the Board may determine, and which hearing shall be conducted in the following manner:
    - i. The faculty member under consideration shall be given at least thirty (30) days' notice of the hearing. He/she may be represented by counsel or other designated representative.
    - ii. The hearing shall be closed to the public except upon written request of the faculty member, his/her counsel or other designated representative.
    - iii. The Board shall be responsible for keeping a recording of the proceedings. Upon written request to the Board the faculty member may have all or part of the recording reproduced at the expense of the Board.
    - iv. Within thirty (30) days after the close of the hearing, the Board shall render a written decision; provided, however, that if such hearing is conducted by a Committee of the Board or by the Board's designee, such written decision shall be in the form of a recommendation to the Board of Trustees, upon receipt whereof and as soon as is practicable thereafter, the Board shall make such final decision as it deems appropriate. A copy of the decision shall be forwarded to the faculty member.
3. Unless otherwise specified by the Board, upon notification to a faculty member that the Board has voted to remove him/her from his/her position, a faculty member shall be



## ARTICLE IX - TENURE

offered a terminal contract of employment, to expire at the end of the second (2nd) complete semester following such notification to the faculty member.

4. Any tenured member of the faculty who shall have been indicted or convicted of a felony may thereupon be suspended by the Board of Trustees. Notice of such suspension shall be given in writing and delivered by hand to such faculty member or sent by certified mail, return receipt requested, to such faculty member at his/her last known place of residence. Such notice when so delivered or sent shall automatically suspend such faculty member from his/her employment until he/she shall have been notified in like manner that his/her suspension has been reversed.

Any faculty member so suspended shall not receive any compensation or salary during the period of such suspension, nor shall the period of his/her suspension be counted in computing his/her sick leave or vacation benefits or seniority rights.

Such suspension shall be for any such period as may be provided by law during which such faculty member may appeal against the conviction for such felony; provided, however, that whenever such faculty member shall have appealed against such conviction, such suspension shall remain in force until such appeal shall have been adjudicated or otherwise disposed of.

Whenever such indictment shall have been quashed or otherwise terminated without a conviction, such suspension shall be forthwith reversed and such faculty member shall receive all compensation or salary due him/her for the period of suspension and time of his/her suspension shall count in determining sick leave, vacation benefits and seniority rights; provided, however, that whenever any such conviction shall not have been appealed within the time limit provided therefor by law, or shall not have been reversed on appeal, such faculty member shall be subject to termination pursuant to the provisions of this Article.

Nothing in this subsection 4 shall be deemed to impair the right of the President of any College, in accordance with the provisions of this Section E, to initiate termination proceedings against any tenured member of the faculty in respect of any act or omission that has led or may thereafter lead to the criminal prosecution of such faculty member, whether or not such faculty member has been convicted of a felony or other crime as a result of such prosecution.

5. Any written notice required to be given any faculty member and any document or written report required to be transmitted to any faculty member pursuant to the provisions of the foregoing subsections 2, 3 and 4 shall be given or transmitted by certified mail, return receipt requested, or shall be delivered in hand to such faculty member and a receipt secured therefor.
6. The provisions of this Section E shall be of no application to any librarian who, not having been granted tenure, is nevertheless terminable only for just cause.

## **ARTICLE IX - TENURE**

### **F. APPLICATION OF TENURE POLICY**

The provisions of this Article shall be of application to all members of the bargaining unit who are eligible for or shall have been granted tenure regardless of the means by which such tenure has been granted.

The parties recognize that certain tenured members of the bargaining unit have been granted statutory rights of tenure. Pursuant to the terms of this Article, if such a tenured member of the bargaining unit shall have been given notice of removal in accordance with the provisions of Section E(2)(b) of this Article, he/she shall, within seven (7) calendar days of the receipt of such notice, elect either to be subject to the removal procedures of this Article or to exercise any statutory right to which he/she may be entitled.

He/she shall make such election by notice in writing, delivered to the President within such period. If he/she shall fail to do so, he/she shall be subject only to the provisions of this Article.

## ARTICLE X - RETRENCHMENT

### A. INTRODUCTION

Should a financial exigency ever occur, every reasonable measure should be taken, as is hereinafter provided, to curtail the operations of any affected College consistent with the preservation of the academic integrity of its educational programs and goals and consistent with the preservation of the paramount teaching-learning relationship among members of its academic community.

Notwithstanding any other term of this Agreement, no unit member shall be retrenched except as provided in accordance with the provisions of Article X, X-A or X-B, as may be applicable.

### B. APPLICATION

Save as is provided in Article X-A and X-B, the provisions of this Article shall exclusively govern the retrenchment of members of the bargaining unit at each College, any other provision of this Agreement to the contrary notwithstanding.

Except as is otherwise provided in Section I of this Article X, the provisions of this Article X shall be of no application to any person holding a part-time appointment to a position in the bargaining unit.

### C. DEFINITIONS

1. Financial Exigency: For the purposes of this Article, financial exigency shall be deemed to exist at a College whenever, in any fiscal year, the moneys allocated or otherwise made available from or by way of legislative appropriation for all of the operations of such College shall be insufficient for the continuation of any or all of such operations during such fiscal year; or whenever, in any fiscal year, either no annual appropriation shall have been enacted in respect of any College, or, if such annual appropriation shall have been enacted pursuant to §15 of Chapter 15A of the General Laws, no allocation shall have been made in respect of a College.

Whenever such annual appropriation shall have been enacted pursuant to the said §15 of Chapter 15A, and the Board of Higher Education shall have preliminarily determined to make an allocation to any College which shall be insufficient for the continuation of any or all such operations of the affected College during such fiscal year, the Commissioner, the President of the College, and the Association President shall promptly meet and confer. Such meeting shall be called by the Commissioner.

Nothing in this definition shall be deemed to permit the retrenchment of any member of the bargaining unit until the provisions of Section E of this Article shall have first been complied with, nor shall the existence of a financial exigency as herein defined be deemed to require the Board of Trustees of any College to initiate procedures for the retrenchment of members of the bargaining unit. If the Board of Trustees shall have determined that such procedures should be initiated, it shall provide the Association with the information on the basis of which it has determined the financial exigency to exist.

## ARTICLE X - RETRENCHMENT

2. Declining Student Enrollment: For the purposes of this Agreement, “declining student enrollment” shall mean a decrease in the total number of students enrolled in the total number of courses offered by a department or program area during a semester, which decrease shall be measured by comparing the total number of students so enrolled during the then-current semester with the average total number of students so enrolled during the three (3) previous comparable semesters (i.e., fall or spring), and which decline shall, in the sole discretion of the Board, be deemed to be of sufficient magnitude to justify a reduction in the total number of faculty members within that department or program area; provided, however, that in the case of any department or program area that shall have been in existence for fewer than three (3) full academic years at the time when any measure of student enrollment is taken pursuant to this provision, such measure shall be taken with reference to the average total number of students enrolled in such department or program area during such number of previous comparable semesters as equals the number of full academic years, being fewer than three (3), during which such department or program area shall have been in existence; and provided further that the aforesaid determination of the Board shall not be arbitrary or capricious. For the purpose of determining the total number of students enrolled in all of the courses offered by a department or program area during any semester, the count shall be taken at the end of the period during which students are permitted to enroll in courses for such semester. Nothing in this definition shall be deemed to permit the retrenchment of any faculty member in any such department or program area until the provisions of Section E of this Article shall have first been complied with, nor shall the existence of a declining student enrollment as herein defined be deemed to require the Board to initiate procedures for the retrenchment of any such faculty member.
3. Retrenchment: For the purposes of this Article, “retrenchment” shall mean the laying off of any member of the bargaining unit by reason of financial exigency or declining student enrollment at a College, and shall not mean termination.
4. Seniority: The seniority of each member of the bargaining unit shall, for the purpose of this Agreement, be measured by the length of his/her continuous service at a College or another State College; in respect of each such member of the bargaining unit, such service shall be deemed to have commenced on the date, time and order of which the Board of Trustees of any College or any of its predecessors shall have voted to appoint such member of the bargaining unit to a position at the College. In all cases, seniority shall not include periods of unpaid leaves of absence on a full-time basis as a unit member; nor shall such unpaid leaves of absence abrogate any prior-accrued seniority. Service while on a part-time leave of absence shall be counted on a pro-rata basis.

For the purposes of this Article X and of Articles X-A and X-B, the seniority of each member of the bargaining unit, as measured in accordance with the requirements of the preceding paragraph, shall mean:

- a. in the case of faculty members, the seniority of each faculty member relative to all the other faculty members within the department or program area of which he/she is a member; and
- b. in the case of librarians, the status of each librarian relative to all other librarians at the College at which he/she is employed.

## ARTICLE X - RETRENCHMENT

### D. CRITERIA FOR RETRENCHMENT

Retrenchment shall take place only pursuant to the following provisions:

#### 1. Faculty Members

The seniority of each faculty member within any department or program area at a College shall determine the order in which he/she shall be retrenched from that department or program area, so that the most senior such member shall be last retrenched and the least senior such member shall be first retrenched; provided, however, that such order of retrenchment shall govern only insofar as, pursuant to its initial application, those faculty members to be retained are, by training and/or experience, qualified to teach the remaining courses which are to be continued to be offered by such department or within such program area to fulfill its mission and purpose; provided further that such order of retrenchment shall govern only insofar as its application is not in violation of the laws of the Commonwealth of Massachusetts or the United States; and provided further that no tenured member of a department or program area shall be retrenched sooner than a non-tenured member of such department or program area solely by reason of the fact that such tenured member has less seniority than such non-tenured member.

#### 2. Librarians

The seniority of each librarian at the College at which he/she is employed shall determine the order in which he/she shall be retrenched from that College, so that the most senior such librarian shall be last retrenched and the least senior such librarian shall be first retrenched; provided, however, that such order of retrenchment shall govern only insofar as, pursuant to its initial application, those librarians to be retained are, by training and/or experience, determined by the Board of Trustees to be essential to the operation of the library or libraries at such College; provided further that such order of retrenchment shall govern only insofar as its application is not in violation of the laws of the Commonwealth of Massachusetts or the United States; and provided further that no tenured librarian shall be retrenched sooner than a non-tenured librarian solely by reason of the fact that such tenured librarian has less seniority than such non-tenured librarian.

#### 3. Application

Whenever it shall be necessary, pursuant to the application of this Section D to determine:

- a. whether any faculty member who would otherwise be retrenched should be retained in any department or program area, such determination shall be made by the President and shall not be arbitrary or capricious; or
- b. whether any librarian who would otherwise be retrenched should be retained in any library or libraries at any College, such determination shall be made by the President and shall not be arbitrary or capricious.

## ARTICLE X - RETRENCHMENT

### E. PROCEDURES FOR RETRENCHMENT

#### 1. Financial Exigency

- a. If the President determines that retrenchment for financial exigency may be necessary, he/she shall notify the Commissioner, the President of the Association and the Chapter President, every appropriate decision-making body constituted pursuant to Article VII and affected departments and/or program areas that a financial exigency exists, and shall provide them with a preliminary proposal, which shall address the reasons for the anticipated retrenchment, the number of bargaining unit members anticipated to be retrenched and the areas proposed for retrenchment.
- b. Accurate information, statistics and/or financial data related to such preliminary proposal shall be made available by the President for inspection and/or copying upon request; provided, however that this Section shall not require the President to compile such information, statistics, and/or financial data in the form requested unless already compiled in that form.
- c. The President shall provide a reasonable period of time and, whenever possible, a minimum of thirty (30) days from the issuance of the preliminary proposal, to receive advice and written recommendations from the President of the Association and/or the Chapter President.
- d. The President of the College, the President of the Association and/or the Chapter President shall promptly meet and confer to consider the recommendations of each party and to seek to develop mutual recommendations relative to curtailing the operations of the College as it affects members of the bargaining unit with respect to the preliminary proposal and their recommendations.
- e. If, after having considered such recommendations, the President determines that retrenchment remains necessary, he/she shall recommend a final retrenchment plan, which shall state the unit or units in which retrenchment shall occur, the extent of retrenchment in each such unit, and, if known, the projected duration of retrenchment. The plan shall identify, in accordance with the provisions of this Article, those members of the bargaining unit who are to be retrenched. A copy of the recommendations of the Association and Chapter shall accompany the recommendations of the President. In developing the final retrenchment plan, the President shall address the following considerations:
  - i. the mission of the affected unit(s) and how circumstances have altered that mission;
  - ii. the dependence of other unit(s) of the College on the unit(s) affected, the effect on the offerings of the unit(s) affected and/or arrangements to replace offerings lost;

## ARTICLE X - RETRENCHMENT

- iii. arrangements to allow students in the affected unit(s) to satisfy academic needs and requirements;
- iv. possible consequences to the stature of the College;
- v. the possibilities of re-employment elsewhere in the College or other State College; and
- vi. the advisability of program curtailment as opposed to program abolition.

A copy of the above materials shall be transmitted to the Commissioner.

- f. The Board of Trustees shall promptly meet to consider the plan so recommended. In accordance with the Board of Trustees' procedures, upon the prior written request of the President of the Association and/or the Chapter President, the President of the Association and/or the Chapter President shall be granted an opportunity to address the Board. Thereafter, the Board may adopt a plan of retrenchment as it shall determine. Members of the bargaining unit may thereafter be retrenched pursuant to the plan so adopted in accordance with the provisions of this Article. A copy of such plan shall be given to the Commissioner, the President of the Association and the Chapter President.

### 2. Declining Student Enrollment

- a. If the President determines that retrenchment for reasons of declining student enrollment may be necessary, he/she shall so notify the Commissioner, the President of the Association and the Chapter President, every appropriate decision-making body constituted pursuant to Article VII and affected departments and/or program areas, and shall provide them with a preliminary proposal, which shall address the reasons for the anticipated retrenchment, the number of bargaining unit members anticipated to be retrenched and the areas proposed for retrenchment.
- b. Accurate information, statistics and/or financial data related to such preliminary proposal shall be made available by the President for inspection and/or copying upon request; provided, however, that this Section shall not require the President to compile such information, statistics and/or financial data in the form requested unless already compiled in that form.
- c. The President shall provide a reasonable period of time and, whenever possible, a minimum of sixty (60) days from the issuance of the preliminary proposal, to receive advice and written recommendations from the President of the Association and/or the Chapter President.
- d. The President of the College, the President of the Association and/or the Chapter President shall promptly meet and confer with respect to the preliminary proposal and their recommendations.

## ARTICLE X - RETRENCHMENT

- e. If, after having considered such recommendations, the President determines that retrenchment remains necessary, he/she shall recommend a final retrenchment plan, which shall state the unit or units in which retrenchment shall occur and the extent of retrenchment in each such unit. The plan shall identify, in accordance with the provisions of this Article, those members of the bargaining unit who are to be retrenched. A copy of the recommendations of the Association and Chapter shall accompany the recommendations of the President. In developing the final retrenchment plan, the President shall address the following considerations:
  - i. the mission of the affected unit(s) and how circumstances have altered that mission;
  - ii. the dependence of other unit(s) of the College on the unit(s) affected, the effect on the offerings of the unit(s) affected and/or arrangements to replace offerings lost;
  - iii. arrangements to allow students in the affected unit(s) to satisfy academic needs and requirements;
  - iv. possible consequences to the stature of the College;
  - v. the possibilities of re-employment elsewhere in the College or other State College; and
  - vi. the advisability of program curtailment as opposed to program abolition.

A copy of the above materials shall be transmitted to the Commissioner.

- f. The Board of Trustees shall promptly meet to consider the plan so recommended. In accordance with the Board of Trustees' procedures, upon the prior written request of the President of the Association and/or the Chapter President, the President of the Association and/or the Chapter President shall be granted an opportunity to address the Board. Thereafter, the Board may adopt a plan of retrenchment as it shall determine. Members of the bargaining unit may thereafter be retrenched pursuant to the plan so adopted in accordance with the provisions of this Article. A copy of such plan shall be given to the Commissioner, the President of the Association and the Chapter President.

The determination of the Board of Trustees made hereunder shall not be arbitrary or capricious.

## F. GENERAL PROVISIONS

No member of the bargaining unit shall be retrenched, pursuant to the provisions of this Article, by reason of financial exigency or declining student enrollment, until after the provisions of Section E of this Article, shall have first been complied with; provided, however, that whenever the President of the Association and/or the Chapter President shall



## ARTICLE X - RETRENCHMENT

have failed or refused to meet as provided in Section E(1)(d) and Section E(2)(d) above, then the Board shall determine to retrench as it may deem appropriate.

### G. RIGHTS AND BENEFITS OF RETRENCHED BARGAINING UNIT MEMBERS

#### 1. Notice

- a. With regard to retrenchment pursuant to Section E above, bargaining unit members to be retrenched shall be informed as soon as possible of their selection. When circumstances permit, the Board shall provide a minimum of fifty-two (52) weeks' notice to tenured bargaining unit members with ten (10) or more years of service; thirty-seven (37) weeks' notice to tenured bargaining unit members with fewer than ten (10) years of service; and sixteen (16) weeks' notice to all other full-time bargaining unit members. Such notice shall be provided in writing.
- b. With regard to faculty, the Board recognizes the desirability, whenever possible, of establishing retrenchment dates that coincide with the end of an academic semester so as to minimize the disruption of teaching.
- c. Notwithstanding paragraph (a) above, notice shall not extend beyond the termination of a bargaining unit member's term of appointment or reappointment.
- d. Upon request of any unit member who has been so retrenched, the President of the College shall provide him/her with a letter of recommendation which shall also state that the unit member was retrenched due solely to financial exigency or declining student enrollment, and for no other reason.
- e. Once notice of retrenchment for financial exigency has been given, the Board may abbreviate such notice period by making a lump sum payment equivalent to sixty percent (60%) of the bargaining unit member's weekly salary for each week such notice period is shortened.

#### 2. Unemployment Compensation

The right of every member of the bargaining unit to receive such unemployment compensation benefits as he/she may be entitled to under Chapter 151A of the General Laws, as amended, is hereby recognized. Every appropriate Board of Trustees shall provide any member of the bargaining unit retrenched pursuant to the provisions of this Article with all such information and assistance as he/she may require for the purpose of making any claim pursuant to Chapter 151A.

#### 3. Recall

##### a. Faculty Member

Whenever during the term of this Agreement it shall be determined by the President to be necessary to fill, in whole or in part, any faculty position in a department or program area in which retrenchment shall, pursuant to the

## ARTICLE X - RETRENCHMENT

provisions of this Article, have earlier taken place, the President shall recall the most senior faculty member from among those faculty members who shall have been so retrenched from such department or program area; provided, however, that such order of recall shall govern only insofar as pursuant to its initial application each faculty member to be recalled is, by training and/or experience, qualified to teach the course or courses for the teaching of which such position is to be filled.

b. Librarian

Whenever at any College during the term of this Agreement it shall be determined by the President to be necessary to fill, in whole or in part, any librarian position at any library or libraries from which retrenchment shall, pursuant to the provisions of this Article, have earlier taken place, the President shall recall the most senior librarian who shall have been so retrenched from such library or libraries; provided, however, that such order of recall shall govern only insofar as pursuant to its initial application each librarian to be recalled is, by training and/or experience, qualified to discharge the responsibilities for which such position is to be filled.

c. General Provisions

Any provision of this Agreement to the contrary notwithstanding, any member of the bargaining unit recalled pursuant to the provisions of the foregoing paragraphs of this subsection 3 and who shall not have been recalled to serve as a full-time appointee shall be recalled subject to any and all such policies, practices and procedures of the Board of Trustees and the College as apply to persons who hold part-time appointments; and provided further that the term of service of such part-time appointee shall be governed by such policies, practices and procedures and shall not be governed by any of the provisions of this Agreement other than the provisions of this subsection 3; and provided further that, notwithstanding the foregoing, such part-time appointee shall retain the right to use the procedures of Article XI of this Agreement, to the extent they may apply, to determine whether any provision of this subsection 3, but of no other provisions of this Agreement, may have been violated in its application to him/her.

Any such member of the bargaining unit so recalled to a full-time position shall retain all those rights of tenure that he/she shall have held at the date of his/her retrenchment, and shall retain all accumulated sick leave and any eligibility for sabbatical leave that, pursuant to the terms of this Agreement, he/she was entitled to at the date of his/her retrenchment.

Any such member of the bargaining unit so recalled to a full-time position shall, for the purpose of determining his/her status of seniority, be deemed to have been employed at the College during any period in which he/she shall have been retrenched pursuant to the provisions of this Article.

## ARTICLE X - RETRENCHMENT

### 4. Re-employment List

The name of any member of the bargaining unit retrenched pursuant to the provisions of this Article, other than a faculty member who shall have been reassigned in accordance with the provisions of the following subsection 5, shall be entered on a re-employment list and shall be maintained thereon for five (5) years or for a period equal to his/her length of service at the College where he/she was employed on the date of his/her retrenchment, whichever is less. Every person whose name appears on such re-employment list shall, prior to posting, be notified of all positions that are included in the bargaining unit and that are to be filled at any State College and shall be interviewed for any such vacancy or position for which he/she shall have applied within the established time limit for the receipt of applications, which interview shall take place prior to the filling of such position.

In the event that any such person shall, during the period in which his/her name remains entered on the re-employment list, have been rehired by any State College, his/her name shall be removed from such list, and such person shall retain all accumulated sick leave and all prior service for tenure and sabbatical leave that, pursuant to the terms of this Agreement, he/she shall have been entitled to at the date of his/her retrenchment. Such person shall also be entitled to repurchase past service credits for retirement in accordance with applicable statutes of the Commonwealth and regulations made thereunder.

### 5. Reassignment

Reasonable efforts shall be made to locate employment for retrenched unit members within other State Colleges.

### 6. Tuition and Fee Benefits

- a. Retrenched unit members will maintain, for a period of up to two (2) years following the date of their retrenchment, those tuition and fee benefits provided in this Agreement.
- b. The spouse and children, including any adopted or stepchild or children, of any retrenched unit member will maintain those tuition and fee benefits provided in this Agreement.

### 7. Supplemental Retraining

At the sole discretion of the President, and subject to the agreement of the retrenched tenured unit member and the President, a program of retraining may be undertaken for a period of up to two (2) years, pursuant to the provisions of Article X-A, Section G(2); provided, however, that the College shall not thereby be obliged to continue to employ such unit member following the completion of the approved program of retraining.

This provision is applicable only to unit members who are retrenched for reasons of declining student enrollment.

## **ARTICLE X - RETRENCHMENT**

### **H. GRIEVANCES**

Notwithstanding the provisions of Article XI of this Agreement, in the event that a grievant alleges a violation of an express provision of this Article X, the grievant may, at his/her option, initiate such grievance at Step 2 of Section C(9) of Article XI; provided, however, that, subject as aforesaid, every other provision of Article XI shall remain of full force and effect and shall apply to any such grievance so filed at Step 2.

### **I. PART-TIME PERSONNEL**

No full-time member of the bargaining unit or salaried part-time faculty member employed in any academic department or in any academic program area shall be retrenched pursuant to the provisions of this Article X if on the date on which he/she would otherwise be retrenched there is employed in such department or program area any part-time faculty member described in Section H(3) of Article XIII who is teaching a course or courses that such member of the bargaining unit is qualified, by training and/or experience, to teach, it being the understanding of the parties that any such part-time faculty member shall be terminated prior to the retrenchment of any full-time member of the bargaining unit or salaried part-time faculty member. If, on the date on which any part-time faculty member, who is a member of the bargaining unit, would otherwise be terminated pursuant to Article X, Section I, or Article X-A, Section J, there is employed in such department or program area any non-unit part-time faculty member who is teaching a course or courses that the above referenced full-time member of the bargaining unit is qualified, by training and/or experience, to teach, any said non-unit part-time faculty member shall be terminated prior to the termination of any part-time bargaining unit member.

### **J. HOME DEPARTMENT**

The membership of any faculty member in any department, to be known as his/her home department, shall be determined as follows:

1. Except as is provided in the following subsection 2, a faculty member shall be a member of the department in which he/she teaches the largest number of his/her semester hours of credit of instruction.
2. In the case of any faculty member who teaches more than fifty percent (50%) of his/her semester hours of credit of instruction in a department to which he/she is on loan, so called, such faculty member shall be deemed to be a member of such department if he/she shall have been on such loan and shall have taught more than fifty percent (50%) of his/her semester hours of credit of instruction in such department for more than two (2) consecutive academic years, whether commencing with effect before or after the date of execution of this Agreement; such faculty member's home department shall otherwise be that department from which he/she is on loan.
3. In the case of any faculty member who, by the terms of his/her initial appointment, teaches fifty percent (50%) of his/her semester hours of credit of instruction in one department and fifty percent (50%) of his/her semester hours of credit of instruction in another department, such faculty shall be deemed to be a member of one or the

## **ARTICLE X - RETRENCHMENT**

other of those two (2) departments as the Vice President shall prescribe, as a term of such initial appointment, after consultation with the Chair of each such department.

4. In the case of any faculty member who teaches fifty percent (50%) of his/her semester hours of credit of instruction in one department and fifty percent (50%) of his/her semester hours of credit of instruction in another department, such faculty member shall be deemed to be a member of that department, being one of the aforesaid two (2) departments, which was last determined to be his/her home department by application of the foregoing subsection 1, 2 or 3.

## **ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT**

### **A. INTRODUCTION**

It is the purpose of the State Colleges to provide educational programs and research in the liberal, fine and applied arts and sciences and other related disciplines and to contribute to the resolution of the needs and problems of the local, regional and state-wide communities which they serve. It is the further and ultimate purpose of the several State Colleges to provide such educational services in order to prepare students for the social, economic and cultural world in which they will live after the completion of their education.

In order to best effectuate these purposes, the professional academics who are members of this community, i.e., the faculty and librarians, have a personal and professional obligation to renew, improve and augment their individual capacities as those pertain to their methods of teaching, their command of a body of knowledge and their skills as mentors of students in a variety of modes, learning strategies and settings. To the same end, the Board of Trustees has a more comprehensive obligation to supervise and participate in the design, maintenance, renewal, improvement, expansion and limitation of such educational programs and curricula as it deems most effectively conceived, within the limits of its resources, to realize these fundamental purposes.

The Board of Trustees, in the furtherance of these purposes and in order thereby to improve the quality of its educational programs and curricula, may formulate plans for the renewal, development and staffing of the academic programs, structures and offerings at a State College under its jurisdiction. In order to ensure the participation of members of the academic community at a State College in the formulation of any such plan or plans as it relates to the educational programs, curricula and staffing of such, the parties have made express provision for such participation by incorporating certain provisions to that effect in Article VII of this Agreement, it being the understanding of the parties that such participation shall occur in accordance with such provision.

Therefore, in order to ensure that the implementation of such plans, when and as they are more fully developed, will provide for the greatest possible utilization of the skills and knowledge of the faculty and librarians of each State College, the parties hereby agree as follows.

Notwithstanding any other term of this Agreement, no unit member shall be retrenched except as provided in accordance with the provisions of Articles X, X-A and X-B, as may be applicable.

### **B. APPLICATION**

Save as is provided in Articles X and X-B, the provisions of this Article shall exclusively govern the retrenchment of members of the bargaining unit at each College, any other provision of this Agreement to the contrary notwithstanding.

Except as is otherwise provided in Section J of this Article X-A, the provisions of this Article X-A shall be of no application to any person holding a part-time appointment to a position in the bargaining unit.

## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

### C. DEFINITIONS

#### 1. Academic Program Development

Academic Program Development shall be deemed to have occurred whenever either of the following necessitates increasing or decreasing the number of unit members in one or more academic departments or program areas or a library, as the case may be:

- a. a decision to establish, alter or eliminate an academic program or a general education requirement when such decision has been made in accordance with any such procedures as have been established pursuant to Article VII; or
- b. a significant and demonstrable change in the student enrollment patterns within an academic program resulting in the inability of the faculty of an academic department to teach twelve (12) semester hours of credit of instruction in courses offered by their department, or the equivalent through the fulfillment of alternative professional responsibilities assigned pursuant to Article XII, or workload reductions made in accordance with the provisions of this Agreement.

#### 2. Retrenchment

For the purpose of this Article X-A, “retrenchment” shall mean the laying off of any member of the bargaining unit by reason of academic program development at a College and shall not mean termination.

#### 3. Seniority

For the purposes of this Article, as applied to each member of the bargaining unit, “seniority” shall have the meaning ascribed to it by Section C(4) of Article X.

### D. RETRENCHMENT

No unit member shall be retrenched by reason of academic program development at a State College except in accordance with the provisions of this Article X-A.

### E. CRITERIA FOR RETRENCHMENT

Retrenchment shall take place only pursuant to the following provisions:

#### 1. Faculty Members

The seniority of each faculty member within any department or program area at a College shall determine the order in which he/she shall be retrenched from that department or program area, so that the most senior such member shall be last retrenched and the least senior such member shall be first retrenched; provided, however, that such order of retrenchment shall govern only insofar as, pursuant to its initial application, those faculty members to be retained are, by training and/or experience, qualified to teach the remaining courses which are to be continued to be offered by such department or within such program area to fulfill its mission and

## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

purpose; provided further that such order of retrenchment shall govern only insofar as its application is not in violation of the laws of the Commonwealth of Massachusetts or the United States; and provided further that no tenured member of a department or program area shall be retrenched sooner than a non-tenured member of such department or program area solely by reason of the fact that such tenured member has less seniority than such non-tenured member.

### 2. Librarians

The seniority of each librarian at the College at which he/she is employed shall determine the order in which he/she shall be retrenched from that College, so that the most senior such librarian shall be last retrenched and the least senior such librarian shall be first retrenched; provided, however, that such order of retrenchment shall govern only insofar as, pursuant to its initial application, those librarians to be retained are, by training and/or experience, determined by the Board of Trustees to be essential to the operation of the library or libraries at such College; provided further that such order of retrenchment shall govern only insofar as its application is not in violation of the laws of the Commonwealth of Massachusetts or the United States; and provided further that no tenured librarian shall be retrenched sooner than a non-tenured librarian solely by reason of the fact that such tenured librarian has less seniority than such non-tenured librarian.

### 3. Application

Whenever it shall be necessary, pursuant to the application of this Section E to determine whether any faculty member who would otherwise be retrenched should be retained in any department or program area or whether any librarian who would otherwise be retrenched should be retained in any library or libraries at any College, such determination shall be made by the President and shall not be arbitrary or capricious.

## F. PROCEDURES FOR RETRENCHMENT: ACADEMIC PROGRAM DEVELOPMENT

1. If the President determines that retrenchment for reasons of academic program development may be necessary, he/she shall so notify the Commissioner, the President of the Association and the Chapter President, every appropriate decision-making body constituted pursuant to Article VII and affected unit(s), and shall provide them with a preliminary proposal, which shall address the reasons for the anticipated retrenchment, the number of bargaining unit members who are anticipated to be retrenched and the units proposed for retrenchment.
2. Accurate information, statistics and/or financial data related to such preliminary proposal shall be made available by the President for inspection and/or copying upon request; provided, however, that this subsection shall not require the President to compile such information, statistics and/or financial data in the form requested unless already compiled in that form.
3. The President shall provide a reasonable period of time and, whenever possible, a minimum of sixty (60) days from the issuance of the preliminary proposal, to receive



## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

advice and written recommendations from the President of the Association and/or the Chapter President.

4. The President of the College, the President of the Association and/or the Chapter President shall promptly meet and confer with respect to the preliminary proposal and their recommendations.
5. If, after having considered such recommendations, the President determines that retrenchment remains necessary, he/she shall recommend a final retrenchment plan which shall state the unit(s) in which retrenchment shall occur, and the extent of retrenchment in each such unit. The plan shall identify, in accordance with the provisions of this Article, those bargaining unit members who are to be retrenched. A copy of the recommendations, if any, of the President of the Association and the Chapter President shall accompany the recommendations of the President. In developing the final retrenchment plan, the President shall address the following considerations:
  - a. the mission of the affected unit(s) and how circumstances have altered that mission;
  - b. the dependence of other unit(s) of the College on the unit(s) affected, the effect on the offerings of the unit(s) affected and/or arrangements to replace offerings lost;
  - c. arrangements to allow students in the affected unit(s) to satisfy academic needs and requirements;
  - d. possible consequences to the stature of the College;
  - e. the possibilities of re-employment elsewhere in the College or other State Colleges; and
  - f. the advisability of program curtailment as opposed to program abolition.

A copy of the above material shall be transmitted to the Commissioner.

6. The Board of Trustees shall promptly meet to consider the plan so recommended. In accordance with the Board of Trustees' procedures, upon the prior written request of the Association President Association and/or the Chapter President, the Association President and/or the Chapter President shall be granted an opportunity to address the Board. Thereafter, the Board may adopt a plan of retrenchment as it shall determine. Bargaining unit members may thereafter be retrenched pursuant to the plan so adopted in accordance with the provisions of this Article. A copy of such plan shall be given to the Commissioner, the Association President and the Chapter President.
7. The determination of the Board of Trustees made hereunder shall not be arbitrary or capricious.

## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

### G. OFFER TO REASSIGN OR TO PROVIDE A PROGRAM OF PROFESSIONAL DEVELOPMENT

Notwithstanding any other term of this Agreement, no unit member shall be retrenched pursuant to the provisions of this Article until after the provisions of this Section G have been complied with and then only in compliance with the express provisions of this Article.

Whenever any member of the bargaining unit is to be retrenched by reason of academic program development, he/she shall be entitled to receive an offer from the Board of Trustees pursuant to the provisions of subsection 1 or 2 below.

#### 1. Offer of Reassignment

Whenever the Board of Trustees shall have determined, at its sole discretion, that the skills, knowledge and/or experience of such member of the bargaining unit can be more effectively utilized at the College in a department, including any program area or library, other than that in which such member of the bargaining unit is then employed, it may, after consultation with such unit member, offer to reassign such unit member accordingly.

Any offer so made shall be made in writing, shall set forth the department, program area or library to which such reassignment is to have effect, shall provide such other pertinent information as the Board may deem necessary or desirable and shall be sent to such unit member in accordance with the provisions of subsection 5 below.

Whenever the Board of Trustees shall, in respect of any member of the bargaining unit, have made any offer pursuant to the foregoing provisions of this subsection 1, and whenever such unit member shall have failed, within thirty (30) days after the receipt of such offer, to accept such offer in its entirety, the Board of Trustees may, at its sole discretion, subject only to the provisions of Section H below and to no other provisions of this Article or Article X or Article X-B, retrench such unit member by giving him/her notice thereof in writing, which notice shall, any other provision of this Agreement to the contrary notwithstanding, have effect not sooner than the commencement of the next academic semester.

No reassignment shall be offered or made pursuant to the provisions of this subsection 1 except to a position then vacant; provided, however, that at the sole discretion of the Board of Trustees, any such vacancy may be created by the retrenchment of a non-tenured member of the bargaining unit by giving such non-tenured member of the bargaining unit notice thereof in writing, which notice shall, any other provision of this Agreement to the contrary notwithstanding, have effect not sooner than the commencement of the next academic semester. Any retrenchment effected for the purpose of creating a vacancy as aforesaid shall be subject only to the provisions of subsections 1, 2 and 3 of Section H below and to no other provision of this Article or Article X or Article X-B.

#### 2. Offer of a Program of Professional Development

Whenever the Board of Trustees shall have determined, at its sole discretion, that the skills, knowledge and/or experience of such member of the bargaining unit might be

## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

made relevant to the changing needs of the College only if such unit member participates in a program of professional development, it shall offer:

- a. after consultation with such unit member, to provide such program to such unit member and to pay the tuition and fees at a public institution of higher learning within the Commonwealth or, if undertaken pursuant to the rules and regulations of the New England Regional Student Program, at a public institution of higher education in New England, if any, for a period of up to two (2) years, required for the implementation of the same;
- b. to continue to employ such unit member during any period of such program that falls within an academic or other work year, as the case may be, with such reduction of the workload of such unit member as the Board shall, after consultation with the Association, determine, but subject to all the other terms and conditions of this Agreement, including the provisions of this Article and of Article IX, and to all the terms and conditions of any successor thereto;
- c. to continue to employ such member from and after the successful completion of such program, subject to all the terms and conditions of this Agreement, including Articles IX and X thereof, and to all the terms and conditions of any successor thereto.

Any offer so made shall be made in writing by the Board of Trustees, shall set forth the nature, purpose, terms, content, scope, time and duration, whether or not falling within any work year, and location of such program, together with the general manner of its implementation, including the manner in which any tuition and fees thereby entailed shall be paid by the Board, and shall be sent to such unit member in accordance with the provisions of subsection 5 below.

Subject to the foregoing, the nature, purpose, terms, content, scope, time and duration, whether or not falling within any work year, and location of any and every such program of professional development shall be determined at the sole discretion of the Board of Trustees; provided, however, that whenever any such program requires the Board to pay any tuition and fees, it shall be a condition of the offer made that the member of the bargaining unit to whom it is made shall agree to remain an employee of the Board for a period equal to twice the period of such program unless the Board, then or thereafter, shall have waived this condition in whole or in part or shall have retrenched, terminated or not reappointed such member of the bargaining unit subsequent to the conclusion of such program.

Whenever the Board of Trustees shall, in respect of any member of the bargaining unit, have made any offer pursuant to the foregoing provisions of this subsection 2, and whenever such unit member shall have failed, within thirty (30) days after the receipt of such offer, to accept such offer in its entirety, the Board of Trustees may, at its sole discretion, subject only to the provisions of Section H below and to no other provision of this Article or Article X or Article X-B, retrench such unit member by giving him/her notice thereof in writing, which notice shall, any other provision of this Agreement to the contrary notwithstanding, have effect not sooner than the commencement of the next academic semester.

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Whenever the Board of Trustees shall, in respect of any member of the bargaining unit, have made any offer pursuant to the foregoing provisions of this subsection 2, and whenever such unit member, within thirty (30) days after the receipt of such offer, shall have accepted such offer in its entirety, such unit member shall not be retrenched during the period in which such program of professional development is in effect unless such unit member shall have sooner failed, in some material way, to comply with the terms of such program.

### 3. Dual Offers

Nothing in the foregoing shall be deemed to prohibit a Board of Trustees from making offers to any eligible member of the bargaining unit, whether simultaneously or otherwise, pursuant to both of the foregoing subsections 1 and 2; and nothing in the foregoing shall be deemed to abridge the right of a Board of Trustees to reassign any member of the bargaining unit from one department, program area or other organizational unit at the College to another such unit at the College in circumstances other than those described in this Article X-A.

### 4. Criteria Governing the Order in Which Offers May Be Made

Whenever the Board of Trustees shall have determined that the implementation of any plan will require the transfer of, or the participation in a program of professional development by, any member(s) of a department or program area or any librarian(s) at a College, then no member of such department or program area and no librarian at such College shall receive an offer pursuant to subsection 1, 2 or 3 above unless an offer, but not necessarily the same offer, shall have been sooner made to such faculty member or librarian, if any, as is required by the following provisions to have been the prior recipient of such an offer:

#### a. Faculty Members

The seniority of each faculty member within any department or program area at a College shall determine the order in which he/she shall receive an offer made pursuant to the provisions of this Article, so that the least senior member shall first receive such an offer and the most senior such member shall last receive such an offer; provided, however, that such order shall govern only insofar as, pursuant to its initial application, those faculty members that will remain in such department or program area if an offer is accepted are, by training and/or experience, qualified to teach the remaining courses offered by such department or within such program area; and provided further that such order shall govern only insofar as its application is not in violation of the laws of the Commonwealth or the United States; and provided further that no tenured member of a department or program area shall receive any offer sooner than a non-tenured member of such department or program area solely by reason of the fact that such tenured member has less seniority than such non-tenured member.

## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

### b. Librarians

The seniority of each librarian at the College at which he/she is employed shall determine the order in which he/she shall receive an offer made pursuant to the provisions of this Article, so that the least senior such librarian shall first receive such an offer and the most senior such librarian shall last receive such an offer; provided, however, that such order shall govern only insofar as, pursuant to its initial application, those librarians that will remain at such College if any offer is accepted are, by training and/or experience, qualified to render the remaining services offered within the library or libraries at such College; and provided further that such order shall govern only insofar as its application is not in violation of the laws of the Commonwealth or the United States; and provided further that no tenured librarian shall receive any offer sooner than a non-tenured librarian solely by reason of the fact that such tenured librarian has less seniority than such non-tenured librarian.

### 5. Notice of Offer

Any offer made by a Board of Trustees to a member of the bargaining unit pursuant to this Section G shall be sent to such unit member by certified mail, return receipt requested. If such certified letter is returned undelivered, it shall then be sent to such unit member by regular first class mail and, if unreturned, shall be deemed to have been received by him/her on the date when delivery of the certified letter would have otherwise been effected.

### 6. Limitations

The provisions of this Section G shall be of no force or effect at any College during any period in respect of which the Board of Trustees shall have declared a fiscal exigency or during any period in which any one (1) or more members of the bargaining unit who have been retrenched by reason of a fiscal exigency remain subject to recall therefrom pursuant to the provisions of Section G(3) of Article X.

It is the intent of this Section that the provisions of Article X shall exclusively be of application to a financial exigency, and shall not be applied arbitrarily or capriciously where the provisions of this Article X-A are of proper application.

## H. RIGHTS AND BENEFITS OF RETRENCHED BARGAINING UNIT MEMBERS

### 1. Unemployment Compensation

The right of every member of the bargaining unit to receive such unemployment compensation benefits as he/she may be entitled to under Chapter 151A of the General Laws, as amended, is hereby recognized. Every appropriate Board of Trustees shall provide any member of the bargaining unit retrenched pursuant to the provisions of this Article with all such information and assistance as he/she may require for the purpose of making any claim pursuant to Chapter 151A.

## ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT

### 2. Recall

#### a. Faculty Member

Whenever during the term of this Agreement it shall be determined by the President to be necessary to fill, in whole or in part, any faculty position in a department in which retrenchment shall, pursuant to the provisions of this Article, have earlier taken place, the President shall recall the most senior faculty member from among those faculty members who shall have been so retrenched from such department; provided, however, that such order of recall shall govern only insofar as pursuant to its initial application each faculty member to be recalled is, by training and/or experience, qualified to teach the course or courses for the teaching of which such position is to be filled.

#### b. Librarian

Whenever during the term of this Agreement any College President shall have determined it necessary to fill, in whole or in part, any librarian position at any library or libraries from which retrenchment shall, pursuant to the provisions of this Article, have earlier taken place, then the President shall recall the most senior librarian who shall have been so retrenched from such library or libraries; provided, however, that such order of recall shall govern only insofar as pursuant to its initial application each librarian to be recalled is, by training and/or experience, qualified to discharge the responsibilities for which such position is to be filled.

#### c. General Provisions

Any provision of this Agreement to the contrary notwithstanding, any member of the bargaining unit recalled pursuant to the provisions of the foregoing paragraphs of this subsection 2 who shall not have been recalled to serve as a full-time appointee shall be recalled subject to any and all such policies, practices and procedures of the Board of Trustees and the College as apply to persons who hold part-time appointments; provided further that the term of service of such part-time appointee shall be governed by such policies, practices and procedures and shall not be governed by any of the provisions of this Agreement other than the provisions of this subsection 2; and provided further that, notwithstanding the foregoing, such part-time appointee shall retain the right to use the procedures of Article XI of this Agreement, to the extent they may apply, to determine whether any provision of this subsection 2, but of no other provisions of this Agreement, may have been violated in its application to him/her.

Any such member of the bargaining unit so recalled to a full-time position shall retain all those rights of tenure that he/she shall have held at the date of his/her retrenchment, and shall retain all accumulated sick leave and any eligibility for sabbatical leave that, pursuant to the terms of this Agreement, he/she was entitled to at the date of his/her retrenchment.

## **ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT**

Any such member of the bargaining unit so recalled to a full-time position shall, for the purpose of determining his/her status of seniority, be deemed to have been employed at the College during any period in which he/she shall have been retrenched pursuant to the provisions of this Article.

### **3. Re-employment List**

The name of any member of the bargaining unit retrenched pursuant to the provisions of this Article shall be entered on a re-employment list and shall be maintained thereon for five (5) years or for a period equal to his/her length of service at the College where he/she was employed on the date of his/her retrenchment, whichever is less. Every person whose name appears on such re-employment list shall, prior to posting, be notified of all bargaining unit positions to be filled at any State College, and shall be interviewed for any such position for which he/she shall have applied within the established time limit for the receipt of applications, which interview shall take place prior to the filling of such position.

In the event that any such person shall, during the period in which his/her name remains entered on the re-employment list, have been rehired by any State College, his/her name shall be removed from such list, and such person shall retain all accumulated sick leave and all prior service for tenure and sabbatical leave that, pursuant to the terms of this Agreement, he/she shall have been entitled to at the date of his/her retrenchment. Such person shall also be entitled to repurchase past service credits for retirement in accordance with applicable statutes of the Commonwealth and regulations made thereunder.

### **I. GRIEVANCES**

Notwithstanding the provisions of Article XI of this Agreement, in the event that a grievant alleges a violation of an express provision of this Article X-A, the grievant may, at his/her option, initiate such grievance at Step 2 of Section C(9) of Article XI; provided, however, that, subject as aforesaid, every other provision of Article XI shall remain of full force and effect and shall apply to any such grievance so filed at Step 2.

### **J. PART-TIME PERSONNEL**

No full-time member of the bargaining unit or salaried part-time faculty member employed in any academic department or in any academic program area shall be retrenched pursuant to the provisions of this Article X-A if on the date on which he/she would otherwise be retrenched there is employed in such department or program area any part-time faculty member described in Section H(3) of Article XIII who is teaching a course or courses that such member of the bargaining unit is qualified, by training and/or experience, to teach, it being the understanding of the parties that any such part-time faculty member shall be terminated prior to the retrenchment of any full-time member of the bargaining unit or salaried part-time faculty member. If, on the date on which any part-time faculty member, who is a member of the bargaining unit, would otherwise be terminated pursuant to Article X, Section I, or Article X-A, Section J, there is employed in such department or program area any non-unit part-time faculty member who is teaching a course or courses that the above-referenced full-time member of the bargaining unit is qualified, by training and/or

## **ARTICLE X-A - ACADEMIC PROGRAM DEVELOPMENT**

experience, to teach, such non-unit part-time faculty member shall be terminated prior to the termination of any part-time bargaining unit member.

### **K. HOME DEPARTMENTS**

The membership of any faculty member in any department, to be known as his/her home department, shall be determined in accordance with Article X, Section J.



## ARTICLE X-B - ACADEMIC REORGANIZATION

### A. PROGRAMMATIC REORGANIZATION

Prior to implementing in whole or in part any plan of a kind described in Article X-A, Section A, but only to the extent that such plan or part of such plan will, if implemented, change any academic program, curriculum or structure at any one (1) or more of the several State Colleges, the Board of Higher Education shall transmit such plan or part thereof, to the extent that the same will, if implemented, change any academic program, curriculum or structure at any College, through the President of such College to every appropriate decision-making body constituted pursuant to Article VII. A copy of the same shall be transmitted to the Chapter President and to the Association President. Upon its receipt of such plan, the All-College Committee shall refer the same to any such standing committee(s) within whose jurisdiction such plan or part thereof falls, but only to the extent, in the case of each such standing committee, that such plan or part thereof so falls.

At the time of transmittal, the Board of Higher Education, acting through the President, shall give to any appropriate decision-making body described in the preceding paragraph written notice of the date by which any final recommendation(s) are required to be submitted to the President in respect of such plan or part thereof; provided, however, that different dates may be so established with respect to different portions of such plan(s); and provided further that if after its receipt of any recommendation(s) from any standing or like committee any of the decision-making bodies shall have determined that an extension of time is reasonably required for its consideration of any such recommendation, it shall so notify the President in writing and it shall thereupon be granted, during an academic year, an additional thirty (30) days for such purpose from and after the date first set for the making of any final recommendation. The date(s) established pursuant to the foregoing provision for the making of any recommendation in respect of any such plan or part thereof shall govern the making of such recommendation made by any of the above-described decision-making bodies pursuant to the provisions of Article VII, anything in such provisions to the contrary notwithstanding.

Thereafter, any unit member retrenched as a result of such programmatic reorganization will be accorded the retrenchment rights provided for in Article X-A, Sections G and H, and the provisions of Sections C, D, E, I, J and K of Article X-A shall be of application regarding the retrenchment of any unit member under the terms of this Section A.

### B. MERGER OR ABOLITION OF A COLLEGE

In the event that a State College is abolished or merged pursuant to any legislative enactment, then, upon the written demand of the Association, the Board of Higher Education, acting through the Council of Presidents, shall convene impact negotiations within five (5) days of the receipt of such written demand.

### C. APPLICATION

The provisions of this Article X-B shall be of no application to part-time unit members other than salaried part-time faculty members.

## ARTICLE XI - GRIEVANCE PROCEDURE

### A. INTRODUCTION

The Board of Higher Education, acting through the Council of Presidents, and the Association recognize that Chapter 150E, §8, of the General Laws provides a mechanism for arbitration of disputes between the parties to a collective bargaining agreement and further provides that the parties to an agreement may establish an independent grievance procedure culminating in final and binding arbitration. It is the intent of the parties to this Agreement to use their best efforts to encourage the informal and prompt settlement of grievances which may arise between the Association or a member or members of the bargaining unit and the Board of Higher Education. Therefore, the parties agree, for themselves and for all those whom they represent, that they shall use the procedures set forth in this Article, and no other procedures, for the resolution, strictly pursuant to the terms of this Agreement, of all disputes involving the interpretation of this Agreement and of any other matter that is or may become the subject of a grievance as hereinafter defined.

### B. DEFINITIONS

1. Complaint - a complaint is a written statement, which shall be expressly denominated "Complaint," setting forth a grievance as hereinafter defined. A complaint shall aver all the known facts material to the alleged breach on which the grievance is based, including the date when such breach is alleged to have occurred and the specific contractual provisions alleged to have been breached, and shall set forth the remedy requested.
2. Grievant - grievant shall mean the Association or any member or members of the bargaining unit, as the case may be, who, pursuant to the terms of this Agreement, seeks resolution of a grievance.
3. Grievance - a grievance is an allegation by the Association or by a member or members of the bargaining unit that an express provision of this Agreement has been breached in its application to it, him/her, or them, respectively. The Association may seek resolution of a grievance only if initiation of the procedure for such resolution has been duly authorized by the Association and so certified by its President.
4. Day - for the purposes of this Article, day shall mean a working day.
5. Academic Judgment - for the purposes of this Article, every decision made pursuant to Article VIII, Article IX, Article XX, or any or all of them, as the case may be, to renew or fail to renew an academic appointment, to terminate any such appointment, to grant or refuse to grant tenure, or to grant or refuse to grant a promotion, and no other decision, shall be deemed to have been made pursuant to an exercise of academic judgment; and every grievance that, explicitly or by implication, questions the merits of any such decision, but of no other decision, shall be deemed to be a grievance that questions an exercise of academic judgment.
6. Board of Higher Education - the Board of Higher Education is the Board of Higher Education acting through the Council of Presidents.

## ARTICLE XI - GRIEVANCE PROCEDURE

### C. PROCEDURES FOR FILING A GRIEVANCE

The Association or any member or members of the bargaining unit having a grievance, as defined above, shall seek its resolution only in accordance with the grievance procedure set forth in this Article.

#### 1. Extension of Certain Time Periods

Whenever there shall have been initiated procedures for the resolution of any grievance that arises out of or relates to a decision or determination the making of which requires an exercise of academic judgment, whether such grievance alleges breach of a substantive or procedural term of this Agreement, such initiation shall be deemed to extend the limits of time prescribed by this Agreement for the decision or determination that is the subject matter of such grievance. Such extension of time shall expire sixty (60) days from the date on which the procedures prescribed herein for the resolution of such grievance shall have been concluded.

#### 2. Inspection of Record

At any reasonable time during any step of these procedures the grievant shall be permitted to inspect all or any part of the grievance record, and, where appropriate, shall be permitted to make copies of all or any parts of such record.

#### 3. Introduction of Evidence

Evidence may be introduced into the grievance record only in compliance with the following provisions:

- a. Within the time limits hereinafter prescribed for the initiation of Step 2 of these procedures, the grievant shall introduce all evidence in his/her possession and on which he/she relies or intends to rely as supporting his/her claim for relief;
- b. Notwithstanding the foregoing, the grievant may introduce additional evidence for the sole purpose of rebutting any finding of fact or any determination as set forth in any decision rendered pursuant to the provisions of this Article; provided, however, that such additional evidence, if any, shall be introduced within the time period allowed for the initiation of the Step next following such decision;
- c. The President shall introduce at Step 2 all evidence in his/her possession and on which he/she relies in making any finding of fact and any determination as set forth in the decision rendered by him/her pursuant to the provisions of this Article; provided, however, that nothing herein contained shall be deemed to require the President to introduce any evidence otherwise introduced by the grievant pursuant to the foregoing provisions; and
- d. Notwithstanding the foregoing, the grievant, the President or any of his/her agents, or the Chair of the Council of Presidents may introduce any evidence material and relevant to the grievance the existence of which evidence he/she

## ARTICLE XI - GRIEVANCE PROCEDURE

or they did not and should not have known at the times otherwise provided herein for the introduction of evidence.

All evidence introduced pursuant to the foregoing provisions shall form a part of the grievance record.

### 4. Request for Evidence

Whenever the grievant wishes to introduce evidence pursuant to the provisions of this Article and such evidence is or may be in the possession of the Administration, the grievant may, within the time period allowed for the initiation of the Step at which such evidence is permitted to be introduced, file with the President a written request for such evidence. Whenever such request shall have been so filed, the President shall, within seven (7) days after the filing of such request, convey to the grievant any and all such evidence possessed by him/her so requested; provided, however, that notwithstanding the foregoing, the President may refuse to convey any such evidence not deemed by him/her material and relevant to the grievance set forth in the said complaint; and provided, further that whenever the President shall have refused to convey any such evidence, such refusal and the reasons therefor shall be communicated in writing to the grievant and shall thereafter form a part of the grievance record. Such request when so filed and such evidence when so conveyed shall form a part of the grievance record.

### 5. Notice to the Association

Whenever any grievant shall have initiated the grievance procedure of this Article or shall have proceeded to Step 2, notice thereof shall be given to the Chapter President by the person charged at such Step with resolution of the grievance.

### 6. Determination to Be Made Pursuant to Resolution of Grievance

At Step 2 of these procedures, the President shall, within the time limits prescribed, determine:

- a. whether the grievant has complied with the procedures for seeking resolution of a grievance as set forth in this Article;
- b. whether the complaint alleges a breach of an express term of the Agreement; and
- c. whether an express provision of this Agreement has been breached in its application to the grievant as claimed.

### 7. Expedited Grievances

Any grievance involving non-reappointment, the denial of promotion to an Instructor in his/her fourth (4th) year of employment or the denial of tenure shall initially be filed and heard at Step 2 if the breach of the Agreement the grievance alleges is attributed to the Vice President, the President or the Board of Trustees. Any grievance involving termination shall initially be filed and heard at Step 2.

## ARTICLE XI - GRIEVANCE PROCEDURE

8. Optional Electronic Filing of Grievances
  - a. Step 1 and Step 2 Complaints may be filed by e-mail by the Chapter grievance representative, other MSCA officer, or an individual unit member provided that it is identified explicitly as a Step 1 or Step 2 Complaint and has the appropriate case number as assigned by the chapter (consolidated grievances may be filed by e-mail by the Grievance Committee Chair on behalf of the Association President using the wording now used to identify them as consolidated grievances);
  - b. The appropriate management representative shall acknowledge receipt by e-mail;
  - c. On or before the day of the Step 1 or Step 2 hearing, the grievant shall follow up with a signed paper copy of the complaint form, which shall include the correct grievance number and any relevant documents as required by the collective bargaining agreement. The management representative shall continue to notify the Chapter President of hearings scheduled with *pro se* grievants;
  - d. The management grievance hearing officer at Step 1 or Step 2 may respond via e-mail to an e-mailed grievance, sending it to the grievant and the Chapter grievance representative; and
  - e. As soon as possible thereafter, the management hearing officer shall follow up with a paper copy of the decision.
  - f. Either party, by giving written notice to the other, may discontinue the optional electronic filing of grievances that is permitted by this subsection 8.

9. Steps

STEP 1: THE VICE PRESIDENT (INFORMAL)

Save as is provided in Section L, a grievant shall initiate the grievance procedure of this Article by filing with the Vice President, during the term of this Agreement or an extension thereof, a written notice that a grievance exists. The notice need not be in the form of a complaint, but need only briefly describe the subject of the grievance. No such notice may be filed more than ten (10) days from the date of occurrence of the event upon which the grievance is based or from the date when the grievant had or should have had knowledge of the event upon which the grievance is based. The filing date required hereunder shall be deemed to have been complied with by a postmark dated within the specified time limit. Within five (5) days after the receipt of such notice, the Vice President shall meet with the grievant and attempt to resolve the grievance. If within five (5) days after such meeting, the grievant and the Vice President shall have failed to agree upon a resolution of the grievance, the grievant may elect to proceed to Step 2.

## ARTICLE XI - GRIEVANCE PROCEDURE

### STEP 2: THE PRESIDENT (FORMAL)

If the grievant elects to proceed to this Step, then within seven (7) days after the expiration of the period provided under Step 1 for informal resolution of the grievance, he/she shall file with the President:

- a. a complaint; and
- b. all documents and evidence in his/her possession and upon which he/she relies or intends to rely as supporting his/her claim for relief.

All such documents and evidence so filed shall form a part of the grievance record.

The President shall transmit a copy of the complaint to the Chapter President.

The President shall meet with the grievant to discuss the grievance within fourteen (14) days after the filing of the complaint. The President shall consider any grievance the resolution of which shall have been sought, pursuant to the terms set forth herein, through the prior Step of the grievance procedure; provided, however, that the President shall have no jurisdiction to consider:

- a. any grievance that, explicitly or by implication, questions an exercise of academic judgment as herein before defined, but provided further that, notwithstanding the foregoing, the President shall have jurisdiction to consider:
  - i. any grievance that alleges a failure to comply with the procedures prescribed at Section E of Article IX of this Agreement but only as to such allegation;
  - ii. any grievance that alleges that the exercise of the academic judgment complained of was arbitrary and capricious; and
- b. any grievance pertaining to:
  - i. the denial of a promotion where such promotion was supported neither by the Department Chair or the Library Director, as the case may be, by the Peer Evaluation Committee, by the Committee on Promotions, nor by the Vice President;
  - ii. the denial of a reappointment where such reappointment was supported neither by the Department Chair or the Library Director as the case may be, by the Peer Evaluation Committee, nor by the Vice President;
  - iii. the denial of tenure where the granting of tenure was supported neither by the Department Chair or the Library Director, as the case may be, by the Peer Evaluation Committee (if one was requested by the candidate), by the Committee on Tenure, nor by the Vice President;

## **ARTICLE XI - GRIEVANCE PROCEDURE**

but provided further that, notwithstanding the foregoing, the President shall have jurisdiction to consider any grievance that alleges a failure to comply with the procedures prescribed at Article VIII of this Agreement but only as to such allegation.

Within twenty (20) days after the President and the grievant meet, the President shall make such determination as is prescribed in Section C(6) of this Article. The President shall render a written decision and shall set forth therein his/her determinations and the reasons therefor and his/her findings of fact, and he/she shall provide a copy of his/her decision to the grievant and to the Chapter President. Such decision shall thereafter form a part of the grievance record.

If the President shall have determined that an express provision of this Agreement has been breached in its application to the grievant as claimed, he/she may, consistent with the terms of this Agreement, provide any appropriate remedy for such breach. Whenever the President shall have provided any remedy he/she deemed appropriate, such remedy shall be set forth by him/her in writing in his/her decision. Such determination when so set forth in writing shall thereafter form a part of the grievance record. If the grievance shall not have been resolved to the satisfaction of the Association, then, subject to the provisions of this Article, the Association may elect to proceed to Step 3 or Step 4.

If the Association elects to proceed beyond Step 2, then within fourteen (14) days after the expiration of the period provided under this Step 2 for resolution of the grievance, it shall file notice of such election with the President, the Chair of the Association Grievance Committee, and the designated representative of the Council of Presidents. This notice shall satisfy the requirements of Step 3 and the requirements of clauses (i) and (ii) in the first paragraph of Step 4; such notice may be filed electronically. As soon as practicable thereafter, the Association President shall follow up with a signed paper copy.

### **STEP 3: MEDIATION**

If the Association elects to proceed to this Step, then following the receipt of such notice by the representative of the Council of Presidents, but no sooner than thirty (30) days thereafter, the grievance will be addressed in mediation on the next available mediation date.

The Council and the Association shall reserve, at a minimum, the first Monday of each month for the mediation of grievances at Step 3 to the extent possible, the parties will, by mutual agreement, add mediation dates as needed. Dates shall be determined at the beginning of each fiscal year falling within the term of this Agreement. Mediation shall be conducted on a rotating basis by Mark Irvings, Diane Zaar Cochran and Roberta Golick and, on a trial basis for a period of not less than six (6) months from and after July 1, 2009, by one (1) or more mediators appointed by and through the Massachusetts Board of Conciliation and Arbitration.

Two (2) grievances per day shall be the standard for mediation unless the grievances are related, in which case additional related grievances may be addressed by agreement of the parties. Both parties shall ensure that their representatives in mediation have the authority to enter into a settlement.

## **ARTICLE XI - GRIEVANCE PROCEDURE**

Documents introduced before and during mediation shall be included in the grievance record. Statements made during mediation shall be off the record in order to encourage free discussion without injuring either party's case if mediation is unsuccessful. The mediator shall not testify about the mediation in any arbitration conducted under this Article XI or in any other adversarial proceeding or judicial forum. Each party shall maintain the confidentiality of mediation and shall not rely on or introduce as evidence in any other proceeding:

- a. views expressed or suggestions made by the other party with respect to the possible settlement of the grievance;
- b. admissions made by the other party in the course of the mediation;
- c. proposals made or views expressed by the mediator; and
- d. the fact that the other party had or had not indicated willingness to accept a proposal for settlement or to continue these or any other mediation proceedings.

The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution.

Mediation shall conclude in one of the following ways:

- a. by the execution of a settlement agreement by the parties; or
- b. by a written declaration of the mediator, a party, or the parties to the effect that the mediation is concluded.

After May 31, 2006, upon thirty (30) days' notice, either party may terminate this mediation procedure, after which Step 4 shall become Step 3.

### **STEP 4: ARBITRATION**

Subject to and in accordance with the following provisions, arbitration of a grievance may be initiated either (i) within fourteen (14) days after receipt of the decision rendered at Step 2 or, if no decision has been rendered at Step 2 within the time specified, then within fourteen (14) days thereafter, or (ii), if the Association has elected to proceed to Step 3 following Step 2, then within fourteen (14) days after the conclusion of mediation (other than by the parties' execution of a settlement agreement) at Step 3:

- a. The Association shall have the exclusive right to initiate arbitration of a grievance. Whenever the Association shall initiate arbitration of a grievance the resolution of which has theretofore been sought by a member or members of the bargaining unit, then such member or members shall be bound in all respects by the decision of the arbitrator to the same extent as the Board of Higher Education and the Association;



## ARTICLE XI - GRIEVANCE PROCEDURE

- b. The Association may initiate arbitration of a grievance only if the resolution of the grievance has been sought through the initial two (2) prior Steps of the grievance procedure (or through Step 2 thereof if the grievance is properly initiated at that Step) and only if submission of the grievance to arbitration has been duly authorized by the Association and so certified by its President; and
- c. The Association shall initiate arbitration by giving written notice to the President and the Chair of the Council of Presidents within the said fourteen (14) days that it intends to submit a grievance to arbitration. A copy of such notice shall be provided to the Employee Relations Committee.

Within ten (10) days of the President's receipt of such notice from the Association, the parties shall promptly select an arbitrator as follows. In the first instance of the initiation of arbitration by the Association, the parties shall select as arbitrator the individual whose name first appears on the list of arbitrators incorporated as Appendix I of this Agreement. In each subsequent instance, the parties shall select the individual whose name next follows the name last selected. If the individual so selected shall be unable or unwilling to serve as arbitrator, then the parties shall select the individual whose name next appears on said list. No individual shall be selected to serve as arbitrator for a second time until all of the remaining individuals appearing on said list shall have been selected to serve in accordance with these procedures, and no arbitrator shall be selected to serve as arbitrator in respect of any grievance if, in respect of such grievance, he/she served as mediator under Step 3.

The parties shall give notice to the arbitrator of his/her selection as such, and they shall, as promptly thereafter as is practicable, schedule with the arbitrator a date or dates that are mutually acceptable for the conduct of the arbitration.

The parties shall have the right, upon mutually agreeing so to do, to waive their rights to a hearing and to submit to the arbitrator, in lieu of such hearing, written briefs setting forth the issues raised by the grievance that is the subject matter of such arbitration and their arguments in respect thereof; provided, however, that nothing herein contained shall be deemed to deprive the parties of any right they may have, pursuant to the rules of the American Arbitration Association, to submit briefs or any other written arguments pursuant to any hearing that may be required to be held pursuant to those rules.

The Association and the Board of Higher Education, acting through the Chair of the Council of Presidents, shall have the right to be represented by counsel at any hearing convened by the arbitrator pursuant to the provisions of this Article. All proceedings before the arbitrator shall be governed by the rules of the American Arbitration Association; provided, however, that the jurisdiction of the arbitrator to inquire into any issue presented by the complaint and his/her authority to render an award shall be governed solely by the provisions of this Article.

## ARTICLE XI - GRIEVANCE PROCEDURE

### D. JURISDICTION OF THE ARBITRATOR

#### 1. Powers of Remand

- a. Whenever any grievance set forth in the complaint has not been entertained by the President in whole or in part on the ground that such grievance or part thereof was not within his/her jurisdiction as prescribed in Step 2, then the arbitrator shall have no authority or jurisdiction to arbitrate such grievance or part thereof but shall be conclusively bound by the determination of the President of the question of his/her jurisdiction; provided, however, that nothing contained herein shall be deemed to abridge the power of the arbitrator to determine whether such determination shall have been arbitrary or capricious. Whenever the arbitrator shall have determined that such determination was arbitrary or capricious, the arbitrator shall remand such grievance or part thereof to the President, and he/she shall, within fourteen (14) days of the date of such remand, make such new determination of his/her jurisdiction to consider such grievance or part thereof as, subject to the terms of this Agreement, he/she shall deem proper. Whenever the President shall have newly determined that he/she has jurisdiction to entertain such grievance or part thereof, he/she shall do so pursuant to the provisions of Step 2 and subject to the time limits therein prescribed.
- b. Subject as is hereinafter provided, whenever any grievant shall have alleged, expressly or by implication of the factual allegations, that any determination or decision involving the exercise of academic judgment was, in its application to him/her, arbitrary or capricious, the arbitrator shall have the power to determine the truth or falsity of such allegation. Whenever the arbitrator shall have determined that such allegation is true, he/she shall order that such arbitrary or capricious determination or decision shall be reconsidered, and such determination or decision shall thereafter be newly made pursuant to the procedures prescribed in this Article and subject to the time limits therein prescribed. Thereafter, such decision so newly made shall be subject to the provisions of this Article, including this provision; provided, however, that any grievance arising from such decision so newly made shall be initiated by filing notice thereof with the President pursuant to the provisions of Step 2 of these procedures, and the provisions of Step 1 of these procedures shall not apply to such grievance; and provided further that, anything in the provisions of Step 2 to the contrary notwithstanding, such notice shall be filed with the President within fourteen (14) days of the date on which notice shall have been given of the decision that shall have been newly made pursuant to the provisions of this paragraph.

#### 2. Limit of the Arbitrator's Jurisdiction

Subject to the provisions of this Agreement, the arbitrator shall have no authority or jurisdiction to arbitrate:

- a. such portion of any grievance as is removed from the jurisdiction of the President by the express terms of this Article; or

## **ARTICLE XI - GRIEVANCE PROCEDURE**

- b. such portion of any grievance as relates to any determination or decision made pursuant to an exercise of academic judgment.

### **E. DECISION OF THE ARBITRATOR**

Within thirty (30) days after the conclusion of a hearing, or within thirty (30) days after the date on which briefs shall have been submitted to the arbitrator in lieu of such hearing, the arbitrator shall determine:

1. whether the Association and, where a member or members of the bargaining unit sought resolution of the grievance through the first two (2) Steps of the grievance procedure (or through Step 2 thereof if the grievance was properly initiated at that Step), such member or members, have complied with the procedure for initiating and pursuing a grievance as set forth in this Article;
2. whether the complaint alleges a breach of an express term of the Agreement;
3. whether the arbitrator has jurisdiction to arbitrate; and
4. whether an express provision of this Agreement has been violated in its application to the grievant.

The arbitrator shall render his/her decision in writing, shall state the reasons therefor and shall promptly provide copies of his/her decision to the parties to the arbitration proceeding.

The decision of the arbitrator shall be final and binding on all parties to the arbitration proceeding and shall be enforceable in any court of competent jurisdiction.

### **F. AWARD OF THE ARBITRATOR**

If the arbitrator determines that no express provision of this Agreement has been breached in its application to the grievant as claimed, he/she shall dismiss the grievance.

If the arbitrator determines that this Agreement has been so breached, he/she may, subject to the provisions of this Article, provide an appropriate remedy for the breach; provided, however, that in making any monetary award, the arbitrator shall provide compensation only for actual damages directly attributable to such breach and shall in no event make any award of penal damages; and provided further that, save as is hereinafter provided, the arbitrator shall make no award that grants any appointment, reappointment, promotion, retention, termination, renewal of contract or tenure to any member of the bargaining unit.

Whenever in his/her complaint any grievant shall have alleged, expressly or by implication of the factual allegations, that any determination or decision made pursuant to an exercise of academic judgment was, in its application to him/her, both arbitrary or capricious and made in bad faith, the arbitrator shall have the power to determine the truth or falsity of both such allegations. Whenever the arbitrator shall have found as a matter of fact, on the basis of clear and credible evidence, that both such allegations are true, he/she shall have the power to make any such final and binding award as he/she may deem necessary to make the grievant whole; provided, however, that whenever the arbitrator shall, in respect of such allegations,

## **ARTICLE XI - GRIEVANCE PROCEDURE**

have found that such determination or decision was arbitrary or capricious but was not made in bad faith, he/she shall remand such determination or decision as is herein before provided.

Whenever the arbitrator shall have found that such decision was arbitrary or capricious but was not made in bad faith, he/she shall assess costs, which shall include reasonable representational costs or attorney's fees; at the discretion of the arbitrator, upon such a determination or decision the arbitrator may additionally impose liquidated damages not to exceed Five Thousand Dollars (\$5000.00).

### **G. COSTS OF MEDIATION AND ARBITRATION**

In all mediation and arbitration proceedings, the mediator's or arbitrator's fees and expenses shall normally be paid fifty percent (50%) by the Association and fifty percent (50%) by the College or Colleges; provided, however, that whenever an arbitrator shall have found as a matter of fact on the basis of clear and credible evidence that either party has acted in bad faith during any of the proceedings contained in this Article XI, the arbitrator may determine that the fees and expenses of the arbitrator in such case shall be paid entirely by one or the other party. All payments to the mediator or arbitrator shall be made within thirty (30) days of the rendering of his/her statement of fees and expenses. In all other respects the parties shall bear their own costs of mediation and arbitration, except that the parties agree to provide a stenographic record of all arbitration proceedings and to each pay fifty percent (50%) of the costs thereof, unless they shall have mutually agreed not to provide for such a stenographic record.

### **H. ASSOCIATION REPRESENTATION**

Any member or members of the bargaining unit may initiate and pursue a grievance through the first two (2) Steps of the grievance procedure without intervention of the exclusive representative of the employee organization representing him/her, provided that the exclusive representative shall be afforded the opportunity to be present at any conferences held and that any adjustment made shall not be inconsistent with the terms of this Agreement.

Any member or members of the bargaining unit may request that the Association represent him/her at any Step of the grievance procedure. The Association shall notify in writing the Vice President, the President of the College and the Chair of the Council of Presidents, as the case may be, of the name and address of such Association representative at the time he/she is so authorized to represent the grievant.

### **I. WAIVER, ADMISSION, TERMINATION AND GROUNDS OF APPEAL**

1. Waiver - Failure of a grievant to comply with any of the provisions of this Article shall be deemed to be a waiver of the right to seek resolution of the grievance under the terms of this Agreement. In determining whether there has been any such failure to comply with any of the provisions of this Article, time shall be deemed to be of the essence, and any failure of the grievant to comply with any of the time limits prescribed herein shall be deemed to be such failure to comply with the provisions of this Article; provided, however, that the time limits prescribed herein may be extended in any specific instance by mutual written agreement of the parties.

## **ARTICLE XI - GRIEVANCE PROCEDURE**

2. Admission - The resolution of a grievance by the Vice President, the President of the College or the Council of Presidents, as the case may be, shall not be deemed to be an admission by any Board of Trustees or the Board of Higher Education that the grievance has, for any other purpose or proceeding, standing as a grievance, be an admission by any Board of Trustees or by the Board of Higher Education of any violation or breach of the terms of this Agreement, or be an admission by any Board of Trustees or by the Board of Higher Education that such grievance is cognizable or justiciable according to any applicable provisions of the laws of the Commonwealth.
3. Termination - Unless prohibited by applicable provisions of law, if any member or members of the bargaining unit shall initiate in any administrative forum other than the Division of Labor Relations or in any judicial or like proceeding that relates to any matter that is the subject of a grievance in respect of which such member or members is or are the grievant while any proceeding in respect of such grievance is pending under any provision of Section C of this Article, such Section C proceeding shall terminate as of the date of the initiation of such other administrative or judicial proceeding, and the grievance procedure aforesaid shall be inapplicable to such grievance.
4. Grounds of Appeal - The Board of Higher Education, acting through the Chair of the Council of Presidents, and the Association shall have the right to appeal any final decision of the arbitrator pursuant to the provisions of Chapter 150E, §8, and Chapter 150C, §§10, 11 and 12, of the General Laws.

### **J. COLLATERAL CONSEQUENCES OF A GRIEVANCE**

The fact that a grievance is alleged by a member of the bargaining unit, regardless of the ultimate disposition thereof, shall not be recorded in the Official Personnel File of such member or in any file or record utilized in the taking of any personnel action in respect of such member; nor shall such fact be used in the making of any recommendation for the job placement of such member; nor shall such member or any other member or members who participate in any way in the grievance procedure be subjected to any action, whether disciplinary or other, for having processed such grievance; provided, however, that nothing herein contained shall derogate or be deemed to derogate from the right to take any action that might be authorized or required to be taken to give effect to the resolution of any grievance.

The parties agree that, except as may be required by the provisions of this Article or in connection with any appeal of a grievance or in connection with the implementation of any provision of this Agreement, the name of a grievant shall not be used to identify a grievance by any representative of the parties to this Agreement.

### **K. RELEASE TIME FOR MEMBERS OF THE BARGAINING UNIT**

It is understood that grievances will ordinarily be processed during working days; the parties therefore agree that, whenever the work schedules of the grievant, of any Association representative and of any material witnesses who are members of the bargaining unit so require, such participants shall be given so much release time from their scheduled work assignments as the President shall determine is necessary for attendance at any hearing, meeting or other procedure that shall be required for the processing of any grievance. The parties understand that meetings held pursuant to the provisions of this Article will ordinarily

## **ARTICLE XI - GRIEVANCE PROCEDURE**

be scheduled to avoid conflict with the regularly scheduled work of members of the bargaining unit.

### **L. CONSOLIDATED GRIEVANCES**

Anything in the foregoing provisions to the contrary notwithstanding, the Association, acting through its President, may, within the ten (10) day period during which a grievance may otherwise be filed, file such grievance with the Chair of the Council of Presidents in the form of a complaint, specifying therein the reasons why the grievance should be treated as a consolidated grievance. The Chair shall, within ten (10) days, determine in his/her sole discretion whether to treat the grievance as a consolidated grievance. If the Chair accepts the complaint as a consolidated grievance, the procedures and time limits of Step 2 shall thereupon apply, provided only that the response rendered at such Step shall be rendered by the Chair in his/her capacity as such rather than by the President of a State College. If the Chair declines to accept the grievance as a consolidated grievance, the Association or any unit member or members may, within ten (10) days following the date of the Chair's decision, file the grievance at Step 1 at the College at which such grievance is alleged to have occurred.

### **M. GRIEVANCES FILED PRIOR TO THE DATE OF EXECUTION OF THIS AGREEMENT**

Notwithstanding any other term of this Agreement, any grievance filed prior to the date of execution of this Agreement shall be subject to the provisions of the predecessor Agreement; provided, however, that at the request of either party, the Employee Relations Committee may review any such grievance as it may determine, subject to the terms of Article II of this Agreement; and provided further that the selection of an arbitrator in connection with the arbitration of any grievance shall, unless already made pursuant to its predecessor, be made pursuant to this Agreement.

### **N. STANDING OF CERTAIN GRIEVANTS**

A former member of the bargaining unit shall have standing as a grievant hereunder for the purpose of pursuing any grievance that pertains to a claim of right with respect to retrenchment, termination, salary or stipend, and/or sick-leave buy-back subject to the time limits for filing and pursuing a grievance under Section C of this Article but without any other limitation on the time for initiating a grievance. A former member of the bargaining unit shall have standing as a grievant hereunder for the purpose of pursuing other grievances concerning his/her former employment under and subject to the limits of time contained in Section C of this Article; in no event shall any such grievance be filed more than ninety (90) days after termination of employment in the bargaining unit.

Whenever any former member of the bargaining unit pursues any grievance that pertains to a claim of right with respect to sick-leave buy-back or with respect to any other benefit that is claimed to have arisen under an agreement that is predecessor to this Agreement, the merits of the grievant's claim shall be governed by the agreement that was in force between the parties at the time the grievant was last employed in the bargaining unit. If any such grievance is submitted to arbitration, the arbitrator shall be selected in accordance with the provisions of this Agreement.

## **ARTICLE XI - GRIEVANCE PROCEDURE**

Nothing in this Section N shall operate to extend any limit of time that governs the filing or pursuing of any grievance under this Article XI or under the corresponding provision of any agreement that is predecessor to this Agreement.

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

The engagement of each full-time member of the bargaining unit to render professional services to a State College in accordance with the provisions of this Agreement represents his/her primary professional employment. No member of the bargaining unit shall engage in any other professional activities where to do so constitutes a violation of any provision of Chapter 268A of the General Laws.

### A. WORKLOAD OF FACULTY

#### 1. General Provisions

Subject to the provisions of Article XII-A, the provisions of this Section shall apply to all faculty members.

##### a. Full-time Faculty

The workload of full-time faculty and salaried part-time faculty members at the Massachusetts College of Art and Design shall consist of: (1) teaching workload; (2) preparation for classroom and laboratory instruction; (3) student assistance, including academic advising; (4) continuing scholarship (as described in the provisions of Article VIII); and (5) activities undertaken by a faculty member pursuant to his/her responsibilities as a professional and the terms of this Agreement, including those in the following areas:

- i. participation as a professional in public service;
- ii. participation in and contributions to the improvement and development of the academic programs or academic services of the College; and
- iii. participation in and contributions to the professional growth and development of the College community.

In addition to the foregoing, during the academic year, faculty members have the obligation to carry out committee assignments; to participate in scheduled orientation and registration programs; to attend College functions, including commencement, faculty, committee and departmental meetings and convocations; to assist in the recruitment and screening of candidates for departmental positions in accordance with Article VI; and to undertake, pursuant to their responsibilities as professionals, such other activities as are of the kind described in the preceding paragraph. Subject to the foregoing provisions, members of the faculty may choose, but not be required, to participate in co-curricular activities and in any student orientation period and registration period scheduled to fall outside the academic year.

##### b. Part-time Faculty

The workload of part-time faculty other than salaried part-time faculty members shall consist of: (1) teaching workload; (2) preparation for classroom and laboratory instruction; (3) student assistance in the form of academic advising for those students in the faculty member's class; and (4)



## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

classroom activities undertaken pursuant to responsibilities as a professional. It shall also be the responsibility of each such part-time faculty member to: (1) be available to advise students for the equivalent of one-half (0.5) hour before and after each class; (2) provide a syllabus to each student and to the Department Chair; (3) abide by the academic policies of the College; and (4) when first employed, attend an orientation session. Save as is provided in Article IV, Section C(1), teaching six (6) or fewer semester hours of credit of instruction per semester shall not constitute half-time employment.

### c. Part-time Clinical Nursing Instructors

The workload of part-time Clinical Nursing Instructors shall consist of (1) teaching workload not exceeding one section of classroom instruction during a semester (exclusive of laboratory instruction); (2) clinical supervision and instruction in clinical settings; (3) preparation for classroom, laboratory and clinical instruction; (4) academic advising when advisees are assigned; and (5) attendance at departmental meetings and assistance with such departmental projects as curriculum reviews and accreditation. No part-time Clinical Nursing Instructor shall be assigned or assume more than eleven (11) semester hours of credit of instruction during any academic semester.

## 2. Teaching Workload

### a. General

In order to enable faculty members to carry out their several responsibilities, members of the faculty shall not be required to teach an excessive number of semester hours of credit of instruction, be assigned an excessive student load or be assigned an unreasonable schedule. At Colleges other than Framingham State College, twenty-four (24) semester hours of credit of instruction shall be considered the normal faculty teaching workload in academic subject areas for the academic year; provided, however, that every member of the faculty may be required to teach not more than ninety-six (96) semester hours of credit of instruction during the four (4) academic years 2008-2009, 2009-2010, 2010-2011 and 2011-2012.

At Framingham State College, six (6) courses of instruction shall be considered the normal faculty teaching workload in academic subject areas for the academic year; provided, however, that every member of the faculty may be required to teach not more than twenty-four (24) courses during the four (4) academic years 2008-2009, 2009-2010, 2010-2011 and 2011-2012.

Workload credits and debits existing as of June 30, 2008 (including accrued debits and credits from all prior years), shall be carried forward for purposes of making teaching workload assignments during the term of this Agreement.

Efforts shall be made to establish teaching schedules so that the time between the beginning of the first teaching period and the end of the last teaching period for any one (1) day does not exceed eight (8) hours and so that the teaching assignments may be made on fewer than five (5) days a week.

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

No faculty member shall be involuntarily assigned to teach a course or perform other related work after 4:30 p.m. or to teach a course or perform other related work on Saturday or Sunday.

A faculty member may request special scheduling in order to pursue advanced graduate study, complete a doctoral dissertation, engage in scholarly research and publication or for other sound academic reasons. Such schedule shall be subject to the approval of the Department Chair and the Vice President.

### b. Calendar

The academic year shall be of nine (9) months' duration and shall commence on September 1 and end on the May 31 following. At each College, faculty teaching workload shall be assigned on the basis of an academic calendar that shall comprise not less than one hundred fifty-five (155) nor more than one hundred sixty (160) instructional days, such number of instructional days to include examination days, orientation days and, at the Massachusetts College of Art and Design, review-board days. As professionals, members of the faculty may make additional contributions for the benefit of the students and the College community. Nothing in this paragraph shall be deemed to prohibit the scheduling of student registration on instructional days during which classes are regularly scheduled.

Subject to the applicable provisions of Article VII of this Agreement, the President of each College shall annually determine the academic calendar for the following academic year and a tentative academic calendar for the next following academic year; provided, however, that any such calendar so prepared shall conform in its entirety with the terms of this Agreement.

### 3. Academic Advising and Student Assistance

#### a. Academic Advising

During the academic year, every faculty member shall provide academic advising to students enrolled at the College as provided below:

- i. the giving of academic advice and assistance to students enrolled in the faculty member's own courses and the giving of such advice and assistance to students enrolled as majors in the department, including the giving of such advice and assistance on an individualized or group basis;
- ii. the giving of academic advice and assistance to students other than such students as are described in the foregoing subparagraph (i) whenever any such students shall have been assigned to any department for such purpose by the Vice President; where the giving of such advice and assistance has been the practice at a College prior to the date of execution of this Agreement, such practice may continue after such date; and

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

- iii. participation in the pre-registration and registration of students, including the development of the individual student's schedule, when such students are those described in subparagraphs (i) and (ii) above.

During periods of normal activity in the academic year, faculty members shall maintain at least three (3) posted office hours per week, on at least two (2) separate days and during such hours shall be available in their offices to advise students on academic matters by appointment or otherwise. During the regular peak periods in the academic year, namely, the periods of pre-registration, registration, mid-term examinations and final examinations, and during any additional peak periods in the academic year, faculty members may be required to be available to advise students such that the total number of hours of student academic advising, including posted office hours of each faculty member, shall not be less than seventy-five (75) in each semester; provided, however, that the Vice President may, on the recommendation of any Department Chair, approve in writing the reduction of such total number in respect of any faculty member or members of the department in question. Determinations of when additional peak periods of activity occur in the academic year shall be made by the Vice President after consultation with any appropriate Department Chair or Chairs.

The assignment of individual student advisees to each faculty member shall be done by the Department Chair of each department. The Department Chair, in consultation with the Vice President, shall be responsible for coordinating the student academic advising hours of all members of the faculty of the department so that academic advising shall be available to students five (5) days a week during peak periods in the academic year. Each faculty member shall arrange to meet with his/her assigned student advisees at least twice each semester and at such other times as are requested by such advisees. Each Department Chair and the Vice President shall meet once each semester to coordinate academic advising procedures and to ensure adequate academic advising for students.

If a faculty member is assigned more than thirty (30) advisees at the commencement of an academic semester, he/she may elect to treat the advising in excess of thirty (30) advisees as a contribution to the professional growth and development of the college community in accordance with Article VIII, Section (A)(1)(b)(ii), of this Agreement.

### b. Student Assistance

Any faculty member who shall have agreed thereto may be assigned by the Vice President, after consultation with the Department Chair of such faculty member, to work in a counseling center, facility or program for the purpose of counseling individual students or groups of students regarding development skills, so called, career opportunities or guidance, the planning of educational goals and the means of achieving such goals or for any similar purpose. Any such assignment shall be made with respect to work to be performed on a weekly basis during a specific semester or semesters. Such assignment when

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

so made shall be scheduled in accordance with the applicable provisions of subsection 4 of this Section A.

### c. Training

In order to assist members of the faculty to provide academic advising and student assistance as effectively as possible, each College shall, no later than December 1, 2009, conduct a training session for faculty on the subjects of academic advising and student assistance. Such training session shall be open to all members of the faculty; members of the faculty then in the first (1st) year of a tenure-track appointment shall be expected to attend such training session.

Within sixty (60) days following the commencement of each academic year during the term of this Agreement, the College shall conduct a training session for faculty on the subjects of academic advising and student assistance; provided only that no such training session need be conducted hereunder during any academic year to which the requirements of the preceding paragraph apply. Such training session shall be open to all members of the faculty; members of the faculty then in the first (1st) year of a tenure-track appointment shall be expected to attend such training session.

### d. Student Informational Questionnaire on Departmental Academic Advising

The Vice President shall, electronically or otherwise, annually administer the form in Appendix H to the students who are advisees within each department and shall, in doing so, request that such students submit the completed forms to his/her office within a reasonable time thereafter. The Vice President shall make the results available to each of the departments to which they pertain.

## 4. Scheduling

### a. General

After consultation with the faculty member, the assignment to faculty of specific courses and schedules shall be made by the Chair of each department in consultation with the Registrar and shall be subject to the approval of the Vice President.

The Department Chair shall inform each faculty member of his/her preliminary schedule in writing. The faculty member may inform the Department Chair in writing of his/her concerns, if any, with said preliminary schedule.

In assigning specific courses and schedules, the Department Chair shall consider such matters as the following:

- i. the qualifications, teaching service at the College or at other accredited colleges and universities, and preferences of the faculty;

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

- ii. the character and content of particular courses, having regard, among other considerations, to whether any is being offered for the first time or with extensive revision and to the number of times the faculty member has taught such course in the past;
- iii. the amount of preparation required for the mode of instruction used;
- iv. the number and needs of students expected to enroll in particular courses;
- v. the number of courses that require different preparation;
- vi. special courses and projects, including courses team-taught by two (2) or more faculty members, and cooperative education programs;
- vii. other duties, due consideration being given to equivalent non-teaching duties, including service as Department Chair, the coordination of laboratory experiences, in-service work with groups in the state, and work in program and curriculum development;
- viii. supervision of student practica and clinical fieldwork; and
- ix. the need for special facilities in the teaching of any course.

Once it is established, the Department Chair shall provide each faculty member with a written copy of his/her teaching schedule for the applicable semester.

### b. Prior Scheduling and Cancellation of Classes

Course scheduling should be arranged in advance in order to enable the faculty to prepare for the discharge of their teaching responsibilities.

The Vice President may change teaching schedules and cancel classes for any reason up to thirty (30) calendar days prior to the first day of classes in any academic semester.

Teaching schedules shall not be changed and courses shall not be cancelled within the period of thirty (30) calendar days prior to the first day of classes in any academic semester except in accordance with the requirements of this paragraph (b).

The Vice President may cancel classes and change teaching schedules during such period of thirty (30) calendar days for unforeseen circumstances. The Vice President may also cancel classes and change teaching schedules during such period of thirty (30) calendar days for other than unforeseen circumstances if, at least thirty (30) calendar days prior to the first day of classes, he/she shall have given contingent notice of an intent to do so and the affected faculty member shall have approved the same.

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

Any change in teaching schedules, including any cancellation of classes, that the Vice President makes during the period of thirty (30) calendar days prior to the first day of classes may be made only after consultation with the Department Chair, who shall make reasonable efforts to confer with the affected faculty member. In every case, the Vice President shall notify the faculty member in writing of any such change or cancellation.

Such changes and cancellations may occur in circumstances where the faculty member or Department Chair may not be readily available. No such circumstance shall impair the right of the Vice President to effect any such change or cancellation that is otherwise permitted by this paragraph (b).

The Department Chair shall notify the Chapter President of any such change or cancellation.

Nothing herein shall limit the discretion of the Vice President to cancel classes after the start of the semester for sound academic reasons.

c. Equivalencies

For the purposes of assigning teaching workload to members of the faculty pursuant to the provisions of this Article, a “semester hour of credit of instruction” shall mean a fifty (50)-minute period of classroom instruction for one (1) fifteen (15)- or sixteen (16)-week semester (inclusive of weeks during which examinations are given) by a faculty member in a lecture, recitation or seminar, or such number of contact hours as is the equivalent of the same, as is hereinafter provided, in modes of instruction that require longer periods of time. (Whenever multiples, including fractional multiples, of such fifty (50)-minute periods are used at any College, a “semester hour of credit of instruction” shall, in any event, mean a fifty (50)-minute component of such multiple or fractional multiple.) For the purposes of this Article, a “contact hour” shall mean a sixty (60)-minute period; provided, however, that when two (2) or more contact hours are scheduled consecutively for any mode of instruction that is measured with reference to contact hours, then the last contact hour so scheduled shall be a fifty (50)-minute period. Such equivalent modes shall be computed as follows:

**ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

<u>MODE OF INSTRUCTION</u>	<u>CONTACT HOURS</u>	<u>SEMESTER HOURS OF CREDIT OF INSTRUCTION</u>
Laboratory Instruction	up to 3	2
Physical Education Activity Courses	1	0.5
Shop Instruction	1	0.67
Studio Instruction	1	0.67
Maritime Responsibilities During the Academic Year	1	0.67
Critique	1	1
Nursing/Allied Health Clinical	1	0.67
	<u>NUMBER OF STUDENTS</u>	
Cooperative Education	1	0.17
Fieldwork Supervision and Internships	up to 3	1
Independent and Directed Study	1	0.25
Student Teaching Supervision	up to 2	1
Honors Thesis Supervision	1	0.5
Graduate Thesis Supervision	1	1

The Vice President at any College may alter any equivalency for the purpose of increasing the value of the semester hours of credit of instruction accorded at such College for any mode of instruction or number of assigned students as such value was at the conclusion of the academic year 2008-2009. If a Vice President alters any equivalency hereunder, the alteration shall remain in effect for the duration of this Agreement unless the underlying condition on the basis of which the alteration was put into effect changes such that the alteration is no longer warranted.

Although the teaching of graduate courses is not technically unit work, when any member of the bargaining unit is assigned to teach a graduate course, such unit

## **ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

member shall be credited with four (4) semester hours of credit, as a part of his/her regular teaching workload, for each three (3) contact hours of graduate teaching.

Whenever any member of the faculty volunteers and is assigned to work in a counseling center, facility or program, however such center, facility or program is designated, for the purpose of counseling individual students or groups of students regarding basic skills, so called, career opportunities or counseling, the planning of educational goals and the means of achieving such goals, or for any similar purpose, and is so assigned on a weekly basis during any semester, every three (3) hours per week of such assignment, if assigned for the duration of such semester, shall be deemed to be the equivalent of one (1) semester hour of credit of instruction for the purposes of assigning the teaching workload of such faculty member for such semester; provided, however, that at Framingham State College twelve (12) hours per week of such assignment, if assigned for the duration of a semester, shall be deemed to be the equivalent of one (1) course.

In assigning faculty workloads in departments in which laboratory instruction is assigned as a part of a faculty member's teaching workload, Department Chairs shall consider nine (9) laboratory hours per week, and its equivalent at Framingham State College, as a guideline (and not a fixed limit) for the maximum number of such hours when assigning laboratory instruction to faculty members in such departments. In assigning teaching workload in any such department, the Chair shall make efforts to assign lecture and laboratory instruction on an equitable basis among the members of the faculty of any such department. In approving the scheduling of teaching workload in such departments, the Vice President shall also consider the equitable distribution of lecture and laboratory instruction among such faculty members and shall consult with the Department Chair concerning such efforts as shall have been made by the Department Chair to this end.

In assigning faculty workloads in departments in which physical education activity courses are assigned as part of a faculty member's teaching workload, Department Chairs shall make efforts to assign lecture and activity courses on an equitable basis among the members of the faculty of any such department. In approving the scheduling of teaching workload in such departments, the Vice President shall also consider the equitable distribution of lecture and activity courses among such faculty members and shall consult with the Department Chair concerning such efforts as shall have been made by the Department Chair to this end.

Notwithstanding the provisions of the two preceding paragraphs, in making assignments of lecture and laboratory instruction and in making assignments of lecture and activity courses, the Department Chair and the Vice President shall have regard to the qualifications and/or expertise of members of the faculty as such qualifications and/or expertise relate to the special needs of laboratory instruction and activity courses.

If special equipment is required in the teaching of courses (including laboratories), determination of the number of students to be enrolled for such classes shall take into account the reasonable availability of any equipment so required.



## **ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

### **5. Nursing Programs**

Except as otherwise provided in this Agreement, faculty members teaching in the nursing programs at Fitchburg, Framingham, Salem and Worcester State Colleges, including unit members employed as part-time Clinical Nursing Instructors at any College, shall be assigned workloads in accordance with the practices and procedures that were, severally, in effect at each of those Colleges during the 2008-2009 academic year.

### **6. Application to Part-time Faculty Members**

Except as is otherwise provided for in this subsection 6, the provisions of Article XII shall be of no application to any person holding a part-time appointment other than as a salaried part-time faculty member. Sections A(1)(b), A(4)(c), E, F and G of this Article XII shall be of application to part-time faculty members described in Section H(3) of Article XIII during the term of this Agreement.

## **B. WORKLOAD OF LIBRARIANS**

### **1. General Provisions**

The provisions of this Section shall apply to all librarians.

The workload of each librarian shall consist of: (1) such duties pertaining to the operations of the College Library as may be assigned to him/her from time to time by the President; (2) rendering individual and collective assistance to students, faculty and the academic community regarding the use of library facilities; (3) continuing scholarship (as described in the provisions of Article VIII); (4) working with and, where applicable, giving direction to other members of the library staff; and (5) activities undertaken by a librarian pursuant to his/her responsibilities as a professional in the following areas:

- a. participation as a professional in public service;
- b. participation in and contributions to the improvement and development of the academic programs or academic services of the College as those programs or services relate to the library; and
- c. participation in and contributions to the professional growth and development of the College community.

In addition to the foregoing, librarians have the obligation to render assistance to students by instructing them regarding the uses and resources of the library; to assist members of the faculty, where appropriate, by helping with the compilation of course bibliographies and with the preparation of specific course assignments related to bibliographies and to library resources; to participate in orientation programs and bibliographic instruction; to assist with faculty research; to serve as liaison with academic departments; and to participate in library consortia and cooperatives.

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

In discharging their duties pertaining to the operation of the College Library, librarians shall work pursuant to such schedules as are hereinafter prescribed, it being recognized by the parties that librarians have the obligation, among others, to carry out committee assignments in accordance with the terms of this Agreement, to attend such College functions as any annual faculty meeting, convocations and commencement, and to undertake, pursuant to their responsibilities as professionals, such other activities as are of the kind prescribed in the preceding paragraph.

### 2. Work Year

All librarians shall be employed to work a twelve (12)-month work year.

### 3. Schedules of Work

All librarians shall work in accordance with a schedule that shall be established by the Library Director or the Library Program Area Chair, as the case may be, subject to the approval of the Vice President. Such schedule may provide that, in the case of any individual librarian, all or any portion of his/her hours of work shall be performed at any such times as may be required by the schedule of hours during which the College Library is open for use by the College community; provided, however, that nothing herein contained shall be deemed to require that such hours of work must be restricted to the times during which the College Library is so open.

In assigning the schedules of individual librarians, the Library Director or the Library Program Area Chair shall consider such criteria as:

- a. the needs of students;
- b. the professional qualifications and expertise of each librarian; and
- c. the scheduling preference of each librarian.

For the purposes of this Agreement, thirty-seven and one-half (37.5) hours shall be the normal average weekly librarian workload, such that it shall be normal scheduling practice to assign hours of work in the library on that basis. It shall also be normal scheduling practice not to require librarians to work more than five (5) consecutive days in any seven (7)-day period or more than seven and one-half (7.5) hours, exclusive of periods taken for meals, during any single day, and to give librarians two (2) consecutive days off for each period of five (5) consecutive days worked.

In assigning schedules for evenings and weekends, the Library Program Area Chair or the Library Director shall first seek volunteers and shall make reasonable efforts to make such assignments on a rotating basis. No librarian shall be involuntarily assigned to work on consecutive weekends or on more than two (2) nights a week.

In order to permit the undertaking of continuing scholarship, graduate study or other professional activities, a librarian may, upon written request and subject to approval of the Vice President, be granted a flexible work schedule of thirty-seven and one-half (37.5) hours to permit the undertaking of such activities described above. Such

## **ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

schedule shall be developed by the Library Director in consultation with the librarian and shall be subject to the approval of the Vice President.

In establishing and approving the schedule of hours during which each librarian shall be required to work, the Library Director and the Vice President shall endeavor to conform such schedule to the normal average workload and to the standards of normal scheduling practice, as described above. Whenever the Vice President shall have determined that, because of unusual circumstances, it shall be necessary to deviate from such workload and such practice, such determination shall not be arbitrary or capricious.

In the event that the schedule of hours during which any librarian shall be required to work deviates from the normal average work week or from normal scheduling practice for a period in excess of two (2) consecutive weeks, such librarian may file with the Library Director and the Vice President a written request for a meeting. Thereafter, the Library Director and the Vice President shall confer with such librarian to discuss whether some adjustment in such schedule of hours is feasible. If, after so conferring, the Vice President, in his/her sole discretion, determines that an adjustment of the schedule of hours is not feasible, he/she shall set forth the reason for such determination in writing.

A copy of the Vice President's decision shall be forwarded to the Library Director and the librarian in respect of whose schedule such decision shall have been made. The decision of the Vice President shall be final. Such decision shall not be arbitrary or capricious.

In establishing and approving the schedule of the hours of work for any librarian who is not eligible for sabbatical leave under the terms of Article XV of this Agreement, the Library Director and the Vice President shall establish such schedule so that during at least one (1) of every three (3) semesters the hours of work of such librarian shall be so arranged to permit such librarian to engage in activities that are conducive to such librarian's professional development and approved as such by the Library Director and the Vice President. In addition, the schedule of a librarian may be arranged by the Vice President to provide for the participation of the librarian in continuing scholarship or graduate study or research. Nothing in this provision shall be deemed to require any reduction in the hours of work required of any librarian by any other provision of this Section. Nor shall anything in this provision be deemed to prohibit the adoption of a like schedule in respect of any librarian to whom the provisions of this paragraph do not otherwise apply.

All librarians shall be eligible to participate in a program of professional development pursuant to the provisions of Article XIV of this Agreement, and such program may, in accordance with those provisions, permit a reduction in the weekly hours of work of such librarian.

Whenever any librarian is assigned to teach any course or courses or any portion thereof in any academic department, the weekly hours of work of such librarian that are otherwise prescribed by this Article shall be reduced in an amount which, in the determination of the Vice President, is commensurate with the number of hours

## **ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

required to discharge the responsibilities of such assignment; provided, however, that no such assignment shall be made without the prior written approval of the Vice President, the Library Director and the Chair of any department in which any such course is to be offered.

Nothing in this subsection 3 shall be deemed to prohibit the President of any College from authorizing the scheduling of work for some or all of the librarians at such College on the basis of a four (4)-day week; provided, however, that nothing in this provision shall be deemed to permit any reduction in the hours of work of any librarian who is so scheduled.

At the request of any librarian and at the sole discretion of the President or his/her designee, the schedule and the hours of work of such librarian may be arranged pursuant to such alternative work options as part-time work, flextime, compressed work weeks, staggered work hours and job-sharing; provided, first, that nothing herein contained shall be deemed to alter or limit the authorities or obligations of any College under this Article XII; and provided further that nothing herein contained shall be deemed to cause any part-time librarian to be or become a member of the bargaining unit to which this Agreement applies.

### 4. Library Schedule

The schedule of hours during which the College Library shall be open for use by the College community shall be established by the President for sound academic reasons.

## C. REDUCTION OF WORKLOAD FOR CERTAIN MEMBERS OF THE ASSOCIATION

In order to enable the Association effectively to discharge its duties pertaining to the administration of this Agreement, including the negotiation of a successor agreement pursuant to Section A of Article XXI hereof, the teaching workload of certain members of the Association shall be reduced subject to the following provisions:

1. The workload of the President of the Massachusetts State College Association shall be reduced by nine (9) semester hours of credit of instruction per semester.
2. The workload of the Vice President of the Massachusetts State College Association shall be reduced by six (6) semester hours of credit of instruction per semester.
3. The workload of the Treasurer of the Massachusetts State College Association shall be reduced by three (3) semester hours of credit of instruction per semester.
4. The workload of the Chair of the Massachusetts State College Association Grievance Committee shall be reduced by six (6) semester hours of credit of instruction per semester.
5. The workload of the Chapter President at Bridgewater State College, Fitchburg State College, Salem State College, Westfield State College and Worcester State College shall be reduced by six (6) semester hours of credit of instruction per semester; and the workload of the Chapter President at Framingham State College shall be reduced by three (3) courses per year.

## **ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

6. The workload of the Chapter President at the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy shall be reduced by three (3) semester hours of credit of instruction per semester.
7. After having received a recommendation from the President of the Massachusetts State College Association, the President at any College may reduce the workload of any official of such Association who is employed at such College and in respect of whom such recommendation is made; provided, however, that the total number of all such reductions in effect at anytime at the State Colleges collectively shall not exceed three (3) semester hours of credit of instruction per semester; and provided further that any such recommendation and any such reduction shall not be made in respect of the President of the Massachusetts State College Association. Notwithstanding the foregoing, any such reduction, if granted at Framingham State College, shall not exceed one (1) course per semester.
8. After having received a recommendation from the Chapter President at any College, the President of such College may, after consultation with the Chapter President, reduce the workload of any member of the Association in respect of whom such recommendation shall have been made; provided, however, that the total number of all such reductions in effect at any one time shall not exceed three (3) semester hours of credit of instruction per semester; and provided further that any such recommendation and any such reduction may be made in respect of the Chapter President. Notwithstanding the foregoing, any such reduction granted at Framingham State College shall not exceed one (1) course per semester.
9. Whenever any librarian is a member of the Association to whom the provisions of this Section C apply, there shall be such reduction in the workload of such librarian as is, in the determination of the President of the College, commensurate with the applicable reduction herein provided.
10. In addition to the foregoing, two (2) members of the Association at each College, which members shall include the Chapter President, shall have their teaching workload scheduled such that they shall be free and able, during one (1) day of each calendar month during the academic year, to attend the regularly scheduled monthly meetings of the Board of Directors of the Massachusetts State College Association. In order to provide for such scheduling, the Chapter President shall notify the Vice President in writing, not later than February 1 of each academic year or as soon thereafter as is practicable, of the person, in addition to himself/herself, in respect of whom such scheduling is to be done for the next academic year.
11. Except for any reduction granted pursuant to the foregoing subsections 7 and 8, reductions in workload granted pursuant to this Section C shall not be granted cumulatively.

### **D. ALTERNATIVE PROFESSIONAL RESPONSIBILITIES**

Any member of the bargaining unit who, whether pursuant to Article XIV of this Agreement or otherwise, and whether at the request of the administration or otherwise, agrees to perform professional responsibilities of the following kind, namely, institutional research, service to the College community, service on inter-institutional or system-wide committees, coaching,

## ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS

research and publication, service as a program area chair or the performance of administrative or other duties pursuant to the terms of any federal or other grant, may, if the Vice President approves of the performance of such responsibilities, be granted a reduction of his/her workload to facilitate the same, which reduction if so granted shall be in an amount determined in each case by the Vice President. Whenever such reduction in workload shall have been granted by the Vice President the performance of such professional responsibilities shall be subject to evaluation pursuant to the provisions of Section A of Article VIII.

Nothing in this provision shall be deemed to prohibit any member of the bargaining unit from performing such professional responsibilities, without any reduction of his/her workload, for the purpose of fulfilling any of the evaluation criteria prescribed by Section A of Article VIII.

The Vice President may grant a reduction in workload as aforesaid:

1. only if he/she shall have recorded as a term thereof the identity, by office or position, of the person who shall evaluate the unit member's performance of the alternative professional responsibility for which such reduction is to be given; and
2. only if the member of the bargaining unit in question shall have first set forth in writing a statement, in the nature of a job description, which shall detail the professional responsibilities for the performance of which such reduction is sought; provided, however, that this clause shall not be of application if such description appears in any applicable document of a grant agency or of the Board of Trustees.

Following the completion of any alternative professional responsibility for which a reduction in workload has been granted, the unit member who assumed such responsibility may submit a report thereon to the Department Chair, Library Director or Library Program Area Chair, as applicable, for use in accordance with Article VIII, Section D(1)(g) or D(3)(d), and the person earlier identified by the Vice President as being charged with evaluating such alternative professional responsibility shall submit an evaluation thereon to the Department Chair, Library Director or Library Program Area Chair, as applicable, for use in accordance with the said Section D(1)(g) or D(3)(d).

The procedures described in the preceding paragraph shall apply in accordance with the following schedule:

1. in the case of an alternative professional responsibility of a single semester's duration, as promptly as is practicable following the end of the semester;
2. in the case of an alternative professional responsibility of a single academic year's duration, as promptly as is practicable following the end of the academic year; and
3. in the case of an alternative professional responsibility whose duration is expected to be greater than a single academic year, then as follows:
  - a. annually in the case of any member of the bargaining unit who does not hold tenure; and
  - b. not less frequently than bi-annually in the case of any member of the bargaining unit who holds tenure.

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### E. CLOSINGS DUE TO EMERGENCIES

1. As used in this Section, the following words and phrases shall have the meanings hereinafter ascribed to them:
  - a. Essential Personnel: Employees so designated from time to time by the President of the College who are required to work during a particular emergency.
  - b. Condition of Emergency: An official declaration by the President of the College as determined in his/her sole judgment and discretion that a departure from the usual operational staffing of the College and the substitution of emergency staffing arrangements is appropriate based upon inclement weather or other circumstances.
  - c. Closing: The cessation of operations for any period of time of the entire College or any portion thereof. A portion of a College may include, by means of illustration and not by means of limitation, a department, school, facility or building.
2. The President of each State College shall establish a procedure for the declaration of a condition of emergency which shall include the means by which such declaration shall be communicated to unit members.
3. The President of a College shall have sole authority to determine if a condition of emergency exists which necessitates the closing of all or a portion of the College. Only essential personnel shall be required to report to work or to remain at work during a declared condition of emergency. All other personnel shall be excused from work without loss of pay.
4. Any designation or determination made by the President pursuant to this Section shall not be subject to the grievance arbitration provisions of Article XI. The designation of essential personnel made by the President shall not be arbitrary or capricious and may be appealed only to Step 2 of the Grievance Procedure.
5. Unit members serving as essential personnel shall be provided with compensatory release time within thirty (30) days of the date of service.

### F. COMPENSATORY ADJUSTMENT FOR EXTRAORDINARY TEACHING WORKLOAD

When with the approval of the Vice President a bargaining unit member agrees to perform additional teaching workload to assist a department or College due to another member's sickness, injury, emergency leave or other unanticipated absence, the unit member performing the work will be compensated in the following manner:

1. In the case of a full-time unit member or salaried part-time faculty member:

<u>Time Assigned</u>	<u>Compensation</u>
5 weeks or less	one-third (1/3) of the credit of instruction
6-10 weeks	two thirds (2/3) of the credit of instruction
11 weeks or more	the full credit of instruction

## **ARTICLE XII - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS**

2. In the case of a part-time member of the faculty other than a salaried part-time faculty member, a prorated portion of the stipend otherwise payable pursuant to Article XIII, Section H(3).

In no event shall a unit member agree to perform additional teaching workload of more than four (4) semester hours of credit of instruction per semester.

### **G. UNIT WORK**

Except in the case of an emergency, the assignment of work pursuant to this Agreement, exclusive of alternative professional responsibilities (Section D), laboratory instruction or assistance, or academic advising, shall be made to unit members, except that during each semester not more than three (3) credit-bearing courses at Bridgewater and Salem State Colleges; two (2) credit-bearing courses at Fitchburg, Framingham, Westfield and Worcester State Colleges; and one (1) credit-bearing course at the Massachusetts College of Art and Design, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, may be assigned to be taught by persons who are not members of the bargaining unit.

A person who is not a member of the bargaining unit may be assigned to teach not more than one (1) credit-bearing course per academic year.

Any such person who is assigned to teach shall have the appropriate academic credentials. Such persons shall be expected to fulfill those responsibilities normally associated with classroom teaching, including holding office hours, advising students in the courses, having student evaluations of the courses administered and having the classroom observed by the Department Chair.

After registration, the Vice President shall inform the Chapter President of the name of any such person who is assigned to teach together with the course to be taught and the academic department in which the course is offered. No unit position shall be held vacant by reason of such teaching assignment and no unit member shall be retrenched as a consequence of any such teaching assignment.

Nothing contained in this Section G shall be deemed to prohibit the assignment of unit work to non-unit part-time faculty hired specifically and solely as part-time faculty.

### **H. TELECOMMUTING**

At the request of a unit member, any College may, on a case-by-case basis and at its sole discretion, make telecommuting arrangements with such member of the bargaining unit with respect to some or all of any such unit member's duties and responsibilities. Every such arrangement shall be memorialized in a written agreement.



**ARTICLE XII-A - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS,  
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**A. WORKLOAD OF PROFESSIONAL MARITIME FACULTY**

**1. General Provisions**

The workload of all persons employed as Professional Maritime Faculty at the Massachusetts Maritime Academy shall be determined in accordance with the provisions of this Section A and such other provisions of Article XII as are of application to faculty.

The workload of Professional Maritime Faculty shall consist of (1) teaching workload; (2) training and instructional duties; (3) preparation for classroom, laboratory and other instruction; (4) student assistance, including academic advising; (5) duties of the kind traditionally required of licensed officers pertaining to the maintenance and operation of vessels belonging or assigned to the Academy as provided in this Agreement; (6) continuing scholarship (as described in the provisions of Article VIII); and (7) activities undertaken by a member of the Professional Maritime Faculty pursuant to his/her responsibilities as a professional and the terms of this Agreement, including those in the following areas:

- a. participation as a professional in public service;
- b. participation in and contributions to the improvement and development of the academic programs or academic services of the Academy; and
- c. participation in and contributions to the professional growth and development of the College community.

In addition to the foregoing, each member of the Professional Maritime Faculty has the obligation, among others, to maintain or upgrade merchant marine licenses or similar certificates in force, renewing the same as required; to participate in shipyard overhaul/repair periods as provided in this Agreement; to assist in preserving the safety and security of the Training Ship and the personnel aboard in the capacity of a watchkeeping officer, and transporting a vessel to or from shipyard; to participate on a voluntary basis in the freshman orientation program; to participate in the senior cadet license seminar and the Coast Guard certification testing program; to maintain a proper uniform; to enforce the regulations for the correction and disciplining of cadets; to engage in activities in his/her specialized field; to carry out committee assignments in accordance with the provisions of this Agreement; and to attend such college functions as faculty meetings, convocations and commencement.

Additional duties shall not significantly increase the nine (9)-month workload unless mutually agreed to by all parties.

**2. Teaching Workload and Academic Advising**

During any academic year, each member of the Professional Maritime Faculty shall be assigned teaching workload and academic advising, subject to and in accordance

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with the provisions of subsections 2, 3 and 4 of Section A of Article XII of this Agreement.

Except as is expressly provided in this Agreement, participation by any unit member in the annual Sea Term or in any like training program shall not be computed in semester hours of credit of instruction irrespective of whether any student or students are awarded academic credit for such participation.

3. Maritime Responsibilities

During the whole or any part of an academic year, any member of the Professional Maritime Faculty may be assigned maritime responsibilities whenever such member of the Professional Maritime Faculty has been assigned a teaching workload of less than twelve (12) semester hours of credit of instruction.

During the academic year, maritime responsibilities shall be assigned on the basis of an equivalency of 3:2 for members of the Professional Maritime Faculty with a teaching workload of less than twelve (12) semester hours of credit of instruction.

During any period in which a member of the Professional Maritime Faculty has not been assigned teaching workload and academic advising (but excluding any period in which a member of the Professional Maritime Faculty has elected not to participate in the annual Sea Term), the Vice President may assign the following duties to such member of the Professional Maritime Faculty, which duties, except under unusual circumstances, are to be performed between 0800 and 1630 hours, Monday through Friday:

- a. duties of the kind traditionally required of licensed officers pertaining to the maintenance and operation of any vessel belonging or assigned to the Academy and usually involving supervision of cadets and watchkeeping responsibilities;
- b. professional development undertaken for any of the following purposes:
  - i. learning recent developments in the commercial marine industry either at sea or ashore;
  - ii. upgrading a United States Coast Guard license;
  - iii. studying for an advanced degree;
  - iv. engaging in job-related research;
  - v. engaging in course preparation and upgrading; and
  - vi. attending professional schools or seminars;
- c. duties pertaining to the academic or training programs of the Academy, including the operation of auxiliary training craft; and

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d. special Navy active duty assignments in the marine field.

4. Work Year

All Professional Maritime Faculty shall be employed to work during the Academy's academic year.

5. Sea Term Status

a. Sea Term Service

The President of the Academy, in consultation with the Master of the Training Ship, will determine the complement of Professional Maritime Faculty required to operate the Training Ship during each Sea Term.

i. Blue and Gold

(A) Definition

"Blue and Gold" or "Blue-Gold" shall refer to the obligation to participate in no more than one (1) Sea Term in each alternating year over a period of six (6) years.

"Blue" years shall be odd-numbered calendar years starting with calendar year 2001. "Gold" years shall be even-numbered calendar years starting with calendar year 2002.

Blue and Gold shall include the requirement to participate, in the Professional Maritime Faculty member's obligatory year, in the Basic Safety Training portion (approximately five (5) days) of the freshmen orientation period (held the last two (2) weeks of August).

Professional Maritime Faculty shall have the option to renew Blue-Gold status after completion of their Blue-Gold obligation. Renewal shall be for a six (6)-year period. If a Professional Maritime Faculty member chooses not to renew Blue-Gold status, his/her salary shall be reduced by 13%.

Professional Maritime Faculty who elect to renew their Blue-Gold status shall do so by giving to the President of the Academy written notice of their election on or before the June 30 preceding the expiration of their then-current Blue-Gold status.

(B) All tenure-track Professional Maritime Faculty appointed to tenure-track positions with effect on or after July 1, 2000 (including any person so appointed pursuant to Article XX, Section M), will be required to participate in the Sea Term on a

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Blue-Gold basis for their first twenty-four (24) years of employment. The minimum starting salary for each such Professional Maritime Faculty will be fifteen percent (15%) above the minimum salary as computed in Article XIII-A.

- (C) During any calendar year in which seven (7) or more members of the Professional Maritime Faculty on Blue-Gold status participate in the Sea Term (i) from the Engineering Department and/or (ii) from the Marine Transportation Department, the Academy can require no more than one (1) full-time temporary member of the Professional Maritime Faculty (i) from the Engineering Department in the one case and/or (ii) from the Marine Transportation Department in the other case, to participate in the annual Sea Term during such year. During any calendar year in which fewer than seven (7) members of the Professional Maritime Faculty on Blue-Gold status participate in the annual Sea Term (i) from the Engineering Department and/or (ii) from the Marine Transportation Department, the Academy can require no more than two (2) full-time temporary members of the Professional Maritime Faculty (i) from the Engineering Department in the one case and/or (ii) from the Marine Transportation Department in the other case, to participate in the annual Sea Term during such calendar year.

The Academy shall, no later than October 31 of each year, give to full-time temporary Professional Maritime Faculty notice of whether they will be obliged to participate in the annual Sea Term the following calendar year.

Full-time temporary Professional Maritime Faculty having a Sea Term obligation under this subsection shall be compensated for their Sea Term service in accordance with the following subparagraph (ii).

- (D) Any person other than a member of the Professional Maritime Faculty who is employed at the Academy as a tenured or tenure-track member of the bargaining unit and who secures a United States Coast Guard Merchant Marine License of the kind described in Article XX-A, Section B, may, then or thereafter, make to the President of the Academy a request in writing that he/she be appointed a member of the Professional Maritime Faculty. If the President grants the request, he/she shall do so in writing and, when doing so or as soon thereafter as is practicable, shall fix the effective date of the appointment. Any appointment when granted shall be subject to the provisions of this subparagraph (i) that pertain to appointments of Professional Maritime faculty that are granted on or after

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July 1, 2000, but shall not affect any then-accrued seniority (including seniority that pre-dates July 1, 2000) or eligibility for tenure or any like entitlement.

ii. Sea Term Participation outside Blue-Gold

Full-time temporary Professional Maritime Faculty who are not obligated to participate in an annual Sea Term, Professional Maritime Faculty who have not elected to participate in Blue-Gold, and Professional Maritime Faculty who, while in Blue-Gold, are in “off years” shall not be required to participate on any Sea Term or to conduct Basic Safety Training. Any member of the bargaining unit, including any such Professional Maritime Faculty, may apply to participate on a Sea Term and, if hired to do so during the academic year 2009-2010 or thereafter, shall be paid a stipend equal to the amount then payable pursuant to Article XIII, Section H(3), to a part-time member of the faculty for the teaching of six (6) credits.

iii. Additional Compensation

If the annual Sea Term is delayed so that it extends beyond June 30, or if the Sea Term lasts longer than seventy (70) days, additional prorated stipends and/or salaries shall be paid to all participants for each day beyond June 30 or beyond the seventieth (70th) day.

iv. Absences during Required Sea Terms

(A) General

Upon ratification of this Agreement, members of the Professional Maritime Faculty who are on Blue-Gold status shall be given forty-five (45) days to opt out of Blue-Gold. Such notification shall be given in writing to the President.

If a member of the Professional Maritime Faculty does not opt out of Blue-Gold, then the balance of his/her Blue-Gold commitment shall remain in effect. Members not opting out of Blue-Gold shall be subject to the provisions of this subparagraph (iv) as of the date of ratification of the Agreement.

If a member of the Professional Maritime Faculty opts out of Blue-Gold, then his/her commitments under Blue-Gold shall cease effective the date notice is given to the President. The member opting out of Blue-Gold shall have his/her salary reduced by 13% on the following date:

- (1) For Professional Maritime Faculty Hired prior to July 1, 2000:

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On December 31<sup>st</sup> of the year that is twice the number of years later than the number of obligatory Sea Terms the member should have participated in since the inception of Blue-Gold, or July 1, 2009, whichever is later.

- (2) For Professional Maritime Faculty Hired on or after July 1, 2000:

The anniversary of their date of hire into a tenure-track position, the number of years later being twice the number of obligatory Sea Terms the member should have participated in since the member was hired into a tenure-track position, or July 1, 2009, whichever is later.

- (B) Absence during Sea Term

Any member of the Professional Maritime Faculty who, while on Blue-Gold status, fails for any reason to participate in the whole or any portion of a Sea Term in which he/she is otherwise obligated to participate shall participate in the whole or corresponding portion of a substitute Sea Term.

- (1) Leaves (Not at the Discretion of the President)

- (a) Substitute Sea Term

In the event that a member of the Professional Maritime Faculty is absent from the whole or any portion of a Sea Term by virtue of taking a leave to which he/she is entitled by law or by the terms of this Agreement, he/she shall be required to complete the whole or corresponding portion of a substitute Sea Term as soon as practicable.

- (b) Sick Leave

In the event that a member of the Professional Maritime Faculty on Blue-Gold status uses paid sick leave for the whole or any portion of a Sea Term, he/she shall be charged sick leave pursuant to Article IV, Section A(1)(a) or (b), as applicable. The amount of any sick leave so charged shall be restored (to the faculty member or the sick leave bank, as applicable) when he/she has completed his/her participation in a substitute Sea Term in accordance with clause

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(1) or (2), as applicable, or has refunded moneys to the Commonwealth pursuant to clause (C).

(2) Deferrals (at the Discretion of the President)

A member of the Professional Maritime Faculty on Blue-Gold status may make to the President a written request to defer his/her participation in the whole or any portion of a Sea Term in which he/she is otherwise obligated to participate. The President may grant such request at his/her sole discretion. If the request is granted, the member of the Professional Maritime Faculty granted the deferral shall not be required to use any paid or unpaid leave, but shall participate in the whole or corresponding portion of a substitute Sea Term in the year or, alternatively, within the period of years fixed by the President at the time the request is granted. Unless such deferral is granted during either of the final two (2) years of a faculty member's Blue-Gold status, participation in the whole or corresponding portion of a substitute Sea Term shall be scheduled during the then-current period of such status.

(C) Refund of Moneys to the Commonwealth

Whenever a member of the Professional Maritime Faculty shall have failed for any reason to participate in the whole or corresponding portion of a substitute Sea Term in the manner required by clause (B), he/she shall refund to the Commonwealth a sum equal to twenty-six percent (26%) of his/her annual salary as of the date of the absence from the Sea Term, prorated according to the amount of the Sea Term that was missed. This amount shall be further prorated based on the individual's Blue-Gold cycle as illustrated in clause (D). If the faculty member shall have ceased for any reason to be a member of the Professional Maritime Faculty before he/she shall have refunded to the Commonwealth the whole of the sum described above, the Commonwealth shall be entitled, by set-off or otherwise, to recover such sum or any unpaid balance thereof.

(D) Blue-Gold Cycle

The following are meant to be illustrative rather than exhaustive examples of how clause (C) is to be interpreted.

**Example 1:** A member of the Professional Maritime Faculty is hired on September 1, 2009, with a salary of \$60,000 and is assigned to Blue (i.e., obligatory participation on the Sea Term in odd-numbered years). His/her first Sea Term obligation is in 2011, but

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he/she resigns after the end of his/her first academic year. Twenty-six percent (26%) of \$60,000 is \$15,600, however, this amount is prorated by fifty percent (50%) since the Blue-Gold obligation runs on a two-year cycle and the member was employed only fifty percent (50%) of that two-year cycle. Hence, the amount owed to the Commonwealth is \$7,800.

**Example 2:** A member of the Professional Maritime Faculty is hired on September 1, 2009, with a salary of \$60,000 and is assigned to Gold (i.e., obligatory participation on the Sea Term in even-numbered years). His/her first Sea Term obligation is in 2010. The member misses thirteen (13) days of the fifty-two (52)-day Sea Term in 2010. The member resigns after the end of his/her first academic year. Twenty-six percent (26%) of \$60,000 is \$15,600, however, this amount is prorated by 50% to \$7,800 since the Blue-Gold obligation runs on a two-year cycle and the member was employed only 50% of that two-year cycle. However, this amount is further prorated by twenty-five percent (25%) since the member only missed twenty-five percent (25%) of the obligatory Sea Term. Hence, the amount owed to the Commonwealth is \$1,950.

**Example 3:** A member of the Professional Maritime Faculty is hired on March 1, 2010, and is assigned to Blue (i.e., obligatory participation on the Sea Term in odd-numbered years). The member's first Sea Term obligation is in 2011. In 2011 the member requests and is granted a deferral until the end of the 2016 Sea Term. The member makes his/her obligatory Sea Terms in 2013 and 2015, but then resigns at the end of the 2014-2015 academic year, never having made up the Sea Term deferred from 2011. The member's salary during the 2014 Sea Term was \$75,000 and the member's salary when he/she resigned was \$80,000.

The member was employed for five and one-half (5.5) years and made two (2) of the three (3) obligatory Sea Terms. The last opportunity to participate in a substitute Sea Term was in 2014, so the salary used to compute the amount owed to the Commonwealth is \$75,000, not \$80,000. Twenty-six percent (26%) of \$75,000 is \$19,500. However, the Blue-Gold obligation runs on a two-year cycle and the member fulfilled two (2) of the two-year cycles. The member was only employed seventy-five percent (75%) of the two-year cycle for the substitute Sea Term, hence the \$19,500 is prorated by seventy-five (75%) to \$14,625.

b. Training Coordinators

No later than April 15 of each year the Vice President shall notify the Sea Term Council, if such council has been formed by the President, which of the majors and programs, in addition to Marine Transportation and Engineering, will have training programs on board the forthcoming Sea Term. The Vice President shall notify the Chairs of those departments having majors or programs that will be providing training on the forthcoming Sea Term that the Training Coordinators will need to be elected.

Subject to the approval of the Vice President, members of those departments having majors or programs providing training during the Sea Term will elect a



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suitably qualified member from each of their respective departments, for each such major or program, to serve as the Training Coordinator for that major or program.

The Training Coordinator will serve, in each case, for the period (excluding the summer intersession) commencing upon appointment and continuing through the conclusion of the Sea Term. Each Training Coordinator shall, in consultation with the Vice President, plan for the forthcoming Sea Term and, in that capacity, serve on board the Training Ship during the Sea Term. Each Coordinator shall receive a stipend equal to the amount then payable to a part-time member of the faculty pursuant to Article XIII, Section H(3), of this Agreement for the teaching of two (2) credits.

c. Working Conditions

- i. The duration of the Sea Term obligation is from the day of Sea Term registration to the last day that students receive sea time credit for United States Coast Guard license requirement purposes not to exceed seventy (70) days.
- ii. A work week shall be based on thirty-seven and one-half (37.5) hours per week, and a work day will be based on seven and one-half (7.5) hours per day, including preparation and administrative time but excluding periods taken for meals. The working day is to be considered any time between 0700 and 1700, Monday through Saturday. Sunday is considered to be holiday routine, and the only work to be assigned on Sunday is “at-sea watchstanding.”
- iii. For watchstanding purposes, the working day is to be considered any time frame within twenty-four (24) hours (0001-2400). Assigned watch shall not exceed eight (8) consecutive hours of duration, nor shall it exceed eight (8) hours within a twenty-four (24)-hour time frame. A work week is to be considered seven (7) days.
- iv. Duties may include classroom instruction, laboratory instruction, at-sea watch training instructor, lifeboat instructor or Sea Term Training Coordinator, as well as participation in United States Coast Guard required drills.
- v. The employer will be responsible for arranging and payment of travel to the port of engagement (if not Buzzards Bay) and repatriation to the original port of engagement when necessary due to sickness or injury of the unit member while assigned to the vessel.
- vi. (A) Members of the bargaining unit who participate in any Sea Term shall be required to complete the Pre-Sea Term Medical History Form (“medical history form”) included as Appendix 1 to this Article XII-A.

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- (B) Approximately six (6) weeks prior to the commencement of the Sea Term the medical history form shall be distributed to unit members who are scheduled to participate in the Sea Term.
- (C) The unit member shall transmit the medical history form to the Director of Health Services no later than thirty (30) days prior to the commencement of the Sea Term.
- (D) In the event that a member of the bargaining unit who, less than thirty (30) days prior to the commencement of the Sea Term, is required or elects to participate in the Sea Term, he/she will work with the Director of Health Services, the registered nurse in Health Services or the medical consultant for the Massachusetts Maritime Academy (collectively, "Health Services") to complete the medical history form prior to departure.
- (E) Health Services shall review the medical history form for completeness. If the form is found to be incomplete, Health Services may contact the unit member to require that the medical history form be completed.
- (F) One (1) copy of the medical history form may be made by Health Services. The copy or the original medical history form may be kept in Health Services and the copy or the original medical history form may be kept in the sick bay on the Training Ship. The medical history form shall not be otherwise duplicated and shall not be electronically scanned or transmitted.
- (G) The only persons who shall have access to the medical history form are Health Services and the physician on the Training Ship during the Sea Term. Information contained on the form may be disclosed only to other medical personnel and only for the purpose of medical treatment.
- (H) At the conclusion of the Sea Term, and at the request of the unit member, he/she shall receive both copies of the medical history form if he/she received no medical treatment during the Sea Term. The unit member will be required to acknowledge the return of the medical history form(s) by signing a Release of Custody Form upon receipt of the medical history form(s). If a unit member received medical treatment during the Sea Term and requests that the medical history form be returned, Health Services may retain the original form only and the unit member will be provided with a copy of the original form. The Release of Custody Form is included as Appendix 2 to this Article XII-A.

**ARTICLE XII-A - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS,  
MASSACHUSETTS MARITIME ACADEMY**

- (I) The employer shall negotiate with the Association prior to modifying the medical history form.

d. Accommodations

- i. Each full-time unit member shall be assigned a single-occupancy stateroom. Single-occupancy, single-head staterooms shall be provided as follows:
  - (A) first, to Training Coordinators;
  - (B) second, to Professional Maritime Faculty in their obligatory year on the basis of institutional seniority; and
  - (C) third, to other unit members on the basis of institutional seniority.
- ii. Maintenance of staterooms will be the responsibility of the employer. Each stateroom shall be properly heated, air conditioned, furnished, properly cleaned and have properly functioning sanitary facilities.
- iii. At least thirty (30) days prior to the beginning of any Sea Term, the Master of the Training Ship will identify the single-occupancy and single-occupancy, single-head staterooms available to members of the bargaining unit. The Master of the Training Ship shall assign the staterooms in accordance with paragraph (d)(i) above.
- iv. The parties recognize the uncertainties associated with ship availability and the possible impact that vessel changes may have on the Academy's ability to comply with the provisions stated above. Accommodations on ships other than the Training Ship normally assigned to the Academy will be arranged by the Master, in concert with the Training Coordinators, on the basis of institutional seniority.

e. Miscellaneous Provisions

Nothing in the provisions of this Article XII-A shall be deemed to prohibit any member of the Professional Maritime Faculty from being assigned, as part of his/her teaching workload, any course that requires the use and/or operation at sea of any training craft as a laboratory in the teaching of such course. Any such course assignment shall be deemed to be laboratory instruction for purposes of Section A of Article XII.

6. Alternative Professional Responsibilities

Section D of Article XII of the Agreement shall be of application to Professional Maritime Faculty.

**ARTICLE XII-A - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS,  
MASSACHUSETTS MARITIME ACADEMY**

**B. ACADEMIC YEAR**

The Training Ship is an essential component of the educational program of the Academy. The scheduling of the annual Sea Term is dependent upon various factors not within the full control of the Academy. Therefore, the Academy may be required from year to year to schedule the annual Sea Term during the winter months (January and February) and therefore be required to extend the spring semester by three (3) weeks into the month of June.

Notice of the schedule of the annual Sea Term shall be provided to unit members on or before October 15 of each academic year. Except in cases of emergency, the annual Sea Term shall be held during the scheduled period.

In consideration of these provisions, members of the bargaining unit shall not be required to perform their assigned campus-based duties during the Sea Term.

For members of the faculty at the Massachusetts Maritime Academy the academic year shall be the period described in Section D(1) of Article I; provided, however, that whenever during the term of this Agreement the annual Sea Term is conducted during the period of the academic year, the President of the Academy may extend the academic year to include the fifteenth (15th) working day following May 31st, but excluding therefrom so much of the time allotted for the annual Sea Term as falls within such period.

**C. MILITARY CUSTOMS AND OBLIGATIONS**

**1. Training Environment**

The Massachusetts Maritime Academy is committed to training undergraduate cadets in a paramilitary environment in conformity with the Merchant Marine Training Regulations for the time being in effect. All Professional Maritime Faculty employed at the Academy, being customarily called officers and having certain ranks styled on the model of military ranks, shall become a part of this environment by wearing the uniforms prescribed by the Board of Trustees.

All members of the bargaining unit shall uphold the military code of conduct prescribed for cadets, adhere to the precepts and examples required of officers in a military environment and participate in assigned conduct and aptitude boards prescribed by the Board.

All Professional Maritime Faculty employed at the Massachusetts Maritime Academy are, therefore, required to:

- a. maintain and wear the appropriate Massachusetts Maritime Academy uniform with insignia commensurate with their rank as officers at the Academy; and
- b. adhere to military customs on campus prescribed by the Board.

**ARTICLE XII-A - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS,  
MASSACHUSETTS MARITIME ACADEMY**

2. Uniforms

The Academy shall supply as necessary the prescribed uniforms. In order to permit each member of the Professional Maritime Faculty to maintain the appropriate uniform as aforesaid, the amount of One Hundred Fifty Dollars (\$150.00) shall be paid to each such member of the Professional Maritime Faculty on or before every September 30 to which this Agreement is of application; provided, however, that whenever the Board shall have failed to pay to any member of the Professional Maritime Faculty the aforesaid uniform allowance on or before any September 30th, the said member of the Professional Maritime Faculty shall not be required to wear and maintain the appropriate uniform.

Members of the faculty at the Massachusetts Maritime Academy, other than Professional Maritime Faculty, shall, during the term of this Agreement, be prohibited from wearing any uniform of the kind described above. Such faculty shall wear appropriate seasonal civilian attire in accordance with the practices existing at comparable maritime and naval academies.

D. RESPONSIBILITIES OF DEPARTMENT CHAIRS

In addition to the responsibilities described at Section A of Article VI of the Agreement, the responsibilities of Department Chairs at the Massachusetts Maritime Academy shall also include the following:

1. serving on any boards and/or commissions; and
2. in the case of the Department Chairs of the departments of Engineering and Marine Transportation (and of any other department in which one (1) or more Training Coordinators is required for any Sea Term), assisting the Training Coordinators in the development of a coordinated training plan for annual Sea Terms and for shipyard periods that involve the training of cadets; such plan shall be prepared under the direction of the Vice President.

E. MASTER AND CHIEF ENGINEER OF THE ACADEMY TRAINING SHIP

Nothing in this Agreement shall be deemed to prohibit the Academy from appointing, at its discretion and with the agreement of the person so appointed, any member of the bargaining unit to serve as Master of the Training Ship or as its Chief Engineer, and no provision of this Agreement shall be deemed to govern any such appointment or the terms and conditions upon which it is made or held.

Any person who is otherwise a member of the bargaining unit shall nonetheless be deemed not to be a member of the bargaining unit during any period in which he/she is serving as Master of the Training Ship or as its Chief Engineer during the Sea Term.

F. TRAVEL CONDITIONS

When traveling at the request of the Academy, unit members employed at the Academy shall be provided reasonable advance notice. If a unit member is traveling at the request of the

## **ARTICLE XII-A - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS, MASSACHUSETTS MARITIME ACADEMY**

Academy a distance greater than five hundred (500) miles, the Academy shall make arrangements for travel by air.

### **G. FEDERAL REGULATIONS**

#### **1. Changes in Federal Regulations**

The Massachusetts Maritime Academy and cadet training at the Massachusetts Maritime Academy have been and continue to be regulated in part by the federal government.

The United States is a party to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW Convention), and continues to develop and implement regulations known as the STCW Code. The STCW Code codifies certain certification aspects of cadet training at the Massachusetts Maritime Academy. STCW requirements shall not substantially or significantly increase the workload of bargaining unit members. The Academy shall immediately notify the Chapter President of any new STCW requirements.

Classroom records required to be maintained under the STCW Code shall be maintained by Professional Maritime Faculty members during the semester in which such records are required to be made. At the conclusion of each semester, custody of such records shall be transferred to the Vice President for safekeeping.

#### **2. Certification Training**

All training and certification required under the STCW Code shall be offered at the Massachusetts Maritime Academy and shall be made available at no cost to Professional Maritime Faculty members on Blue and Gold status and full-time temporary faculty members hired with a Sea Term obligation. Such training and certification shall be scheduled at mutually agreeable times. The employer shall accommodate the necessary rescheduling of classes and/or provide the necessary resources to allow Professional Maritime Faculty members on Blue and Gold status the opportunity to participate in this training. For all other Professional Maritime Faculty, the cost of training shall be in accordance with the tuition and fee benefits as provided in Article IV.

#### **3. Drug Testing**

All unit members successfully passing a chemical test for dangerous drugs will be issued a "Drug-free Certificate" by the United States Coast Guard-approved administering agency.



**ARTICLE XII-A - WORKLOAD, SCHEDULING AND COURSE ASSIGNMENTS,  
MASSACHUSETTS MARITIME ACADEMY**

I. APPENDIX 2: RELEASE OF CUSTODY FORM

**PRE-SEA TERM MEDICAL HISTORY FORM  
RELEASE OF CUSTODY FORM**

I, \_\_\_\_\_, have accepted custody of the original and copy (if  
(Print Name)  
any) of my "Health Services Pre-Sea Term Medical History Form," dated \_\_\_\_\_.  
In accepting this form, I acknowledge that no medical services were provided to me on the Sea  
Term concluded on \_\_\_\_\_.

This request for release of the Pre-Sea Term Medical History Form will be retained by Health  
Services. It is recommended that the employee retain his/her original form for future reference.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Signature of Health Services

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## ARTICLE XIII - SALARY

### A. ANNUAL SALARY

For the purpose of this Article, “annual salary rate” and “annual salary” shall, in respect of each member of the bargaining unit, mean the annual salary rate payable to such member of the bargaining unit on June 30, 2009, or on the date of his/her first employment as such (whichever shall be the later), and as it is adjusted from time to time thereafter in accordance with the provisions of this Article.

### B. FUNDING

Except as is otherwise expressly provided, all moneys required to be paid pursuant to this Article XIII shall be incremental cost items and subject as such to the provisions of Article XXI of this Agreement and to those of Chapter 150E, §7(c), of the General Laws.

### C. SALARY ADJUSTMENTS: FULL-TIME UNIT MEMBERS

#### 1. Annual Salary Increase: July 1, 2009

- a. Except as is provided in the following paragraph (b), the annual salary of every full-time unit member and salaried part-time faculty member who is then employed shall, with effect on July 1, 2009, and after any increases granted pursuant to Sections E(1) and F(1) of Article VIII-C, be increased by an amount equal to the following percentages thereof:
  - i. one and one-half percent (1.5%); and
  - ii. if the Commonwealth’s tax revenues for fiscal year 2010 equal or exceed \$20.3 billion, then an additional one percent (1%) for a total of two and one-half percent (2.5%); and
  - iii. if the Commonwealth’s tax revenues for fiscal year 2010 equal or exceed \$21.4 billion, then an additional one percent (1%) for a total of three and one-half percent (3.5%).
- b. The annualized value of the salary of every full-time temporary member of the bargaining unit who was employed as such during the spring semester of 2009 and who is re-employed with effect on September 1, 2009, as a full-time unit member (whether such re-employment is temporary or other) shall, with effect on September 1, 2009, be equal to not less than the sum of one hundred one and one-half percent (101.5%), one hundred two and one-half percent (102.5%) or one hundred three and one-half percent (103.5%) (whichever may be required to conform the percentage value of such increases to the percentage value of the increases granted pursuant to the preceding paragraph (a)) of the annualized value of the salary he/she was paid during the spring semester of 2009 plus any increases granted pursuant to Article VIII-C.

## ARTICLE XIII - SALARY

2. Annual Salary Increase: July 1, 2010
  - a. Except as is provided in the following paragraph (b), the annual salary of every full-time unit member and salaried part-time faculty member who is then employed shall, with effect on July 1, 2010, and after any increases granted pursuant to Sections E(2) and F(2) of Article VIII-C, be increased by an amount equal to three and one-half percent (3.5%) thereof.
  - b. The annualized value of the salary of every full-time temporary member of the bargaining unit who was employed as such during the spring semester of 2010 and who is re-employed with effect on September 1, 2010, as a full-time unit member (whether such re-employment is temporary or other) shall, with effect on September 1, 2010, be equal to not less than the sum of one hundred three and one-half percent (103.5%) of the annualized value of the salary he/she was paid during the spring semester of 2010 plus any increases granted pursuant to Article VIII-C.
3. Annual Salary Increase: July 1, 2011
  - a. Except as is provided in the following paragraph (b), the annual salary of every full-time unit member and salaried part-time faculty member who is then employed shall, with effect on July 1, 2011, and after any increases granted pursuant to Section E(3) of Article VIII-C, be increased by an amount equal to three and one-half percent (3.5%) thereof.
  - b. The annualized value of the salary of every full-time temporary member of the bargaining unit who was employed as such during the spring semester of 2011 and who is re-employed with effect on September 1, 2011, as a full-time unit member (whether such employment is temporary or other) shall, with effect on September 1, 2011, be equal to not less than the sum of one hundred three and one-half percent (103.5%) of the annualized value of the salary he/she was paid during the spring semester of 2011 plus any increases granted pursuant to Article VIII-C.
4. Minimum Salary Reviews: September 30, 2009, 2010 and 2011
  - a. With effect on September 30, 2009, September 30, 2010, and September 30, 2011, the annual salary of every full-time unit member and salaried part-time faculty member who is then employed shall be tested against the Minimum Salary Formula as it is on that date.
  - b. With effect on September 30, 2009, September 30, 2010, and September 30, 2011, the annual salary of any such member of the bargaining unit shall, if it falls below the minimum annual salary rate prescribed by the Minimum Salary Formula as it is on that date, be increased so that it equals the amount so prescribed.

## ARTICLE XIII - SALARY

### 5. Minimum Salary Review: September 30 of Each Year Following 2011

Subject to modification by the applicable provisions, if any, of any successor agreement to this Agreement, the provisions of the preceding subsection 4 shall apply on September 30 of each year following 2011, first for the purpose of testing the annual salary of every person who is then a full-time unit member or salaried part-time faculty member and, second, for the purpose of increasing the annual salary as it then is of every such member of the bargaining unit to the extent, if at all, that such annual salary falls below the annual salary rate prescribed by the Minimum Salary Formula that first had effect on July 1, 2006.

### D. RECIPIENTS OF TERMINAL DEGREES

Whenever during the period preceding the September 1 of any academic year, any full-time unit member or salaried part-time faculty member shall have secured a terminal degree, his/her annual salary rate, as it then is, shall, with effect on such September 1, be increased by the amount of Two Thousand Six Hundred Seven Dollars (\$2,607.00) unless the value of the terminal degree has already been credited (and used to establish the unit member's annual salary) on Appendix O-1 or O-2 or in any previous salary equity or minimum salary review.

### E. ACADEMIC PROMOTIONS

Whenever any member of the bargaining unit shall have been promoted with effect on September 1 of any academic year, his/her annual salary shall, with effect on such September 1, be increased by the greater of the amount equal to five percent (5%) thereof (after including therein any increase required to be granted pursuant to the preceding Section D) or the amount, as follows, that corresponds to the rank to which he/she has been promoted:

<u>Rank</u>	<u>Increase</u>
Professor/Senior Librarian	\$4,300
Associate Professor/Librarian	\$3,855
Assistant Professor/Associate Librarian	\$3,475
Assistant Librarian	\$2,530

### F. MINIMUM SALARY REVIEW: TERMINAL DEGREE ADJUSTMENTS AND PROMOTION INCREASES

With effect on September 1 of every academic year, the annual salary of every member of the bargaining unit who, on that date, received a terminal degree adjustment or a promotion increase or both shall be tested (after the granting of every such adjustment or increase) against the Minimum Salary Formula as it is on that date.

With effect on such September 1, the annual salary of any such member of the bargaining unit shall, if it falls below the minimum annual salary rate prescribed by the Minimum Salary Formula as it is on that date, be increased so that it equals the amount so prescribed.

## ARTICLE XIII - SALARY

### G. PAYROLL COMPUTATION

Whenever in Sections C, D, E and F of this Article or in Sections E and F of Article VIII-C any salary increase is required to be paid in a fixed dollar amount, the value thereof may, where necessary, be increased by a fraction of a dollar for the purpose of causing it to be divisible by the number 26.

### H. SALARY AND STIPEND ADJUSTMENTS: PART-TIME FACULTY

#### 1. Part-time Faculty at the Massachusetts College of Art and Design

Any member of the bargaining unit who is otherwise eligible to receive any salary increase granted pursuant to any provision contained in Sections C, D, E or F of this Article or in Sections E or F of Article VIII-C but who, during the whole or any part of the period in respect of which such eligibility is established, is or was employed as such on a part-time basis at the Massachusetts College of Art and Design, shall receive, in lieu of the dollar amount prescribed by such Section, a fraction thereof equal to the fractional value of his/her part-time employment as it is or was during the period in respect of which his/her eligibility for such salary adjustment is established. The fractional equivalent thereof shall be one-twenty-fourth (1/24th) of a full-time equivalent salary for each semester hour of credit of instruction he/she teaches.

#### 2. Part-time Clinical Nursing Instructors

Any part-time member of the bargaining unit who is employed as a Clinical Nursing Instructor at any College and who is otherwise eligible to receive any salary increase granted pursuant to any provision contained in Sections C or D of this Article or in Sections E or F of Article VIII-C shall receive, in lieu of the dollar amount prescribed by such Section, a fraction thereof equal to the fractional value of his/her part-time employment as it is on the date such increase is to have effect. The fractional equivalent thereof shall be one-twenty-fourth (1/24th) of a full-time equivalent salary for each semester hour of credit of instruction he/she teaches.

#### 3. Other Part-time Faculty

- a. Except as is provided in the preceding subsections 1 and 2 and in the following paragraph (b), the rate of pay for all part-time members of the faculty employed as such shall, for each semester hour of credit of instruction, be the following amount with effect on each of the following dates:

<u>Effective Date</u>	<u>Rate per Credit</u>
July 1, 2009	\$1,402
July 1, 2010	\$1,451
July 1, 2011	\$1,502

- b. At Westfield State College, the hourly rate paid to members of the bargaining unit who teach music courses on an hourly basis shall be the following amount with effect on each of the following dates:

## ARTICLE XIII - SALARY

<u>Effective Date</u>	<u>Hourly Rate</u>
July 1, 2009	\$53.00
July 1, 2010	\$55.00
July 1, 2011	\$57.00

### I. MINIMUM SALARIES

The minimum starting annual salary rate for each full-time member of the bargaining unit and (on a pro-rata basis) for each salaried part-time faculty member shall be calculated in accordance with the Minimum Salary Formula that is set forth in Article XIII-A.

When any full-time unit member or salaried part-time faculty member is initially hired, he/she shall complete one of the Salary Data Forms that are attached to this Agreement as Appendix O-1 (Faculty) and O-2 (Librarians).

A copy of the completed Salary Data Form shall be given to each such unit member and the completed Form shall be placed in the unit member's Official Personnel File.

The Salary Data Form shall be used to determine the initial minimum starting salary of the unit member. A unit member's initial starting salary may be above the minimum.

### J. MAXIMUM SALARIES

With effect on July 1, 2006, the maximum starting salaries of the salary ranges applicable to faculty and librarian ranks, and the maximum salaries of the salary ranges applicable to academic administrators returning to or taking up faculty appointments pursuant to Article XX, Section M, shall be as follows:

Professor	\$114,500	Senior Librarian	\$110,100
Associate Professor	\$107,100	Librarian	\$103,300
Assistant Professor	\$99,500	Associate Librarian	\$98,800
Instructor	\$89,000	Assistant Librarian	\$83,000
		Library Associate	\$75,400
		Library Assistant	\$65,700

### K. TIMES OF PAYMENT

The Board of Higher Education and the Association agree to the implementation of the Commonwealth's Human Resources/Compensation Management System ("HR/CMS").

1. Effective June 30, 1999, or on such later date as may be determined by the Board of Higher Education, all employees covered by the terms and conditions of this collective bargaining agreement shall be paid on a bi-weekly basis.
2. Effective June 30, 1999, or on such later date as may be determined by the Board of Higher Education, salary payments shall be electronically forwarded by the Board directly to a bank account or accounts selected by the employee for receipt.

## ARTICLE XIII - SALARY

3. To ensure that any of the changes required by HR/CMS are introduced and implemented in the most effective manner, the Association agrees to accept the Commonwealth's implementation and accepts such changes to business practices, procedures and functions as are necessary to achieve such implementation (e.g., the change to a bi-weekly payroll system).
4.
  - a. In the extraordinary event that the Association alleges that an employee cannot comply with the collective bargaining agreement relative to the electronic transfer due to severe hardship such as inability to access a bank or financial institution during off hours or inability to access an ATM within a reasonable geographic distance from the employee's worksite or home, the Association may petition the Division of Human Resources of the Commonwealth for a Direct Deposit Special Exemption.
  - b. The Division of Human Resources, in concert with the Office of the State Comptroller, shall review the request for the Direct Deposit Special Exemption filed by the Association and will notify the Association of its finding.
  - c. No other appeal may be commenced by the employee or the Association relative to the Direct Deposit Special Exemption and, further, the provisions of this clause (d) are not grievable and are inarbitrable.

Anything in the foregoing provisions of this Article to the contrary notwithstanding, whenever any moneys shall, pursuant to any provisions of this Article XIII, be due and payable on a date prior to the date on which final action shall have been taken to appropriate the moneys necessary to fund such provisions, such moneys shall, unless otherwise provided by law, be due and payable not later than sixty (60) days after the date on which such final action shall have been taken.

### L. REOPENER

In the event that during the term of this Agreement a collective bargaining agreement is submitted by either the Governor or the Secretary of Administration and Finance and funded by the Legislature, and in the event that such agreement contains provisions for across-the-board salary increases in excess of those contained in this Agreement, the parties agree, at the request of the Association, to re-open this Agreement for further negotiations.

### M. HOLD HARMLESS

Nothing in this Agreement shall be deemed to preclude a future inclusion of additional salary increases in lieu of step-rate increases for fiscal year 2009 if the cost thereof is borne in full by the Commonwealth and not by the Colleges. Neither the Board of Higher Education nor any State College shall be obligated to expend any moneys (other than moneys appropriated to or for its benefit pursuant to Chapter 150E, §7) for the purpose of discharging the obligation recorded in this Section M.

## **ARTICLE XIII - SALARY**

### **N. SALARY STUDIES**

#### **1. Joint Committee for the Study of Salaries**

On or before January 1, 2011, there shall be established a joint labor-management committee for the study of the salaries and compensation paid members of the bargaining unit, including the matters of salary compression and salary inversion. The membership of the committee shall consist of six (6) persons, three (3) of whom shall be appointed by the Council of Presidents and three (3) of whom shall be appointed by the Association President. The Council and the Association shall each have the right to invite consultants to attend meetings of the committee. The committee shall make a report to the Council and to the Association no later than December 31, 2011.

#### **2. Comparative Salary Study**

The Council of Presidents shall commission or otherwise cause to be conducted a comparative study of the salaries of faculty and librarians employed in the State Colleges and faculty and librarians employed at peer institutions. The results of such study shall be made available on or before February 29, 2012.

## ARTICLE XIII-A - MINIMUM SALARY FORMULA

Effective July 1, 2006, the Minimum Salary Formula shall be as follows:

Base	Rank		Terminal Degree	Experience (per year)
\$37,563	\$19,117	Professor	\$2,607	\$459: Internal and External Experience (faculty and librarians )
	\$19,117	Senior Librarian		\$133: Other Appropriate Professional Experience
	\$12,575	Associate Professor		
	\$12,575	Librarian		
	\$6,165	Assistant Professor		
	\$6,165	Associate Librarian		
	\$0	Instructor		
	\$0	Assistant Librarian		
	\$0	Library Associate		
	\$0	Library Assistant		

### A. TERMINAL DEGREE DEFINITIONS

As defined in Article I, Section D(56).

### B. EXPERIENCE EXPLANATIONS

1. Faculty: Internal and External Experience: For each year while holding a full-time appointment as an Instructor, Assistant Professor, Associate Professor or Professor at a State College or other accredited two-year or four-year college or university or (in the case of faculty holding appointments in departments of nursing) at an accredited school of nursing.
2. Librarians: Internal and External Experience: For each year while holding a full-time appointment as a professional librarian at a State College or other accredited two-year or four-year college or university.
3. Faculty Appointed prior to September 1, 1970: For each year while holding a full-time appointment as a classroom teacher in grades K through 12 (including special education experience as a classroom or learning resource center teacher, but excluding any period of employment as a guidance counselor) at an accredited public or private school prior to the date of initial hire at a Massachusetts State College.
4. Grades K through 12 (Exceptions): For faculty in education departments or education certification programs, for each year while holding a full-time appointment as a classroom teacher in grades K through 12 (including special education experience as a classroom or learning resource center teacher, but excluding any period of employment



## ARTICLE XIII-A - MINIMUM SALARY FORMULA

as a guidance counselor) at an accredited public or private school prior to the date of initial hire at a Massachusetts State College regardless of the date of hire.

5. Other Appropriate Professional Experience: For each year of other appropriate full-time professional experience which falls within one (1) or more of the following categories:
  - a. Business Administration
  - b. Social Services
  - c. Engineering
  - d. Maritime (Maritime Service or the Navy)
  - e. Professional and Industrial Arts (including Design and Special Effects)
  - f. Communication Disorders
  - g. Library
  - h. Nursing/Licensed Medical Technician/Dietician
  - i. Computer Science
  - j. Aviation Science (licensed pilot or pilot in the Armed Forces)
  - k. Journalism/Media/Public Relations
  - l. Biological, Physical, or Social Science Research in a recognized professional research facility or laboratory
  - m. Creative, Performing and Fine Arts
  - n. Professional Employment in Criminal Justice
  - o. Curatorial or Professional Museum Employment
  - p. Allied Health and Rehabilitative Services (including Physical Therapy)

### C. MISCELLANEOUS

1. For the purpose of granting credit, the items in Section B are subject to verification.
2. The Salary Data Forms (Appendices O-1 and O-2) shall be used for the purposes of this Minimum Salary Formula.
3. Except as otherwise provided in Article XIII, Section H, the provisions of this Article XIII-A shall be of no application to any person appointed to a part-time position in the bargaining unit.

## **ARTICLE XIV - PROFESSIONAL DEVELOPMENT AND CONTINUING SCHOLARSHIP**

The parties agree to undertake a program of professional development for members of the bargaining unit; provided, however, that the provisions of this Article XIV shall be of no application to any person appointed to a part-time position in the bargaining unit other than salaried part-time faculty members.

Participation in any such program by any member of the bargaining unit shall be undertaken only if he/she so chooses.

### **A. PURPOSE**

The purpose of the program of professional development shall comprise the following several aims and goals through research, scholarship and other appropriate professional activities:

1. to improve teaching and student advising and to relate those to a changing curriculum that is itself responsive to the larger needs of society;
2. to develop new teaching skills and an appropriate facility in the use of media, teaching aids and other supportive techniques where those are appropriate;
3. to improve student advising techniques and the faculty member's command of relevant bodies of knowledge in this area;
4. to increase the faculty member's command of the body of knowledge that constitutes his/her own discipline;
5. where appropriate, to enable a faculty member to develop a command over a body of knowledge in a related discipline;
6. in the case of any librarian, to improve such librarian's professional skills and techniques and to relate those to a changing curriculum that is itself responsive to the larger needs of society;
7. in the case of any librarian, to develop new professional skills and techniques to the same end; and
8. to provide retraining to members of the bargaining unit who have been or may be given notice of retrenchment.

### **B. PROGRAMS OF PROFESSIONAL DEVELOPMENT**

No later than September 30, 2009, there shall be established at each College a Committee on Professional Development and Retraining, which shall be composed of three (3) unit members appointed by the Chapter President and two (2) persons appointed by the President of the College.

## ARTICLE XIV - PROGRAM OF PROFESSIONAL DEVELOPMENT

1. The committee shall:
  - a. meet and confer with the Vice President regarding criteria for awarding programs of professional development;
  - b. receive and review all requests for programs of professional development that may be undertaken pursuant to the provisions of this Article, and thereafter make recommendations to the President of the College regarding approval or disapproval of all programs of professional development submitted pursuant to the provisions of this Article;
  - c. make recommendations regarding the allocation of moneys which shall be available for the implementation of programs of professional development that may be undertaken pursuant to the provisions of this Article;
  - d. develop and recommend a policy for the retraining of unit members who may be retrenched and submit such recommended policy to the President of the College within three (3) months from the date on which the committee shall have first convened; in discharging this responsibility the committee shall seek to compile and disseminate information regarding retraining and job opportunities for members of the bargaining unit; and
  - e. advise, when requested, individual unit members who shall have been or may be retrenched pursuant to the provisions of Articles X-A and X-B of this Agreement for the purpose of assisting any such unit member in the development of a program of retraining.
2. The President shall:
  - a. upon receipt of the recommendations of the Committee on Professional Development and Retraining, grant such awards as he/she shall determine in accordance with the provisions of this Article;
  - b. notify the applicants of the approval or disapproval of their program of professional development; and
  - c. notify the President of the Association of the grants and programs approved by him/her.
3. Every such request for a program of professional development shall be submitted within the limits of time prescribed therefor.

### C. EVALUATIONS

The participation or lack of participation of any member of the bargaining unit in any program under this Article shall not be considered in any evaluation of such member of the bargaining unit conducted pursuant to the provisions of Articles VIII, VIII-A or VIII-C of the Agreement; provided, however, that any member of the bargaining unit may introduce for consideration during any such evaluation the work done by him/her, or the product thereof, pursuant to any program under this Article. Notwithstanding the foregoing, whenever any

## **ARTICLE XIV - PROGRAM OF PROFESSIONAL DEVELOPMENT**

member of the bargaining unit shall have been granted a reduction of teaching workload in order to undertake a program of professional development under this Article, his/her participation in such program shall be evaluated in accordance with Articles VIII, VIII-A or VIII-C of this Agreement.

Upon the completion of any program of professional development, a member of the bargaining unit shall submit to the Vice President a report thereon describing with reasonable particularity the professional activities undertaken pursuant thereto as they relate to the purposes for which the program of professional development was approved.

### **D. IMPLEMENTATION/FUNDING**

The amount, method and manner of the funding of any program of professional development shall be determined by the President of the College.

### **E. DEFINITION**

For the purpose of this Article XIV, the phrase “individual program of professional development” shall, in the case of any individual member of the bargaining unit, mean a program designed to effectuate any one or more of the purposes set forth in Section A, which program shall have been developed at the initiation of such unit member, assented to by him/her, and approved as such by the President: it being the common purpose of the parties to this Agreement to provide members of the bargaining unit with the specific means by which to achieve professional growth and to benefit the College.

### **F. EXISTING PROGRAMS**

Nothing in this Article XIV shall be of any application to any individual program of professional development approved prior to the effective date of this Agreement or for which moneys have been made available other than pursuant to Section G.

### **G. SUPPORT FOR CONTINUING SCHOLARSHIP**

#### **1. Funding**

With effect on September 1 of each academic year, there shall be made available at each College a pool of moneys that shall be expended, in accordance with this Section G, for the support of continuing scholarship. The amount of the pool of moneys shall be calculated as follows for each such year:

- a. there shall first be computed an amount equal to one percent (1%) of the value, aggregated for the nine (9) State Colleges, of the AA unit payroll as that payroll is on the preceding May 31;
- b. the amount computed under the preceding paragraph (a) shall be divided by the number equal to the number, aggregated for the nine (9) State Colleges, of all full-time-equivalent members of the bargaining unit employed on such May 31 (but including in that number only full-time unit members and salaried part-time faculty members); and

## ARTICLE XIV - PROGRAM OF PROFESSIONAL DEVELOPMENT

- c. the amount computed under the preceding paragraph (b) shall, for each College, be multiplied by the number equal to the number of full-time-equivalent members of the bargaining unit employed at the College on such May 31 (but including in that number only full-time unit members and salaried part-time faculty members).

### 2. Source of Funding

The moneys required under the preceding subsection 1 to fund support for continuing scholarship shall not be an incremental cost item for such purposes and shall be supplied from moneys otherwise lawfully available to be expended for such purpose at each College.

### 3. Continuing Scholarship

For the purposes of this Section G, the phrase “continuing scholarship” shall have the meaning ascribed to it in Article VIII, Section A(1)(b) and Section A(3)(b), and the moneys made available hereunder shall be applied solely for the support of such continuing scholarship.

### 4. Allocation and Approval of Expenditures: Fund for Continuing Scholarship

With effect on September 1 of each academic year, there shall be allocated (i) to each full-time member of the bargaining unit who is employed as such during the fall semester of such year an amount equal to the amount calculated for such date pursuant to paragraph (b) of the preceding subsection 1 and (ii) to each salaried part-time faculty member a proportionate share of an amount equal to the amount so calculated for such date. A person first employed as a member of the bargaining unit during the spring semester of an academic year shall not be entitled to any allocation of funds under this subsection 4. Each member of the bargaining unit to whom an allocation is made hereunder shall be entitled to expend the amount so allocated but may do so only subject to the following:

- a. on or before December 31, he/she shall first submit to the Vice President a description of the purpose for which such moneys (or any portion thereof) are to be expended and, on or before January 31, the Vice President shall thereafter approve the same unless he/she shall have determined that the intended expenditure does not constitute support of continuing scholarship; and
- b. whenever the Vice President shall have approved the purpose for which an expenditure is intended to be made, the Vice President shall thereupon authorize the payment of the amount required therefor (but not more than the amount computed under the preceding subsection 1(b)) to the bargaining unit member as a stipend for continuing scholarship.

Whenever the Vice President shall have declined to approve an intended expenditure under paragraph (a) above, the member of the bargaining unit whose submission has been disapproved shall be entitled to appeal the Vice President’s decision to the

## ARTICLE XIV - PROGRAM OF PROFESSIONAL DEVELOPMENT

Committee on Professional Development and Retraining, and the Committee's decision in that regard shall be final and binding.

### 5. Allocation of Unexpended Moneys

Whenever on February 1 there remain at any College moneys whose expenditure has not been authorized pursuant to the preceding subsection 4, the Vice President shall, as follows, authorize the payment of such moneys as stipends for continuing scholarship:

- a. the total sum of the moneys whose expenditure has not been authorized shall be divided by the number of members of the bargaining unit to whom an allocation of moneys was approved and made under paragraph (a) or (b) of the preceding subsection 4; and
- b. the amount calculated in accordance with the preceding paragraph (a) shall be disbursed to each of the members of the bargaining unit who are described in the preceding paragraph (a).

## ARTICLE XV - SABBATICAL LEAVE

### A. REAFFIRMATION

The parties reaffirm their mutual commitment to support the professional development and growth of individual members of the bargaining unit; and to that end they similarly reaffirm their commitment to the granting of sabbatical leaves in accordance with the provisions of this Article.

### B. ELIGIBILITY

The provisions of this Article shall apply to all full-time tenured and tenure-track faculty members and librarians; provided that such employees have served at one or another of the State Colleges for at least seven (7) years, exclusive of the periods of any unpaid leaves of absence, after entering any such service and since the termination of their last such leave. For purposes of determining the eligibility for sabbatical leave of any member of the bargaining unit, the number of years of such member's service shall be computed by counting

1. his/her semesters of service so that every two (2) such semesters shall be deemed to constitute one (1) year of such service; and
2. so many consecutive semesters of service as a temporary full-time member of the bargaining unit as immediately precede a tenure-track appointment.

The provisions of this Article shall also apply to salaried part-time faculty members who have held a part-time appointment of not less than one-half time consecutively for a pro-rata period equivalent to at least seven (7) years of full-time service, exclusive of the periods of any unpaid leaves of absence, after entering any such service and since the termination of their last such leave.

Except as otherwise provided above, the provisions of this Article XV shall be of no application to any person holding an appointment to a part-time position in the bargaining unit, nor shall they apply to any Library Associate or to any Library Assistant.

The granting of sabbaticals shall be subject to the procedures provided in this Article, and during the term of this Agreement no quota limiting the number of sabbaticals to be granted shall be imposed.

No member of the bargaining unit shall be denied a sabbatical due to insufficient funds where the course or courses to be taught or the duties to be assumed are not deemed to be essential in accordance with the procedures provided in this Article.

### C. TERMS

Sabbatical leave shall be for purposes of study and research and may be granted for either a period of one (1) year at half pay for such period or a period of a half-year at full pay for such period.

## ARTICLE XV - SABBATICAL LEAVE

No person to whom a sabbatical leave has been granted shall, during the period of such leave, be eligible or permitted to teach as a part-time member of the faculty in the day program at any College.

Prior to the Board's granting any sabbatical leave, the unit member must enter into a written agreement with the Board of Trustees that, upon the termination of such leave, he/she will return to the service of the College for a period equal to twice the length of such leave and that, in default of the completion of such service, he/she will refund to the Commonwealth, unless excused therefrom by the Board of Trustees for reasons satisfactory to it, an amount equal to such proportion of the salary received by him/her while on leave as the amount of service not actually rendered as agreed bears to the whole amount of the services agreed to be rendered.

Upon completion of any sabbatical leave the member of the bargaining unit to whom it was granted shall submit to the Vice President for his/her approval an appropriate written summary of the work undertaken and accomplished relative to the purpose or purposes for which the sabbatical leave was granted.

Whenever the Vice President shall require additional information previously not submitted in the aforementioned summary, the Vice President shall communicate his/her reasons therefore in writing to said member of the bargaining unit.

The application for and approval of sabbatical leaves shall be done in accordance with the Personnel Calendar in Appendix M.

### D. APPLICATION AND APPROVAL

No later than October 1 of each academic year, each member of the bargaining unit who is or will be eligible on the date on which the sabbatical will begin if approved, and who wishes to do so, shall submit to his/her Department Chair or to the Library Director, as the case may be, a written proposal setting forth the purposes for which the sabbatical leave is sought.

Thereafter the Department Chair or the Library Director, as the case may be, shall submit each such application, together with his/her written recommendation, to the Vice President in accordance with the applicable Personnel Calendar.

The Vice President, after consultation with the Department Chair or the Library Director, as the case may be, shall determine which course or courses or other professional duties or services among those that would otherwise be taught or assumed by the member of the bargaining unit are deemed essential to the curriculum of the department or to a program or service at the College.

The Vice President shall further determine whether such course or service or other professional duties or services so deemed essential are able to be taught or assumed by other members of the bargaining unit at the College without creating a workload in excess of that provided for in Article XII of this Agreement.

Thereafter, the Vice President shall submit a written recommendation to the President concerning each such application. He/she shall also transmit the application itself and the



## ARTICLE XV - SABBATICAL LEAVE

recommendation of the Department Chair or the Library Director, as the case may be, to the President.

In determining which courses are essential, the President shall ensure that the quality of education to be provided to students shall not be diminished by the granting of any sabbatical leave.

Subject to the foregoing provisions of this Article, sabbatical leaves shall be granted by the Board of Trustees, upon the recommendation of the President, or by the President as its designee.

In any case in which a Board of Trustees acts upon the granting of sabbatical leaves, the President shall first transmit to the Board his/her written recommendations in that regard, which recommendation shall contain statements of his/her reasons for the making of each such recommendation. Whenever the Board shall not have accepted any such recommendation of the President, it shall set forth its reasons therefor fully and completely. In any such event, such reasons shall be transmitted to the unit member.

Following the final decision of the Board of Trustees or of the President as its designee, each applicant shall be notified of the decision with respect to his/her application.

### E. FUNDING/IMPLEMENTATION

The funding and implementation of every such sabbatical leave is contingent on the availability of moneys to be used solely for the purpose, to the extent necessary, of employing qualified temporary or part-time personnel to teach such essential courses, assume such essential duties or render such essential services during the absence of any member of the bargaining unit who shall have been granted a sabbatical leave.

Whenever the President shall have determined that any essential course, duty or service cannot be so taught or assumed, the President shall make available any savings that may be realized from the granting of a sabbatical for a full year.

### F. DEFERRAL

This Section F shall be of application only to sabbatical leaves the purposes for which (being study and research) the College has approved and for which application was made during academic year 2008-2009 or thereafter.

Whenever,

1. for lack of the availability of moneys to be used in the manner described in the second paragraph of the preceding Section E, the College requires a unit member, or
2. because at the request of the College for some professional purpose or obligation (e.g., to assist with accreditation), a unit member agrees, or
3. because of compelling reasons that make it impracticable for a unit member to carry out the purposes of his/her sabbatical leave, the College permits the unit member,

## ARTICLE XV - SABBATICAL LEAVE

to defer his/her sabbatical leave for one (1) or more academic semesters, the unit member shall have the right to take the sabbatical leave without having to reapply, provided that the purpose of the sabbatical leave can be accomplished after the deferral period or the sabbatical proposal is modified in a manner mutually agreeable to the unit member and the President of the College. No sabbatical leave shall be deferred hereunder for more than six (6) semesters commencing with the first (1st) academic semester during which such sabbatical leave would otherwise have been taken.

### G. FUTURE AMENDMENTS TO ARTICLE XV

#### 1. Amendments to Section B

Upon repeal or amendment of Chapter 73, §4A, of the General Laws to permit its implementation, Section B shall be amended by deleting its first paragraph and inserting in its place the following paragraph:

“The provisions of this Article shall apply to all full-time tenured and tenure-track faculty members and librarians; provided that such employees have served at one or another of the State Colleges for at least six (6) years, exclusive of the periods of any unpaid leaves of absence, after entering into such service and since the termination of their last such leave. For purposes of determining the eligibility for sabbatical leave of any member of the bargaining unit, the number of years of such member’s service shall be computed by counting

1. his/her semesters of service so that every two (2) such semesters shall be deemed to constitute one (1) year of such service; and
2. so many consecutive semesters of service as a temporary full-time member of the bargaining unit as immediately precede a tenure-track appointment.”

#### 2. Amendments to Section F

Upon repeal or amendment of Chapter 73, §4A, of the General Laws to permit its implementation, the following shall be added to the end of Section F:

“The unit member’s eligibility for the next sabbatical leave after the deferred sabbatical leave shall be calculated under the preceding Section B as if the deferred sabbatical leave had been taken during the semester or semesters in which it would have been taken had it not been deferred.”

#### 3. Implementation of Amendments

If Chapter 73, §4A, of the General Laws is repealed or amended such that the amendments described in the preceding subsections 1 and 2 are given effect, and if the repeal or amendment of Section 4A occurs after October 1 in what is then any bargaining unit member’s sixth (6th) year of qualifying employment under Section B of this Article, then such bargaining unit member shall, if practicable, be afforded an opportunity to apply for a sabbatical leave for the period of the following academic year.

## **ARTICLE XVI - OFFICIAL PERSONNEL FILES**

The administration of each College shall maintain an Official Personnel File for each member of the bargaining unit, which shall be kept in a secure place in the custody of the President. Such file shall contain a continuous record of the member of the bargaining unit's status as an employee in the bargaining unit at the College and shall be separate from any such record of his/her employment in the College's Division of Graduate and Continuing Education. The Official Personnel File shall contain the following:

1. copies of Official Personnel Correspondence and personnel actions concerning the member of the bargaining unit;
2. except as is hereinafter provided, all evaluations of the performance of the member of the bargaining unit made prior to the effective date of this Agreement and made thereafter pursuant to the provisions of Articles VIII, VIII-A or VIII-C hereof; provided only that the record of any student evaluations may be kept in the form of summaries thereof;
3. all recommendations of retention, merit, promotion and tenure made prior to the effective date of this Agreement and all such recommendations made thereafter pursuant to the provisions of Articles VIII, VIII-A or VIII-C hereof;
4. an updated official transcript submitted pursuant to the provisions of Article VIII, VIII-A or VIII-C hereof;
5. a copy of the Salary Data Form (Appendix O-1 or O-2); and
6. an updated comprehensive resume.

Except as is hereinafter provided, no other materials shall be included therein.

1. All such materials placed in the Official Personnel File of a member of the bargaining unit shall be dated when received, numbered sequentially and, with effect from and after September 1, 1981, all materials contained in each Official Personnel File shall be logged sequentially.
2. The unit member shall have the right without undue delay to examine his/her Official Personnel File. Under no circumstances shall the Official Personnel File be removed from its place of safekeeping by the unit member and access to the Official Personnel File shall, where feasible, be only in the presence of someone in authority.
3. The unit member shall have the right to place in his/her Official Personnel File a written statement made in response to materials contained in his/her Official Personnel File or which he/she believes may affect his/her employment status.
4. Upon written request of the individual member of the bargaining unit the College administration shall reproduce without undue delay one (1) copy of such materials.
5. Copies of Official Personnel Correspondence shall be filed at the time they are sent to the member of the bargaining unit.

## ARTICLE XVI - OFFICIAL PERSONNEL FILES

6. Within sixty (60) days of the commencement of the first (1st) day of the seventh (7th) year of employment at the College of each member of the bargaining unit, there shall be removed from the Official Personnel File of each such member of the bargaining unit all evaluations which have been filed therein for a period greater than six (6) years. Thereafter, no evaluations of the unit member which do not cover the prior six (6)-year period shall remain in the Official Personnel File.

The evaluations to be removed from the Official Personnel File shall be placed in a sealed envelope and stored by the administration at the College. Each year thereafter, those evaluations that have been in an Official Personnel File for more than six (6) years shall be similarly removed and stored.

All evaluations placed in such envelopes in accordance with the provisions of this Article and its predecessors may be examined only in compliance with either of the following conditions:

- a. upon written notice by the President to the unit member, which notice shall contain a statement of the reasons for such examination; or
  - b. upon written notice by the member of the bargaining unit to the President, which notice shall contain a statement of the reasons for such examination.
7. The Official Personnel File shall be available for inspection by the Department Chair, Library Director or Library Program Area Chair, as may be appropriate, the Committee on Tenure, the Vice President, the President, the Board of Trustees and the Board of Higher Education acting through the Council of Presidents and, when so authorized in writing by the unit member, by an Association representative. An inspection sheet shall be maintained for each Official Personnel File. Whenever any of the foregoing individuals, committees or boards inspects the Official Personnel File of a unit member, the name of the individual or individuals conducting such inspection and the date and time thereof shall be noted on the inspection sheet.
  8. Unless required by law or this Agreement, no person or agency other than those described in the preceding subsection 7 shall be given access to an Official Personnel File without the express written permission of the unit member concerned. Whenever, as required by law or this Agreement, any person or agency (other than the persons and bodies described in the preceding subsection 7) is given access to an Official Personnel File without the express written permission of the unit member concerned, such unit member shall be given prompt notice thereof.
  9. No documentary materials shall be used in connection with the evaluation of any unit member unless such materials are contained in the Official Personnel File of such member of the bargaining unit or have been made a part of his/her evaluation in accordance with the provisions of Article VIII, VIII-A or VIII-C.

## **ARTICLE XVII - COMPLIANCE WITH BOARD TIME SCHEDULES**

Save as is otherwise provided (i) in any rule adopted under Article VII and (ii) in the Personnel Calendar, the parties agree that any assignment, report, recommendation or other action of any committee, Department Chair or member of the bargaining unit provided for in this Agreement shall be completed in compliance with such time schedules as may be established from time to time by the Board or President of a College; provided, however, that whenever the President shall establish any such schedule, he/she shall first consult with the Chapter President regarding such schedule.

Reasonable written notice of time schedules shall be provided by the President of the College to the Chair of the All-College Committee, the Chapter President and the President of the Student Government Association. Such notice shall be deemed to be notice to all other committees established in or pursuant to this Agreement, to Department Chairs and to the members of the bargaining unit. In the event that any committee, Department Chair or member of the bargaining unit having received such written notice shall not have so completed its or his/her work, the President or the Board, as the case may be, may in his/her or its discretion make such recommendations or take such actions as he/she or it deems appropriate, and the making of such recommendations or the taking of such actions shall not be in violation of the procedures set forth in any provision of this Agreement.

## **ARTICLE XVIII - NO STRIKE OR LOCK OUT PLEDGE**

The Board of Higher Education agrees that it will not lock out any or all of its employees for any cause during the term of this Agreement, and the Association and its agents agree that they will not engage in, induce or encourage any strike, work stoppage, slowdown or withholding of services by any member or members of the bargaining unit.

Nothing contained in this Article shall be deemed to waive, impair or restrict the right of the Board of Higher Education or of the Association to seek or pursue any remedy at law or in equity provided by the laws of the Commonwealth.

## **ARTICLE XIX - STATUTORY RESPONSIBILITIES OF THE BOARDS**

All management rights and functions, except those that are clearly and expressly abridged by this Agreement, shall remain vested exclusively in the Board of Higher Education or the several Boards of Trustees as may be provided by any applicable provision of law. Nothing contained in this Agreement shall be deemed or construed to impair or limit the powers and duties of the Board of Higher Education or of any of said Boards under the laws of the Commonwealth, which powers include the power to adopt and establish policies to the extent that such policies do not contravene any express provision of this Agreement. Nothing contained in this Agreement shall be deemed to prohibit the Board of Trustees of any College from correcting any salary inequity in accordance with the formula set forth in Article XIII-A.

## ARTICLE XX - APPOINTMENT AND PROMOTION

### A. INTRODUCTION

The provisions of this Article XX shall be of no application to any person holding an appointment to a part-time position in the bargaining unit at a College other than the Massachusetts College of Art and Design.

Contracts for non-tenured faculty and librarians are term agreements subject to annual renewal after the completion of the established evaluation period.

For the purpose of this Agreement, a degree, including a terminal degree, shall be deemed to have been secured whenever the candidate for the degree has successfully completed all of the academic work required for it and the institution by which the degree will be awarded has acknowledged the same in some official writing. If the conditions just described shall have been fulfilled, a member of the bargaining unit shall be deemed to have secured a degree hereunder even if the ceremonial event at which the degree will be formally conferred has yet to occur.

### B. APPOINTMENT AND PROMOTION OF FACULTY

Faculty members may be appointed initially at any rank in keeping with the following requirements of this Section B. These requirements apply to faculty members in the State Colleges other than to those who are Professional Maritime Faculty at the Massachusetts Maritime Academy; the requirements of application to Professional Maritime Faculty being set out in Article XX-A of this Agreement. Exceptions to these requirements may be made for sound academic reasons in certain specialized areas and under other special circumstances with the approval of the Board of Trustees. Nothing in these requirements should be construed to prohibit the appointment or promotion of an individual of exceptional talent or accomplishment who does not meet all the stated criteria. In considering candidates for exceptional appointments or promotions, the Board of Trustees or the President, as provided for in Article VIII, shall pay due regard in the alternative to: (a) evidence of the ability of the candidate to render a unique academic contribution to the College, (b) evidence of a candidate's extraordinary competence in the area of his/her discipline or specialty or (c) evidence that the discipline or specialty of the candidate does not customarily demand fulfillment of those academic degree requirements set forth by the Board as minimum criteria for appointment or promotion to each rank.

#### 1. Requirements

Faculty members who, when hired, possess a terminal degree effective on or before the date of appointment shall be appointed above the rank of Instructor.

##### a. Instructor

- i. a Master's degree from an accredited institution in the academic or professional discipline to be taught;
- ii. understanding of the teaching and advising processes and the application of teaching and advising strategies in the college setting;



## ARTICLE XX - APPOINTMENT AND PROMOTION

- iii. demonstrated potential to fulfill the applicable evaluation criteria; and
- iv. for faculty appointed to teach courses in a professional area, two (2) years of appropriate professional experience.

### b. Assistant Professor

- i. in the case of any person first appointed to a position as a member of the faculty in a State College prior to September 1, 1988, a Master's degree together with thirty (30) hours of graduate credits from an institution or institutions accredited at the level of such degree in the academic or professional discipline to be taught;
- ii. in the case of any person first appointed to a position as a member of the faculty in a State College on or after September 1, 1988, a terminal degree from an institution or institutions accredited at the level of such degree in the academic or professional discipline to be taught;
- iii. understanding of the teaching and advising processes and the application of teaching and advising strategies in the college setting; and
- iv. in the case of a promotion, meritorious performance as demonstrated by the candidate's evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

### c. Associate Professor

- i. a terminal degree from an institution or institutions accredited at the level of such degree in the academic or professional discipline to be taught;
- ii. six (6) years of full-time experience in teaching, at least three (3) of which must have been at an accredited two-year or four-year college or university; and
- iii. in the case of a promotion, not less than three (3) years of full-time employment at the rank of Assistant Professor (or higher) at an accredited four-year college or university and meritorious performance as demonstrated by the candidate's evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

## ARTICLE XX - APPOINTMENT AND PROMOTION

### d. Professor

- i. a terminal degree from an institution or institutions accredited at the level of such degree in the academic or professional discipline to be taught;
- ii. eight (8) years of full-time experience in teaching, at least five (5) of which must have been at an accredited two-year or four-year college or university; and
- iii. in the case of a promotion, not less than four (4) years of full-time employment at the rank of Associate Professor (or higher) at an accredited four-year college or university and meritorious performance as demonstrated by the candidate's evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

### 2. Application of the Criteria for Promotion

No member of the faculty shall be a candidate for promotion to any academic rank unless, on or before September 1 of the academic year during which he/she is to be evaluated for promotion, he/she shall have fulfilled the criteria, including, where appropriate, any applicable criteria set forth in the first paragraph of this Section B, that govern promotion to such rank.

No Board shall impose or use any quotas by rank and no quota shall govern the eligibility for promotion of any member of the bargaining unit.

A higher order of quality may be demanded for promotion to each higher academic rank.

### 3. Promotion of Certain Instructors

A member of the faculty who holds an appointment at the rank of Instructor and who is awarded a terminal degree shall, upon the College's being given notice thereof and confirming the same, be granted, with effect on the ensuing September 1, a promotion to the rank of Assistant Professor without its being required that he/she be evaluated for such promotion pursuant to Article VIII.

## C. APPOINTMENT PROCEDURES AND TERMS FOR FACULTY

### 1. Appointments at the Rank of Instructor

Instructors will ordinarily be appointed to successive one (1)-year term contracts and shall be entitled to receive such notice of the non-renewal of any such contract as is provided for in Section F below. No faculty member will remain in the rank of Instructor more than five (5) years; prior to the beginning of his/her fifth (5th) year, an Instructor will be given written notice that:

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- a. he/she is to be promoted to the rank of Assistant Professor at the beginning of the next year; or
- b. he/she is beginning a terminal one (1)-year appointment.

### 2. Initial Appointments at the Rank of Assistant Professor

Persons initially appointed at the rank of Assistant Professor may be given initial appointments, without tenure, of one (1), two (2) or three (3) years. Those initially appointed at the rank of Assistant Professor may not be employed beyond six (6) consecutive years as a full-time faculty member, exclusive of a terminal year, without gaining tenure.

### 3. Initial Appointments at the Rank of Associate Professor or Professor

Subject to the provisions of Article IX, persons initially appointed at the rank of Associate Professor or Professor may be appointed for an initial one (1), two (2) or three (3) year term without tenure, or may be appointed initially with tenure. No person initially so employed may serve more than three (3) years as a faculty member, exclusive of a terminal year, without gaining tenure.

### 4. Visiting Professors

Persons appointed as Visiting Professors shall be employed for a specific period of time and shall not attain tenure.

### 5. Statement of Conditions of Employment

Precise conditions of employment shall be stated in writing and a copy of the Uniform Letter of Appointment (Appendix N(1) or N(2)) shall be provided to the appointee and the Chapter President.

### 6. Temporary Appointments

Anything in this Agreement to the contrary notwithstanding, the Board may grant to any person, and at any academic rank, an appointment known as a temporary appointment. No such temporary appointment shall be for a period in excess of four (4) consecutive semesters. Every such temporary appointment shall be made in writing and shall terminate on a date that shall be stated therein. Anything in this Agreement to the contrary notwithstanding, such statement of the date of such termination shall be deemed to be due and timely notice of the termination of such appointment, and such termination shall have effect on the date so stated.

Anything in this Agreement to the contrary notwithstanding, any person or persons who shall have been granted a temporary appointment of one (1) semester duration pursuant to this provision shall not, during the term of such appointment, be required to be evaluated pursuant to Article VIII of this Agreement; provided, however, that the provisions of Article VIII may be applied to such person if the Board and such person mutually so agree; and provided further that any such application of the

## ARTICLE XX - APPOINTMENT AND PROMOTION

provisions of Article VIII shall not be deemed to alter any of the terms or conditions of any temporary appointment that shall have been granted to such person.

Anything in this Agreement to the contrary notwithstanding, every person or persons who shall have been granted a temporary appointment in excess of one (1) semester in duration, shall be evaluated pursuant to the provisions of Article VIII of this Agreement; provided, however, that any such application of the provisions of Article VIII shall not be deemed to alter any of the terms or conditions of any temporary appointment that shall have been granted to such person.

No person granted a temporary appointment hereunder shall be eligible to be considered for tenure, and no person who shall have held a temporary appointment hereunder for four (4) consecutive semesters shall be granted another temporary appointment hereunder unless at least one (1) semester (during which such person may be granted a part-time appointment) shall have elapsed between the former such appointment and the latter.

Prior to making any temporary appointment hereunder, the Vice President shall meet with the Chapter President for the purpose of discussing the reasons therefor.

No person who is a member of the bargaining unit by reason of the fact that he/she holds a temporary appointment of the kind described in this subsection 6 shall be entitled to vote in any election conducted pursuant to the provisions of Article VI or Article VIII of this Agreement.

### 7. Applications for Vacant Positions: Existing Unit Members

Whenever any member of the bargaining unit, including, for the purposes of this subsection 7, any librarian, shall apply to be a candidate for any vacant position within the bargaining unit at any State College, such member of the bargaining unit shall be given added consideration as a candidate for such position; provided, however, that such added consideration shall be so given only if such member of the bargaining unit is not, by training and/or experience, less qualified for such position than the most qualified among all the applicants therefor.

Whenever any member of the bargaining unit, including, for the purposes of this subsection 7, any librarian, shall apply to be a candidate for any vacant position within the bargaining unit at any State College, such person's name shall be included on the list of candidates submitted to the President of such College by any screening or like committee, including any such committee constituted pursuant to Section I of Article VI of this Agreement; provided, however, that such person's name need not be so included unless he/she has the minimum advertised qualifications for the position for which he/she is a candidate; and provided further that nothing in this paragraph shall be deemed to abridge any right conferred by the foregoing paragraph.

Whenever any member of the bargaining unit, having applied as such for a vacant position in the bargaining unit, shall have been appointed to such position, his/her appointment shall be governed by subsection 9 of this Section C. No appointment made pursuant to this paragraph shall be deemed to be a transfer for the purposes of Article X of this Agreement.

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### 8. Candidacies for Tenure: Limitations

No member of the bargaining unit shall be a candidate for tenure more than once and, if denied tenure on the occasion of such candidacy, shall thereupon be granted a final appointment for the period of the ensuing academic year; provided only that nothing in this subsection 8 shall bar a member of the bargaining unit from being a candidate for tenure on more than a single occasion if a candidacy for tenure subsequent to the first such candidacy occurs in the circumstances described in the following subsection 9(b).

### 9. Appointments to Vacant Positions: Existing Unit Members

Whenever any member of the bargaining unit to whom the provisions of subsection 7 apply seeks a different appointment at either the College where he/she then holds an appointment or at another College, he/she, if granted the appointment so sought, shall be granted the appointment, as he/she and the College shall then agree, either as a transfer (a "Transfer") or as a new, initial appointment (an "Appointment"). The terms upon which a Transfer and an Appointment shall be made are the following:

- a. Transfer. Any such member of the bargaining unit who is granted and accepts an appointment as a Transfer shall, as a term of such appointment, retain such academic rank (including, in the case of a librarian, such rank as a librarian), such salary, such entitlement to tenure (including, in the case of any member of the bargaining unit who does not hold tenure, any eligibility to be considered therefor), such accrued eligibility to be considered for sabbatical leave, if any, and such accrued sick leave and vacation as such member of the bargaining unit has at the State College where he/she is employed on the date immediately prior to the date on which such appointment takes effect.
- b. Appointment. Any such member of the bargaining unit who is granted and accepts an appointment as an Appointment shall, as a term of such appointment, retain such accrued sick leave, if any, and such accrued eligibility to be considered for sabbatical leave, if any, as such member of the bargaining unit holds at the State College where he/she is employed on the date immediately prior to the date on which such appointment takes effect; but such member of the bargaining unit shall not retain such academic rank (including, in the case of a librarian, such rank as a librarian), such salary, such accrued vacation, if any (and for all of which he/she shall be compensated in the manner required by law in respect of an employee terminating his/her employment), or such entitlement to tenure (including, in the case of any member of the bargaining unit who does not hold tenure, any eligibility to be considered therefor) as he/she has at the State College where he/she is employed on the date immediately prior to the date on which such appointment takes effect; and every such member of the bargaining unit shall be accorded such academic rank and salary as the College granting the appointment as an Appointment determines, and, anything in Section A(3) of Article IX or Section C(8) of this Article to the contrary notwithstanding, every such member of the bargaining unit shall have such entitlement, then

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and thereafter, to be considered for tenure as the Agreement otherwise confers.

Neither an Appointment nor a Transfer shall deprive a member of the bargaining unit of any then-accrued seniority.

### 10. Part-time Appointments: Limitations

This subsection shall be of application only to departments with six (6) or more full-time members.

Except at the Massachusetts College of Art and Design, not more than fifteen percent (15%) of an academic department's total number of three (3)-credit and four (4)-credit courses and sections shall be taught by part-time employees during an academic year.

At the Massachusetts College of Art and Design, not more than twenty percent (20%) of the total number of three (3) credit courses taught in departments with six (6) or more full-time faculty shall be taught by part-time employees during an academic year.

Not included in the foregoing are courses or sections taught by part-time employees hired to replace unit members on any leave of absence; on reduced teaching loads for the purposes of alternative professional responsibilities, Association release time or any other contractual released time; or any unforeseen emergency.

### 11. Part-time Clinical Nursing Instructors

A part-time Clinical Nursing Instructor shall hold the degree of Master of Science in Nursing (M.S.N.) or other appropriate Master's degree and shall have and keep current a license as a registered nurse (R.N.) in Massachusetts. No person holding a doctoral degree in nursing shall be eligible for initial appointment as a Clinical Nursing Instructor.

Part-time Clinical Nursing Instructors shall be granted renewable appointments of not less than one (1) year's nor more than three (3) years' duration.

## D. APPOINTMENT AND PROMOTION OF LIBRARIANS

Librarians may be appointed initially at any rank in keeping with the following requirements; provided only that no appointment shall be made at the rank of Library Assistant after the date of execution of this Agreement. For sound academic reasons, exceptions to these requirements may be made in certain specialized areas and under rare and extraordinary circumstances by the Board of Trustees.

### 1. Library Assistant

- a. a baccalaureate degree from an accredited institution in an academic or professional discipline that forms a part of the curriculum of the College at which such appointment is to be made; and

## ARTICLE XX - APPOINTMENT AND PROMOTION

- b. demonstrated potential to fulfill the applicable evaluation criteria.
2. Library Associate
    - a. the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), from, in all cases, an institution accredited to grant such degrees by the American Library Association; or, for certain specialized professional activities within the Library, a Master's degree, from an institution accredited to grant such degrees, in a discipline directly related to such a specialized professional activity;
    - b. evidence of the potential for a successful career in librarianship at an academic or research library; and
    - c. demonstrated potential to fulfill the applicable evaluation criteria.
  3. Assistant Librarian
    - a. the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), from, in all cases, an institution accredited to grant such degrees by the American Library Association;
    - b. three (3) years of full-time experience as a librarian and a fully demonstrated professional competence as a librarian in an academic or research library; and
    - c. in the case of promotion, meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.
  4. Associate Librarian
    - a. the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), from, in all cases, an institution accredited to grant such degrees by the American Library Association;
    - b. seven (7) years of full-time experience as a librarian, at least three (3) of which must have been at an academic or research library; and
    - c. in the case of promotion, not less than three (3) years of full-time employment at the rank of Assistant Librarian and meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

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### 5. Librarian

- a. the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), from, in all cases, an institution accredited to grant such degrees by the American Library Association; and a second subject Master's degree from an institution accredited at the level of such degree;
- b. ten (10) years of full-time experience as a librarian, at least four (4) of which must have been at an academic or research library; and
- c. in the case of promotion, not less than four (4) years of full-time employment at the rank of Associate Librarian and meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

### 6. Senior Librarian

- a.
  - i. the degree of Doctor of Library Science (D.L.S.) or an equivalent doctoral degree, including the degree of Doctor of Library Science and Information Science (D.L.S.I.S.), from, in all cases, an institution accredited at the level of such degree; or
  - ii. an appropriate doctorate other than a doctoral degree of the kind described in subparagraph (i) from an institution accredited at the level of such degree, and the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), from, in all cases, an institution accredited to grant such degrees by the American Library Association; or
  - iii. the degree of Master of Library Science (M.L.S.) or an equivalent Master's degree, including the degree of Master of Library Science and Information Science (M.L.S.I.S.), from, in all cases, an institution accredited to grant such degrees by the American Library Association and a second subject Master's degree from an institution accredited at the level of such degree;
- b. Twelve (12) years of full-time experience as a librarian, at least six (6) of which must have been at an academic or research library; and
- c. In the case of promotion, not less than five (5) years of full-time employment at the rank of Librarian and meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Article VIII of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.



## ARTICLE XX - APPOINTMENT AND PROMOTION

No librarian shall be a candidate for promotion to any of the foregoing ranks unless, on or before September 1 of the academic year during which he/she is to be evaluated for promotion, he/she shall have fulfilled the criteria that govern promotion to such rank.

A higher order of quality may be demanded for promotion to each higher librarian rank.

A librarian who holds an appointment at the rank of Assistant Librarian and who is awarded a terminal degree shall, upon the College's being given notice thereof and confirming the same, be granted, with effect on the ensuing September 1, a promotion to the rank of Associate Librarian without its being required that he/she be evaluated for such promotion pursuant to Article VIII.

### E. APPOINTMENT PROCEDURES AND TERMS FOR LIBRARIANS

#### 1. Appointments of Non-tenured Librarians

Non-tenured librarians will be appointed pursuant to the issuance of successive term contracts and shall be entitled to receive such notice of the non-renewal of any such contract as is provided for in Section F below.

#### 2. Appointments at the Rank of Library Associate

Every person appointed as a Library Associate shall ordinarily be appointed pursuant to the issuance of successive one (1)-year contracts. No such person shall remain in the rank of Library Associate for more than five (5) years. Prior to the beginning of his/her fifth (5th) year, a Library Associate will be given written notice that:

- a. he/she is to be promoted to the rank of Assistant Librarian on the September 1 next following, or
- b. he/she is beginning a terminal one (1)-year appointment.

#### 3. Duration of Term Appointments

Any librarian who has served for more than five (5) consecutive years as a full-time librarian at any rank may thereafter be given appointments of one (1), two (2), three (3), four (4) or five (5) years; provided, however, that without limiting the foregoing, any librarian initially appointed at a rank other than the rank of Library Assistant may be given an initial appointment and successive appointments of one (1), two (2) or three (3) years.

#### 4. Statement of Conditions of Employment

Precise conditions of employment shall be stated in writing and a copy of the Uniform Letter of Appointment (Appendix N(3) and N(4)) shall be provided to the appointee and to the Chapter President.

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### **5. Other Terms**

The provisions of Section C(6, as appropriate), (7), (8) and (9) shall apply to librarians.

### **F. NOTICE OF NON-RENEWAL**

Due notice of an intention not to renew the appointments of tenure-track librarians and faculty shall be given as follows:

1. Termination after the first (1st) year: notification by March 15 of the first (1st) year.
2. Termination after the second (2nd) year: notification by January 15 of the second (2nd) year.
3. Termination after three (3) or more years: notification by September 1 of the final year.

When notice is given to any faculty member or to any librarian that his/her contract is not to be renewed, a statement shall be given to him/her setting forth the reasons for such non-renewal. Under no circumstances, however, shall either (i) a notice of non-renewal of contract or (ii) a statement setting forth the reasons therefor be so given without the prior approval of the Board of Trustees.

### **G. ELIGIBILITY FOR PROMOTION**

1. Eligibility for promotion shall be based on:
  - a. fulfillment of the minimum requirements set forth by rank in, as appropriate, Section B or D above;
  - b. meritorious performance as demonstrated by the evaluations of the candidate conducted in accordance with the provisions of Article VIII; and
  - c. recommendations made in accordance with the procedures contained in Article VIII.
2. Promotions of faculty and librarians shall take effect on September 1 of each year.

### **H. MISCELLANEOUS PROVISIONS**

This Section H is intentionally left blank.

### **I. TERMINATION OF A NON-TENURED UNIT MEMBER**

Whenever any non-tenured unit member is terminated prior to the expiration of a term contract of employment, he/she shall first be accorded the following rights:

1. The Board shall give notice to such person that the President has recommended his/her termination; such notice shall set forth the reasons for which the termination has been recommended.

## ARTICLE XX - APPOINTMENT AND PROMOTION

2. Thereafter, at the written request of the person so notified, an informal hearing shall be conducted not sooner than five (5) days following the date on which such notice shall have been received by such person. Any such informal hearing shall be conducted by and before a hearing officer designated by the Board. The person whose termination has been recommended may be represented by a representative of the Association.
3. Thereafter, the hearing officer shall submit a written report to the Board setting forth any findings of fact and his/her own recommendation, together with the reasons therefor, regarding the disposition of the recommendation of termination.
4. As soon as may be practicable thereafter, the Board shall make such final decision in respect thereof as it deems appropriate.
5. The provisions of this Section I shall be deemed to be of application to any librarian who, in accordance with the provisions of Section J, is terminable only for just cause; provided, however, that nothing herein contained shall be deemed to diminish the right of any such librarian to be terminated only for just cause.

### J. TERMINATION OF CERTAIN LIBRARIANS ONLY FOR JUST CAUSE

Any librarian who, in accordance with the provisions of Section C of Article IX of the agreement made between the Board of Trustees of State Colleges and the Association and dated November 6, 1978, elected not to be eligible for tenure shall be terminable only for just cause. For the purposes of this Section J, the phrase "just cause" shall not be confined in its meaning to the meaning ascribed to it in Article IX of this Agreement. Any such librarian shall be subject to termination only in accordance with the procedures set forth in the foregoing Section I.

### K. TERMINATION OF CERTAIN PART-TIME UNIT MEMBERS ONLY FOR JUST CAUSE

#### 1. Salaried Part-time Faculty Members at the Massachusetts College of Art and Design

Any salaried part-time faculty member who has served as such at the Massachusetts College of Art and Design and who has held a continuous appointment there of one-half-time or more for a pro-rata period equivalent to six (6) consecutive years of full-time service shall be terminable only for just cause as defined in Article IX of this Agreement; provided that any such faculty member shall be reviewed during the pro-rata fifth (5th) year by the Departmental Peer Evaluation Committee and the Department Chair with recommendations submitted to the Vice President for continued appointment. Evaluation materials for this review shall consist of student evaluations, an updated resume, course documents and an updated portfolio. Any such part-time faculty member shall be subject to termination only in accordance with the procedural provisions provided in Section I of this Article.

#### 2. Part-time Clinical Nursing Instructors

Any part-time Clinical Nursing Instructor who, during the period following June 30, 2009, has held a continuous appointment as such of one-half-time or more for a pro-rata period equivalent to six (6) consecutive years of full-time service shall be terminable only for just cause as defined in Article IX of this Agreement; provided

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that any such Clinical Nursing Instructor shall be reviewed during the pro-rata fifth (5th) year by the Departmental Peer Evaluation Committee and the Department Chair with recommendations submitted to the Vice President for continued appointment. Evaluation materials for this review shall consist of student evaluations, an updated resume and course documents. Any such Clinical Nursing Instructor shall be subject to termination only in accordance with the procedural provisions provided in Section I of this Article.

### **L. REVIEW BY COMMISSIONER UPON TERMINATION FOR JUST CAUSE**

Notwithstanding any other provision of this Agreement, any member of the bargaining unit who shall have been terminated for just cause pursuant to Sections I, J or K of this Article XX may, in addition to the remedies provided in Article XI, request that the Commissioner review the decision to terminate his/her employment. In order to initiate such review, the member of the bargaining unit shall address a written request therefor to the Commissioner within fourteen (14) calendar days following his/her having been notified of his/her termination. Such request shall set forth a complete statement of the reasons for which he/she believes that the termination was made without just cause. A copy of such notice shall be provided promptly by such unit member to the President of the Association, the President of the College and the Employee Relations Committee. The Commissioner may within fourteen (14) calendar days of the receipt of such notice reinstate the unit member upon a finding that such termination was made without just cause. The Commissioner shall do so by notice in writing to the unit member which shall set forth his/her findings fully and completely. In the event of such notice by the Commissioner, copies shall be provided to the President of the Association, the President of the College and the Employee Relations Committee.

### **M. APPOINTMENTS OF ACADEMIC ADMINISTRATORS**

Each of the Colleges may grant persons appointments as academic administrators, whether any such person comes from within or without the bargaining unit, for a period of up to six (6) years on terms that permit such person to return to or to take up a faculty appointment with tenure at such College; every such faculty appointment shall be within a particular academic department at the College (which shall be deemed to include the successor, by merger or otherwise, to such department). Any person to whom a College grants such an appointment and who serves therein for more than six (6) years shall be permitted to return to and take up a faculty appointment with tenure at such College only after first having been evaluated for tenure in accordance with the requirements of Article VIII of this Agreement or in accordance with the corresponding provisions of any successor agreement then in effect.

For the purposes of this Section M, an appointment as an academic administrator shall be an appointment granted to a person who holds or has held an appointment with tenure as a member of a college or university faculty and whose administrative appointment is academic in its nature. The position of College President shall not be considered an academic administrative appointment.

Nothing in this Agreement, including this Section M, shall be deemed to prohibit any Board of Trustees from terminating, at any time, any leave of absence granted to a member of the

## ARTICLE XX - APPOINTMENT AND PROMOTION

bargaining unit for the purpose of enabling him or her to accept an appointment as an academic administrator.

Whenever a person who holds an appointment as an academic administrator returns to or takes up (upon the termination of such appointment) a faculty appointment, he/she shall, upon first returning to or taking up such faculty appointment, be paid no more than eighty percent (80%) of the salary he/she was last paid as an academic administrator; provided only as follows:

1. In no event shall an academic administrator who is returning to a position within the bargaining unit that he/she held prior to being granted an appointment as an academic administrator be paid less than an amount equal to the salary last paid such administrator, as he/she was when last a faculty member, on the date immediately prior to the date on which he/she was appointed to an administrative position, but increased by the amount of all those increases in salary that were of general application to members of the faculty and that would otherwise have been granted him/her had he/she remained a member of the faculty, whether such increases were accorded by law, by vote of the Board or by any collective bargaining agreement.
2. Whenever the provisions of the preceding subsection 1 are of application to an academic administrator who is returning with Blue and Gold status to a position within the bargaining unit at the Massachusetts Maritime Academy, the formula described in the preceding subsection 1 shall include the fifteen percent (15%) supplement that is payable to persons who hold positions in the bargaining unit with such status: it being the understanding of the parties that any such academic administrator shall continue to be obliged to discharge the balance of any Blue and Gold obligation that he/she had immediately prior to taking up his/her academic administrative position.

On or before September 30 of each year, the President of each College shall provide the Chapter President with a list of the names of those persons who hold academic administrative appointments and who have a right to return to or to take up a faculty appointment. An academic administrator who meets the criteria in this Section M is not eligible for faculty rank and tenure until his/her name appears on such a list by September 30 of any academic year. An otherwise eligible academic administrator whose name does not appear on the list provided by September 30 of any given academic year may not be appointed to a faculty position pursuant to this Section M during such academic year.

Whenever any person who holds an appointment as an academic administrator returns to or takes up a faculty appointment, he/she shall occupy a position created for that purpose and shall not occupy a vacant position the department has then been authorized to fill, nor shall he/she bump the incumbent of any position.

## ARTICLE XX-A - APPOINTMENT AND PROMOTION, MASSACHUSETTS MARITIME ACADEMY

### A. REQUIREMENTS FOR ELIGIBILITY OF PROFESSIONAL MARITIME FACULTY FOR APPOINTMENT AND PROMOTION

Professional Maritime Faculty at the Massachusetts Maritime Academy may, in the alternative to the requirements prescribed at Section B(1) of Article XX of the Agreement, be initially appointed at, or promoted to, any rank in keeping with the following requirements. For sound academic reasons, exceptions to these requirements may be made in certain specialized areas and under other special circumstances with the approval of the Board of Trustees or the President as its designee. Nothing in these requirements should be construed to prohibit the appointment or promotion of an individual of exceptional talent or accomplishment who does not meet all the stated criteria. In considering candidates for exceptional appointments or promotions, the Board of Trustees shall pay due regard in the alternative to: (a) evidence of the ability of the candidate to render a unique academic contribution to the College, (b) evidence of a candidate's extraordinary competence in the area of his/her discipline or specialty, or (c) evidence that the discipline or specialty of the candidate does not customarily demand fulfillment of those academic degree requirements set forth by the Board as minimum criteria for appointment or promotion to each rank.

A higher order of quality may be demanded for promotion to each higher academic rank.

#### 1. Instructor

- a. a Bachelor's degree in an appropriate field from an institution accredited at the level of such degree;
- b. a Second License;
- c. at least three (3) years of full-time experience in teaching at an accredited institution of higher learning or in professional service in the maritime field (or a combination thereof);
- d. understanding of the teaching and advising processes and the application of teaching and advising strategies in the College setting; and
- e. demonstrated potential to fulfill the applicable evaluation criteria.

#### 2. Assistant Professor

- a. a Master's degree in an appropriate field from an institution accredited at the level of such degree;
- b. a First License;
- c. at least three (3) years of full-time experience in teaching at an accredited institution of higher learning or in professional service in the maritime field (or a combination thereof);

**ARTICLE XX-A - APPOINTMENT AND PROMOTION, MASSACHUSETTS MARITIME ACADEMY**

- d. in the case of a promotion, meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Articles VIII and VIII-A of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

3. Associate Professor

- a. a Master's degree in an appropriate field from an institution accredited at the level of such degree;
- b. a Top License;
- c. at least eight (8) years of full-time experience in teaching at an accredited institution of higher learning or in professional service in the maritime field (or a combination thereof); and
- d. in the case of a promotion, not less than three (3) years of full-time employment at the rank of Assistant Professor (or higher) at an accredited four-year college or university and meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Articles VIII and VIII-A of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

4. Professor

For persons first employed prior to July 1, 1995:

- a.
  - i. a First License, a Master's degree from an accredited institution and acceptable graduate study; or
  - ii. service on a Top License, a Bachelor of Science degree from an accredited institution and acceptable graduate study; or
  - iii. twenty-five (25) years of full-time service in the Merchant Marine, at least fifteen (15) of which have been service on a United States Coast Guard Top License; or
  - iv. a Top License and a Master's degree from an accredited institution;
- b. at least eight (8) years of full-time experience in teaching at an accredited institution of higher learning or in professional service in the maritime field (or a combination thereof); and
- c. in the case of a promotion, not less than four (4) years of full-time employment at the rank of Associate Professor or higher at an accredited four-year college or university and meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of

## ARTICLE XX-A - APPOINTMENT AND PROMOTION, MASSACHUSETTS MARITIME ACADEMY

Articles VIII and VIII-A of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

For persons first employed after June 30, 1995:

- a. a Master's degree in an appropriate field from an institution accredited at the level of such degree;
- b. a Top License;
- c. at least ten (10) years of full-time experience in teaching at an accredited institution of higher learning or in professional service in the maritime field (or a combination thereof); and
- d. in the case of a promotion, not less than four (4) years of full-time employment at the rank of Associate Professor (or higher) at an accredited four-year college or university and meritorious performance as demonstrated by the candidate's annual evaluations conducted in accordance with the provisions of Articles VIII and VIII-A of this Agreement and by such evaluations conducted in accordance with any procedures in effect prior to the date of execution of this Agreement.

Those of the foregoing criteria that are of application only to persons first employed prior to July 1, 1995, shall be of application to them only for the purpose, in the case of each of them, of establishing his/her eligibility for promotion to the rank next higher than the rank he/she holds on such date and not otherwise.

### 5. Promotion of Certain Instructors

A member of the Professional Maritime Faculty who is appointed at the rank of Instructor and who, while holding that rank, secures (i) a Master's degree in an appropriate field from an institution accredited at the level of such degree and/or (ii) a First License shall, upon the Academy's being given notice thereof and confirming the same, be granted, with effect on the ensuing September 1, a promotion to the rank of Assistant Professor without its being required that he/she be evaluated for such promotion pursuant to Article VIII.

## B. DEFINITIONS

For the purposes of the foregoing provisions of this Article XX-A, the following definitions shall apply:

1. Top License. A Top License shall mean a Master's or a Chief Marine Engineer's license.
2. Engineer Officer's License (Chief, First, Second or Third Engineer). A marine license issued by the United States Coast Guard that has no restrictions as to the waters upon which the engineer may serve and is not subject to any horsepower limitations.



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ACADEMY**

3. Deck Officer's License (Master or First, Second or Third Mate). A marine license issued by the United States Coast Guard for service as a master or mate on ocean vessels which qualifies the licensee to serve in the same grade on any waters and on any tonnage vessel.

C. APPLICATION

Except as provided in this Article XX-A, the provisions of Article XX that are of application to faculty shall also be of application to all Professional Maritime Faculty at the Massachusetts Maritime Academy.

## ARTICLE XXI - DURATION AND EXTENT

### A. DURATION

This Agreement shall be in full force and effect from and after July 1, 2009; provided, however, that nothing herein contained shall be deemed to impose on the Board of Higher Education any obligation the discharge of which may require the expenditure of moneys for which an appropriation may be required to be sought pursuant to General Laws Chapter 150E, §7, as amended, until such time as such appropriation shall have been duly made by the General Court pursuant to the said provision of the General Laws, and until such time as moneys so appropriated in the amounts requested by the Board of Higher Education pursuant to the said Section 7 shall have been allocated to the appropriate accounts of the College; provided further that nothing herein contained shall be deemed to impose on the Board of Higher Education or on any College any obligation to expend any moneys (except as is provided in Section D of this Article XXI) pursuant to Article XIII or otherwise until the requirements of the foregoing proviso shall have been fulfilled; and provided further that, notwithstanding the foregoing, whenever the General Court shall not have acted pursuant to the said provision, or whenever such moneys have not been so allocated, and the Board of Higher Education shall have moneys allocable to the discharge of any obligation herein contained, and any such moneys shall, at the sole discretion of the Board of Higher Education, have been so allocated, such obligation shall be discharged in such measure as such moneys so allocated permit.

If, in respect of this Agreement,

1. the Governor shall have failed to recommend that the General Court appropriate all the moneys requested by the Board of Higher Education to fund the incremental cost items of this Agreement, all as is provided in General Laws Chapter 150E, §7, as amended; or
2. the Governor shall have otherwise failed to approve such request of the Board of Higher Education in accordance with the provision of any other law; or
3. the General Court shall have failed, on or before December 31, 2009, to appropriate the moneys so recommended and so requested, whether pursuant to the provisions of the said Section 7 or otherwise; or
4. the moneys so requested or approved and so appropriated shall not have been allocated to the appropriate accounts of each College by April 1, 2010,

the Association shall have the right, upon thirty (30) days' written notice to the Board of Higher Education, to require that the parties to this Agreement shall resume collective bargaining pursuant to the provisions of General Laws Chapter 150E; provided, however, that whenever such notice shall have been duly given, the cost items contained in this Agreement for which an appropriation has been requested, shall be null and void and shall be of no force and effect from and after the date on which such notice shall have effect.

This Agreement shall expire at midnight on June 30, 2012. Either party may at any time give notice to the other requiring commencement of negotiations for a successor agreement. Negotiations for a successor agreement shall commence no later than February 4, 2012.

## **ARTICLE XXI - DURATION AND EXTENT**

If an agreement shall not have been reached by June 30, 2012, this Agreement shall continue in full force and effect until the fifth (5th) day following receipt of written notice given by either party to the other of its intention to terminate this Agreement. Notice to the Association shall be given to the President of the Association. Notice to the Board of Higher Education shall be given to the Chair of the Council of Presidents.

### **B. EXTENT**

The Board of Higher Education and the Association acknowledge that, during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the applicable area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement, which shall constitute the sole Agreement between the parties for the duration thereof.

Therefore, the Board of Higher Education and the Association for the life of this Agreement each voluntarily and unqualifiedly waives the right, and agrees that the other shall not be obliged, to bargain collectively with respect to any term or condition of this Agreement; nor shall any duty or responsibility not required or permitted as of the date of execution of this Agreement be added to the workload or be assigned to any unit member without prior consultation with the Chapter President and negotiation with the Association, if so requested by the President of the Association.

Nothing in this provision shall be deemed to prohibit the parties to this Agreement from conducting negotiations during the term thereof regarding the impact on the terms and conditions of service of any member or members of the bargaining unit caused by any decision of the Board of Higher Education or its successor in interest or by the enactment of law to close any College or to merge any College with any other educational institution.

The provisions of this Section B are not intended, nor are they to be deemed, to vest in the Association any right to initiate negotiations concerning any matter, except as hereinbefore provided; nor are they to be construed to be a maintenance of standards clause grandfathering all past practice.

### **C. COST ITEMS AND APPROPRIATION**

1. The cost items contained in this Agreement are specifically subject to additional, complete and identifiable appropriation by the General Court and shall not become effective unless the appropriation necessary to fully fund such cost items has been enacted in accordance with Massachusetts General Laws, Chapter 150E, §7, and allocated in accordance with law to the accounts of the several State Colleges, in which case the cost items shall be effective on the dates provided in this Agreement.
2. All bargaining unit members shall receive the benefit of the cost items of this Agreement in the cases where those cost items are effective for state-funded employees. In the case of institute, grant or contract unit members, support funds must be available in the specific institute, grant or contract budget for the fiscal year in which payment must be made.

## **ARTICLE XXI - DURATION AND EXTENT**

3. The Board of Higher Education shall make a request for the funding of this Agreement as required by Massachusetts General Laws, Chapter 150E, §7. In the event that the additional, specific, complete and identifiable funding in each year of this agreement is not fully provided, the remaining cost items shall be returned to the parties for further bargaining.

### **D. CONTINUED EFFECT OF CERTAIN PROVISIONS**

During academic years (or any parts thereof) that fall within any period following the expiration of the Agreement and preceding the execution and funding of a new or extended agreement, members of the bargaining unit will participate in decision-making pursuant to Article VII. This undertaking is given in consideration of each College's undertaking to continue during such academic years and parts thereof to do the following:

1. to pay promotion increases, terminal degree adjustments and department chair stipends in accordance with the applicable provisions of this Agreement;
2. to apply the Minimum Salary Formula prescribed by Article XIII and grant any salary increases prescribed thereby;
3. to expend not less than the prescribed percentage of the applicable unit payroll each year for salary increases under Section B of Article VIII-C; and
4. to make professional development moneys available to full-time unit members and salaried part-time faculty members in a per capita amount based on one percent (1%) of the AA unit payroll in accordance with the procedures in Article XIV, Sections A and G.

## **ARTICLE XXII - AGENCY SERVICE FEE**

As a condition of employment during the term of this Agreement, every member of the bargaining unit who is not also a member of the Association shall pay or, by payroll deduction, shall have paid to the Association an agency service fee that shall be in an amount not greater than such amount as is permitted by law; provided, however, that no such payment or deduction shall include any amount that represents a cost not related to collective bargaining and contract administration, all as is required by the provisions of 456 CMR 17 of the Rules and Regulations Relating to the Administration of Chapter 150E of the General Laws as such Rules and Regulations have been promulgated, and as they may be amended from time to time, by the Division of Labor Relations. Such fee so required to be paid shall be payable on or before the thirtieth (30th) day next following the beginning of employment of such member of the bargaining unit or on or before the thirtieth (30th) day next following the effective date of this Agreement, whichever shall be later.

Such fee may be paid by payroll deduction as so authorized pursuant to an Agency Service Fee Deduction Authorization as set forth in Appendix K of this Agreement; provided, however that such authorization shall be deemed to have effect only with respect to such sum as is herein provided.

Any other provisions of this Agreement to the contrary notwithstanding, every unit member who shall have failed to fulfill the condition of employment as is herein prescribed shall be subject to immediate dismissal and shall be so dismissed by the Board with effect no later than the end of the semester during which the Board shall have acted to dismiss him/her in accordance with the provisions of this Article XXII; provided, however, that such dismissal shall be effected by notice promptly issued by the Board to such unit member within fourteen (14) days after the Association shall have notified the President that such unit member has not fulfilled the condition herein prescribed. Such notice shall be sent by certified mail, return receipt requested, and shall give such unit member fourteen (14) days from the date of its receipt to fulfill the said condition. Within the said fourteen (14) days, the Board shall grant such unit member such opportunity to respond to such notice as the Board may from time to time prescribe for the purposes of this provision.

Upon request of the Board, the Association President shall certify in writing that the Association has complied with the applicable rules and regulations promulgated by the Division of Labor Relations for the payment of an agency service fee.

Whenever such unit member shall not have fulfilled the condition within the prescribed time periods provided above, the Board, at its next regularly scheduled meeting, shall act to dismiss him/her following the expiration of the time period provided above; provided, however, that the Board need not so act if such unit member fulfills said condition prior to the date of such meeting.

Copies of all correspondence between the Board or its agents and the unit member shall be simultaneously forwarded to the President of the Association.

The provisions of Article XX, Section L, shall be of no application to this Article.

Any Board or any person or body authorized to act on its behalf shall, when complying with the provisions of this Article, be indemnified by the Association from any action which may arise when such person or body so authorized relies upon the written certification of the President of the Association that it has complied with the applicable regulations of the Division of Labor Relations governing the payment of an agency service fee.

## **ARTICLE XXII - AGENCY SERVICE FEE**

Any other provisions of this Agreement to the contrary notwithstanding, part-time unit members who are not also members of the Association are required to pay an Agency Service Fee.

## **ARTICLE XXIII - DEDUCTION**

Subject to the requirements of law and upon not less than sixty (60) days prior written notice to the President, there shall be deducted from the monthly salary of any unit member the amount of money specified in such notice for contributions to the Voice of Teachers for Education ("VOTE"). Any written authorization may be withdrawn by the unit member by submitting a written notice of withdrawal to the President of the College and the treasurer of the VOTE sixty (60) days in advance of the desired cessation of payroll deduction. Every such notice, including any notice of withdrawal, shall be given on the form appended hereto as Appendix L.

The provisions of this Article XXIII shall be of no application to any person holding an appointment to a part-time position in the bargaining unit.

#### **ARTICLE XXIV - SUCCESSORS AND ASSIGNS**

To the extent that the same is permitted by law, any successor in interest to the Board of Higher Education or to any Board of Trustees shall be bound by and shall assume all the rights, duties and obligations of the Board of Higher Education or such Board as if such successor in interest were a named party and signatory to this Agreement.



**ARTICLE XXV - SAVINGS CLAUSE**

If it shall have been adjudicated that any of the provisions of this Agreement in any manner conflict with or contravene any federal law or statute, any law or statute of the Commonwealth of Massachusetts or any rules and regulations promulgated pursuant thereto, such provisions shall be considered null and void and shall not be binding on the parties hereto; in such event, the remaining provisions of this Agreement shall remain in full force and effect.

Upon request of either party, the parties shall meet not later than ten (10) days following such adjudication for the purpose of negotiating with respect to the provision or provisions so deemed invalid.

This Agreement executed as of the first day of July, 2009.

**BOARD OF  
HIGHER EDUCATION**

**MASSACHUSETTS TEACHERS  
ASSOCIATION/NEA**

By: \_\_\_\_\_  
Commissioner,  
Board of Higher Education

By: \_\_\_\_\_  
Massachusetts Teachers  
Association/NEA

By: \_\_\_\_\_  
Deputy Commissioner for Employee Relations,  
Board of Higher Education

By: \_\_\_\_\_  
President, Massachusetts  
State College Association

By: \_\_\_\_\_  
Chair, Council of Presidents

By: \_\_\_\_\_  
Massachusetts State College  
Association Bargaining Committee